

AMENDMENT NO. 2

TO CONTRACT SERVICES AGREEMENT BY AND BETWEEN CITY OF BELL AND WEST COAST ARBORISTS, INC.

This AMENDMENT NO. 2 TO CONTRACT SERVICES AGREEMENT BY AND BETWEEN CITY OF BELL AND WEST COAST ARBORISTS, INC. ("Amendment No. 2") by and between the CITY OF BELL ("City") and WEST COAST ARBORISTS, INC., a California Corporation ("Contractor") is effective as of the 10th day of August, 2016.

RECITALS

A. City and Contractor entered into that certain Contract Services Agreement dated April 1, 2014 ("Agreement") whereby Contractor agreed to provide tree maintenance services including annual grid tree trimming of all 4,167 City trees, tree and stump removal, tree planting, tree watering, and maintenance and updating of the City's tree inventory.

B. The term of the Agreement was three years, from April 1, 2014 to March 31, 2017. The compensation due under the Agreement was for \$180,000.

C. On June 25, 2014, the City approved Amendment No. 1 to the Agreement in the amount of \$158,240 ("Amendment No. 1"). The scope of work for Amendment No. 1 was to plant and water 180 trees on Gage Avenue (36" box size).

D. With Amendment No. 1, the total compensation of the Agreement increased from \$180,000 to \$338,240.

E. As of the date of this Amendment No. 2, the City has paid a total of \$342,540.85 to Contractor.

F. As of the date of this Amendment No. 2, 2,001 trees still need to be trimmed as part of the grid program as required by the original Agreement and 82 trees need to be planted on Gage Avenue (comprised of 77 that were never planted and 5 to be replaced) as required by Amendment No. 1.

G. Notwithstanding the fact that the work referenced in Recital F has not yet been completed, the parties now desire to amend the Scope of Work to specify new work that shall be completed by Contractor by March 31, 2017.

H. The new work referenced in Recital G includes grid trimming of all 4,396 City trees, planting of four 36" trees on Gage Avenue and fourteen 24" trees on Florence Avenue, and removal of twenty-six inches of stumps for a total cost of \$183,360.00.

I. To provide for this additional work and to account for this additional cost of \$183,360.00 and to account for the existing overpayment of \$4,300.85, the City now desires to amend the Agreement to increase the amount of compensation in the amount of \$187,660.85.

J. With Amendment No. 2, the total compensation due under the Agreement, as amended by Amendments No. 1 and No. 2, will be increased from \$338,240 to \$525,900.85.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein

a. **In Section 2.1, the second sentence is hereby amended to read as follows:**

“The total compensation, including reimbursement for actual expenses, shall not exceed Five Hundred Twenty Five Thousand Nine Hundred Dollars and Eighty Five Cents (\$525,900.85) (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.10. The Parties agree and acknowledge that, as of the date of Amendment No. 2, the City has already paid Contractor the sum of three hundred forty two thousand five hundred forty dollars and eighty five cents (\$342,540.85).”

b. **Section III of Exhibit “C” (Schedule of Compensation) is hereby amended to read as follows:**

“Unless Additional Services are approved per Section 1.10, the total compensation for the Services shall not exceed Five Hundred Twenty Five Thousand Nine Hundred Dollars and Eighty Five Cents (\$525,900.85) (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.10. The Parties agree and acknowledge that, as of the date of Amendment No. 2, the City has already paid Contractor the sum of three hundred forty two thousand five hundred forty dollars and eighty five cents (\$342,540.85). The remaining one hundred eighty three thousand three hundred sixty dollars and no cents (\$183,360.00) shall be allocated and paid as follows:

A. For the period between the date of Amendment No. 2 and March 31, 2017, a maximum of \$167,048.00 shall be paid to Contractor for grid trimming of 4,396 trees at the locations shown on the Grid Trimming Map attached hereto as Exhibit E and incorporated herein by reference.

B. For the period between the date of Amendment No. 2 and March 31, 2017, a maximum of \$2,912.00 shall be paid to Contractor to plant and provide subsequent watering for four 36” trees on Gage Avenue.

C. For the period between the date of Amendment No. 2 and March 31, 2017, a maximum of \$3,192.00 shall be paid to Contractor to plant and provide subsequent watering for fourteen 24” trees on Florence Avenue.

D. For the period between the date of Amendment No. 2 and March 31, 2017, a maximum of \$208.00 shall be paid to Contractor for removal of twenty-six inches of stumps.

E. For the period between the date of Amendment No. 2 and March 31, 2017, a maximum of \$10,000 shall be paid to Contractor for emergency as-needed services.”

c. Section V of Exhibit A is hereby added and shall read as follows:

“V. Although the work set forth in Section I of Exhibit A of the Agreement has not yet been completed by Contractor as of the Effective Date of Amendment No. 2, the Parties agree to replace Section I of Exhibit A of the Agreement in its entirety by this Section V, which shall set forth a new Scope of Work, which shall be operative between the effective date of Amendment No. 2 and March 31, 2017 and which shall read as follows:

A. Contractor shall perform grid trimming of 4,396 trees at the locations shown on the Grid Trimming Map attached hereto as Exhibit E and incorporated herein by reference.

