

AMENDMENT NO. 2

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

THIS SECOND 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 1st day of November, 2018.

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 extended the term of the Agreement for the additional five (5) years, beginning January 1, 2017 and ending December 31, 2022 pursuant to the terms of this Amendment.

D. The City traditionally decorates its civic center, including City Hall and the Carson Community Center, with holiday decorations every holiday season, and the work of installing and removing the decorations has in the past been performed by City staff.

E. The holiday decoration services previously performed by City staff have become sufficiently burdensome on City staff resources that it has become necessary to retain an outside consultant to perform the services and thereby allow City staff to continue performing their normal job duties during the holiday season without interruption.

F. The City desires to engage Caterer to perform, directly or via engagement of a qualified third party vendor, to perform the aforementioned holiday decoration services on behalf of the City for the 2018-2019 holiday season.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein :

A. Section 24, “Holiday Decorations,” is hereby added to read in its entirety as follows:

“a. Decoration Services. Caterer shall perform, or retain a qualified third party to perform, the following services (collectively the “Decoration Services”):

1. Installation of the following holiday decorations (“Decorations”) in the following areas of the City’s civic center, including its City Hall and the Carson Community Center:

(A) Community Center – Front Entrance

(i) A sixty-inch (60”) fully decorated and LED-lit wreath with large red bow installed on front of building under the Community Center sign. Classic décor: Red/Gold with pine cones, or can be tied into overall theme per request of the Decoration Services Contract Officer (defined in subsection (f), below).

(ii) Four (4) large palm trees’ (located in front of the building) trunks wrapped with 700 LED warm white lights.

(iii) A six-foot (6’) tall real Christmas tree located inside next to the front door, fully decorated and LED-lit, including multi-sized/shaped ornaments, bows, ribbon, tree skirt, and star topper. Design/colors to be decided based on consistency with overall theme for the 2018-2019 holiday season.

(B) Community Center – Side Entrance/General

(i) 275’ perimeter lighting – LED C-9 lights installed along total perimeter of lower level of building.

(ii) Six (6) trees’ trunks and branches wrapped with warm white LED mini lights.

(iii) A ten-foot (10’) tall real Christmas tree located in the lobby between the two glass doors, fully decorated and LED-lit, including multi-sized/shaped ornaments, bows, ribbon, tree skirt, and star topper. Design/colors to be decided based on consistency with overall theme for the 2018-2019 holiday season.

(C) Carson Center Atrium - Courtyard

(i) A sixteen-foot (16') tall real Christmas tree located in the center of the courtyard, fully decorated and LED-lit, including multi-sized/shaped ornaments, bows, ribbon, tree skirt, and star topper. Design/colors to be decided based on consistency with overall theme for the 2018-2019 holiday season.

(ii) Three (3) sixty-inch (60") fully decorated and LED-lit wreaths located on the glass above the doors.

(D) City Hall – Front Entrance

(i) Seven (7) trees' (located on the left of the pathway at the interior entrance) trunks wrapped with LED warm white mini lights.

(ii) Eleven (11) trees' (located on the right of the pathway at the interior entrance) trunks wrapped with LED warm white mini lights.

(iii) Fourteen (14) trees' (located along the left side of the building) trunks wrapped with LED warm white mini lights.

(iv) Fifteen-foot (15') tall real Christmas tree located inside next to front door, fully decorated and LED-lit, including multi-sized/shaped ornaments, bows, ribbon, tree skirt, and star topper. Design/colors to be decided based on consistency with overall theme for the 2018-2019 holiday season.

(E) City Hall – Fountain Area

(i) A sixty-inch (60") fully decorated and LED-lit wreath located on the front-center toward the top of the building.

(ii) Four (4) palm trees' trunks wrapped with warm white LED mini lights (9 strands each).

(F) City Hall – Grass Area and Perimeter Lighting

(i) 760' perimeter lighting – LED C-9 lights installed 360 degrees along the perimeter of the City Hall building.

(G) Design Concepts

(i) For the 6' tree at the Community Center entrance and the 16' tree and three wreaths in the Carson Center Atrium courtyard: blue, gold, silver, and champagne ornaments, mixed with specialty-shaped ornaments with different finishes, including ribbon and/or bows, and finished with foliage. Same décor scheme on each tree/wreath, but decorated slightly differently. Alternative design concepts are available upon request of the City's Decoration Services Contract Officer.

