## OFFICE OF THE CITY ATTORNEY DAWN MCINTOSH, City Attorney 411 West Ocean Boulevard, 9th Floor Long Beach, CA 90802

## SECOND AMENDMENT TO CONTRACT NO. 36422 36422

THIS SECOND AMENDMENT TO CONTRACT NO. 36422 is made and entered, in duplicate, as of June 29, 2023, 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 July 19, 2022, by and between BITECH CONSTRUCTION COMPANY INC., a California corporation ("Contractor"), whose address is 7371 Walnut Avenue, Buena Park, California 90620 ("Contractor"), and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for Job Order Contract (JOC) in the City of Long Beach, California," bids were received, publicly opened on March 4, 2022, and declared on the date specified in said Notice; and

WHEREAS, the parties entered into Contract No. 36422 for the work described in the bid documents to furnish all necessary labor, supervision, tools, materials, supplies, appliances, equipment and transportation for the work described in each Work Order, as defined in Specification No. R-7193, said work to be performed according to the Contract Documents; and

WHEREAS, in accordance with Long Beach Municipal Code ("LBMC") section 2.84.100 and the terms of Contract No. 36422, the City is required to pay Contractor the amount(s) for each Work Order based on the adjustment factor in Contractor's Bid, provided, however, that the city shall not pay more than Two Million Dollars (\$2,000,000) for the term of the Contract. Furthermore, no individual Work Order project shall exceed Seven Hundred and Fifty Thousand Dollars (\$750,000); and

WHEREAS, pursuant to a minute order adopted by the City Council at its meeting held on January 24, 2023, due to the recent emergency proclamation and the very stringent timelines required by grant funding from the State of California, the City Council temporarily removed the single job order threshold of Seven Hundred and Fifty Thousand Dollars (\$750,000) to utilize the JOC program to expedite projects in response

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to the proclaimed local emergency caused by homelessness, for a more efficient and timelier project delivery; and

WHEREAS, the suspension of LBMC Ch 2.84 that pertains to a single job order threshold for projects which address the proclaimed local emergency caused by homelessness, shall expire on the later of (i) one hundred and eighty (180) days after its effective date, or (ii) with respect to projects begun prior to such date but not yet complete, on the date of completion of such project, unless further extended by the City Council in its discretion by an amendment to LBMC Ch. 2.84; and

WHEREAS, the Parties entered into a First Amendment to add Six Million Dollars (\$6,000,000) to the Contract, for a total amount of Eight Million Dollars (\$8,000,000); and

WHEREAS, the Parties desire to add Three Million Dollars (\$3,000,000) to the Contract, for a total amount of Eleven Million Dollars (\$11,000,000);

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

1. Section 3 of Contract No. 36422 is hereby amended to read as follows:

## "3. PRICE AND PAYMENT.

City shall pay to Contractor the amount(s) for each Work Order Α. based on the adjustment factor in Contractor's Bid, attached hereto as Exhibit "A"; however, that City shall not pay more than Eleven Million Dollars provided. (\$11,000,000.00) for the term of the Contract. Furthermore, no individual Work Order project shall exceed Seven Hundred and Fifty Thousand Dollars (\$750,000).

Notwithstanding Section 3.A., the single job order threshold of Seven В. Hundred and Fifty Thousand Dollars (\$750,000) shall not apply to projects, which address the proclaimed local emergency caused by homelessness as reasonably determined by the City. Said suspension of the single job order threshold of Seven Hundred and Fifty Thousand Dollars (\$750,000) shall expire on the later of (i) July 23,