

AMENDMENT NO. 1

TO PUBLIC WORKS AGREEMENT

THIS AMENDMENT TO PUBLIC WORKS AGREEMENT (“Amendment”) by and between the CITY OF CARSON, a California municipal corporation (“City”) and TAFOYA & ASSOCIATES, a California corporation (“Contractor”) is effective as of the ____ day of _____, 2021.

RECITALS

A. City and Contractor entered into that certain Public Works Agreement dated January 26, 2021 (“Agreement”) whereby Contractor agreed to provide City repair services for the underground storage tank located at City Hall for a term of one year and a total contract sum of \$39,751.

B. Due to additional work specified by the Los Angeles County Public Works Department that will be needed toward the repairs, Contractor needs additional monies and time to complete the additional repairs (“Additional Repairs”) of the underground storage tank located at City Hall anticipated to cost \$9,573, bringing the adjusted Contract Sum to \$49,324.

C. City and Contractor now desire to amend the Agreement to increase compensation by an additional \$9,573 to cover the Additional Repairs for a total not-to-exceed contract sum of \$49,324 and to extend the Agreement term by three (3) additional months to allow time to perform the Additional Repairs.

TERMS

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

A. Section 1.1, “Scope of Work,” is hereby amended to read in its entirety as follows:

“The Contractor shall perform all of the work, furnish all labor, materials, equipment, tools, utility services, and transportation, and comply with all of the specifications and requirements in the Bid Documents for the project entitled Underground Storage Tank Repair Project, ***and shall perform all of the work, furnish all labor, materials, equipment, tools, utility services, and transportation in connection with completion of the Additional Repairs (together, “Project”).*** All such work shall be performed in a good and workmanlike manner, as reasonably determined by the City, and shall be performed in compliance with all local, state, and federal laws and regulations. As used herein, “**Bid Documents**” refers to all of the documents included in the solicitation of bids for the Project, including but not limited to, the Request for Proposals, Invitation for Bids, Instructions to Bidders, Bid or Bid Proposal, Contract Documents, Special Provisions, Technical Provisions, Construction Plans, Standard Plans, Drawings, Reference Specifications, all applicable permit requirements, any addenda, any applicable Project Labor Agreement, and any other documents included, referenced, or incorporated therein. The Bid Documents are incorporated into this Agreement and made part hereof. In the event of any conflict

between the terms of the Bid Documents and this Agreement, the terms of this Agreement shall govern.”

B. Section 2.1, “Contract Sum,” is hereby amended to read in its entirety as follows:

“Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts set forth in Contractor’s Bid *as well as the amount allotted for the Additional Repairs*. The scope of services contained therein is attached hereto as Exhibit A and incorporated herein by this reference. Subject to any additions or deductions that may be made by change order or amendment, and any penalties or damages that may be assessed against Contractor, Contractor shall receive total compensation of *an amount not to exceed ~~Thirty-Nine Thousand Seven Hundred and Fifty One Dollars and Zero Cents (\$39,751.00)~~ Forty Nine Thousand Three Hundred Twenty Four Dollars and Zero Cents (\$49,324.00)* (“Contract Sum”) for completion of the work.”

C. Section 3.1, “Schedule of Performance; Term,” is hereby amended to read in its entirety, as follows:

“Contractor shall begin work within five (5) calendar days after receiving a Notice to Proceed from the City and the work shall be completed *prior to expiration of the term of this Agreement* ~~within sixty (60) consecutive working days from the date on which the work was started and in accordance with any schedule contained in or required to be provided by the Bid Documents, and any revisions thereof approved by the City in writing.~~ Time is of the essence. If the work is not completed within said time period, liquated damages shall apply. The term of this Agreement shall expire one (1) year *and three (3) months* following the Effective Date or upon City’s acceptance of the Project, whichever occurs first.”

D. Section 5.5, “Performance and Payment Bonds,” is hereby amended to read in its entirety, as follows:

~~“Concurrently with execution of this Agreement, Contractor shall deliver to the City all of the following bonds:~~

Concurrently with execution of this Agreement:

(a) A performance bond securing the faithful performance of this Agreement *with the exception of any work for Additional Repairs*, in an amount *of \$39,751* ~~not less than 100% of the total compensation for this Agreement, as stated in Section 2.1.~~

(b) A payment bond, securing the payment of all persons furnishing labor and/or materials in connection with the work under this Agreement *with the exception of any work for Additional Repairs*, in an amount *of \$39,751* ~~not less than 100% of the total compensation for this Agreement, as stated in Section 2.1.~~

On December 7, 2021 or as soon as practicable following such date but in no event later than the time Contractor commences work on the Additional Repairs:

(a) *A performance bond rider in an amount of \$9,573 securing the faithful performance of the Additional Repairs.*

(b) *A payment bond rider in an amount of \$9,573 securing the payment of all persons furnishing labor and/or materials in connection with the work performed for the Additional Repairs.*

All bonds shall be on the applicable forms provided in Exhibit "C" and Exhibit "D" attached hereto and made part hereof. The bonds *and bond riders* shall each contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his/her power of attorney. The bonds *and bond riders* shall be unconditional and remain in force during the entire term of the Agreement until released pursuant to Section 5.7 hereof."

