

AN ORDINANCE TO AUTHORIZE AND APPROVE THE FIRST AMENDMENT TO CONTRACT 23008WDPS (WATER DIVISION BUILDING/RACEWAY AND FACILITIES MANAGEMENT AND MAINTENANCE SERVICES) BETWEEN THE CITY OF WILMINGTON AND MERIT CONSTRUCTION ENGINEERS, INC.

#0268

Sponsor:

**Council
Member
Oliver**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of personal property or the rendering of services for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, the City publicly advertised a request for proposals for professional services for Contract 23008WDPS (Water Division Building/Raceway and Facilities Management and Maintenance Services) (the “Contract”) (a copy of which is available for review in the Department of Finance, Procurement Division), subsequently awarded the Contract to the Contractor (the highest ranked proposal), and entered into the Contract dated June 15, 2022; and

WHEREAS, the term of the Contract is for the period from approximately July 1, 2022 to June 30, 2023; and

WHEREAS, the City would like to amend the Contract to (i) add four (4) one-year extension options, (ii) revise the Contract’s scope of services for the extension options, and (iii) increase the compensation payable by the City to the Contractor during the extension options (the “Amendment”), a copy of which, in substantial form, is attached hereto and incorporated by reference herein as Exhibit “A”; and

WHEREAS, the Amendment will have an estimated maximum price of (i) One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) for each of the periods from July 1, 2023 through June 30, 2024 (“Fiscal Year 2024”) and July 1, 2024 through

June 30, 2025 (“Fiscal Year 2025”) and (ii) One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) plus increased costs, if any, not to exceed the Consumer Price Index - Urban (CPI-U) for all urban consumers for all items in the Wilmington Metropolitan Area for the prior year for each of the periods from July 1, 2025 through June 30, 2026 (“Fiscal Year 2026”) and July 1, 2026 through June 30, 2027 (“Fiscal Year 2027”); and

WHEREAS, it is the recommendation of the Department of Public Works that the City enter into the Amendment to the Contract.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The Amendment to the Contract (being the First Amendment to Contract 23008WDPS (Water Division Building/Raceway and Facilities Management and Maintenance Services) between the City of Wilmington and Merit Construction Engineers, Inc.), a copy of which Amendment, in substantial form, is attached hereto as Exhibit “A”, with the possibility of four (4) one-year extension options for Fiscal Years 2024, 2025, 2026, and 2027, at an estimated maximum price of One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) for each of Fiscal Years 2024 and 2025 and an estimated maximum price of One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) plus increased costs, if any, not to exceed the Consumer Price Index - Urban (CPI-U) for all urban consumers for all items in the Wilmington Metropolitan Area for the prior year for each of Fiscal Years 2026 and 2027, is hereby approved, and the Mayor, or his designee, is hereby authorized to execute as many copies of the Amendment, as well as to take all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....January 19, 2023
Second Reading.....January 19, 2023
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2023.

Mayor

SYNOPSIS: This Ordinance authorizes the City to enter into the First Amendment to Contract 23008WDPS (Water Division Building/Raceway and Facilities Management and Maintenance Services) between the City of Wilmington and Merit Construction Engineers, Inc. The amendment contains four (4) one-year extension options for the periods from July 1, 2023 through June 30, 2024 (“Fiscal Year 2024”), July 1, 2024 through June 30, 2025 (“Fiscal Year 2025”), July 1, 2025 through June 30, 2026 (“Fiscal Year 2026”), and July 1, 2026 through June 30, 2027 (“Fiscal Year 2027”).

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance is an amendment with an estimated maximum price of One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) for each of Fiscal Years 2024 and 2025 and an estimated maximum price of One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) plus increased costs, if any, not to exceed the Consumer Price Index - Urban (CPI-U) for all urban consumers for all items in the Wilmington Metropolitan Area for the prior year for each of Fiscal Years 2026 and 2027.

