DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

AMENDMENT NO. 1
TO THE
CONSTRUCTION MANAGER-AT-RISK CONTRCAT
BETWEEN
THE TEXAS FACILITIES COMMISSION
AND
CHASCO CONSTRUCTORS, LTD., L.L.P.

This Amendment No. 1 is entered into by and between the Texas Facilities Commission, a state agency located at 1711 San Jacinto Boulevard, Austin, Texas 78701 (hereinafter referred to as "TFC"), as Owner (as defined below and in *2015 Uniform General Conditions*, Section 1.28) and Chasco Constructors, Ltd., L.L.P., a Texas limited partnership, located at 2801 East Old Settler Boulevard, Round Rock, Texas 78665 (hereinafter referred to as "Construction Manager-Agent" or "CMR"), to amend the original Construction Manager-at-Risk Contract executed by the Parties as of May 30, 2018 (hereinafter referred to as the "Contract") pursuant Tex. Gov't Code Ann. §§2166.2525 and §2267.151 (West 2018).

RECITALS

WHEREAS, on May 31, 2018, the Parties entered into that one certain *Construction Manager-at-Risk Contract Between the Texas Facilities Commission and Chasco Constructors, Ltd., L.L.P.*; and

WHEREAS, pursuant to Commission award on June 18, 2020, and in keeping with Sections 2.1.4, TFC Approvals, and 12.26, Entire Agreement and Modification, the Parties now desire to amend the Contract to reflect increased funding in the amount of $2,818,327.00, to extend the Contract Term, and to include provisions adopted by TFC subsequent to the execution of the Contract in order to comply with actions or requirements of the Texas Legislature, the State Auditor's Office, the Office of the Attorney General, the Comptroller of Public Accounts, and for such other purposes as are addressed herein;

NOW THEREFORE, the Parties hereby agree as follows:

1. Unless clearly provided otherwise herein, all terms and phrases in initial caps herein shall have the same meaning as the terms and phrases with initial caps in the Contract.

2. The Parties agree to amend ARTICLE I – DEFINITIONS, by adding the following definition.

"*HUB Compliance Reporting System* means the Texas Facilities Commission Historically Underutilized Business ("HUB") online reporting system located at https://tfc.gob2g.com. The *HUB Compliance Reporting System* is used to maintain business records documenting compliance with the HUB Subcontracting Plan ("HSP") by submission of monthly Progress Assessment Reports. See Section 12.2, Historically Underutilized Businesses ("HUBs")."

DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

3. The Parties agree to amend ARTICLE III – TERM, SUSPENSION, AND TERMINATION, by deleting Section 3.1, Contract Term, in its entirety and replacing it with Section 3.1, as follows.

"3.1. Contract Term. This Contract shall be effective as of the Effective Date and shall terminate on December 15, 2022, unless extended by the Parties by amendment to this Contract or terminated earlier, as provided below."

4. The Parties agree to modify ARTICLE IV – CONSIDERATION, as follows.

(a) Section 4.1, Pre-Construction Management Fee, is deleted in its entirety and replaced with Section 4.1, as follows.

"4.1. Pre-Construction Management Fee. The initial fee for this Contract is comprised of only the Pre-Construction Management Fee, which shall not exceed the sum of One Hundred Six Thousand Four Hundred Ninety-Five and No/100 Dollars ($106,495.00)."

(b) Section 4.2, Contract Sum-Components, is deleted in its entirety and replaced with Section 4.2, as follows.

"4.2. Contract Sum–Components. Upon execution of a GMP Acceptance, the Contract Sum shall not exceed Thirteen Million Six Hundred Twelve Thousand Two Hundred Eighty-Two and No/100 Dollars ($13,612,282.00), which is the sum of the following components.

4.2.1. Pre-Construction Management Fee. The Pre-Construction Management Fee of One Hundred Six Thousand Four Hundred Ninety-Five and No/100 Dollars ($106,495.00).

4.2.2. Construction Management Fee. The Construction Management Fee not to exceed three and one-quarter percent (3.25%) of the Cost of Work or Three Hundred Seventy-Nine Thousand Eight Hundred Eighty-Six and No/100 Dollars ($379,886.00), which sum will be finalized as part of the Contract Sum in the GMP Acceptance.

