

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

1 FIFTH AMENDMENT TO CONTRACT NO. 35579

2 **35579**

3 THIS FIFTH AMENDMENT TO CONTRACT NO. 35579 is made and
4 entered, in duplicate, as of February 16, 2022, for reference purposes only, pursuant to a
5 minute order adopted by the City Council of the City of Long Beach at its meeting on April
6 14, 2020, by and between MJK CONSTRUCTION, INC., a California corporation
7 ("Contractor"), whose address is 4780 Cheyenne Way, Chino, CA 91710, and the CITY OF
8 LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City and Contractor (the "Parties") entered into Contract No.
10 35579 (the "Contract") whereby Contractor agreed to remove and replace two 12,000-
11 gallon underground storage fuel tanks located at the Water Department Maintenance Yard
12 at 1800 E. Wardlow Road; and

13 WHEREAS, the Parties entered into a First Amendment to update the List of
14 Subcontractors; and

15 WHEREAS, the Parties entered into a Second Amendment to update the List
16 of Subcontractors; and

17 WHEREAS, the Parties entered into a Third Amendment to update the List
18 of Subcontractors; and

19 WHEREAS, the Parties entered into a Fourth Amendment to add new
20 subcontractors; and

21 WHEREAS, the Parties currently desire to enter into a Fifth Amendment to
22 extend the contract term and amend the terms of the liquidated damages clause; and

23 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
24 conditions herein contained, the Parties agree as follows:

25 1. Section 4. of the Agreement is hereby amended to read as follows.

26 "4. TIME FOR CONTRACT. Contractor shall commence work on a date
27 to be specified in a written notice to Proceed from City and shall complete all work
28 by June 11, 2022, subject to strikes, lockouts and events beyond the control of the

1 Contractor. Time is of the essence hereunder. City will suffer damage if the work is
2 not completed within the time stated, but those damages would be difficult or
3 impractical to determine. So, Contractor shall pay to City, as liquidated damages,
4 the amount stated in the Contract Documents.”

5 2. Section 33 of the Agreement is hereby amended to read as follows:

6 “33. LIQUIDATED DAMAGES.

7 A. This fueling system is the primary fueling location for the Long
8 Beach Water Department vehicles. Protracted downtime will result in a financial
9 burden on the City. As a result, this contract includes a provision for liquidated
10 damages.

11 B. Removing the existing UST system and installing and
12 commissioning a new system are estimated to take eighteen (18) weeks (six (6)
13 weeks Planning and Permitting, twelve (12) weeks construction).

14 C. If the fueling system is out of commission for more than thirty-
15 five (35) weeks, the contractor agrees to pay the City Five Hundred Dollars (\$500)
16 for each day beyond the thirty-five (35) weeks that the system is out of commission.”

17 3. Except as expressly modified herein, all of the terms and conditions
18 contained in Contract No. 35579 are ratified and confirmed and shall remain in full force
19 and effect.

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IN WITNESS WHEREOF, the Parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

MJK CONSTRUCTION, INC., a California corporation

3/12/, 2022

By Michael J. Kissick
Name Michael J. Kissick
Title PRESIDENT

3/12/, 2022

By Parrela E. Lawrence
Name Parrela E. Lawrence
Title CEO

"Contractor"

CITY OF LONG BEACH, a municipal corporation

3/24/, 2022

By Linda F. Takum
City Manager

"City"

This Fifth Amendment to Contract No. 35579 is approved as to form on March 23, 2022.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

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MJK CONSTRUCTION, INC., a California corporation

3/12/, 2022

By Michael J. Kissick
Name Michael J. Kissick
Title PRESIDENT

3/12/, 2022

By Parola E. Lawrence
Name Parola E. Lawrence
Title CEO

"Contractor"

CITY OF LONG BEACH, a municipal corporation

_____, 2022

By _____
City Manager

"City"

This Fifth Amendment to Contract No. 35579 is approved as to form on _____, 2022.

CHARLES PARKIN, City Attorney

By _____
Deputy