

FIRST AMENDMENT TO DESIGN-BUILD AGREEMENT

(Digester 5 Rehabilitation)

RFP No. 2222

ANAERGIA TECHNOLOGIES, LLC

THIS FIRST AMENDMENT TO DESIGN-BUILD AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2025 (“Effective Date”), by and between the CITY OF RIVERSIDE (“City”), a California charter city and municipal corporation and ANAERGIA TECHNOLOGIES, LLC, a Delaware limited liability company (“Design-Build Entity”).

RECITALS

WHEREAS, the City and Design-Build Entity entered into that certain Design-Build Agreement (“Agreement”) dated July 18, 2024, to perform the work for Digester 5 Rehabilitation located at 5950 Acorn Stret, Riverside, CA, 92504; and

WHEREAS, in order for the Work to comply with the requirements of the Inflation Reduction Act, the City and Design-Build Entity desire to amend the Agreement to incorporate the Incentive Tax Credit language as Exhibit “F-1.”

WHEREAS, in order for the Schedule of Values to reflect the Investment Tax Credit (ITC) Buy America requirements, the City and Design-Build Entity desire to amend the Agreement to incorporate an updated Schedule of Values as Exhibit “C-1.”

NOW THEREFORE, in consideration of the foregoing recitals which are incorporated herein by this reference, City and Design-Build Agreement agree as follows:

1. Section 1.2 “Contract Documents,” item (4), is hereby amended to add Exhibit “F-1,” which is attached hereto and incorporated herein.
2. Exhibit “C” (Schedule of Values) is hereby deleted and replaced with Exhibit “C-1”, which is attached hereto and incorporated herein.
3. All terms and conditions of the Agreement not inconsistent with this First Amendment shall remain in full force and effect and are incorporated herein by this reference as if set forth in full.


(Signatures on following page)

IN WITNESS WHEREOF, City and Consultant have caused this First Amendment to Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

ANAERGIA TECHNOLOGIES, LLC
a Delaware limited liability company

By: _____
City Manager

By:  _____
Yaniv Scherson, COO

Attest: _____
City Clerk

Certified as to Availability of Funds:

By:  _____
~~AS~~ Chief Financial Officer

Approved as to Form:


By:  _____
Tarren A. Torres
Deputy City Attorney

Exhibit "C-1" - SCHEDULE OF VALUES

DESCRIPTION	COST
Mobilization	
Project and engineering	1,106,800.00
New digester mixers and Heat exchangers	1,314,000.00
Sitework/ Site Piping	1,033,200.00
Demolition	111,100.00
concrete	832,200.00
Coating	529,000.00
Mixer installation	84,200.00
Equipment	77,100.00
Digester roof - Demo	466,300.00
Digester Roof - New Roof Dome	1,619,300.00
Piping	695,500.00
Electrical & Instrumentation	1,225,000.00
Digester 4: Building Mechanical (item converts to lump sum upon completion of engineering design)	288,600.00
Digester 5: Epoxy Injection/ Wypex (Item charges as time and materials during this scope of work)	125,700.00
ITC Amendment Costs	440,000.00
TOTAL	9,948,000.00

EXHIBIT "F-1"

REQUIREMENTS OF THE INFLATION REDUCTION ACT (the "IRA")

- 1.1 Design-Build Entity acknowledges that the City intends that the Work will satisfy the requirements of the IRA.
- 1.2 The cost of the Work's compliance with IRA requirements includes an increase to the Contract Price of Four Hundred Forty Thousand Dollars (\$440,000), for a new Contract Price of Nine Million Nine Hundred Forty-Eight Thousand Dollars (\$9,948,000).
- 1.3 Design-Build Entity shall comply with the recordkeeping requirements set forth by the IRS as it pertains to the IRA.
- 1.4 Design-Build Entity shall "begin construction" of the Project before December 31, 2024. "Beginning construction" is defined in IRS Notice 2018-59 as starting physical work of a significant nature ("Physical Work Test") or incurring 5% or more of the total cost of energy property ("5% Safe Harbor").
- 1.5 Design-Build Entity shall meet the Physical Work Test, as described in IRS Notice 2018-59 and any successors thereto, to begin construction on the Project before December 31, 2024. As described in Notice 2018-59, preliminary activities such as planning, design, site exploration, or surveys do not qualify as physical work of a significant nature. Physical work of a significant nature would include fabrication of substantial components of equipment. Design-Build Entity's design and construction schedule shall include a plan to meet this requirement.
- 1.6 Per Continuity Safe Harbor provisions of the IRS, the project must be placed into service by December 1, 2028.
- 1.7 Design-Build Entity shall prepare a Statement of Significant Fabrication and submit to the City by December 31, 2024. The Statement of Significant Fabrication shall be on Design-Build Entity's letterhead and include the following items:
- (a) Statement indicating the date on which fabrication work commenced and describing the significant fabrication achieved to date.
 - (b) List of material purchased to date and date the materials were received by the Design-Build Entity.
 - (c) List of activities performed to date for fabrication of the equipment.
 - (d) List of activities performed to date for assembly of the equipment.
 - (e) Date stamped photographs showing the progression of work completed for the equipment.
 - (f) Statement from Design-Build Entity indicating that the fabrication of the equipment occurred pursuant to, and only after the binding contract was entered into. Additionally, the statement shall indicate that the equipment was fabricated

by reason of the contract and was not an item of inventory held by Design-Build Entity.

