



CITY OF BRYAN
The Good Life. Texas Style.

October 15, 2015

Alexander's Inc.
Mr. Mark Hibshman
8655 Morro Road, Suite C
Atascadero, CA 93422

RE: 3rd Extension of Contract No. 12-005 entitled "Annual Contract for Water Meter Reading"

Dear Mr. Hibshman:

Please be advised that the above referenced contract will expire on January 02, 2016, and it is our intent to recommend to the City Council to extend said contract for one (1) additional period of one (1) year, beginning the day following the expiration date of said contract.

If your company is willing and able to extend Contract No. 12-005 under the same prices, terms, conditions and provisions as those contained in the original contract, please complete the following information and return this original within ten (10) days from the date of this notification.

I, MARK HIBSHMAN CEO
Name Title
Of ALEXANDER CONTRACT SERVICES
Company Name

agree to extend Contract No. 12-005 with the City of Bryan, under the same prices, terms, conditions and provisions as those contained in the original contract, for a period of one (1) year beginning January 03, 2016 and expiring January 02, 2017 upon approval of City Council.

Signed By: [Signature] Date 11-5-15

[Signature]
Karen Sonley, Purchasing Supervisor
City of Bryan - Purchasing Department

**CONTRACT
FOR
WATER METER READING**

This Contract, dated ~~DECEMBER 14~~ ^{January 5 2 4/16}, 2014, is between the City of Bryan, a Texas home-rule municipal corporation, (the City) and Alexander's Inc. (the FIRM) a California corporation licensed to operate in the State of Texas, whereby the FIRM agrees to provide the City with certain services as described herein and the City agrees to pay the FIRM for those services.

1. Scope of Services

A. In consideration of the compensation stated in Paragraph 2, the FIRM agrees to provide the City with the services as described in Exhibit A – RFP #12-005 and Exhibit B – Alexander's Inc. - Proposal to the City of Bryan which is incorporated herein by reference for all purposes, and which services may be more generally described as follows:

“Water Meter Reading”

B. The FIRM will perform start-up activities required to provide meter reading services for up to 24,000 customer accounts, within the Bryan Texas sphere of influence, beginning January 3, 2012 and continuing until full implementation occurs includes not to exceed 90 days, but not limited to, staff training, route efficiency confirmation, integration of the FIRM and CITY's meter reading activities, integration of meter reading information for utility billing and development of service reports. The first 90 days of the contract will be considered the “Start-Up” Period.

C. The FIRM will provide meter reading services for designated meter routes. There shall be no change in the number or configuration of the water meter reading routes without the prior consent of the City and FIRM. Each water meter route must be read in a sequence and timely fashion to support the City daily utility billing. It is understood the FIRM will make every effort to read all the meters in the assigned routes. However, if a read is not obtained due to no fault of FIRM the read shall be billed. The Meter Address will be noted as “Unread with Note”. This note will state the trouble code and why the meter was unread. The number of meters falling under the “Unread” category shall be limited to a maximum .2% provided. There shall be no compensation for the number of meters that exceed 0.2%. Reads that cannot be obtained due to a lack of maintenance on the meters shall be exempt from the 0.2%. The firm acknowledges to notify the City through the trouble codes of those that fit into the “lack of maintenance” category. If FIRM simply does not read a meter and does not designate a trouble code or note code then this will constitute as a mis-read and penalty of \$10.00 per meter will apply.

D. The FIRM will provide and maintain all apparatus necessary to perform meter reading services. The FIRM will deliver meter reads via personalized web page designed by the FIRM for the City or any other agreed-upon medium to the City. The FIRM will ensure that all meter reading equipment, software and files used are compatible with City operating systems.

E. At the time of the attempted read, the FIRM will notify the City of any hazardous conditions requiring immediate attention (e.g.: broken water meter box lids, broken meters, potential water leaks, construction issues, etc.), damaged meters, damaged meter boxes and/or lids, leaking meters, or any other repairs that need to be made by the City.

F. At all times, the FIRM will employ only competent readers, experienced or well trained in the task being performed, and who are familiar with meter location, and FIRM shall continuously oversee the activities of such readers. At the City's written request, and based upon reasonable evidence, the FIRM shall immediately remove and replace any incompetent, careless or negligent meter readers.

G. At all times, the FIRM will have employees uniformed with the FIRM'S company logo and identification tags. All vehicles shall be well maintained (clean) and marked appropriately to identify the service provided.

H. The FIRM will report to the City any located meters that are not within the City Read file. FIRM will inform the City of the Address, Meter ID Number, Location and current read.

2. City's Obligations

A. In consideration of the FIRM's provision of the services in compliance with all terms and conditions of this Contract, the City shall pay the FIRM according to the terms set forth in **Exhibit A and Exhibit B**. Except in the event of a duly authorized amendment, approved by the City in writing, the total cost of all professional services and expenses provided under this Contract may not exceed an annual amount of **\$250,000.00**. The payments shall be made in accordance with the following terms.