(ii) For the 10' tree in the Community Center Lobby and the 15' tree in the City Hall lobby: red and gold round ornaments, mixed with specialty-shaped ornaments with different finishes, including specialty ribbon and/or bows. Same décor scheme on each tree, but decorated slightly differently. Alternative design concepts are available upon request of the City's Decoration Services Contract Officer.

2. Maintenance of the Decorations in full and complete working order from the Installation Date to the Removal Date, as defined below, as follows:

(A) On the Installation Date, a qualified professional technician, approved by the City in advance and reportable to the City, shall be on-site at the City's civic center to diagnose and repair any issues pertaining to defective or inoperable Decorations as directed by the City.

(B) Any defective or inoperable Decoration identified and/or reported by the Decoration Services Officer at any time from the Installation Date to the Removal Date shall be responded to and repaired or replaced, as necessary, within 24 hours of such identification or report at no cost to the City. Notwithstanding the foregoing, due to a special event the City is hosting on December 8, 2018, the response and repair/replacement time on said date shall be no more than three (3) hours.

I The Decoration Services Officer may report defective or inoperable Decorations for purposes of this section by contacting Caterer using at Caterer's phone number specified in Section 23I of this Agreement. Notwithstanding the foregoing, Caterer, and any third party retained by Cater to perform the Decoration Services, upon becoming aware of any defective or inoperable Decoration, shall respond to and correct such defective or inoperable Decoration within the time periods specified in subsection (a)(2)(B) even in the absence of a report by the Decoration Services Officer.

3. Removal of the Decorations by the Removal Date, as defined below.

b. Tangible Work Product. As part of the Decoration Services, Caterer will ensure the preparation and delivery of the following tangible work products to the City:

1. Installation of all Decorations by the Installation Date.
2. Maintenance of all Decorations in working order from the Installation Date to the Removal Date.
3. Removal of all Decorations on the Removal Date.

c. City Review. All work product of the Decoration Services is subject to review and acceptance by the City, and must be revised by Caterer (or the qualified third party retained by Caterer pursuant to agreement with Caterer) without additional charge to the City until found satisfactory and accepted by City.

d. Decoration Cost Rates. The Decoration Services (including installation, maintenance, and removal for each Decoration) shall be performed at the following rates:

DECORATION (identified by subsection of this section)	RATE	QUANTITY	SUB- BUDGET
(a)(1)(A)(i)	\$350	1	\$350
(a)(1)(A)(ii)	\$245	4	\$980
(a)(1)(A)(iii)	\$1,475	1	\$1,475
(a)(1)(B)(i)	\$3.50	275	\$962.50
(a)(1)(B)(ii)	\$250	6	\$1,500
(a)(1)(B)(iii)	\$2,750	1	\$2,750
(a)(1)(C)(i)	\$8,600	1	\$8,600
(a)(1)(C)(ii)	\$350	3	\$1,050
(a)(1)(D)(i)	\$35	7	\$245
(a)(1)(D)(ii)	\$35	11	\$385
(a)(1)(D)(iii)	\$35	14	\$490
(a)(1)(D)(iv)	\$8,200	1	\$8,200
(a)(1)(E)(i)	\$350	1	\$350
(a)(1)(E)(ii)	\$315	4	\$1,260
(a)(1)(F)(i)	\$3.50	760	\$2,660
(a)(1)(G)(i)	N/A	N/A	N/A
(a)(1)(G)(ii)	N/A	N/A	N/A

Notwithstanding the foregoing, Caterer has offered the City a discount of ten percent (10%) off the foregoing rates. Thus, the applicable rate for

each Decoration is ninety percent (90%) of the respective sub-budget amount(s) listed above.

e. Failure to Install or Properly Maintain Decorations; Effect on Decoration Cost. In the event any of the Decorations are not installed, or are defective/inoperable and not repaired/replaced in accordance with subsection (a)(2), the City shall not be obligated to pay for the cost of said Decoration(s), as set forth in subsection (d) (table above), and said cost shall not be included in the Decoration Cost, as set forth in subsection (g), below.

f. Method of Payment. The Decoration Cost shall be deducted from the total amount of Caterer's December, 2018 monthly user fee payment pursuant to Section 4 ("Compensation") of this Agreement. The deduction shall be reflected in a special invoice accompanying said monthly use fee payment, which shall set forth the total Decoration Cost deducted and line items for the rate, quantity and sub-budget cost of each Decoration that is included in the deduction. The special invoice and corresponding deduction shall be subject to adjustment pursuant to Section 9(a)(5).

g. Total Decoration Cost. The total cost to the City of the Decoration Services shall not exceed \$28,131.75 (the "Decoration Cost").

h. Schedule of Performance.