(g) Design-Build Entity shall also provide monthly status updates after significant fabrication is complete to document continuous work on the equipment.

1.8 Design-Build Entity acknowledges that the City intends that the Work will satisfy the domestic content bonus credit requirements under Internal Revenue Code Sections 45(b)(9), 48(a)(12), 45Y(g)(11), and 48E(a)(3)(B) of the Code.

1.9 Design-Build Entity shall ensure any structural steel or iron that is procured and supplied by Design-Build Entity, or its Subcontractors, and which is directly incorporated in the Work (i.e., applicable project component) will be produced in the United States within the meaning of Section 45(b)(9)(B) of the Code and 49 CFR § 661.5(b), to the extent required under the IRA. Design-Build Entity shall ensure that any Subcontractor that furnishes domestically manufactured steel or iron applicable project components for the Work shall provide to the purchaser of such components a certification of U.S. manufacturing for each applicable project component. Design-Build Entity acknowledges that the City may request additional supporting documentation to substantiate U.S. manufacturing including, but not limited to, a mill certification report from the mill that produced any steel that constitutes domestic content in the structural steel or iron applicable project component(s). Certifications and associated supporting documentation are to include, but not limited to, the following: the heat number, heat code, or melt code, product number, product description, purchase order number, etc. Design-Build Entity shall provide copies of all such certifications and supporting documentation to the City.

1.10 Design-Build Entity shall ensure that any manufactured product that is procured and supplied by Design-Build Entity, or its Subcontractors, and which is directly incorporated in the Work (i.e., applicable project component), will be produced in the United States within the meaning of Section 45(b)(9)(B) of the Code and 49 CFR § 661.5(d). Design-Build Entity shall ensure that any Subcontractor that furnishes domestically manufactured product applicable project components for the Work shall provide to the purchaser of such components a certification for each applicable project component containing, at a minimum, manufacturing country of origin, manufacturer's total direct costs (as per Treasury Regulation Section 1.263A-1(e)(2)), percentage of domestically manufactured components within the manufactured product, and total direct costs associated with domestically manufactured components within the manufactured product. Design-Build Entity acknowledges that the City may request additional supporting documentation to substantiate U.S. manufacturing and direct costs including, but not limited to, manufacturer's substantial transformation analysis, manufactured product component certificates of origin confirming U.S. manufacturing, invoices, purchase orders, and documentation substantiating manufacturer's direct costs (as defined in § 1.263A-1(e)(2)). Design-Build Entity shall provide copies of all such certifications to the City, or designated third-party, and shall permit all such certificates to be provided to the City.

1.11 Design-Build Entity shall cooperate and ensure that its Subcontractors cooperate with the City to allow the City to verify that Design-Build Entity has satisfied its obligations in this Article.

1.12 In the event additional guidance is issued with respect to the domestic content bonus credit requirements under Sections 45(b)(9), 48(a)(12), 45Y(g)(11), and 48E(a)(3)(B) of the Code after

the [date of this contract], Design-Build Entity and the City shall cooperate to ensure that the work will continue to satisfy the domestic content bonus credit requirements.

1.13 Design-Build Entity shall include the manufactured products domestic content percentage in the UPS.

1.14 Design-Build Entity shall provide a Domestic Content Certification Statement that certifies the total cost of US origin components and the total cost of manufactured products during submittal and shop drawing approval. Design-Build Entity shall provide an itemized schedule of values of components that are included in the manufactured product and identify which components are domestic and foreign. The itemized schedule of values must show that the percentage of direct costs for the components is no less than 40% of the total direct cost.

1.15 Design-Build Entity shall provide substantiation upon completion of construction that structural iron and steel products provided were produced in the United States in accordance with the requirements under 49 CFR 661.5 (b) and (c).

1.16 Design-Build Entity and any subcontractors must meet the prevailing wage and apprenticeship requirements described in Sections 48(a)(10)-(11) of the Code and regulations and other guidance provided thereunder. The following summary and discussion are provided for the Design-Build Entity's convenience. This does not relieve Design-Build Entity from independently reviewing and implementing the requirements of Sections 48(a)(10)-(11) and regulations and other guidance provided thereunder

1.16.1 Design-Build Entity and any subcontractors must pay prevailing wages to construction laborers and mechanics based on the wage data published by the Department of Labor pursuant to the Davis-Bacon Act, as described further in Treasury Regulations promulgated under Section 45. Design-Build Entity and any subcontractors must employ "qualified apprentices" enrolled in a registered apprenticeship program for at least 15% of total construction labor hours, subject to meeting any apprentice-to-journey worker ratios, as described further in Treasury Regulations promulgated under Section 45.

1.16.2 The Design-Build Entity must also maintain books and records sufficient to document that it and any subcontractors satisfied the prevailing wage and apprenticeship requirements. At a minimum, these shall include apprenticeship utilization plans; Apprenticeship agreements; and Good faith effort documentation.

1.17 Participation in Cost Segregation Study - Design-Build Entity shall participate in and support a cost segregation study by responding to information requests from Design-Build Entity and its Tax Advisor. The cost segregation study will be used to substantiate and document Design-Build Entity's ITC-eligible project costs and separate out miscellaneous costs that do not qualify as project property. To complete this cost segregation study, Design-Build Entity shall provide detailed, actual costs (as-constructed schedule of values) for the Project.