- (i) Payment terms are net 30 days from date of invoice.
- (ii) Set-up fees will be invoiced on the date contract is signed.
- (iii) The FIRM shall submit invoices for Services rendered. Invoices shall include an itemized description of the services performed, number of units read, and the time period the services were performed. Invoices will be dated at the end of services rendered. Meter reading fees shall be billed at the completion of Cycle 10 and Cycle 20.

B. The City agrees to work diligently with the FIRM during the initial set-up phase or "Start-Up" Period and throughout the term of the contract to implement a successful water meter reading program. The City agrees to provide the FIRM reasonable assistance with the training to meter readers to perform the services under the contract, including but not limited to, allowing the FIRM meter readers to accompany City employees to learn the locations of meters.

C. The City agrees to notify the FIRM of, and assist the FIRM with, any changes that occur on City meters, including but not limited to, water meter additions, changes or substitutes and changes in location and instruction codes via personalized web page or any other agreed-upon medium.

D. To the extent that the City has control over meters and/or enclosures, City agrees to maintain all meters and enclosures in a reasonable repair and condition at all times in order for the FIRM to provide water meter reading services without undue hardship or danger. Provided that the FIRM shall be responsible and liable for any meters or meter enclosures that become defective, faulty, broken or damaged as a result of negligence, carelessness or intentional acts of the FIRM'S employees. The City agrees to provide FIRM access to all areas in the City needed for the FIRM to perform services under contract.



E. When new meters are installed by the City or found by the FIRM, City shall put them in the next Read Cycles export file to the FIRM. In addition, City shall put new meters installed or replaced in the next months Read file.

3. Time of Performance

A. All work and services provided under this Contract must be completed as outlined in **Exhibit A** and **Exhibit B**.

B. The term of this Contract is two years beginning January 1, 2012 and ending December 31, 2013. This Contract is subject to annual appropriation by the City Council and is subject to termination in the event that funds are not appropriated. The City shall have the option of extending this contract, subject to approval of funding and review of the service provided by the Contractor, for three (3) additional one (1) year terms to be extended one (1) year at a time. Contracts are extended upon mutual agreement of both Vendor and the City. An escalation clause may be included in the agreement, which allows the vendor to increase their price by a maximum of 8% over the five (5) year period if agreed upon by both parties.

4. Warranty, Indemnification, & Release

A. As an experienced and qualified FIRM, the FIRM warrants that the information provided by the FIRM reflects high professional and industry standards, procedures, and performances. The FIRM warrants that the performance of all services under this Contract will be pursuant to a high standard of performance in the profession. The FIRM warrants that the FIRM will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the FIRM, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their services, or any document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the FIRM, its employees, associates, agents, or subcontractors.

B. The FIRM shall promptly correct any defective services or documents furnished by the FIRM at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the FIRM's services hereunder or of the scope of work itself shall in no way alter the FIRM's obligations or the City's rights hereunder.

C. In all activities or services performed hereunder, the FIRM is an independent contractor and not an agent or employee of the City. The FIRM and its employees are not the agents, servants, or employees of the City. As an independent contractor, the FIRM shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the FIRM shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The FIRM shall have ultimate control over the execution of the professional services. The FIRM shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the FIRM or any of the FIRM's subcontractors.

D. The FIRM must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the



work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the FIRM, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): FIRM shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the FIRM's negligent performance of the work, or by or on account of any claims or amounts recovered under the Worker's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. The FIRM shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by FIRM's negligence.

F. Release. The FIRM releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the FIRM or its employees and any loss of or damage to any property of the FIRM or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the FIRM's negligent performance of the work. Both the City and the FIRM expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. FIRM's Insurance

A. The FIRM agrees to maintain, on a primary basis, for the duration of this contract the insurance coverages and limits as described below:

- (i) WORKERS' COMPENSATION INSURANCE & EMPLOYERS' LIABILITY INSURANCE – Statutory & \$500,000/\$500,000/\$500,000. FIRM agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the FIRM shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor. Waiver of subrogation in favor of the City required. This requirement may be waived with satisfactory evidence that the contractor is sole proprietor(s)/has no employees.
- (ii) COMMERCIAL GENERAL LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence. FIRM agrees to maintain a standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors. Additional insured endorsement required.
- (iii) BUSINESS AUTOMOBILE LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence. FIRM agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned, and hired automobiles. Should the FIRM not own any automobiles and furnish satisfactory evidence of this, the business auto liability requirement shall be amended to allow the FIRM to agree to maintain only Hired & Non-Owned Auto Liability. This

amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.

(iv) UMBRELLA or EXCESS LIABILITY. FIRM may satisfy the minimum liability limits required for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. The annual aggregate limit shall not be less than the highest "each occurrence" limit. FIRM agrees to endorse City as an additional insured, unless the Certificate states the Umbrella or Excess Liability provides coverage on a pure "True Follow Form" basis.

