

**AMENDMENT NO. 5**

**TO AGREEMENT FOR CONTRACT SERVICES**

**THIS AMENDMENT TO THE AGREEMENT FOR CONTRACT SERVICES** (“Amendment No. 5”) 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 \_\_\_\_ day of \_\_\_\_\_, 2023. City and Contractor are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

**RECITALS**

A. City and Contractor entered into that certain Agreement for Contractual Services dated October 1, 2018, (“Agreement”) whereby Contractor agreed to provide professional tree maintenance services for public parks, various civic facilities, streets and medians in the City, including tree pruning and maintenance services, mitigation services for risks from tree hazards, and emergency tree maintenance services (“Services”).

B. In August 2017, City was awarded a grant of up to \$267,915 from the California Department of Forestry and Fire Protection (“CAL Fire”) for the Carson Tree Expansion & Improvement Project (“Tree Planting Project”) as part of the Urban & Community Forestry California Climate Investment Grants program.

C. In furtherance of such grant, CAL Fire and the City entered into a grant agreement, identified as Grant Agreement 8GG16422, which was twice subsequently amended (collectively, “Grant Agreement”).

D. Under the Grant Agreement, the Tree Planting Project consists of the planting of up to 1,440 trees by March 30, 2021, as part of the City’s mitigation efforts to decrease GHG emissions, as well as for the promotion of urban forestry through educational community outreach. Under this program, City is to be paid grant monies on a reimbursement basis, which means any compensation paid by City to any contractor under the Tree Planting Project up to \$267,915 is subject to reimbursement under the Grant Agreement. However, Contractor was to perform services under the Tree Planting Project triggering payment of up to \$76,440 of the \$267,915 grant monies.

E. The City and Contractor entered into that certain Amendment No. 1 to Agreement for Contract Services dated January 28, 2020, to implement the Tree Planting Project to add the Tree Planting Project services to the Services provided for in the Agreement, and to increase the Contract Sum from \$1,969,764.09 to \$2,046,204.09.

F. The Agreement term is for three (3) years, from October 1, 2018 through September 30, 2021, and provides City with options to extend for up to three (3) years, either all at once or incrementally, at City’s election. City’s exercise of the full allotment of the three (3) year extension would result in expiration of all extended terms on September 30, 2024.

**EXHIBIT NO. 1**

G. The City and Contractor entered into that certain Amendment No. 2 to Agreement for Contract Services dated September \_\_\_\_, 2021, to extend the Agreement term by an additional two (2) months, thereby extending the term to November 30, 2021.

H. City and Contractor entered into that certain Amendment No. 3 to Agreement for Contract Services dated March 16, 2022 to further extend the Agreement for thirteen (13) months starting from December 1, 2021 through December 31, 2022, and increase the Contract Sum by an additional \$656,588.03 to bring the new Contract Sum from \$2,046,204.09 to \$2,702,792.12.

I. City and Contractor entered into that certain Amendment No. 4 to Agreement dated October 18, 2022, to further extend the Term for one (1) month starting from January 1, 2023 through January 31, 2023, and increase the Contract Sum by an additional \$199,000.00 to cover such extension period bringing the new Contract Sum to \$2,901,792.12.

J. City and Contractor now seek to again extend the Term for an additional twenty (20) months, from February 1, 2023 through September 30, 2024 (“Final Extension Period”).

K. On December 9, 2022, Contractor submitted a request to the City for a 7.5% cost of living increase pursuant to Section 3.5 of the Agreement (equivalent to an annual contract sum increase of \$49,244.16), effective February 1, 2023 and continuing through expiration of the Final Extension Period.

