

## **FIRST AMENDMENT TO WORK ORDER NO. 3**

### **Additional Construction Services for the 7<sup>TH</sup> Ave N Pole Relocation & Storm Hardening**

**FIRST AMENDMENT to WORK ORDER NO. 3** for System Hardening and Reliability Improvements ("Amendment" hereafter) is made on \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City") and The L. E. Myers Co., a Florida corporation ("Contractor").

#### **1.0 Project Description:**

The City desires the Contractor to provide all goods, services, materials and equipment identified herein related to the System Hardening and Reliability Improvements project generally described as: **7<sup>th</sup> AVE N Pole Relocation & Storm Hardening** (the "Project").

#### **2.0 Scope**

Under this Amendment, the Contractor will provide the City of Lake Worth with additional construction services for the Project as specified in the **Contractor's Change Order attached hereto and incorporated herein as Exhibit "1"**.

#### **3.0 Schedule and Liquidated Damages**

Substantial completion of all services and work under this Amendment shall be within **21** calendar days from the Effective Date of this Amendment. Final completion of all services and work (and all punch-list items (if any)) under this Amendment shall be within **30** calendar days from the Effective Date of this Amendment. The Effective Date of this Amendment is the date following the parties' execution of this Amendment and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Amendment, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

**Liquidated Damages.** The City and Contractor recognize that time is of the essence under this Amendment and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Amendment and the Contract Documents are not completed within the times specified in this Amendment. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City 1 dollar (\$1 .00) for each day that expires after the time specified in this Amendment.

#### **4.0     Compensation**

This **Amendment** is issued for a not to exceed amount of \$ 80,948 . The attached Change Order identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Amendment by the City:  
None

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#### **5.0     Project Manager**

The Project Manager for the Contractor is Raymond Richards, phone: 407-466-4663; email: [RRichards@mygroup.com](mailto:RRichards@mygroup.com); and, the Project Manager for the City is Paul Nicholas, phone: 561-533-7353; email: [pnicholas@lakeworthbeachfl.gov](mailto:pnicholas@lakeworthbeachfl.gov).

#### **6.0     Progress Meetings**

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

#### **7.0     Contractor's Representations**

In order to induce the City to enter into this Amendment, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Amendment, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated Amendment price within the Amendment stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the RFP; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Amendment price, within the Amendment time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

## **8.0     Warranty**

Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Amendment will be in accordance with this Amendment and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Amendment shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Amendment will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

## **7.0     Authorization**

This Second Amendment to Work Order No. 1 is pursuant to the System Hardening and Reliability Improvements Contract for between the City of Lake Worth and the Contractor, dated May 15, 2018 ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Amendment and the Contract, the terms and conditions of the Contract shall prevail.

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IN WITNESS WHEREOF the parties hereto have made and executed this Second Amendment to Work Order No. 1 as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Deborah M. Andrea, City Clerk

By: \_\_\_\_\_  
Pam Triolo, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

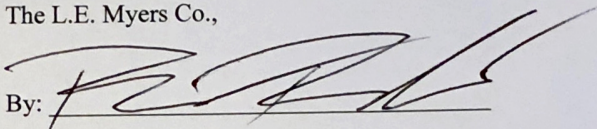
APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR:

The L.E. Myers Co.,

By: 

[Corporate Seal]

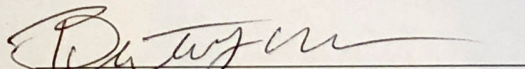
Print Name: Raymond Richards

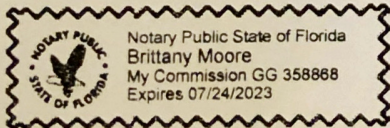
Title: District Manager

STATE OF FL  
COUNTY OF Lake

The foregoing instrument was acknowledged before me this 21 day of July, 2020, by Raymond Richards who was physically present, as \_\_\_\_\_ (title), of The L.E. Myers Co., which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following FI-DI as identification.

Notary Public

  
Print Name: Brittany Moore  
My commission expires: 07/24/2023



**EXHIBIT "1"**  
**Contractors Change Order**



ELECTRIC UTILITIES DEPARTMENT  
1900 2<sup>ND</sup> AVENUE NORTH  
LAKE WORTH BEACH, FL 33461

## **CHANGE ORDER**

**Project Number:** SH1802    **Contractor:** The L.E. Myers Co.

**Project Name:** 7<sup>th</sup> AVE N Pole Relocation & Storm Hardening

**Change Order Number:** 1

**Change Order Effective Date:** 7/28/2020    **Contractor Phone:** 407-466-4663

**Change Order Type:** NTE Lump Sum    **Existing Purchase Order Number:** 182686

### **Description of Change:**

Item 1: Additional work to relocate and transfer 4 utility poles located on the west end of 7<sup>th</sup> AVE N in conflict with the Park of Commerce Phase 1B project. Additional work included installation of transformers and re-framing adjacent poles to the west and south. See attached Change Order Log

Item 2: Provide additional Maintenance of Traffic (MOT) for sidewalk demolition along the north side of 7<sup>th</sup> AVE N to facilitate pole relocation and gas main relocation. This work was completed with assistance from 7<sup>th</sup> AVE N roadway contractor DMSI. See attached Change Order Log

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## Change Order Log

Item No.	Description	Qty	Unit	Unit Price	Increase In Contract Price
1	Relocate and transfer 4 utility poles located on the west end of 7th AVE N in conflict with the Park of Commerce Phase 1B project.	1	LS		\$76,947.61
2	Provide additional Maintenance of Traffic (MOT) for sidewalk demolition along the north side of 7th AVE N to facilitate pole relocation and gas main relocation.	1	LS		\$4,000.00
3					
4					
5					
6					
7					
8					
9					
10					
	<b>Total Amount:</b>				<b>\$ 80,947.61</b>

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Price of Original Contract: \$1,045,877.08 (Ratified by Commission on 4/28/2020 Agenda Consent Item (D))

Current Price of Contract (including Change Orders): \$1,045,877.08

Price of Current Change Order: \$ 80,947.61

New Contract Price: \$1,126,824.69

Basis of Price Change: ☐ Unit Price ☐ Time & Material ☒ Lump Sum

Contract Time Change:

☐ No Change ☒ Extended ☐ Decreased by 30 work days

*The CONTRACTOR and the OWNER agree that this CHANGE ORDER represents the complete agreement of the parties with respect to these matters as of the date of this CHANGE ORDER. By approving this Change Order, the CONTRACTOR releases any and all claims that it may have against the OWNER under the subject contract including, but not limited to claims for equitable adjustments, which occurred or accrued prior to the effective date of this CHANGE ORDER.*

*This Change Order may be executed in counterparts and is not effective until approved by either the City Manager or City Commission (as designated on the last page of this Change Order).*

Reviewed and Accepted by: The L.E. Myers Co.

(Contractor Name)



Contractor Representative (Signature)

District Manager

Title

7/20/20

Date

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Approved by:



Ed Liberty Director

7/20/2020

Date