B. Contractor shall plant four 36” trees on Gage Avenue at the locations where tree wells have been constructed by the City, or its designee, in preparation for Contractor’s installation of trees. Thereafter, Contractor shall water these trees on a weekly basis thru March 31, 2017.

C. Contractor shall plant fourteen 24” trees on Florence Avenue at the locations where tree wells have been constructed by the City, or its designee, in preparation for Contractor’s installation of trees. Thereafter, Contractor shall water these trees on a weekly basis thru March 31, 2017.

D. Contractor shall remove twenty-six inches of stumps located at empty tree wells along Florence Avenue and Gage Avenue.

E. Contractor may perform emergency services as requested by the Contract Officer from time to time.”

d. Section IV of Exhibit D is hereby added and shall read as follows:

“IV. Effective the date of Amendment No. 2, Contractor shall complete the following Services by the end of the Contract term:

A. Contractor shall perform grid trimming of 4,396 trees based on the following schedule:

1. Complete Grid No. 4, as shown in the Grid Trimming Map attached hereto as Exhibit E and incorporated herein by reference, by September 30, 2016.

2. Complete Grid Nos. 1 and 2, as shown in the Grid Trimming Map attached hereto as Exhibit E and incorporated herein by reference, by December 31, 2016.
3. Complete Grid No. 3, as shown in the Grid Trimming Map attached hereto as Exhibit E and incorporated herein by reference, by March 31, 2017.

B. Not later than October 31, 2016, Contractor shall plant four 36" trees on Gage Avenue at the locations where tree wells have been constructed by the City, or its designee, in preparation for Contractor's installation of trees. Thereafter, Contractor shall water these trees on a weekly basis thru March 31, 2017.

C. Not later than October 31, 2016, Contractor shall plant fourteen 24" trees on Florence Avenue at the locations where tree wells have been constructed by the City, or its designee, in preparation for Contractor's installation of trees. Thereafter, Contractor shall water these trees on a weekly basis thru March 31, 2017.

D. Not later than October 31, 2016, Contractor shall remove twenty-six inches of stumps located at empty tree wells along Florence Avenue and Gage Avenue.

E. Contractor may perform emergency services as requested by the Contract Officer from time to time. Contractor shall not be entitled to any additional compensation greater than \$10,000.00 for emergency services unless an amendment to this Agreement is approved in writing by the City Council authorizing additional as-needed services."

e. **Section 4.3 of the Agreement is hereby amended and shall now read as follows:**

"The Contract Officer shall be the City's Public Works Manager, or in the absence of a Public Works Manager, the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms 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 Amendment Nos. 1 and 2 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 going 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]

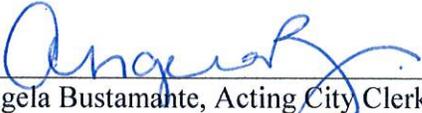
IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 on the date and year first-above written.

CITY:

CITY OF BELL

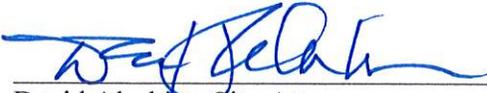

Alicia Romero, Mayor

ATTEST:


Angela Bustamante, Acting City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP


David Aleshire, City Attorney

CONTRACTOR:

WEST COAST ARBORISTS, INC.


By: _____
Name: Patrick Mahoney
Title: President


By: _____
Name: Richard Mahoney
Title: Assistant Secretary

NOTE: 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 DEVELOPER'S BUSINESS ENTITY.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 on the date and year first-above written.

CITY:

CITY OF BELL

Alicia Romero, Mayor

ATTEST:

Angela Bustamante, Acting City Clerk

APPROVED AS TO FORM:

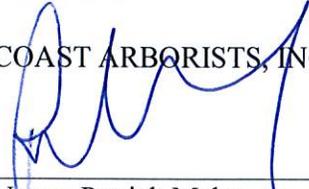
ALESHIRE & WYNDER, LLP

David Aleshire, City Attorney

CONTRACTOR:

WEST COAST ARBORISTS, INC.

By: _____


Name: Patrick Mahoney
Title: President

By: _____


Name: Richard Mahoney
Title: Assistant Secretary

NOTE: 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 DEVELOPER'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189



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 Orange)

On August 31, 2016 before me, Amelia I. Menzel, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Patrick Mahoney and Richard Mahoney
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 Amelia Menzel
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: City of Bell - Tree Maintenance Services Agreement Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Patrick Mahoney
 Corporate Officer — Title(s): President
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: WCA, Inc.

Signer's Name: Richard Mahoney
 Corporate Officer — Title(s): Asst. Secretary
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: WCA, Inc.



City of Bell Inventory with District Count

Inventory data is created and maintained by West Coast Arborists Inc (WCA). Centerline data is provided by OpenStreetMap contributors <http://www.openstreetmap.org/copyright>



Legend



District Boundary

Scale 1:17,500