4.2.3. General Conditions Fee. The General Conditions Fee not to exceed Seven Hundred Thirty-Five Thousand Seven Hundred Eighty-Five and No/100 Dollars ($735,785.00), which sum will be finalized as part of the Contract Sum in the GMP Acceptance.

4.2.4. Cost of Work. The Cost of Work will be adjusted and finalized as part of the Contract Sum in the GMP. The budget for the Cost of Work shall not exceed Eleven Million Six Hundred Eighty-Eight Thousand Seven Hundred Eighty-Eight and No/100 Dollars ($11,688,788.00).

4.2.5. TFC Controlled Contingency. The TFC Controlled Contingency of Seven Hundred One Thousand Three Hundred Twenty-Eight and No/100 Dollars ($701,328.00),

DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

which sum shall be maintained through construction, and included in the Contract Sum and finalized in the GMP Acceptance.

4.2.6. Unused Contingencies. Any unused portion of the CMR Contingency and the TFC Controlled Contingency shall be returned to TFC at the completion of the Project through a credit Change Order to the Contract Sum."

5. The Parties agree to amend ARTICLE VI – ACKNOWLEDGEMENTS, COVENANTS, AND AGREEMENTS, Section 6.2, Acknowledgements, Covenants, and Agreements of CMR, as follows.

(a) Subsection 6.2.18, Prohibition Against Boycotting Israel, is deleted in its entirety and replaced with Subsection 6.2.18, as follows.

"6.2.18. Entities that Boycott Israel. Pursuant to Section 2270.002 of the Texas Government Code, CMR certifies that either (i) it meets an exemption criteria under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of this Contract. CMR shall state any facts that make it exempts from the boycott certification."

(b) The following three (3) clauses are added as Subsections 6.2.20, 6.2.21, and 6.2.2.

"6.2.20. Disaster Relief Contract Violation. Under Sections 2155.006 and 2261.053 of the Texas Government Code, CMR certifies that the individual or business entity named in the response or Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

6.2.21. Human Trafficking Prohibition. Pursuant to Section 2155.0061 of the Texas Government Code, CMR certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if CMR's certification in this matter is inaccurate. TFC may not award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year (5) period preceding the date of the award, has been convicted of any offense related to the direct support or promotion of human trafficking.

6.2.23. Use of State Property. CMR is prohibited from using State Property for any purpose other than performing services authorized under the Contract. State Property includes, but is not limited to: TFC's office space, identification badges, TFC information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any TFC issued software, and the TFC Virtual Private Network (VPN client)), and any other resources of TFC. CMR shall not remove State Property from the continental United States. In addition, CMR may not use any computing device to access TFC's network or e-mail while outside of the continental United States. CMR shall not perform any maintenance services on State Property unless the Contract expressly authorizes such services.

DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

During the time that State Property is in the possession of CMR, CMR shall be responsible for (i) all repair and replacement charges incurred by TFC that are associated with loss of State Property or damage beyond normal wear and tear; and (ii) all charges attributable to CMR's use of State Property that exceeds the scope of the Contract. CMR shall fully reimburse such charges to TFC within ten (10) calendar days of CMR's receipt of TFC's notice of amount due. Use of State Property for a purpose not authorized by agreement shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to TFC under contract, at law, or in equity."

6. The Parties agree to amend ARTICLE VII – WARRANTIES AND REPRESENTATIONS BY CMR, by adding the following three (3) clauses as Subsections 7.1.16, 7.1.17, and 7.1.18.

"7.1.16. Excluded Parties. CMR certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

7.1.17. Suspension and Debarment. CMR certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

7.1.18. No Conflicts. CMR represents and warrants that CMR has no actual or potential conflicts of interest in providing services to the State of Texas under this Contract and that CMR's provision of services under this Contract would not reasonably create an appearance of impropriety.

7. The Parties agree to amend ARTICLE X – RECORDS, AUDIT, PROPRIETARY INFORMATION, AND PUBLIC DISCLOSURE, by adding the following clause as Subsection 10.7.1.