EXHIBIT A

**FIRST AMENDMENT TO CONTRACT 23008WDPS
(WATER DIVISION BUILDING/RACEWAY AND FACILITIES
MANAGEMENT AND MAINTENANCE SERVICES)
BETWEEN THE CITY OF WILMINGTON
AND MERIT CONSTRUCTION ENGINEERS, INC.**

This First Amendment to Contract 23008WDPS (Water Division Building/Raceway and Facilities Management and Maintenance Services) (this "Amendment") is entered into this _____ day of _____ 2023, to be effective as of July 1, 2023, by and between the City of Wilmington (the "City") and Merit Construction Engineers, Inc. (the "Contractor").

RECITALS:

WHEREAS, the City publicly advertised a request for proposals for professional services for Contract 23008WDPS (Water Division Building/Raceway and Facilities Management and Maintenance Services) (the "Contract"), subsequently awarded the Contract to the Contractor (the highest ranked proposal), and entered into the Contract dated June 15, 2022 with the Contractor;

WHEREAS, the term of the Contract is for the period from approximately July 1, 2022 to June 30, 2023; and

WHEREAS, the City and the Contractor would like to amend the Contract to (i) add four (4) one-year extension options, (ii) revise the Contract's scope of services for the extension options, and (iii) increase the compensation payable by the City to the Contractor during the extension options.

NOW, THEREFORE, WITNESSETH the City and the Contractor hereby agree, with the intent to be legally bound, as follows:

1. Recitals. The above recitals are incorporated herein and made a part hereof.
2. Term. The Contract is hereby amended to include four (4) one-year extension options (the "Extension Options") for the respective periods of July 1, 2023 through June 30, 2024 ("Fiscal Year 2024"), July 1, 2024 through June 30, 2025 ("Fiscal Year 2025"), July 1, 2025 through June 30, 2026 ("Fiscal Year 2026"), and July 1, 2026 through June 30, 2027 ("Fiscal Year 2027"). Each Extension Option shall be solely exercisable by the City by providing the Contractor with thirty (30) days' advance notice prior to the Contract's then current expiration date.
3. Scope of Services. To the extent that the City exercises any of the Extension Options, the Contract is hereby amended to include the following services in Appendix B (Proposal Form) that the Contractor shall provide to the City during the Extension Options and the related compensation therefor:
 - (a) Item #25 - Capital Allowance for Plant Related Upgrades - \$500,000.00
 - (b) Item #28 - HVAC & Related Systems Inspection Services - \$125,000.00

The Contractor shall continue to provide to the City all other services listed in the Contract during the Extension Options.

4. Compensation. To the extent that the City exercises any of the Extension Options, the total amount of compensation payable by the City to the Consultant for services rendered pursuant to the Contract during the Extension Options shall be as follows:
 - (a) For Fiscal Year 2024, an amount not to exceed One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00);
 - (b) For Fiscal Year 2025, an amount not to exceed One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00);
 - (c) For Fiscal Year 2026, an amount not to exceed One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) plus increased costs, if any, not to exceed the Consumer Price Index - Urban (CPI-U) for all urban consumers for all items in the Wilmington Metropolitan Area for the prior year; and
 - (d) For Fiscal Year 2027, an amount not to exceed One Million Six Hundred Twenty-Two Thousand Six Hundred Dollars (\$1,622,600.00) plus increased costs, if any, not to exceed the Consumer Price Index - Urban (CPI-U) for all urban consumers for all items in the Wilmington Metropolitan Area for the prior year.

The parties, by mutual written agreement, may increase the aforementioned compensable amounts if the Contractor provides additional services to the City pursuant to the Contract during the Extension Options.

5. Other Terms and Conditions. All other terms and conditions of the Contract shall remain in full force and effect during the Extension Options.

IN WITNESS WHEREOF, the parties, through their duly authorized representatives, have executed this Amendment to the Contract on the date first written above.

CITY OF WILMINGTON

**MERIT CONSTRUCTION ENGINEERS,
INC.**

By: _____
Vincent R. Carroccia
Deputy Commissioner of Public Works

By: _____
Name:
Title: