

AMENDMENT NO. 3

TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS THIRD AMENDMENT TO THE CONTRACT SERVICES AGREEMENT FOR MAINTENANCE AND SUPPORT OF AUDIO/VISUAL EQUIPMENT (the “Third Amendment”) by and between the **CITY OF CARSON**, a California municipal corporation (“City”), and **ELECTROSONIC, INC.**, a Minnesota corporation (hereinafter “Consultant” and/or “Electrosonic”) is effective as of the 1st day of April, 2019.

RECITALS

A. City and Consultant entered into that certain Contract Services Agreement for Maintenance and Support of Audio/Visual Equipment dated January 1, 2016 (“Agreement”) for a one (1) year term to expire on December 31, 2016, whereby Consultant agreed to provide maintenance and support of audio/visual equipment Services for compensation in a not-to- exceed amount of \$120,220.

B. City and Consultant amended the Agreement for the first time (“First Amendment”) on January 1, 2017, so as to: extend the term by one (1) year; establish an additional not-to-exceed amount of \$120,220 for Services provided from January 1, 2017 through December 31, 2017; and, replace the list of equipment covered from January 1, 2016 through December 31, 2016 for onsite service labor for trouble-shooting with a new list of equipment covered from January 1, 2017 through December 31, 2017 for onsite service labor for trouble-shooting, while otherwise maintaining all other provisions of the Agreement.

C. City and Consultant amended the Agreement for the second time (“Second Amendment”) effective January 1, 2018, so as to: extend the term for another two (2) years, establish an additional not-to-exceed amount of \$245,000 for Services provided from January 1, 2018 through December 31, 2019, thereby bringing the total contract sum to \$485,440, replace the list of equipment covered from January 1, 2017 through December 31, 2017 for onsite service labor for trouble-shooting with a new list of equipment covered from January 1, 2018 through December 31, 2019 for onsite service labor for trouble-shooting, and adjust applicable account numbers, while otherwise maintaining all other provisions of the Agreement.

D. Due to a higher-than-anticipated amount of necessary on-call services performed pursuant to the Agreement, City and Consultant now desire to amend the Agreement a third time (“Third Amendment”) so as to increase the contract sum by \$25,928.55, thereby bringing the total contract sum to \$511,368.55. City also requires an adjustment of applicable account numbers in the contract due to changes resulting from its use of a new administrative finance system. City and Consultant otherwise desire to maintain all other provisions of the Agreement.

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, entitled “Contract Sum,” is amended as follows:**

“2.1 Contract Sum. For the services rendered pursuant to this

Agreement, Consultant shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference, but not exceeding the maximum contract amount for the first year of service from January 1, 2016 through December 31, 2016 of One Hundred Twenty Thousand Two Hundred Twenty Dollars (\$120,220), for the second year of service from January 1, 2017 through December 31, 2017 of One Hundred Twenty Thousand Two Hundred Twenty Dollars (\$120,220), *and* for the third and fourth year of service from January 1, 2018 through December 31, 2019 of ~~Two Hundred Forty-Five Thousand Dollars~~ *Two Hundred Seventy Thousand Nine Hundred Twenty-Eight Dollars and Fifty-Five Cents* (\$245,000 ~~270,928.55~~), for a total not-to-exceed amount for four years of service of ~~Four Hundred Eighty-Five Thousand Four Hundred Forty~~ *Five Hundred Eleven Thousand Three Hundred Sixty-Eight Dollars and Fifty-Five Cents* (\$485,440 ~~\$511,368.55~~) (“Contract Sum”).”

- b) The first paragraph of Section II of Exhibit “A” (Scope of Services) is hereby amended to read as follows:

“Ad Hoc Projects. Electrosonic will perform specified ad hoc projects not covered by Section I above, as required by the Carson City Council and as requested in writing by the Contract Officer, for an aggregate annual not-to-exceed amount of \$100,000 *for each of the first and second years of service. The aggregate not-to-exceed amount for such on-call services for the third and fourth years of service, collectively (i.e. the two-year period of January 1, 2018 through December 31, 2019) shall be \$225,928.55. Such services shall to be compensated for pursuant to Section IV of Exhibit “C,” Schedule of Compensation*”

- c) Section II(D) of Exhibit A (Scope of Services) is hereby amended to read as follows:

“Such ad hoc projects to be provided, at the request in writing of the Contract Officer pursuant to requirement by the City Council, are to be paid for through City of Carson PEG Account No. ~~47-50-615-006-8003~~ *247-50-520-101-8003* through invoices submitted pursuant to Section IV of Exhibit “C,” Schedule of Compensation. Prior to the Contract Officer agreeing in writing to the fees and/or rates charged by Electrosonic for the performance of a requested on-call service, the Contract Officer shall confirm that adequate funds remain allocated in City PEG Account No. ~~47-50-615-006-8003~~ *247-50-520-101-8003* to cover the entire anticipated cost to the City.”

- d) Section III of Exhibit “C” (Schedule of Compensation) is hereby amended to read in its entirety as follows:

“Consultant shall perform all services described in Section II of Exhibit “A,” Scope of Services, for specified fees and/or rates agreed upon in writing with the Contract Officer prior to performance of each requested service, for an aggregate annual amount paid for all services not-to-exceed \$100,000 *the*

amounts stated in Section II of Exhibit A, to be paid for through City of Carson PEG Account No. ~~47-50-615-006-8003~~ **247-50-520-101-8003.**"

e) Section V of Exhibit "C," which is entitled "Schedule of Compensation," is amended as follows:

"The total compensation for the Services (pursuant to Section I and Section II of Exhibit "A," Scope of Services) shall not exceed ~~\$485,440~~ **\$511,368.55**, as provided in Section 2.1 of this Agreement."

2 **Continuing Effect of Agreement.** Except as amended by this Amendment, 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 Consultant 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.

Consultant 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 Consultant that, as of the date of this Amendment, 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.

5 **Authority.** The persons executing this 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 Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment 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 Gause-Aldana, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[BRJ]

CONSULTANT:

ELECTROSONIC, INC., a Minnesota corporation

Brian Hinckley, President

Chris Ward, CFO

Address: 12400 Whitewater Drive, Suite 140
Minnetonka, MN 55343

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 _____, 2019 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	
	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: (NAME OF PERSON(S) OR ENTITY(IES))		DATE OF DOCUMENT
_____ _____		
		SIGNER(S) OTHER THAN NAMED ABOVE

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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

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