

FIRST AMENDMENT TO CONTRACT NO. 31524

31524

THIS FIRST AMENDMENT TO CONTRACT NO. 31524 is made and entered, in duplicate, as of September 13, 2010 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on February 9, 2010, by and between MTM & THOMASVILLE CO., a joint venture comprised of MTM Construction, Inc., a California corporation, and Thomasville Construction, Inc., a California corporation, whose address is 16035 Phoenix Drive, City of Industry, California 91745 (collectively referred to as "Contractor"), and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for Job Order Contract in the City of Long Beach, California," bids were received, publicly opened and declared on the date specified in said Notice; and

WHEREAS, the City Manager accepted the bid of Contractor for Job Order Contract No. 14; and

WHEREAS, the parties entered Contract No. 31524 for the work described in the bid documents; and

WHEREAS, the parties desire to increase the Contract amount by \$1,000,000 and extend the term;

NOW, THEREFORE, in consideration of the mutual terms and conditions in the Contract and in this First Amendment, the parties agree as follows:

1. Section 2 of Contract No. 31524 is hereby amended to read as follows:

"2. PRICE AND PAYMENT. City shall pay to Contractor the amount(s) for each Work Order based on the adjustment factor in Contractor's Bid, attached hereto as Exhibit "A"; provided, however, that City shall not pay more than Two Million Dollars (\$2,000,000.00) for the term of the Contract."

2. Section 4.A. of Contract No. 31524 is hereby amended to read as

1 follows:

2 "4. TIME FOR CONTRACT.

3 A. The term of this Contract shall begin on February 10, 2010
4 and shall end on September 12, 2011 or on City's payment of the not-to exceed
5 dollar amount hereunder to Contractor as specified in Section 2, whichever occurs
6 first."

7 3. Except as expressly amended in this First Amendment, all terms and
8 conditions in Contract No. 31524 are ratified and confirmed and shall remain in full force
9 and effect.

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

3 MTM & THOMASVILLE CO., a joint
4 venture comprised of MTM Construction,
5 Inc., and Thomasville Construction, Inc.

6 MTM CONSTRUCTION, INC., a California
7 corporation

8 October 18, 2010

9 By [Signature]

10 President

11 Howard Hac Song Lee

12 Type or Print Name

13 October 18, 2010

14 By Stella H. Nam

15 Secretary

16 Stella H. Nam

17 Type or Print Name

18 THOMASVILLE CONSTRUCTION, INC., a
19 California corporation

20 October 19, 2010

21 By [Signature]

22 President

23 Thomas Young Jin Son

24 Type or Print Name

25 October 19, 2010

26 By [Signature]

27 Secretary

28 Thomas Young Jin Son

Type or Print Name

"Contractor"

29 CITY OF LONG BEACH, a municipal
30 corporation

31 2.1, 2010

32 By [Signature] Assistant City Manager

33 City Manager
34 EXECUTING IN ACCORDANCE
35 WITH THE CITY CHARTER.

"City"

36 This First Amendment to Contract No. 31524 is approved as to form on

37 11/2, 2010.

38 ROBERT E. SHANNON, City Attorney

39 By [Signature]

40 Deputy

CNA SURETY

Executed in Duplicate

Increase - Decrease Rider

Per First Amendment to Job Order Contract No. 31524, dated 10/06/2010

TO BE ATTACHED TO and form part of Bond Number 58671101 issued by the Western Surety Company as Surety, on behalf of MTM & Thomasville Co. of 16035 Phoenix Drive, City of Industry, CA 91745 hereinafter referred to as the Principal, and in favor of City of Long Beach, Department of Public Works, of 333 West Ocean Boulevard, 9th Floor, Long Beach, CA 90802, hereinafter referred to as Obligee, effective the 12th day of February, 2010.

IN CONSIDERATION of the premium charged for the attached bond and other good and valuable consideration it is understood and agree that effective the 15th day of October, 2010, and subject to all the terms, conditions and limitations of the attached bond, the penal sum thereof shall be and the same is hereby increased from the sum of One Million and 00/100 Dollars (\$1,000,000.00), to the sum of Two Million and 00/100 Dollars (\$2,000,000.00).

IT IS FURTHER UNDERSTOOD and agreed that subject to all the terms, conditions and limitations of the attached bond, the aggregate liability of the Surety for any loss occurring to said date shall not exceed the sum of One Million and 00/100 Dollars (\$1,000,000.00), or for any loss occurring subsequent to said date shall not exceed the sum of Two Million and 00/100 Dollars (\$2,000,000.00). In no event, however, shall the aggregate liability of the Surety exceed the larger of the aforementioned sums, it being the intent thereof to preclude cumulative liability.

SIGNED, SEALED AND DATED this 15th day of October, 2010.

Accepted By:

City of Long Beach, Department of Public Works

By: 

MTM & Thomasville Co.

By: 

(Principal)
(Seal)
Howard Hae Song Lee
President/Gen. Partner

Western Surety Company

(Surety)

By: 

William Syrkis

(Seal)

Attorney-in-Fact

SUR-23174-D

12/13

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

William Syrkin, Sergio D Bechara, Margaret Gilmore, Rebecca Haas- Bates, Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 8th day of March, 2010.



