

### THIRD AMENDMENT TO REIMBURSEMENT AGREEMENT

This **THIRD AMENDMENT TO REIMBURSEMENT AGREEMENT** (“Third Amendment”) is made as of September 13, 2022, (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”), who are collectively referred to herein as the “Parties”.

#### RECITALS

A. On or about April 1, 2016, the Parties entered into that certain Reimbursement Agreement (“Agreement”) to reimburse LHR for costs incurred preparing a Feasibility Study for the Alder Avenue Interchange with the 210 Freeway. Unless otherwise stated herein, all capitalized terms used in this Second Amendment shall have the definitions ascribed under the Agreement.

B. On or about February 12, 2019, the Parties entered into that certain First Amendment to the Agreement (“First Amendment”) to reimburse LHR for costs incurred preparing a Preliminary Engineering Evaluation Report (“PEER”) for the Alder Avenue Interchange with the 210 Freeway.

C. On or about November 10, 2020, the Parties entered into that certain Second Amendment to the Agreement (“Second Amendment”) to reimburse LHR for costs incurred completing final design and preparation of Plans, Specifications and Estimates (“PS&E”) for the Alder Avenue Interchange with the 210 Freeway.

D. The Parties wish to amend the Agreement to expand the authorized Scope of Work and increase the maximum reimbursement amount.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and LHR hereby 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 changes to the SR-210/Alder Avenue Interchange Feasibility Study and the Preliminary Engineering Evaluation Report (“PEER”) and Plans, Specifications and Estimates by Advanced Civil Technologies and in accordance with the contract addenda request between LHR and Advanced Civil Technologies for such services attached hereto as Exhibit A. City shall make such reimbursement payments to LHR in accordance with the procedures set forth in Section 3 below from moneys held in the RSP EIR/SP Fair Share Fee (Fund Account 301-500-4312-3001) (“City Account”). The total amount to be paid by City pursuant to this Section 1 shall not exceed Two Hundred Eighty-Five Thousand Seventy Two Dollars (\$285,072).

**2. Responsibilities of LHR.** LHR shall be responsible for updating (or causing to be

updated) the final plans, specifications and estimates for the SR-210/Alder Avenue Interchange by Advanced Civil Technologies in accordance with the scope of work in the attached **Exhibit A**.

**3. Reimbursement Procedure.**

(a) On or after the Effective Date, LHR shall submit to the City's Designee from time to time, but no more frequently than monthly and no less frequently than every two months 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 and implementation of the Work.

(b) Seven (7) business days after receipt of such Request for Reimbursement by the City's Designee, the City's Designee shall deliver, or cause to be delivered, a copy of such Request for Reimbursement to Escrow Holder with written instructions to release to LHR either (i) the full amount of the requested sum as set forth in the Request for Reimbursement (the "Full Reimbursement Sum") from the City Escrow Account, or (ii) 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's Designee 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's Designee and a representative from LHR shall meet and confer, either in person or by phone, within five (5) 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.

**4. Continuing Effect of Agreement.** Except as amended by this Third Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Second Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Second Amendment.

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

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

**CITY:**

**CITY OF RIALTO,**  
a California municipal corporation

\_\_\_\_\_  
Marcus Fuller, City Manager

**ATTEST:**

\_\_\_\_\_  
Barbara McGee, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Eric S. Vail  
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 OPERATING CORP., a California Corporation, its Sole Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: 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: \_\_\_\_\_  
Title: Authorized Agent

## **EXHIBIT A**

### **Advanced Civil Technologies Scope of Work**

**SCOPE OF WORK**  
**PLANS, SPECIFICATIONS & ESTIMATES FOR THE**  
**STATE ROUTE 210/ALDER AVE INTERCHANGE IMPROVEMENTS PROJECT**  
**August 31, 2022**

**PROJECT DESCRIPTION**

The State Route 210 (SR-210) /Alder Avenue Interchange improvements projects (Project) proposes to widen the eastbound (EB) and westbound (WB) off-ramps and restripe Alder Avenue (Ave) Overcrossing to allow for additional left turn pockets to SR-210. In addition, right turn pockets are proposed for the Alder Ave northbound (NB) approach to the Casmalia Street and to the EB on-ramp intersections, as well as for the southbound (SB) Alder Ave approach to the WB on-ramp intersection. All improvements are planned within State of California right-of-way (ROW). The project site is located within the jurisdictional limits of the City of Rialto.

**STANDARDS**

All documents shall be prepared in accordance with current Caltrans and City of Rialto (City) regulations, policies, procedures, manuals, and standards where applicable.

**SCOPE OF SERVICES**

This Contract Addenda request is submitted as a result of the following changes and deviation from assumptions:

- 1) Prepare Contract Addenda (1) for the CM comments
- 2) Submittal of GAD for review nine times
- 3) Submittal of DSDD for review ten times
- 4) Submittal of 95% PS&E for review two times
- 5) Submittal of 100% PS&E for review three times
- 6) Design of 4 additional ADA curb ramps
- 7) Reconfiguration of NB Alder Ave retaining wall, including wall alignment and handrail
- 8) Reconfiguration of the EB off-ramp retaining wall, for safety device requirements
- 9) Bridge railing end protection for both approaches; includes anchor block connections
- 10) Exhibits for relocation and regrading of SCE vaults and manhole
- 11) Structural check to confirm concrete barrier on top of drainage box is up to standard
- 12) Electrical comments for switching from loop detectors to video monitoring for traffic signals
- 13) Additional environmental permit applications

As a result of these changes our team requests an extension to the schedule.

**TASK 1 PROJECT MANAGEMENT, COORDINATION, AND ADMINISTRATION**

The ACT Project Manager will be responsible for overall project management, liaison with Caltrans and other affected agencies, and progress monitoring and maintenance of project files. The ACT Project Engineer will supervise, coordinate, monitor and review project for conformance with Caltrans standards, policies and procedures.