E. Section 5.7, "Release of Securities," is hereby amended to read in its entirety, as follows:

"City shall release the performance bond and payment bond *along with all bond riders* when the following have occurred:

(a) Contractor has made a written request for release and provided evidence of satisfaction of all other requirements under Article 5 of this Agreement;

(b) the Project has been accepted; and

(c) after passage of the time within which lien claims are required to be made pursuant to applicable laws; if lien claims have been timely filed, City shall hold the payment bond *and any related bond rider* until such claims have been resolved, Contractor has provided statutory bond, or otherwise as required by applicable law."

F. Exhibit "A," "Contractors Bid," is hereby amended to read in its entirety as follows:

I. Contractor shall perform the Services for repair of the underground storage tank located at City Hall *including* and as described in the Bid Documents, ~~including~~ as detailed below:

- a. Obtain permits as required with Los Angeles County Department of Public Works including all required notifications and reporting for each agency involved. All regulatory permit(s) or application fee(s) to be determined by Los Angeles County of Public Works. Provide drawings to Los Angeles Department of Public Works. The City of Carson will pay all permit fee(s).
- b. Saw cut and break out next to the piping sump and trench to the east wall at the loading dock. Saw cut and break out next to the day tank inside the generator room.
- c. Excavate to the existing piping and areas of new piping installation.

- d. Cut back the existing piping and remove the existing penetrations inside the piping sump. Sand and prepare surfaces inside sump to re-fiberglass and repair the sump at the existing entry locations.
- e. Existing piping to be abandoned in place due to the piping being installed under the building. Los Angeles County Public Works requires a closure application and soil sampling to be performed every 20 feet. Rinse out the existing piping and slurry in place when completed. Triple rinse existing piping, removal and disposal of any hazardous materials and provide waste manifest.
- f. Install two (2) new OPW flexworks double wall flexible piping lines within OPW 4" inch access pipe/ducting from the piping sump to the east wall against the loading dock and terminate above grade. Install one (1) new OPW piping entry fitting in piping sump and connect piping to the underground storage tank (UST).
- g. Install new black steel supply and return piping from termination location on the east wall and run piping up the loading dock and into the generator room along the wall/ground to the day tank location and tie piping into the existing day tank.
- h. Perform and pass all required testing of piping both above and below ground as required by Los Angeles County Department of Public Works.
- i. Install rebar and replace concrete to match existing texture and color.
- j. Remove existing diesel fill manway lid and spill bucket. Install new OPW 36 inch retrofit manway lid with one (1) new OPW five (5) gallon spill bucket. Install new overfill drop tube. Ensure all repairs are compatible and function with the existing Veeder - Root system and alarms.
- k. Ensure all work is completed in accordance with California State Water Resources Control Board (SWRCB) and local Certified Unified Program Agency (CUPA) requirements.
- l. Ensure all work is completed in accordance with applicable Occupational Safety and Health Administration (OSHA) safety requirements.
- m. If sensors are removed from the secondary containment during repairs, ensure sensors are returned to the proper position before leaving the site.
- n. Final inspection and post construction SB989 testing on all failed components from original testing performed August 24, 2020 after work is completed.
- o. Complete all items in Project Scope and Specifications within 60 days,

Monday – Friday from issuance of permit by Los Angeles County Department of Public Works.

- p. Sawcut and breakout concrete from existing piping containment sump to loading dock wall. Tunnel from loading dock wall to existing day tank area. Install double wall underground supply and return lines. Install rock guard to protect the new underground piping under loading dock from existing piping containment sump to existing day tank area with termination fittings. Backfill with existing excavated material, compact, and resurface to match surrounding area. Collectively, all work described in this Section shall be referred to herein as “Additional Repairs.”*

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 Contractor 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.

Contractor 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 Contractor that, as of the date of this Amendment, Contractor 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 Agreement 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 Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

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
[rjl]

CONTRACTOR:

TAFOYA & ASSOCIATES

By:_____
Name: Eddie Tafoya
Title: President

By:_____
Name: Eddie Tafoya
Title: Secretary

Address: 15471 Red Barn Court
Chino Hills, CA 91709

Two corporate officer signatures required when Contractor is a corporation, 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. CONTRACTOR'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 CONTRACTOR'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.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

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