L. The City has reviewed Contractor’s request and supporting documentation submitted by the Contractor, and has determined that the requested 7.5% CPI increase is accurate and appropriate pursuant to Section 3.5 of the Agreement. City now sees fit to approve of same, resulting in an increase of \$49,244.16 of the Contract Sum per annum as a direct result of the CPI increase, thereby increasing the total Contract Sum during the Final Extension Period as a direct result of the CPI increase by \$82,073.51. When accounting for the increase to Contract Sum of \$82,073.51 together with the increase to the Contract Sum needed to approve Contractor’s continued provision of Services until expiration of the Final Extension Period, the Contract Sum will increase by an amount of \$1,176,386.91 bringing the adjusted Contract Sum from \$2,901,792.12 to \$4,078,179.03.

## TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (new text is identified in *bold italics*, deleted text in ~~strike through~~):

**A. Section 2.1 (Contract Sum) of the Agreement is hereby amended to read in its entirety as follows:**

“2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed ~~Four Two Million~~ **Seventy Eight Nine Hundred One Thousand One Seven Hundred Seventy Nine** ~~Ninety Two~~ Dollars and ~~3/100~~

~~12/100~~ Cents (~~\$4,078,179.03~~ \$2,901,792.12) (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.10.”

**B. Section 3.5 (Term) of the Agreement is hereby amended to read in its entirety as follows:**

“3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not *later than* ~~exceeding four (4) years and three (3) months from the date hereof, thereby resulting in expiration of this Agreement on **September 30, 2024**~~ ~~January 31, 2023~~, except as otherwise provided in the Schedule of Performance (Exhibit “D”). ~~City may exercise in its sole discretion an option to extend this Agreement for an additional term of twenty one (21) months, either all at once or incrementally at discretion of City, providing Contractor thirty (30) days written notice prior to the end of the current agreement term of its desire to extend the agreement.~~ Contractor agrees to provide the services specified in the Scope of Services, adjusted to the rates that are based upon changes in the Consumer Price Index (CPI), All Urban Consumers, for Los Angeles-*Long Beach*-Anaheim ~~Riverside~~ Area, as published by the United States Department of Labor, Bureau of Labor Statistics, for said additional periods, should the City give the required notice.”

**C. Exhibit “C” (Schedule of Compensation) of the Agreement is hereby amended to read in its entirety as follows:**

“I. Contractor shall perform the following tasks at the following rates provided herein (Contractor to provide all materials, supplies, personnel, etc., inclusive with the rates provided below unless otherwise expressly specified):

	ROUTINE TREE TRIMMING BY ZONE	RATE	QTY	ITEM COST
A.	Per tree, small 0-6” DSH	<del>\$52.65</del> \$49.00	1,311	<del>PER UNIT</del> \$64,239.00
B.	Per tree, medium 7-18” DSH	<del>\$105.35</del> \$98.00	2,109	<del>PER UNIT</del> \$206,682.00
C.	Per tree, large, over 18”DSH	<del>\$181.65</del> \$169.00	1,617	<del>PER UNIT</del> \$273,273.00
D.	Date palms	<del>\$99.95</del> \$93.00	32	<del>PER UNIT</del> \$2,976.00
E.	Mexican fan palms	<del>\$80.60</del> \$75.00	215	<del>PER UNIT</del> \$16,125.00
F.	Queen, Majesty, Kentia, other (King palms are excluded from trimming as they are self-cleaning)	<del>\$52.65</del> \$49.00	33	<del>PER UNIT</del> \$1,617.00

REMOVALS

G.	Per inch DSH, complete tree and stump	<del>\$41.90</del> <del>\$39.00</del>	per City Request	PER UNIT
H.	Per inch DSH, tree removal only	<del>\$31.15</del> <del>\$29.00</del>	per City Request	PER UNIT
I.	Per inch Dia., stump removal only	<del>\$10.75</del> <del>\$10.00</del>	per City Request	PER UNIT

TREE PLANTING LABOR ONLY

J.	Per tree, 15 gallon	<del>\$52.65</del> <del>\$49.00</del>	per City Request	PER UNIT
K.	Per tree, 24 inch box	<del>\$106.40</del> <del>\$99.00</del>	per City Request	PER UNIT
L.	Per tree, 36 inch box	<del>\$267.65</del> <del>\$249.00</del>	per City Request	PER UNIT
M.	Per tree, 48 inch	<del>\$375.15</del> <del>\$349.00</del>	per City Request	PER UNIT

