

AMENDMENT NO. 5

TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS FIFTH AMENDMENT TO THE AGREEMENT FOR CONTRACTUAL SERVICES ("Fifth Amendment") by and between on the one hand, the **CITY OF CARSON**, a municipal corporation, and the **CITY OF CARSON in its capacity as the SUCCESSOR AGENCY TO THE DISSOLVED CARSON REDEVELOPMENT AGENCY**, a public entity organized and existing under California Health and Safety Code section 34173 (collectively "City" or "Agency"), and on the other hand, **TCM GROUP, A HILL INTERNATIONAL COMPANY**, a California corporation ("Contractor" or "Engineer") is effective as of the 30th day of June, 2018.

RECITALS

A. City and Contractor entered into that certain Agreement for Contractual Services dated February 17, 2009 ("Agreement") whereby Contractor agreed to provide construction management services to City in connection with that certain project identified as Wilmington Avenue Interchange Modification at the I-405 Freeway, Project 919 for a sum not to exceed \$2,998,788.

B. City and Contractor entered into the First Amendment to the Agreement on February 19, 2013, whereby Contractor, then named TCM Group, Inc., requested that its name be modified to "TCM Group, Inc., a Hill International Company," and whereby the termination date of the Agreement was extended to December 31, 2015.

C. City and Contractor entered into the Second Amendment to the Agreement on August 4, 2015, whereby City and Contractor (i) extended the term of the Agreement until December 31, 2016; (ii) increased the Contract Sum to \$3,778,778.16; (iii) modified the method of payment; (iv) listed Consultant's employees who would be performing specific jobs under the Agreement; and (v) provided that the City would be reimbursed \$124,941.02 for overpayments, which amount would be taken from a sum of \$200,000 held in trust by the Redevelopment Agency for use towards reimbursement.

D. City and Contractor entered into the Third Amendment to the Agreement on September 6, 2016, whereby City and Contractor (i) extended the term of the Agreement until September 30, 2017; (ii) increased the Contract Sum to \$4,558,768.32.

E. City and Contractor entered into the Fourth Amendment to the Agreement on September 5, 2017, whereby City and Contractor (i) extended the term of the Agreement until June 30, 2018; (ii) increased the Contract Sum by \$259,997 to \$4,818,765.32, to account for increased costs relating to the Construction and Post Construction phases of the Agreement; (iii) established the method of payment for Construction Phase work completed after September 30, 2017; and (iv) established the method of payment for Post Construction Phase work.

F. City and Contractor now desire to affirm and ratify the uninterrupted and continuous term of the Agreement (as amended) from February 17, 2009 through June 30, 2019.

EXHIBIT NO. 2

G. City and Contractor further desire to amend the Agreement to (i) extend the term of the Agreement through June 30, 2019; and (ii) increase the Contract Sum by \$40,000 to \$4,858,765.32, to account for unexpected increased costs relating to the Post Construction phase of the Agreement which are out of the control of the Parties.

TERMS

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

a. **The first paragraph of Section 2.1, Contract Sum, is hereby amended to read as follows:**

“For the services rendered pursuant to this Agreement, the Engineer shall be compensated in accordance with the “Cost Proposal” attached hereto as Exhibit “C” and incorporated herein by this reference, as well as Section 2.4, 2.4(b), 2.4(c), 2.4(d) and 2.4(e), but not exceeding the maximum contract amount of ~~Four Million, Eight Hundred Eighteen Thousand, Seven Sixty Five and Thirty Two Cents. (\$4,818,765.32)~~ ***Four Million, Eight Hundred Fifty Eight Thousand, Seven Hundred Sixty Five Dollars and Thirty Two Cents. (\$4,858,765.32)*** (“Contract Sum”), except as provided in Section 1.9. The Contract Sum shall include the attendance of Engineer at all project meetings reasonably deemed necessary by the Agency; Engineer shall not be entitled to any additional compensation for attending such meetings.”

b. **Section 3.2, Schedule of Performance, is hereby amended as follows:**

“The execution of the Agreement does not constitute an authorization to proceed. The Agreement shall go into effect on July 1, 2010 and the Engineer shall commence work after notification to proceed by the Agency, acting by and through its DSG General Manager. The contract shall end on ~~June 31, 2018~~, ***June 30, 2019***, unless extended by contract amendment. The work described in Exhibit “A” as Task A.1 through Task A.3.4 shall be completed by ~~June 31, 2018~~ ***June 30, 2019***, which includes construction period and the post construction services, following Engineer’s receipt of the Notice to Proceed, in accordance with Exhibit “B” and Exhibit “C”, project schedule and estimated fee. Engineer shall have no claim for compensation for any services or work which has not been authorized in writing by the Agency’s Notice to Proceed.”

c. **Exhibit “C,” in the section entitled “Post-Construction Phase,” is hereby amended as follows:**

“(To be completed by ~~June 31, 2018~~ ***June 30, 2019***)”

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 Fifth Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Fifth 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 Fifth 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 Fifth 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 Fifth Amendment.

5. **Authority.** The persons executing this Fifth Amendment 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 Fifth Amendment on behalf of said party, (iii) by so executing this Fifth Amendment, such party is formally bound to the provisions of this Fifth Amendment, and (iv) the entering into this Fifth Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment on _____, with the express intent for this Fifth Amendment to be effective as of June 30, 2018.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[eqg]

CONTRACTOR:

TCM Group, a Hill International company,
a California corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____
Address: _____

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 _____, 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	
<div style="display: flex; align-items: center;"><div style="flex: 1;"><input type="checkbox"/> PARTNER(S)</div><div style="flex: 1; text-align: center;">TITLE(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL</div></div>	_____ 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 _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	_____ DATE OF DOCUMENT
	_____ SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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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

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<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 _____	
SIGNER IS REPRESENTING:		DATE OF DOCUMENT
(NAME OF PERSON(S) OR ENTITY(IES))		

_____		SIGNER(S) OTHER THAN NAMED ABOVE