

SERVICE CONTRACT

THIS CONTRACT (Contract) is made and entered into by and between the CITY OF FRESNO, a California municipal corporation (City), and CHART INTERNATIONAL, INCORPORATED (Service Provider) as follows:

1. CONTRACT DOCUMENTS. The "Notice Inviting Proposals," "Instructions to Proposers," "Proposal" and the "Specifications" including "General Conditions," "Special Conditions", "Federal Conditions", "Functional Specifications" and "Technical Requirements" for the following: CNG STATION SERVICE & MAINTENANCE (Request for Proposals No. 12400018) copies of which are annexed hereto, together with all the documents specifically referred to in said annexed documents, including the Performance Bond, if required, are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. PRICE. For the monetary consideration of not to exceed THREE HUNDRED AND FIFTEEN THOUSAND NINE HUNDRED THIRTY SIX DOLLARS AND ZERO CENTS (\$315,936), as set forth in the Proposal, the Service Provider promises and agrees to perform or cause to be performed, in a good and workmanlike manner, and to the satisfaction of City, and in strict accordance with the Specifications, all of the work as set forth in the Contract Documents.

3. PAYMENT. City accepts Service Provider's Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents.

4. INDEMNIFICATION. To the furthest extent allowed by law, Service Provider shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Service Provider or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this Contract), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Service Provider's obligations under the preceding sentence shall apply regardless of whether the City or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of the City or any of its officers, officials, employees, agents, or volunteers.

If the Service Provider should subcontract all or any portion of the work to be performed under this Agreement, the Service Provider shall require each subcontractor to indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by City shall be subsequent to that of Contractor's, and this Contract shall be binding and effective upon execution by both parties.

CITY OF FRESNO,
A California municipal corporation

By: _____
Melissa Perales,
Purchasing Manager,
General Services Department

APPROVED AS TO FORM:
ANDREW JANZ

City Attorney
By: Jennifer Wharton 3/25/2024
250AD6D4466E467...
Jennifer M. Wharton Date
Asst./Supv./Sr. Deputy City Attorney

ATTEST:
TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

Addresses:
CITY:
City of Fresno
Attention: Linda Taylor
Administrative Manager
2223 G Street
Fresno, CA 93706
Telephone: (559) 621-1456
E-Mail: linda.taylor@fresno.gov

CHART INTERNATIONAL,
Incorporated

DocuSigned by:
By: Clinton Smith 3/19/2024
E1C5F24C861644C...
Name: Clinton Smith

Title: Operations Manager
(If corporation or LLC., Board Chair, Pres. or

DocuSigned by:
By: Herbert Hotchkiss 3/19/2024
47E8146426454E4...
Name: Herbert Hotchkiss

Title: VP, General Counsel & Secretary
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

REVIEWED BY:

SERVICE PROVIDER
Chart International, Incorporated
Attention: Ryan Langer
Technical & Field Service Manager
407 7th Street NW
New Prague, MN 56071-1000
Telephone: 952-243-8568
E-Mail: ryan.langer@chartindustries.com

**RESULTS OF NEGOTIATION MEMORANDUM
CNG STATION SERVICE & MAINTENANCE
REQUEST FOR PROPOSALS NO. 12400018**

February 27, 2024

As a result of negotiations, Special Conditions section 11 and Statement of Work section 6(B) have been modified and supersedes the previous version, the contents of which can be found in the subsequent pages of this memorandum.

City of Fresno
Department of Transportation

A handwritten signature in cursive script, appearing to read "Orie Rubalcava", is written over a horizontal line.

Orie Rubalcava
Projects Administrator

Attachments:

1. Special Conditions, Section 11, page A5
2. Statement of Work, Section 6(B), page D5

Attachment 1 – Special Conditions, Section 11, page A5 (Amended)

11. **BID SCHEDULE NO. 2 TIME & MATERIAL CEILING PRICE:** The City will not be obligated to pay the Contractor any amount in excess of **\$300,000** (Ceiling Price) for work performed under *Bid Schedule No. 2 – Unscheduled Maintenance* for the initial two (2) year term. For each extension years the Ceiling Price shall be as follows:

Extension Year	Ceiling Price
Year 3	\$100,000
Year 4	\$100,000
Year 5	\$100,000
Year 6	\$100,000
Year 7	\$100,000

Work performed under Bid Schedule No. 2 that goes beyond the established ceiling prices is at the contractor's own risk.

Attachment 2 – Statement of Work, Section 6(B), page D5 (Amended)

B. Bid Schedule No. 2 – Unscheduled Maintenance: Unscheduled Maintenance will be composed of the following activities:

- 1) Emergency and non-emergency unplanned services resulting from a system shutdown or failure causing the CNG fueling facility to not be fully operational. The Contractor shall provide FAX a report of the unscheduled maintenance required to fix the problem, the length of time the CNG station or compressor was shutdown, the cause, steps taken to fix the problem, and steps taken to prevent it from happening again. The Contractor may locally store and maintain an adequate supply of critical spare parts, based on manufacturers' recommendations, for use in an emergency. The contractor will draft and submit a critical spare parts list to FAX for review and approval. **Note:** The storage of critical spare parts is not a purchase, but an option provided to the Contractor for local storage. FAX assumes no risk or liability for locally stored critical spare parts. If the parts are employed for Unscheduled Maintenance as described in this *Statement of Work, Section 6(B)(2)*, then at that time the Contractor will be reimbursed for those materials and FAX will assume ownership.
- 2) The Contract Coordinator must review and approve any Unscheduled Maintenance prior to commencement of work. The cost to the City for Unscheduled Maintenance is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. The contractor will be required to produce documentation justifying the actual cost of materials. The labor rate shall only apply to work performed at the CNG station, travel and time expenses to and from the CNG station are not permitted to be invoiced. See the *Special Conditions*, Section 11, for details on Unscheduled Maintenance price ceiling.
- 3) Acceptance of Work – The Contract Coordinator, or designee, must inspect work performed under Unscheduled Maintenance prior to the departure of the Maintenance Technician and prior to authorizing payment. The Contract Coordinator, or designee, will indicate on the invoice that the work has been inspected and accepted.
- 4) Limitations – Unscheduled Maintenance is intended to cover those repairs that would reasonably be expected to maintain the operation of the CNG Station and actions that returns equipment to its original condition. Major overhauls or alterations of the CNG station (e.g. replacing whole compressors, replacing whole dispensers, equipment restoration, etc.) that is best suited for a capital improvement projects is not covered under this agreement.