

**FIRST AMENDMENT
TO
CONTRACT**

**[Mechanical Services and Preventive Maintenance for HVAC Equipment
(Informal Bid No. 189-19; SP-4076)]**

THIS FIRST AMENDMENT TO CONTRACT (the “First Amendment to Contract”) is made and entered into as of _____, 2021 (“Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and DIVERSIFIED THERMAL SERVICES, INC., a California corporation (“Contractor”), with reference to the following:

A. City and Contractor entered into a Contract (Agreement No. AGR-6497.A) dated February 12, 2019, which is incorporated herein by this reference (the “Original Contract”); and

B. City and Contractor desire to modify, amend and supplement certain portions of the Original Contract by increasing the compensation.

NOW, THEREFORE, the parties hereby agree as follows:

Section 1. **Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Original Contract.

Section 2. **Cross-References.** City and Contractor agree that all references in this First Amendment are deemed and construed to refer to the Original Contract, as implemented by this First Amendment.

Section 3. **Compensation.** Article 3 of the Original Contract is hereby amended to increase the total not-to-exceed compensation for the services to be rendered during the Initial Term by ONE HUNDRED FIFTY THOUSAND DOLLARS and 00/100 (\$150,000.00) and Article 3 is hereby amended in its entirety to read as follows:

“Under the Initial Term, Contractor agrees to receive and accept an amount not to exceed SIX HUNDRED TEN THOUSAND SIX HUNDRED THIRTY DOLLARS and 00/100 (\$610,630.00) as full compensation for furnishing all materials and doing all the Work contemplated and embraced in this Contract. Said compensation covers (1) all loss or damage arising out of the nature of the Work or from the acts of the elements; (2) any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by City, other than as provided below; (3) all risks of every description connected with the Work; (4) all expenses incurred by or in consequence of the suspension or discontinuance of the Work; and (5) well and faithfully completing the Work, and for the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Authorized City Representative under them.”

Section 4. **Integration.** This First Amendment amends, as set forth herein, the Original Contract and, except as specifically amended hereby, the Original Contract shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Contract, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the parties.

IN WITNESS hereof, the parties enter into this Contract on the year and day first above written.

“CONTRACTOR”

“CITY”

DIVERSIFIED THERMAL SERVICES, INC.,
a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Mark A. Murphy, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Mary E. Binning
Senior Assistant City Attorney

***NOTE:** *If CONTRACTOR is a corporation, the City requires the following signature(s):*
-- *(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
-- *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.*