

THIRD AMENDMENT TO CONTRACT NO. 30422

30422

THIS THIRD AMENDMENT TO CONTRACT NO. 30422 is made and entered, in duplicate, as of December 8, 2009 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meetings held on December 4, 2007 and January 6, 2009, by and between SULLY-MILLER CONTRACTING COMPANY, a Delaware corporation ("Contractor"), whose address is 1100 E. Orangethorpe Avenue, Suite 200, Anaheim, California 92801, and the CITY OF LONG BEACH, a municipal corporation ("City").

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

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

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

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

"4. TIME FOR CONTRACT. Contractor shall commence work on a date to be specified in a written "Notice to Proceed" from City and shall complete all work within Three Hundred Sixty-Five (365) calendar days thereafter, subject to strikes, lockouts and events beyond the control of Contractor. To the extent all work is not completed within three hundred sixty-five (365) days after the date specified in the Notice to Proceed, the term of the Contract shall be extended and, unless sooner terminated as provided in this Contract, or unless the work to be performed hereunder is completed sooner, shall terminate at 11:59 p.m. on March 31, 2010. Time is of the essence hereunder. City will suffer damage if the work is not completed within the time stated, but those damages would be difficult or impractical to determine. So, Contractor shall pay to City, as liquidated damages, the amount stated in the Contract Documents."

2. Except as expressly modified herein, all of the terms and conditions

1 contained in Contract No. 30422 are ratified and confirmed and shall remain in full force
2 and effect.

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

5 SULLY-MILLER CONTRACTING
6 COMPANY, a Delaware corporation

7 DECEMBER 18, 2009

By 
VICE President

MICHAEL EDWARDS
Type or Print Name

8
9
10 DECEMBER 18, 2009


By 
ASSISTANT Secretary

GARY DOWNEY
Type or Print Name

11
12 "Contractor"

13 CITY OF LONG BEACH, a municipal
14 corporation
15 Assistant City Manager

16 1-8, 2010

By 
City Manager

17 "City"

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

18 This Third Amendment to Contract No. 30422 is approved as to form on

19 1/7, 2010.

20 ROBERT E. SHANNON, City Attorney

21 By 
22 Deputy

23
24
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26
27
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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF ORANGE

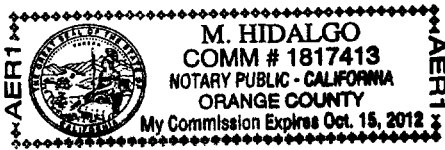


On December 29, 2009 before me, M. Hidalgo, personally appeared Mike Edwards and Gary Downey

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: Third Amendment to Contract No. 30422

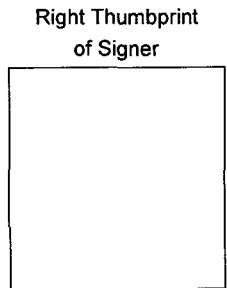
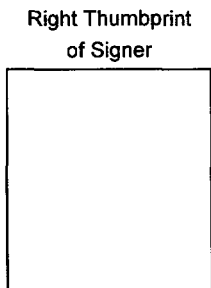
Document Date: December 18, 2009 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s):

Signer's Name Mike Edwards Signer's Name Gary Downey

- | | |
|--|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Individual |
| <input checked="" type="checkbox"/> Corporate Officer – Title(s) <u>Vice President</u> | <input checked="" type="checkbox"/> Corporate Officer – Title(s) <u>Assistant Secretary</u> |
| <input type="checkbox"/> Partner – Limited/General _____ | <input type="checkbox"/> Partner – Limited/General _____ |
| <input type="checkbox"/> Attorney In Fact _____ | <input type="checkbox"/> Attorney In Fact _____ |
| <input type="checkbox"/> Trustee _____ | <input type="checkbox"/> Trustee _____ |
| <input type="checkbox"/> Guardian or Conservator _____ | <input type="checkbox"/> Guardian or Conservator _____ |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |



Signer is Representing: SULLY-MILLER CONTRACTING COMPANY

CERTIFICATE OF INCUMBENCY AND RESOLUTION

I, Gary Downey, do hereby certify that I am the Assistant Secretary 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.

TITLE

Chairman of the Board
President
Chief Financial Officer/Treasurer/Vice President
Vice President/Assistant Secretary
Secretary
Assistant Secretary
Assistant Secretary
Assistant Secretary

NAME

Gordon R. Crawley
David Martinez
Timothy P. Orchard
Michael Edwards
Anthony L. Martino II
George Aldrich
Scott Bottomley
Gary Downey

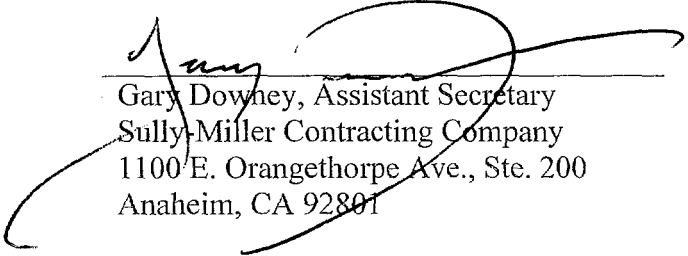
I further certify that the following is a true and correct copy of a resolution duly adopted by the Board of Directors of said Company at a meeting held on January 16th, 2009, and that this resolution has not been in any way rescinded, annulled, or revoked but the same is still in full force and effect:

“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 9th day of February 2009.

(SEAL)



Gary Downey, Assistant Secretary
Sully-Miller Contracting Company
1100 E. Orangethorpe Ave., Ste. 200
Anaheim, CA 92801