"10.7.1. Cybersecurity Training Required. If CMR has "access," as that term is defined in 1 Tex. Admin. Code § 202.1, to any state computer system or database, then, pursuant to Tex. Gov't Code § 2054.5192, CMR and its subcontractors, officers, and employees shall complete a cybersecurity training program certified under Tex. Gov't Code §2054.519. The cybersecurity training program must be completed by the CMR and its subcontractors, officers and employees during the term and any renewal period of the Contract. CMR shall verify completion of the training program to TFC pursuant to, and in accordance with, Tex. Gov't Code § 2054.5192.

8. The Parties agree to amend ARTICLE XI – BONDS AND INSURANCE, Section 11.2, Insurance Requirements, Subsection 11.2.1, Workers' Compensation and Employers' Liability Coverage, by deleting Paragraph 11.2.1.2 in its entirety and replacing it with Paragraph 11.2.1.2, as follows.

DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

"11.2.1.2. In accordance with Tex. Lab. Code §406.096(b), CMR shall require each Subcontractor to certify in writing to the CMR that said Subcontractor provides workers' compensation and employers' liability insurance for all of Subcontractor's employees employed on this public project. In keeping with Sections 5.2.8 and 5.2.9 of "Exhibit A," Owner is entitled, upon request and without expense, to receive copies of Subcontractor's written certifications."

9. The Parties agree to amendment ARTICLE XII – MISCELLANEOUS PROVISIONS, as follows.

(a) The Parties agree to add the following clause as Subsection 12.2.1.

"12.2.1. Requirement to Utilize HUB Compliance Reporting System. Pursuant to Texas Administrative Code, Title 34 §§ 20.85(f)(l)(2) and 20.287(b), TFC administers monthly HUB Subcontracting Plan ("HSP") to include the Progressive Assessment Report ("PAR") compliance monitoring through a HUB Compliance Reporting System known as B2G. CMR and CMR's Subcontractors must submit required PAR information into the B2G system as a condition of payment. Any delay in the timely submission of PAR information into the B2G system will be treated as a deficiency and the payment request will be subject to suspension until such deficiency has been resolved."

(b) The Parties agree to add the following clause as Subsection 11.10.1.

"11.10.1. Cybersecurity Training Required. If CMR has "access," as that term is defined in 1 Tex. Admin. Code § 202.1, to any state computer system or database, then, pursuant to Tex. Gov't Code § 2054.5192, CMR and its subcontractors, officers, and employees shall complete a cybersecurity training program certified under Tex. Gov't Code §2054.519. The cybersecurity training program must be completed by the CMR and its subcontractors, officers and employees during the term and any renewal period of the Contract. CMR shall verify completion of the training program to TFC pursuant to, and in accordance with, Tex. Gov't Code § 2054.5192."

(c) The Parties agree to add the following three clauses as Sections 12.27, 12.28, and 12.29.

"12.27. False Statements; Breach of Representations. By signature to this Contract, CMR makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If CMR signs this Contract with a false statement or it is subsequently determined that CMR has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, CMR shall be in default under this Contract, and TFC may terminate or void this Contract for cause and pursue other remedies available to TFC under this Contract and applicable law.

DocuSign Envelope ID: 5C9345B2-3B25-4818-AF83-4EE590C5B9CA

12.28. Abandonment and Default. If CMR defaults on this Contract, TFC reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible respondent. The defaulting CMR will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work.

12.29. Antitrust and Assignment of Claims. CMR represents and warrants that neither CMR nor any firm, corporation, partnership, or institution represented by CMR, or anyone acting for such firm, corporation or institution has (i) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (ii) communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract. CMR assigns to the State of Texas all of CMR's rights, title, and interest in and to all claims and causes of action CMR may have under the antitrust laws of Texas or the United States for overcharges associated with the Contract.

10. All other terms and conditions of the Contract not expressly amended herein shall remain in full force and effect.

11. This Amendment No. 1 shall be effective as of the date of the last Party to sign it.

TEXAS FACILITIES COMMISSION

DocuSigned by:

By: Mike Novak, Executive Director
B1C9FC0A8020417...

Mike Novak

Executive Director

Date of Execution: 06/25/2020 | 2:41 PM CDT

PM DS DU

GC DS CR

Dir DS MW

DED DS JR

CHASCO CONSTRUCTORS, LTD., L.L.P.

DocuSigned by:

By: Charles J. Glace, President, Chasco Constructors
0E354FAD3A5E47D...

Charles J. Glace

President

Date of Execution: 06/25/2020 | 12:11 PM PDT