

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 FIRST AMENDMENT TO CONTRACT NO. 30422

2 **30422**

3 THIS FIRST AMENDMENT TO CONTRACT NO. 30422 is made and
4 entered, in duplicate, as of October 30, 2008 for reference purposes only, pursuant to a
5 minute order adopted by the City Council of the City of Long Beach at its meeting held on
6 December 4, 2007, by and between SULLY-MILLER CONTRACTING COMPANY, a
7 Delaware corporation, whose address is 1100 E. Orangethorpe Avenue, Suite 200,
8 Anaheim, California 92801 ("Contractor"), and the CITY OF LONG BEACH, a municipal
9 corporation ("City").

10 WHEREAS, pursuant to a "Notice Inviting Bids for the Annual Contract for
11 Street Repairs and Minor Improvements in the City of Long Beach, California," dated
12 November 14, 2007, and published by City, bids were received, publicly opened and
13 declared on the date specified in said Notice; and

14 WHEREAS, the City Manager accepted the bid of Contractor; and

15 WHEREAS, the City Council authorized the City Manager to enter a
16 contract with Contractor for the work described in Plans & Specifications No. R-6738; and

17 WHEREAS, the parties entered Contract No. 30422 whereby Contractor
18 agreed to perform the work described in Plans & Specifications No. R-6738; and

19 WHEREAS, the parties desire to extend the term of the Contract;

20 NOW, THEREFORE, in consideration of the mutual terms and conditions
21 herein contained, the parties agree as follows:

22 1. Section 4 of Contract No. 30422 is hereby amended in its entirety to
23 read as follows:

24 "4. TIME FOR CONTRACT. Contractor shall commence work on a date
25 to be specified in a written "Notice to Proceed" from City and shall complete all work
26 within Three Hundred Sixty-Five (365) calendar days thereafter, subject to strikes,
27 lockouts and events beyond the control of Contractor. To the extent all work is not
28 completed within three hundred sixty-five (365) days after the date specified in the Notice

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1 to Proceed, the term of the Contract shall be extended and, unless sooner terminated as
2 provided in this Contract, or unless the work to be performed hereunder is completed
3 sooner, shall terminate at 11:59 p.m. on December 31, 2009. Time is of the essence
4 hereunder. City will suffer damage if the work is not completed within the time stated, but
5 those damages would be difficult or impractical to determine. So, Contractor shall pay to
6 City, as liquidated damages, the amount stated in the Contract Documents."

7 2. Except as expressly modified herein, all of the terms and conditions
8 contained in Contract No. 30422 are ratified and confirmed and shall remain in full force
9 and effect.

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

12 SULLY-MILLER CONTRACTING COMPANY, a
13 Delaware corporation

14 NOVEMBER 20, 2008 By 

DAVE MARTINEZ, PRESIDENT

Type or Print Name

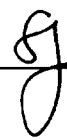
16 NOVEMBER 20, 2008 By 

GARY DOWNEY, ASSISTANT SECRETARY

Type or Print Name

"Contractor"

20 CITY OF LONG BEACH, a municipal corporation

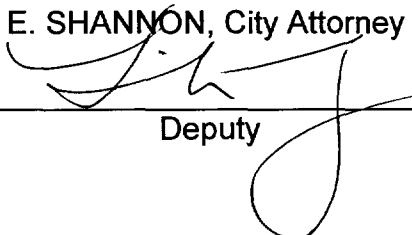
21 Dec 4, 2008 By  Assistant City Manager

City Manager
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

"City"

24 This First Amendment to Contract No. 30422 is approved as to form on
25 November 25, 2008.

27 ROBERT E. SHANNON, City Attorney

28 By 
Deputy

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

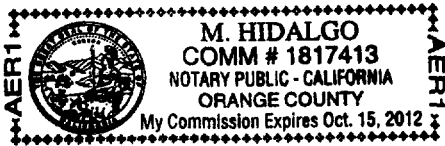
STATE OF CALIFORNIA }
COUNTY OF ORANGE

On November 21, 2008 before me, M. Hidalgo, personally appeared Dave Martinez and Gary Downey

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



Notary Seal

Signature _____

M. Hidalgo
M. Hidalgo, Notary Public

OPTIONAL

Description of Attached Document

Title or Type of Document: First Amendment to Contract No. 30422

Document Date: November 20, 2008 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s):

Signer's Name Dave Martinez

Signer's Name Gary Downey

- Individual
- Corporate Officer – Title(s) President
- Partner – Limited/General _____
- Attorney In Fact _____
- Trustee _____
- Guardian or Conservator _____
- Other _____

Right Thumbprint
of Signer

- Individual
- Corporate Officer – Title(s) Assistant Secretary
- Partner – Limited/General _____
- Attorney In Fact _____
- Trustee _____
- Guardian or Conservator _____
- Other _____

Right Thumbprint
of Signer

Signer is Representing: SULLY-MILLER CONTRACTING COMPANY

CERTIFICATE OF INCUMBENCY AND RESOLUTION

I, Dave Martinez, do hereby certify that I am the President of Sully-Miller Contracting Company, a Delaware corporation, and that as such I have access to and custody of the corporate records and minute books of said corporation.

And I do hereby further certify that the following persons are duly elected officers of said corporation.

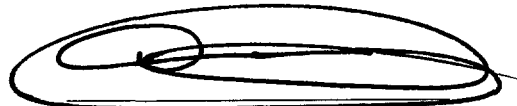
<u>TITLE</u>	<u>NAME</u>
Chairman of the Board	James Weeks
President	Dave Martinez
Chief Financial Officer/Treasurer &	Tim P. Orchard
Vice President	
Vice President	Bob Stone
Vice President	Mike Edwards
Secretary	Anthony Martino
Assistant Secretary	George Aldrich
Assistant Secretary	Mary Lawson
Assistant Secretary	Gary Downey

I further certify that the following is a true and correct copy of a resolution duly adopted by the Board of Directors of said Company at a meeting held on April 25, 2005, and that this resolution has not been in any way rescinded, annulled, or revoked but the same is still in full force and effect:

“(AUTHORITY TO EXECUTIVE BIDS AND CONTRACTS)”

Resolved, that any officer or assistant officer of this Company be and each of them is hereby authorized to execute in the name and on behalf of this Company under its corporate seal any and all proposals for the sale of products, merchandise and services of this Company and any bids and performance bonds required in connection therewith, to the United States, and of the State, territories and dependencies of the United States, the District of Columbia, cities, towns, townships, counties, school districts, and to the department, political subdivisions, agencies or wholly-owned corporations thereof, or to any other person.”

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 7th day of April 2008.



Dave Martinez, President
Sully-Miller Contracting Company
1100 E. Orangethorpe Avenue, Ste. 200
Anaheim, Ca. 92801

(SEAL)