(1) The Decorations shall be installed by no later than November 26, 2018 ("Installation Date").

(2) The Decorations shall be completely removed to the full satisfaction of the City on a date which shall not be earlier than January 2, 2019, nor later than January 7, 2019 ("Removal Date").

(3) The Decorations shall be maintained and repaired/replaced in accordance with subsection (a)(2).

(4) Since the determination of actual damage for any delay in performance of the Decoration Services would be extremely difficult or impractical to determine in the event of a breach of this section, Caterer (or the third party retained by Caterer, pursuant to agreement with Caterer) shall be liable and shall pay to the City the sum of Two Hundred Fifty Dollars (\$250) as liquidated damages for each day of delay in the performance of any of the Decoration Services. Such liquidated damages shall be withheld from the Decoration Cost and reflected on the invoice pursuant to subsection (f). The liquidated damages provided for in this

subsection are in addition to those provided for in Section 16, and to any reduction in the Decoration Cost that may result from failure to install or properly maintain Decorations pursuant to subsection (e) of this section.

i. Insurance and Indemnification. If Caterer retains any person or entity that is not covered by Caterer's indemnification covenant and insurance requirements set forth in Sections 14 and 15 of this Agreement to perform Decoration Services, Caterer shall require said third party to agree, in writing, to: (1) indemnify, defend, and hold harmless City, its elected officials, officers, attorneys, agents, employees, volunteers, successors and assigns (collectively, "Indemnitees") from any and all liability or financial loss, including legal expenses and costs of expert witnesses and consultants resulting from any lawsuits, claims, losses or actions brought by any person or persons, by reason of injury and arising directly or indirectly from the activities and operations of said third party, including its officers, agents, employees, subcontractors or any person employed by said third party in the performance of the Decoration Services, including installation, removal and maintenance of the Decorations, with the agreement surviving termination of this Agreement; and (2) comply with all insurance requirements set forth in Section 15 of this Agreement, including naming the City, its officers, employees and agents as additional insureds on all required policies of insurance and providing the City with certificates of insurance evidencing the required coverages. Notwithstanding the foregoing, Caterer is responsible for performance of the Decoration Services in accordance with this section irrespective of whether or not it retains a third party to perform Decoration Services. It is expressly understood that Caterer's indemnification covenant and insurance requirements set forth in Sections 14 and 15 of this Agreement apply to the Decoration Services, and that City is entitled to hold Caterer (as well as any third party retained by Caterer to perform Decoration Services) liable for any loss, damage or expense suffered by the City resulting from performance of the Decoration Services, irrespective of whether Caterer retained a third party to perform Decoration Services.

j. Decoration Services Contract Officer. Adrian Reynosa, or such other person as may be designated by the City Manager, is hereby designated as being the representative of the City authorized to act on its behalf with respect to the Decoration Services and to make all decisions in connection therewith (the "Decoration Services Contract Officer" / "Decoration Services Officer"). The Decoration Services Contract Officer is intended as a convenience liaison only, and the City's designation of such officer does not in any way relieve Caterer of responsibility for the performance of the Decoration Services in accordance with this section.

2. **Continuing Effect of Agreement.** Except as amended by this Agreement, 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 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 Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[brj]

CATERER:

CHOURA VENUE SERVICES, a California Corporation

By: _____
Name: James J. Choura
Title: Owner

By: _____
Name: Melanie L. Choura
Title: Owner

Address: 4101 E. Willow St.
Long Beach, CA 90815

Two corporate officer signatures required when Caterer 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. 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 _____, 2018 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	DESCRIPTION OF ATTACHED DOCUMENT
☐ INDIVIDUAL	
☐ CORPORATE OFFICER	
_____ TITLE(S) ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL	_____ TITLE OR TYPE OF DOCUMENT
☐ ATTORNEY-IN-FACT	
☐ TRUSTEE(S)	
☐ GUARDIAN/CONSERVATOR	_____ NUMBER OF PAGES
☐ OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	_____ DATE OF DOCUMENT
	_____ SIGNER(S) OTHER THAN NAMED ABOVE

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 _____, 2018 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 _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

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

SIGNER(S) OTHER THAN NAMED ABOVE