

CITY OF RIALTO
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REIMBURSEMENT AGREEMENT

This **REIMBURSEMENT AGREEMENT** ("Agreement") is made and entered into as of November 8, 2016, (the "Effective Date"), by and between the **CITY OF RIALTO**, a municipal corporation ("City"), and **LEWIS-HILLWOOD RIALTO COMPANY, LLC**, a Delaware limited liability company ("LHR").

R E C I T A L S

A. The City and LHR are parties to that certain Second Amended and Restated Contract of Sale for Areas B, C, and D, dated as of September 25, 2012 ("Airport Agreement") which relates to approximately 436 acres of real property located in the City situated in the Renaissance Specific Plan.

B. The Transportation Commission conditioned each of these development projects to pay certain fair share fees to make minor improvements to the east bound and west bound Alder Avenue on and off ramps to mitigate impacts caused by their projects. The traffic studies indicated that other improvements of the SR-210/Alder Avenue interchange, including but not limited to widening the bridge structure might be necessary to accommodate the future planned growth in the City. More recently, the Traffic Impact Analysis prepared for the proposed Amendment to the Renaissance Specific Plan/EIR also concluded that the SR-210/Alder Avenue interchange might not accommodate cumulative traffic volumes. The Transportation Commission requested that the City and/or the master developer, Lewis-Hillwood Rialto (LHR), fund a feasibility study to determine the short-term and ultimate long-term improvements to the Alder Avenue Interchange to ensure that it can accommodate the projected traffic volumes at build out in 2040.

C. Subject to the terms and conditions set forth in this Agreement, the City has agreed to reimburse LHR for the cost of preparing the SR-210/Alder Avenue Interchange Feasibility Study.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and LHR agree as follows:

1. Responsibilities of City. City agrees to pay to LHR all third party costs ("Reimbursable Costs") actually incurred and paid by LHR that are directly attributable to the preparation of the SR-210/Alder Avenue Interchange Feasibility Study by Advanced Civil Technologies and in accordance with a contract between LHR and Advanced Civil Technologies for such services. City shall make such reimbursement payments to LHR in accordance with the procedures set forth in Section 4 below from moneys held the RSP EIR/SP Fair Share Fee (Fund Account 301-241-0401-000) ("City Account"). The total amount to be paid by City pursuant to this Section 1 (exclusive of change orders pursuant to Section 2) shall not exceed Two Hundred Forty-Eight Thousand Five Hundred and Ninety Seven Dollars (\$248,597).

2. Change Orders. City shall have the right to review and approve or disapprove any and all change orders under the contract described in Section 1 that would result, cumulatively or individually, in an increase in the contract price of five percent (5%) or more. The City Administrator shall have authority to approve change orders on behalf of the City; provided that City shall have no obligation to pay or reimburse LHR for work performed under change orders cumulatively exceeding Five Thousand Dollars (\$5,000). The City's total obligation under Sections 1 and 2 and including a

10% contingency of this Agreement is hereby expressly limited to Two Hundred Seventy-Five Thousand Dollars (\$275,000)

3. Responsibilities of LHR. LHR shall be responsible for preparing (or causing to be prepared) complete SR-210/Alder Avenue Interchange Feasibility Study by Advanced Civil Technologies attached hereto as Exhibit A. LHR shall provide the City with copies of all reports and design documents produced by LHR or any of its contractors and/or consultants in connection with the preparation of such Feasibility Study. LHR shall notify the City of, and allow the City to participate in, all meetings related to the preparation of such Feasibility Study. The final Feasibility Study shall be subject to the approval of the City Administrator.

4. Reimbursement Procedure.

(a) On or after the Effective Date, LHR shall submit to the City from time to time, but no more frequently than monthly and no less frequently than every two months (subject to timely receipt of invoices from Advanced Civil Technologies) a "Request for Reimbursement" setting forth the exact amount of Reimbursable Costs for which LHR is seeking reimbursement. Each Request for Reimbursement shall be accompanied by the list of Reimbursable Costs for which reimbursement is sought setting forth (1) the nature of the product or service obtained by LHR, (2) the name of the provider of the product or service, and (3) the charge for such product or service in the full amount of the payment made by LHR. Such list shall be certified as accurate and correct by LHR's project manager in charge of overseeing the preparation of such Feasibility Study.

(b) Fifteen (15) business days after receipt of such Request for Reimbursement, the City shall either (i) pay the full amount of the requested sum as set forth in the Request for Reimbursement (the "Full Reimbursement Sum"), or (ii) pay the Full Reimbursement Sum less that which the City contests is either not yet due or subject to objection (in either case, the "Contested Portion"). The City Administrator shall simultaneously give written notice to LHR ("Notice of Contest") of the amount of the Contested Portion and stating with reasonable specificity its reason for objecting to the Contested Portion. The City Administrator and a representative from LHR shall meet and confer, either in person or by phone, within three (3) business days after LHR's receipt of the Notice of Contest and shall use their good faith efforts to promptly resolve any issues regarding the Contested Portion. As used herein, "business days" shall mean Monday through Thursday, excluding federal and state holidays.

5. City Officers and Employees. No officer or employee of the City shall be personally liable to LHR or any successors in interest in the event of any default or breach by the City or for any amount which may become due to LHR or any successor(s) in interest or for breach of any obligation of the terms of this Agreement. No officer or employee of LHR shall be personally liable to the City or any successor(s) in interest in the event of any default or breach by LHR or for any amount which may become due to the City or their successors in interest or for breach of any obligation of the terms of this Agreement.

