

**FIRST AMENDMENT TO THE  
CONSTRUCTION CONTRACT AGREEMENT**

**BETWEEN THE CITY OF RIALTO  
AND  
HARDY & HARPER, INC.**

**1. PARTIES AND DATE.**

This First Amendment to the Construction Contract Agreement ("First Amendment") is made and entered into this *14th day of August, 2018* by and between the City of Rialto, a California municipal corporation, ("City"), and *Hardy & Harper, Inc., a California Corporation*, ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this First Amendment.

**2. RECITALS.**

2.1 Agreement. City and Contractor entered into that certain Construction Contract Agreement dated March 14, 2017, ("Agreement"), whereby Contractor agreed to provide On-Call Permanent Trench Paving Services to the City.

2.2 Amendment. City and Contractor desire to amend the Construction Contract Agreement for the First time to extend the term and increase the total compensation of the Construction Contract Agreement for On-Call Permanent Trench Paving for Fiscal Year 2018/2019.

**3. TERMS.**

3.1 Contract Price. Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

**"Section 2. CONTRACT PRICE**

For the prior contract term (Fiscal Years 2016/2017 & 2017/2018), Contractor received payment up to the initial amount of Four Hundred Fifty Nine Thousand Dollars and Zero Cents (\$459,575).

For On-Call Trench Paving Services rendered pursuant to this Agreement for the 2018/2019 Fiscal Year, Contractor shall be compensated per the compensation schedule attached to this First Amendment as **Exhibit "A"**, not to exceed **Two Hundred Thousand Dollars and No Cents (\$200,000.00)**. Contractor shall remit monthly invoices to the City, clearly detailing the specific work completed during the prior month.

In the event the City exercises any or all of the remaining two (2) options to extend the term of this contract by one additional year for each option, pursuant to Article 3 of the Agreement, the total compensation for the additional one (1) year period shall be equal to the compensation for the year prior to the extension plus an increase equal to the prior year's compensation multiplied by the percentage upward change, if any, in the United States Bureau of Labor Statistics Consumer Price Index "All Urban Consumers for Los Angeles, Riverside and Orange County, CA (CPI)" for the most recent twelve (12) months

for which statistics are available at the time that the City exercises its option to extend the Agreement.”

3.2 Continuing Effect of Agreement. Except as amended by this first Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this First Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement as amended by this First Amendment.

3.3 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 First Amendment.

3.4 Counterparts. This First Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

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

***[SIGNATURES ON FOLLOWING PAGE]***

**IN WITNESS WHEREOF**, the City and the Contractor have caused this First Amendment to be executed the day and year first above written.

**CITY OF RIALTO, CALIFORNIA**

**APPROVED BY THE CITY COUNCIL:**

By \_\_\_\_\_  
Deborah Robertson  
Mayor

Date \_\_\_\_\_

Agreement No. \_\_\_\_\_

**ATTEST:**

By \_\_\_\_\_  
Barbara A. McGee  
City Clerk

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
Fred Galante, Esq.  
City Attorney

## CONTRACTOR

By: Hardy & Harper, a California corporation  
Firm/Company Name

By: \_\_\_\_\_  
Signature (notarized)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(This Agreement must be signed in the above space by one who can show they have authority to bind the Contractor for purposes of this Agreement.)

By: \_\_\_\_\_  
Signature (notarized)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(This Agreement must be signed in the above space by one who can show they have authority to bind the Contractor for purposes of this Agreement.)

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 \_\_\_\_\_)

County of \_\_\_\_\_)ss

On \_\_\_\_\_

before me, \_\_\_\_\_

personally appeared \_\_\_\_\_

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 signatures(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.

Notary Signature:

Notary Seal:

State of \_\_\_\_\_)

County of \_\_\_\_\_)ss

On \_\_\_\_\_

before me, \_\_\_\_\_

personally appeared \_\_\_\_\_

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 signatures(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.

Notary Signature:

Notary Seal:

**EXHIBIT "A"**  
**ON-CALL TRENCH PAVING SCOPE OF SERVICES**  
**FISCAL YEAR 2018/2019 SCHEDULE OF COMPENSATION**  
Schedule of Compensation for Year 2018 – 2019  
Negotiated Changes

O1.) ELIMINATE BID ITEM (7)

2.) CHANGE BID ITEM (4) TO \$17.00

3.) CHANGE BID ITEM (5) TO \$18.50

4.) CHANGE BID ITEM (6) TO \$21.30

NOTE: ABOVE PRICING TO REVISED ANNUAL UNIT PRICE BID.

INCLUSIONS:

1. LABOR, EQUIPMENT & MATERIAL FOR DAYTIME & NON-WEEKEND HOURS

2. PRICE BASED ON (#) MOVE-IN

3. \$\$\$ FOR EACH ADDITIONAL PAVING MOVE/SHIFT

4. PRICE GOOD THROUGH DATE

EXCLUSIONS: (UNLESS NOTED ABOVE)

1. QCQA, ARHM, TESTING, REPORTS, ENGINEERING, PERMITS, BONDS, FEES, INSPECTION FEES, SWPPP, LAYOUT, SURVEY, SWEEPER

2. TEMP AC, SLOT PATCH, MEDIAN PAVING, SAWCUTTING, CRACKFILL, PAVEMENT FABRIC, REDWOOD HEADER, SPEED BUMPS

3. TRAFFIC CONTROL, TRAFFIC CONTROL PLANS, SIGNS & CMS BOARD, STRIPING AND SIGNAGE, PCC BACKFILL, LEVEL COURSE

4. IMPORT & EXPORT, SUBGRADE REMOVAL & COMPACTION, SUBGRADE PREP, GRADING, FINE GRADING, DEWATERING

5. PROTECTION OF EXST. UTILITIES, UTILITY ADJUSTMENTS, SEAL COAT, SLURRY, PRIME COAT, WEEDKILL, IRRIGATION REPAIR

6. DRAINAGE REQUIREMENTS WITH LESS THAN .75% FALL, PROFILIOGRAPH, MUST GRINDS, COLDMILL, on-Call Trench Paving Services performed by Hardy & Harper, Inc.

Hardy & Harper, Inc. has **declined** a rate increase of 2.9% based on the Consumer Price Index for the LA-OC- Riverside region within the contract terms.