

AMENDMENT NO. 4

TO CONTRACT SERVICES AGREEMENT TO PROVIDE EXCLUSIVE CATERING SERVICES AT THE CONGRESSWOMAN JUANITA MILLENDER-MCDONALD COMMUNITY CENTER AT CARSON

THIS FOURTH AMENDMENT TO THE CONTRACT SERVICES AGREEMENT TO PROVIDE EXCLUSIVE CATERING SERVICES AT THE CONGRESSWOMAN JUANITA MILLENDER-MCDONALD COMMUNITY CENTER AT CARSON (“Amendment”) by and between the CITY OF CARSON, a California municipal corporation (“City”) and CHOURA VENUE SERVICES, a California corporation (“Caterer”) is effective as of the ____ day of _____, 2021.

RECITALS

A. City and Caterer entered into that certain Contract Services Agreement to Provide Exclusive Catering Services at the Congresswoman Juanita Millender-McDonald Community Center at Carson dated December 6, 2011 (“Agreement”), whereby Caterer agreed to provide catering services for conferences, business meetings, banquets, trade shows, weddings, receptions, private parties, benefits and other functions held at the Congresswoman Juanita Millender-McDonald Community Center in the City of Carson requiring such services, including food and beverage sales, food setups, serving and clean-ups, and receive compensation through receiving a percentage of sales generated from such functions.

B. The original term of the Agreement began January 1, 2011, and was set to expire on December 31, 2016, with the City having the authority, pursuant to Section 10, to extend the Agreement for one additional five-year term, on the same terms and conditions, unless modified in writing by both parties.

C. On November 4, 2015, the City and Caterer entered into Amendment No. 1 to the Agreement, extending the term of the Agreement for the additional five-year term, from January 1, 2017 through December 31, 2021. Amendment No. 1 erroneously stated that the five-year extension term would conclude December 31, 2022; this was a miscalculation which would have represented a six-year extension of the Agreement, and which was not the parties’ intent.

D. On November 1, 2018, the City and Caterer entered into Amendment No. 2 to the Agreement, adding a new Section 24 thereto, whereby the City engaged Caterer to perform, directly or via engagement of a qualified third-party vendor, services related to decorating the City’s Civic Center for the 2018-2019 holiday season.

E. On September 23, 2021, the City and Caterer entered into Amendment No. 3 to the Agreement: (i) adding provisions related to refundability of patron deposits for catering functions; (ii) modifying the provisions related to responding to patron complaints; (iii) establishing an installment payment plan for payment of Unpaid Rent (as defined) by Caterer; (iv) providing clarification on the staffing provided by City to administer Community Center room reservations; (v) modifying the contact information provided for City and Caterer in the notice provision; and (vi) establishing a City Contract Officer for the Agreement.

F. City and Caterer now desire to further amend the Agreement to: (i) extend the term of the Agreement by one year, thereby extending the term expiration date from December 31, 2021, to December 31, 2022; (ii) modify City's obligations pertaining to the Community Center facilities to be made available for Caterer's use; (iii) modify Caterer's obligations regarding availability to respond to clients or potential clients who have questions or require assistance pertaining to catering services at the Community Center; (iv) make modifications related to City's control and approval of pricing and service charges charged by Caterer for catering services at the Community Center; and (v) make minor modifications to the language of Section 7 (Outside Food Service).

G. Based on the foregoing, City and Caterer now desire to enter into this Amendment to effectuate such changes, as set forth below.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (added text shown in ***bold italics***, deleted text shown in ~~strike through~~).

A. Subparagraph (1) of Subsection (a) ("Menus, Prices & Discounts") of Section 1 ("Caterer's Obligations") is hereby amended to read in its entirety as follows:

"Caterer shall furnish printed menus and price lists to be made available to persons desiring to use such menus and price lists, and annual price changes thereto shall be approved in advance in writing by the City Manager or his designee, provided; however, Caterer reserves the right to make substitutions when market conditions dictate or for any reason beyond Caterer's control. Menus, with pricing, shall be available for breakfast, lunch and dinner – both sit-down and buffet events. Concession menus shall be provided reflecting limited breakfast, lunch, dinner and beverage pricing. Menu prices for catered functions shall include all costs, except service charges (***including convenience or processing fees, all of which shall be subject to subparagraph (3) of this subsection (a)***), voluntary gratuity and sales tax."