6. Notice. Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any person shall be in writing and either served personally or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated immediately upon personal delivery or forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To City: City of Rialto
150 S. Palm Avenue
Rialto, CA 92376
Attn: City Administrator

Copies to: Fred Galante, City Attorney
City of Rialto
150 S. Palm Avenue
Rialto, CA 92376

Thomas P. Clark, Jr.
Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660

To LHR: Bryan Goodman
Lewis Rialto Company, LLC
1156 Mountain Avenue
Upland, CA 91786

Copies to: Ken Corhan
Vice President/General Counsel
Lewis Operating Corp.
1156 Mountain Avenue
Upland, CA 91786

David Newsom
General Counsel
Hillwood Development Company, LLC
3090 Olive Street, Suite 300
Dallas, TX 75219

John Magness
HGI CA Investors, L.P.
901 Via Piemonte, Suite 175
Ontario, CA 91764
Tel (909) 382-0033 ext. 8103
Fax (909) 382-0073

7. Assignment.

(a) The parties hereto may not assign their obligations hereunder to any person or entity without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. It shall be reasonable for a party to withhold its consent hereunder if the proposed assignee is unwilling, or financially incapable, or not professionally competent to carry out the assigning party's obligations hereunder. In addition, any such assignment shall only be effective if, in addition to being approved in writing as provided in the first sentence of this Section, the assigning party and the proposed assignee execute an Assignment and Assumption Agreement whereby the

assignee assumes all the duties and responsibilities of the assigning party under this Agreement in the form approved by the non-assigning party, such approval not to be unreasonably withheld.

(b) Upon the receipt by LHR of the final payment due under this Agreement, LHR shall execute an assignment agreement for the contract with Advanced Civil Technologies assigning all of its rights and remedies against Advanced Civil Technologies under said contract with Advanced Civil Technologies to the City in a form approved by the City, such approval not to be unreasonably withheld.

8. General Provisions.

(a) Except as otherwise provided herein, the terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns, and successors of the parties hereto.

(b) The parties to this Agreement do not rely upon any warranty or representation not contained in this Agreement.

(c) This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

(d) Any failure or delay by any party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies provided for herein.

(e) This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing signed by the parties.

(f) This Agreement, upon acceptance by the parties hereto, constitutes the sole and only agreement between the parties hereto as to the subject matter hereof, and is intended by each to constitute the final written memorandum of all of their agreements and understandings in this transaction. No covenants, warranties, and/or representations, express or implied, and no promises or prior agreements whatsoever have been made, agreed to, or entered into by the parties hereto which are not expressly set forth herein; and if either party hereto has attempted to make such covenants, warranties, and/or representations, promises or prior agreements, the same are each superseded hereby and waived.

(g) The parties hereto acknowledge and agree that each has been given the opportunity to review this Agreement independently with legal counsel and other professionals of each party's own choosing, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. All words, unless otherwise specifically defined in this Agreement, shall have their ordinary meanings as set forth in any dictionary of American English in common usage; there are no secrets or code words. Any capitalized word, term, or phrase not otherwise defined in any Exhibit shall have the meaning assigned to it in this Agreement. The parties have equal bargaining power and intend the plain meaning of the provisions herein. In the event of an ambiguity in or dispute regarding the interpretation of same, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the Party who causes the uncertainty to exist or against the draftsman.

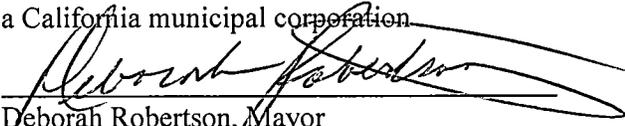
9. Severability. In the event that any provision or provisions of this Agreement are held unenforceable, all provisions not so held shall remain in full force and effect.

10. Authority of Signatories. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties are formally bound to the provisions of this Agreement.

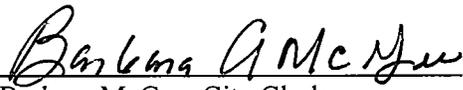
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY:

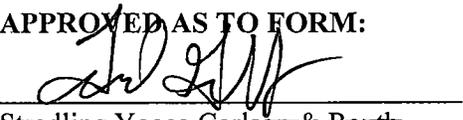
CITY OF RIALTO,
a California municipal corporation


Deborah Robertson, Mayor

ATTEST:


Barbara McGee, City Clerk

APPROVED AS TO FORM:

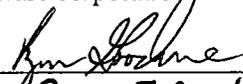

~~Stradling Yocca Carlson & Rauth~~
~~Special Counsel to City~~
Fred Galante, City Attorney

LHR:

LEWIS-HILLWOOD RIALTO COMPANY, LLC,
a Delaware limited liability company

By: LEWIS-RIALTO COMPANY, LLC,
a Delaware limited liability company - Its Managing Member

By: LEWIS MANAGEMENT CORP.,
a Delaware corporation - Its Sole Manager

By: 
Name: Bryan T. Goodman
Its: Authorized Agent

By: HGI CA INVESTORS, L.P.,
a California limited partnership

By: HGI GP, LLC, a Texas limited
liability company its general partner

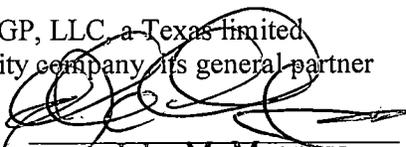
By: 
Name: John M. Magness
Title: Senior Vice President

EXHIBIT A

Advanced Civil Technologies

EXHIBIT A-1