### **1.1 COORDINATION/ADMINISTRATION/SCHEDULING/QMP**

ACT will attend and prepare supporting exhibits based on this change of scope of work. The changes and delays to the project have resulted in additional need for more meetings. All future meetings will be held on an as-needed basis, and through virtual meetings and conference calls. The purpose of these meetings will be to discuss and resolve project issues and coordinate activities. ACT will attend and prepare supporting exhibits based on this Contract Addenda to the scope of work. A total of five (5) meetings will be attended by two (2) ACT's team staff.

#### **DELIVERABLES:**

- Five (5) Focus/Workshop Meetings and Meeting Agendas/Minutes

### **1.2 PROJECT SCHEDULING**

ACT will coordinate with Lewis Corporation, the City, and Caltrans to prepare and obtain concurrence on the initial baseline project schedule.

ACT will continue to monitor and track all tasks and update the project schedule accordingly.

#### **DELIVERABLES:**

- Maintain Project Schedule

### **1.3 PROGRESS REPORTS**

At the end of each month, ACT will report the work progress. Progress will be based on physical percent complete such as number of drawings or deliverables completed or estimate progress toward completion. Progress payments will be based upon percent complete of the major tasks identified.

ACT will submit one copy of a monthly Progress Report to Lewis Corporation consisting of a written narrative and. This report will be sent no later than the tenth (10th) calendar day of the month.

The narrative portion of the monthly Progress Report will describe overall work progress, discuss significant problems and present proposed corrective action, and show the status of major changes.

#### **DELIVERABLES:**

- Monthly Progress Reports

**TASK 4                      FINAL PS&E (100%) SUBMITTAL**

**4.1                              ROADWAY PLANS, BRIDGE PLANS, SPECIAL PROVISIONS, COST ESTIMATE, AND WORKING DAY SCHEDULES**

ACT will update 100% PS&E to incorporate changes in design based on recent updates to Caltrans Specifications and Standard Plans, and reviews provided by Caltrans, coordination efforts and updated information after the 100% submittal. The following PS&E will be updated:

- Update Roadway PS&E to reflect recently requested changes.
- Update Drainage PS&E to reflect recently requested changes.
- Update Construction Details to reflect recently requested changes.
- Update Retaining Wall Details to reflect recently requested changes.
- Update Electrical PS&E to reflect recent comments
- Finalize Utility Exception Memo
- Finalize RWQCB and CDFW Permits

ACT will also update Special Provisions to incorporate updates in design based on, recent updates to Caltrans Specifications and Standard Plans, and reviews provided by Caltrans, coordination efforts and updated information after the 100% submittal.

ACT will update Cost Estimate to incorporate changes in design based on recent bids, and reviews provided by Caltrans, coordination efforts and updated information after the 100% submittal.

**DELIVERABLES:**

- Final Technical Reports
- Final Roadway PS&E
- Final Special Provisions
- Final Cost Estimate/BEES
- Original/checked quantity calculations
- Final RWQCB Permit
- Final CDFW Permit
- Final Utility Exception Memo

**Alder/SR-210 Interchange Project Contract Addenda**  
**Final Design Cost Estimate August 31, 2022**

Consultant	Scope of Work	Proposed Fee
Advanced Civil Tech (ACT)/Civil	PS&E and SDC	\$ 270,072
LSA	Permits	\$ 15,000
Total Fee		\$ 285,072



<p align="center"><b>Cost Proposal Summary</b></p>	
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<p><b>Advanced Civil Technologies</b></p>
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8/31/2022

ACT Labor - PS&E Development
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Task 1 - Project Management			\$ 60,075
Task 2 - Additional Environmental Tasks			\$ -
Task 3 - Draft PS&E			\$ -
Task 4 - Final PS&E			\$ 209,997
Task 5 - Services During Construction			\$ -

	<b>TOTAL</b>	<b>\$ 270,072</b>
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**Alder/SR-210 Interchange Project - Final Design - August 2022**  
**Contract Addenda**

		ACT LABOR CLASSIFICATIONS							Total Hours by Task	ODC Reimbursables	Total Cost by Task
		Project Manager	Engineer V	Engineer III	Engineer II	Engineer I	CADD	Administrative Assistant			
<b>Billing Rate by Classification</b>		\$ 385	\$ 275	\$ 228	\$ 175	\$ 117	\$ 82	\$ 80			
<b>Task 1</b>	<b>Project Management/Coordination/Administration</b>										
<b>1.1</b>	Coordination/Administration/Schedules/QMP	80	40	20	40	40		10	230	\$ 1,200	\$ 60,075
<b>Subtotal</b>		80	40	20	40	40	0	10	230	\$ 1,200	\$ 60,075
<b>Task 2</b>	<b>Additional Environmental Tasks</b>										
<b>Subtotal</b>		0	0	0	0	0	0	0	0	\$ -	\$ -
<b>Task 3.0</b>	<b>Draft PS&amp;E (65% Submittals)</b>										
<b>Subtotal</b>		0	0	0	0	0	0	0	0	\$ -	\$ -
<b>Task 4.0</b>	<b>Final PS&amp;E Submittal</b>										
	Final PS&E Submittal and ECR	40	70	185	260	405	430			\$ 5,000	\$ 209,997
<b>Subtotal</b>		40	70	185	260	405	430	0	1390	\$ 5,000	\$ 209,997
<b>Task 5.0</b>	<b>Services During Construction/Support</b>										
	Services During Construction/Support								0	\$ -	\$ -
<b>Subtotal</b>		0	0	0	0	0	0	0	0	\$ -	\$ -
										<b>TOTAL</b>	<b>\$ 270,072</b>