

AMENDMENT NO. 3

TO AGREEMENT FOR CONTRACT SERVICES

THIS THIRD AMENDMENT TO THE AGREEMENT FOR CONTRACT SERVICES (“Third Amendment”) by and between the CITY OF CARSON, a California municipal corporation (“City”) and WEST COAST ARBORISTS, INC., a California corporation (“Contractor”) is effective as of the 1st day of April, 2018.

RECITALS

A. City and Contractor entered into that certain Agreement for Contractual Services dated July 1, 2014 (“Agreement”) whereby Contractor agreed to provide Tree Maintenance Services for Fiscal Years 2014/15 thru 2016/17, for a total not to exceed Contract Sum of Nine Hundred Seventy Eight Thousand Nineteen Dollars (\$978,019) for the total Services provided for the three fiscal years.

B. In authorizing the Agreement, the City Council concurrently authorized an additional expenditure of up to twenty percent (20%) of the Contract Sum, or One Hundred Ninety Five Thousand Six Hundred Dollars (\$195,600), for unforeseen additional trimmings outside the normal scope of work (“Additional Expenditure”).

C. On July 1, 2017, City and Contractor amended the Agreement (i) to memorialize the Additional Expenditure; and (ii) to extend the Agreement by a period of six (6) months commencing on July 1, 2017, and terminating on December 31, 2017, and to provide for the payment of Services during the six-month extension at an amount not to exceed \$163,002 and an additional expenditure of up to 20% of that amount for unforeseen additional trimmings outside the normal scope of work, bringing the total Contract Sum to \$1,369,221 (“First Amendment”).

D. On December 5, 2017, City and Contractor amended the Agreement for the second time to allow the City to renew on a month-to-month basis at the rate of \$32,600 per month, up to a maximum of three months, beginning January 1, 2018, bringing the Contract Sum to an amount not to exceed \$1,467,021, in order to avoid interruption in service while pursuing a request for proposals process (“Second Amendment”).

E. City and Contractor now desire to amend the Agreement for the third time to further extend the month-to-month Services at the same rate of \$32,600 per month, up to a maximum of three months beginning April 1, 2018, in order to avoid interruption in service, to complete the evaluation of proposals submitted and to finalize the contract award for tree maintenance services.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (new text is indicated in *bold italics* and deleted text is shown in ~~strikethrough~~):

A. **Section 2.1 (Schedule of Compensation) is hereby amended as follows:**

“2.1 Schedule of Compensation. For Services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “B” and incorporated herein by this reference, but not exceeding the contract amount of One Million Three Hundred Sixty Nine Thousand Two Hundred Twenty One Dollars (\$1,369,221), except as provided in Section 2.3. ***In the event the City exercises its option to extend on a month-to-month basis pursuant to Section 3.4 herein, City shall compensate Contractor at a monthly rate not to exceed Thirty Two Thousand Six Hundred Dollars (\$32,600).*** The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with the percentage of completion of the services, (iii) payment for time and materials based upon the Contractor’s rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City; Contractor shall not be entitled to any additional compensation for attending said meetings.”

B. Section 3.4 (Term & Extended Term(s)) is hereby amended as follows:

“3.4 Term & Extended Term(s). Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect from July 1, 2014 until December 31, 2017 (“Term”). Beginning January 1, 2018, City may, in its sole option, administratively extend the Term of this Agreement on a month-to-month basis for up to a maximum of ~~six~~ **six** ~~three~~ consecutive months (an “Extended Term”). City shall exercise its option to extend the Term of the Agreement by providing Contractor with written notice from the City’s City Manager of its intent to extend the Term of this Agreement not less than ten (10) calendar days prior to the expiration of the Term of this Agreement.”

2. **Continuing Effect of Agreement.** Except as amended by this Agreement, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia L. Gause, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[MGM]

CONTRACTOR:

WEST COAST ARBORISTS, INC., a California corporation

By: _____
Name: Patrick Mahoney
Title: President

By: _____
Name: Richard Mahoney
Title: Assistant Secretary
Address: West Coast Arborists, Inc.
2200 E. Via Burton Street
Anaheim, CA 82806

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2018 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT								
<input type="checkbox"/> INDIVIDUAL	_____								
<input type="checkbox"/> CORPORATE OFFICER	_____								
<table border="0"> <tr> <td>_____</td> <td align="center">TITLE(S)</td> <td>_____</td> </tr> <tr> <td><input type="checkbox"/> PARTNER(S)</td> <td><input type="checkbox"/> LIMITED</td> <td rowspan="2">TITLE OR TYPE OF DOCUMENT</td> </tr> <tr> <td></td> <td><input type="checkbox"/> GENERAL</td> </tr> </table>	_____	TITLE(S)	_____	<input type="checkbox"/> PARTNER(S)	<input type="checkbox"/> LIMITED	TITLE OR TYPE OF DOCUMENT		<input type="checkbox"/> GENERAL	_____
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<input type="checkbox"/> ATTORNEY-IN-FACT	_____								
<input type="checkbox"/> TRUSTEE(S)	_____								
<input type="checkbox"/> GUARDIAN/CONSERVATOR	NUMBER OF PAGES								
<input type="checkbox"/> OTHER _____	_____								
SIGNER IS REPRESENTING:	DATE OF DOCUMENT								
(NAME OF PERSON(S) OR ENTITY(IES))	_____								
_____	_____								
_____	SIGNER(S) OTHER THAN NAMED ABOVE								

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<input type="checkbox"/> OTHER _____	_____
SIGNER IS REPRESENTING:	
(NAME OF PERSON(S) OR ENTITY(IES))	

_____	SIGNER(S) OTHER THAN NAMED ABOVE