TREE WATERING

N.	Per day, watering of planted trees	<del>\$387.00</del> <del>\$360.00</del>	per City Request	PER DAY
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CREW RENTAL

O.	Per hour, 3 people, aerial unit, dump truck & chipper (day call out)	<del>\$96.75</del> <del>\$90.00</del> <sup>1</sup>	per City Request	PER MAN HOUR
P.	Per hour, emergency work, pursuant to Section I(D) of Exhibit A.	<del>\$129.00</del> <del>\$120.00</del> <sup>1</sup>	per City Request	PER CREW HOUR

NON-ZONE YEAR TRIMMING

Q.	Per tree, Queen Palms (dead fronds and fruit stalks only)	<del>\$52.65</del> <del>\$49.00</del>	457	<b>PER UNIT</b> <del>\$22,393.00</del>
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<sup>1</sup> Inclusive of all labor, tools, equipment, disposal fees and materials necessary for completing the emergency work.

R.	Per tree, Ficus benjamina	<del>\$52.65</del> \$49.00	379	<b>PER UNIT</b> \$18,571.00
S.	Per tree, Coral trees (crown reduction to reduce limb loss)	<del>\$310.65</del> \$289.00	73	<b>PER UNIT</b> \$21,097.00

TREE PLANTING PROJECT

T.	Per tree, 5 gallon	\$50	420	<b>PER UNIT</b> \$21,000
U.	Per tree, 15 gallon	\$110	504	<b>PER UNIT</b> \$55,440

TOTALS

All trees @ 7 zones per year, plus 5% removals, plus non-zone year trimming for Queen Palms, Ficus benjamina, and Coral Trees, plus Tree Planting Project.	<del>\$733,028.03</del>	<b>PER YEAR</b>
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Total Contract Amount	<del>\$4,078,179.03</del> \$2,046,204.09	<b>CONTRACT TERM</b>
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II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another, with the exception of funds allotted for the Tree Planting Project, so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. The City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items describing the work performed (including a listing of completed work by street address, tree species, work performed, and date the work was performed), the number of hours worked, the hourly rate, and other data as requested by the City.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

E. Each invoice shall include all recycling receipts or proof of reusing and reducing operations.

IV. The total compensation for the Services shall not exceed ~~\$2,046,204.09~~ **\$4,078,179.03** as provided in Section 2.1 of this Agreement.”

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 5, all provisions of the Agreement, Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4 shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 5, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 5, Amendment No. 4, Amendment No. 3, Amendment No. 2 and Amendment No. 1.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement, Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4. 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 and Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4. Each party represents and warrants to the other that the Agreement, as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4 and this Amendment No. 5, is currently an effective, valid, and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment No. 5, 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 Consultant that, as of the date of this Amendment No. 5, Consultant 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 No. 5.

5. **Authority.** The persons executing this Amendment No. 5 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 Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Amendment No. 5, and (iv) the entering into this Amendment No. 5 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 Amendment No. 5 on the date and year first-above written.

**CITY:**

CITY OF CARSON, a municipal corporation

\_\_\_\_\_  
Lula Davis-Holmes, Mayor

**ATTEST:**

\_\_\_\_\_  
Dr. Khaleah R. Bradshaw, City Clerk

APPROVED AS TO FORM:  
ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Sunny K. Soltani, City Attorney  
[rjl]

**CONTRACTOR:**

WEST COAST ARBORISTS, INC., a California corporation

By: \_\_\_\_\_  
Name: Patrick Mahoney  
Title: President

By: \_\_\_\_\_  
Name: Richard Mahoney  
Title: Assistant Secretary  
Address: 2200 E. Via Burton Street  
Anaheim, CA 92806

**Two corporate officer signatures required when Contractor 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. CONTRACTOR’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 CONTRACTOR’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 \_\_\_\_\_, 2023 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.

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



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STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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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.

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