B. Subparagraph (3) of Subsection (a) ("Menus, Prices & Discounts") of Section 1 ("Caterer's Obligations") is hereby amended to read in its entirety as follows:

"Subject to the prior written approval of the City Manager or his designee, Caterer shall be permitted to raise the prices for items on the menu once each year in the month of February, commencing February 1, 2013, based on the annual percentage change in the U.S. Department of Agriculture Economic Research Service Food CPI Index for the prior year. ***Any and all service charges (beyond menu pricing) charged by Caterer to clients in connection with services performed pursuant to this Agreement shall be subject to prior approval of the City Manager or designee, which may be withheld in his or her sole and absolute discretion. No service charge shall be approved (whether for initial imposition or a subsequent increase) unless it is supported by documentation furnished to the City Manager or designee by Caterer demonstrating, to the satisfaction of the City Manager or***

designee, a reasonable relationship between the requested charge and related new or increased costs incurred by the Caterer, as determined by the City Manager or designee in his or her sole and absolute discretion. No service charge, once approved, may be increased more than once in any 12-month period, nor may any increase be approved that is not reasonable in amount and proportion to the then-existing charge, as determined by the City Manager or designee in his or her sole and absolute discretion.”

C. Subsection (i) (“Hours/Availability”) of Section 1 (“Caterer’s Obligations”) is hereby amended to read in its entirety as follows:

“During all regular operating office hours of the Center, ~~at the Caterer Office~~ Caterer shall be available, whether in-person at the Caterer Office, via telephone, or via an internet teleconferencing/videoconferencing platform, to respond in real-time to all inquiries or requests of clients or potential clients regarding catering services at the Center. Caterer shall not limit requests or responses to an appointment-only basis. When present at the Caterer Office, Caterer shall accept all walk-in clients who require assistance. In all circumstances, Caterer shall provide prompt and professional responses to the Center’s clients and staff. Caterer must at all times be adequately staffed to fulfill its obligations set forth in this paragraph, and to otherwise conduct the Caterer’s business in an efficient and professional manner pursuant to this Agreement.”

D. Subsection (b) (“Caterer Office”) of Section 6 (“City’s Obligations”) of the Agreement is hereby amended to read in its entirety as follows:

*“City shall provide Caterer **two cubicles designated by the Contract Officer** ~~an~~ office within the Center at the same location and having the same size as the current office occupied by the Caterer, as such office is depicted on Exhibit C (“Caterer Office”). The Caterer shall use the Caterer Office in connection with the provision of services under this Agreement, provided all personal calls on City telephone shall be reimbursed by Caterer to City.”*

E. Exhibit C is hereby removed from the Agreement.

F. Subsection (c) (“Shared Office”) of Section 6 (“City’s Obligations”) of the Agreement is hereby deleted in its entirety.

G. Subsection (d) (“Ticket Office”) of Section 6 (“City’s Obligations”) of the Agreement is hereby deleted in its entirety.

H. Subsection (e) (“Coat Room”) of Section 6 (“City’s Obligations”) of the Agreement is hereby deleted in its entirety.

I. Section 7 (“Outside Food Service”) of the Agreement is hereby amended to read in its entirety as follows:

“City reserves the right to allow food and beverage to be brought into the Center for designated City ~~functions~~ **meetings and programs** with prior approval of the **City’s Contract Officer** ~~appropriate General Manager~~, and ~~by the YMCA, its subcontractors or assignees~~ **or designee**. This food and beverage will be served independent of the Caterer, provided that the Main Kitchen is not used except in circumstances of an emergency. City also reserves the right of serving novelty food items as part of exhibits or conferences at the center (e.g., cookies, candy handouts, food samples, **bottled water**).”

J. Section 10 (“Term”) of the Agreement is hereby amended to extend the term of the Agreement by one year, such that the term of the Agreement shall expire on December 31, 2022, unless the Agreement is earlier terminated by either party in accordance with applicable provisions of the Agreement.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Caterer each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Caterer represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Caterer that, as of the date of this Amendment, Caterer is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

Joy Simarago, Deputy City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[BRJ]

CATERER:

CHOURA VENUE SERVICES, a California corporation

By: _____
Name:
Title:

By: _____
Name:
Title:
Address:

Two corporate officer signatures required for Caterer, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CATERER’S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CATERER’S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2021 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<p><input type="checkbox"/> CAPACITY CLAIMED BY SIGNER</p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input type="checkbox"/> CORPORATE OFFICER</p> <p>_____</p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER _____</p> <p>_____</p> <p>SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES))</p> <p>_____</p> <p>_____</p>	<p>DESCRIPTION OF ATTACHED DOCUMENT</p> <p>_____</p> <p>TITLE OR TYPE OF DOCUMENT</p> <p>_____</p> <p>NUMBER OF PAGES</p> <p>_____</p> <p>DATE OF DOCUMENT</p> <p>_____</p> <p>SIGNER(S) OTHER THAN NAMED ABOVE</p>
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<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
_____	_____
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> ATTORNEY-IN-FACT	_____
<input type="checkbox"/> TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/> GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/> OTHER _____	_____
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES))	DATE OF DOCUMENT
_____	_____
_____	_____
	SIGNER(S) OTHER THAN NAMED ABOVE