WESTERN SURETY COMPANY

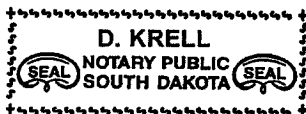
Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 8th day of March, 2010, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 15th day of October, 2010.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 10/15/10 before me, R. Haas-Bates, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared William Syrkin

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(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.

Place Notary Seal Above

Signature

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Rider to Increase Bond Amount - Bond No. 58671101

Document Date: 10/15/10

Number of Pages: One (1)

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: William Syrkin

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☒ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Western Surety Company

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

California All-Purpose Acknowledgement

State of California }
County of Los Angeles

On October 19, 2010 before me, Karen I. Yang, a Notary Public

personally appeared Hac Song Lee (a.k.a Howard Lee)



Notary Public Seal

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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.

A handwritten signature in black ink, appearing to read 'Karen I. Yang', written over a horizontal line.

Notary Public Signature

OPTIONAL

Description of Attached Document

Title or Type of Document: Rider to Increase Bond Amount- Bond No. 58671101

Document Date: 10/15/2010 Number of Pages: 1 (One)

Signer(s) Other than Named Above: Hac Song Lee (a.k.a Howard Lee)

Capacity(ies) Claimed by Signer(s)

Thumbprint of Signer 1

- ☐ Individual
☐ Corporate Officer: _____
☒ Partner - ☐ Limited ☒ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____
MTM & THOMASVILLE CO.

Thumbprint of Signer 2

- ☐ Individual
☐ Corporate Officer: _____
☐ Partner - ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____



Bond No. 58671101

Executed in Duplicate

General Purpose Rider

Per First Amendment to Job Order Contract No. 31524, dated 10/06/2010

TO BE ATTACHED TO and form part of Bond Number 58671101 issued by the Western Surety Company as Surety, on behalf of MTM & Thomasville Co. of 16035 Phoenix Drive, City of Industry, CA 91745 hereinafter referred to as the Principal, and in favor of City of Long Beach, Department of Public Works, of 333 West Ocean Blvd., 9th Floor, Long Beach, CA 90802, hereinafter referred to as Obligee, in the sum of Two Million and 00/100 Dollars (\$ 2,000,000.00), effective the 15th day of October, 2010.

NOW, THEREFORE, it is agreed that the Term of the Bond is Extended
FROM: February 10, 2010
TO: September 12, 2011

IT IS FURTHER AGREED that all other terms and conditions of this bond shall remain unchanged.

THIS RIDER IS TO BE EFFECTIVE the 15th day of October, 2010.

SIGNED, SEALED AND DATED this 15th day of October, 2010.

Accepted By:

City of Long Beach, Department of Public Works

(Obligee)

By: 

MTM & Thomasville Co.

(Principal)

By: 

(Seal)

Howard Hae Song Lee
President/Gen. Partner

Western Surety Company

(Surety)

By: 

(Seal)

William Sytkin, Attorney-in-Fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

William Syrkin, Sergio D Bechara, Margaret Gilmore, Rebecca Haas- Bates, Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 8th day of March, 2010.



WESTERN SURETY COMPANY

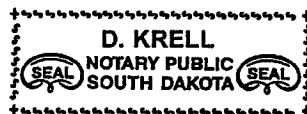
Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 8th day of March, 2010, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 15th day of October, 2010.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 10/15/10

Date

before me, R. Haas-Bates, Notary Public

Here Insert Name and Title of the Officer

personally appeared William Syrkin

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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.

Place Notary Seal Above

Signature

R. Haas-Bates

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Rider to Extend Bond Term - Bond No. 58671101

Document Date: 10/15/10

Number of Pages: One (1)

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: William Syrkin

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☒ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____
Western Surety Company

RIGHT THUMBPRINT
OF SIGNER
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Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

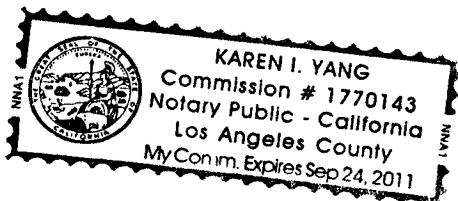
California All-Purpose Acknowledgement

State of California }

County of Los Angeles

On October 19, 2010 before me, Karen I. Yang, a Notary Public

personally appeared Hac Song Lee (a.k.a Howard Lee)



Notary Public Seal

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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.

A handwritten signature in black ink, appearing to read 'Karen I. Yang', written over a horizontal line.

Notary Public Signature

OPTIONAL

Description of Attached Document

Title or Type of Document: Rider to Increase Bond Term- Bond No. 58671101

Document Date: 10/15/2010 Number of Pages: 1 (One)

Signer(s) Other than Named Above: Hac Song Lee (a.k.a Howard Lee)

Capacity(ies) Claimed by Signer(s)

Thumbprint of Signer 1

- ☐ Individual
☐ Corporate Officer: _____
☒ Partner - ☐ Limited ☒ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____
MTM & THOMASVILLE CO.

Thumbprint of Signer 2

- ☐ Individual
☐ Corporate Officer: _____
☐ Partner - ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____