B. The FIRM must deliver to the City a certificate(s) of insurance, executed by a duly authorized representative of each insurer, evidencing that such policies are in full force and effect with verification within five (5) business days of notification of the City's intent to award a contract. The certificate must be from a company with an A.M. Best rating of "A-VII" or better and/or otherwise acceptable to the City. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. The certificate(s) shall contain a provision that coverage under such policies shall not be cancelled or non-renewed until at least thirty (30) days prior written notice, or ten (10) days notice for cancellation due to non-payment of premiums, is given the City of Bryan.

C. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five (5) business days may cause the proposal to be rejected. The City reserves the right to obtain complete, certified copies of all required insurance policies at any time. The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by the FIRM, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the FIRM under the Agreement.

D. FIRM's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City for liability arising out of operations under the contract.

E. FIRM shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

F. The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition.

G. FIRM shall agree to cause each subcontractor employed by FIRM to purchase and maintain insurance of the type specified, provided the Contractor's insurance does not afford coverage on behalf of the subcontractor.

H. If the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the FIRM shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to FIRM until coverage is reinstated. If the FIRM fails to maintain the required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at FIRM's expense.



- I. Certificates and notices should be provided to the City at the following address:
City of Bryan
Attn: Risk Department
PO Box 1000
Bryan, TX 77805

6. Termination and Default

A. The City suffers damages that are difficult, or impossible, to determine when errors are made and in reading meters or inputting information into the billing system. The City will provide a list of re-reads to FIRM that are generated by the internal billing system if they fall out of the provided High/Low range. At no cost to the CITY, the FIRM will go out and check those reads. The City shall seek reimbursement at the cost of \$10.00 per meter for mis-read errors when a CITY staff employee goes out to meter after FIRM has completed re-reads and verifies the FIRM read was in error. This will become effective after the 90-day period at the beginning of the contract known as "Start-Up" Period. The charge will be applied to, and withheld from payments due to FIRM under this agreement, provided that the City gives FIRM documentation of mis-reads withheld.

B. If after the "Start-Up" period, through any cause, the FIRM fails to fulfill its obligations under this Contract, or if 0.3% or more of the meter reads are in error for two months in a row, the FIRM shall be in default. The City may terminate this Contract at any time after an event of default upon **thirty (30)** calendar day's written notice to the FIRM of the default. If the FIRM cures the event of default to the City's satisfaction within said thirty (30) days, the Contract can remain in force if the City agrees in writing. If the FIRM fails to cure such default, the contract will terminate at the expiration of said thirty (30) days and the FIRM shall cease work immediately. The FIRM will be compensated for the services satisfactorily performed before the termination date.

C. No term or provision of this Contract shall be construed to relieve the FIRM of liability to the City for damages sustained by the City because of any breach of contract by the FIRM. The City may withhold payments to the FIRM for the purpose of setoff until the exact amount of damages due the City from the FIRM is determined and paid.

D. If the this contract terminates prematurely, it will take a significant amount of time for the City to find a replacement, and the City will suffer damages during that time that will be impossible to determine. If the FIRM terminates the contract without good cause, or without giving the City an opportunity to cure, or if the Firm breaches the contract and fails to cure, the City is entitled to liquidated damages equal to \$25,000.00 per month from the date of termination to the date the City is able to engage a replacement firm.

7. Miscellaneous Terms

A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan:
Attn: Jayson E. Barfknecht
P.O. Box 1000
Bryan, TX 77805

The FIRM:
Mark Hibshman
8655 Morro Rd., Ste. D
Atascadero, CA 93422

C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

D. This Contract represents the entire and integrated agreement between the City and the FIRM and supersedes all prior contracts, negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

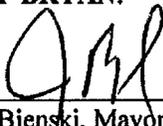
E. This Contract and all rights and obligations contained herein may not be assigned by the FIRM without the prior written approval of the City.

F. The FIRM, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The FIRM must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. Reimbursable or other miscellaneous expenses incurred by the FIRM shall be included in the contract price; additional payment for such expenses will not be considered.

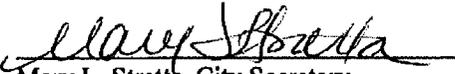
H. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

CITY OF BRYAN:



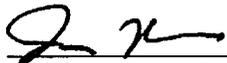
Jason P. Bienski, Mayor
Date: 1-5-12

ATTEST:



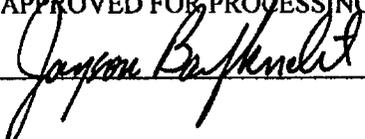
Mary L. Stratta, City Secretary

APPROVED AS TO FORM:



Janis Hampton, City Attorney

APPROVED FOR PROCESSING:





Jayson E. Barfknecht, Public Works Director

FIRM:

(FIRM's - Corporate Seal)

By: [Signature]

Printed Name: MARK HIBSHMAN

Title: CHIEF OPERATIONS OFFICER

Date: 12-14-11

STATE OF IL

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§
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ACKNOWLEDGEMENT

COUNTY OF ogle

This instrument was acknowledged before me on the 14 day of Dec, 2011, by MARK HIBSHMAN on behalf of ALEXANDER'S INC.

Rosalie Arriaga
Notary Public in and for the State of IL



[Signature]