

# PROFESSIONAL CONSULTANT SERVICES AGREEMENT

BEACON ECONOMICS, LLC

(Regional Intelligence Report with Confidential EDD Data)

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this 6th day of March, 2014 ("Effective Date"), by and between the CITY OF RIVERSIDE ("City"), a California charter city and municipal corporation and BEACON ECONOMICS, LLC, a California limited liability company ("Consultant").

1. **Scope of Services.** City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services more particularly described in Exhibit "A," "Scope of Services" ("Services"), attached hereto and incorporated herein by reference, in conjunction with preparing a Regional Intelligence Report ("RIR") with confidential Employment Development Department (EDD) data ("Project").

2. **Term.** This Agreement shall be effective on the date first written above and shall remain in effect until June 30, 2017, unless otherwise terminated pursuant to the provisions herein.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed Fifteen Thousand Dollars (\$15,000) annually, payable in accordance with the terms set forth in Exhibit "B" for preparation of the Regional Intelligence Report, plus an additional amount of Two Thousand Dollars (\$2,000) annually for EDD Confidential Data. In addition any City requested quarterly presentations will be paid as follows: Year One - \$2,500, Year Two-\$2,000 and Year 3 - \$2,000, plus mileage and travel expenses. Said payment shall be made in accordance with City's usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof.

4. **Notices.** Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

Office of Economic Development  
City of Riverside  
Attn: Moises A. Lopez  
3900 Main Street  
Riverside, CA 92522

To Consultant

Beacon Economics  
Attn: Dr. Christopher Thornberg  
5777 West Century Blvd. Ste. 895  
Los Angeles, CA 90045

5. **Prevailing Wage.** If applicable, Consultant and all subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside. The Director's determination is available on-line at [www.dir.ca.gov/dlsr/DPreWageDetermination.htm](http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm) and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

6. **Contract Administration.** A designee of the City will be appointed in writing by the City Manager or Department Director to administer this Agreement on behalf of City and shall be referred to herein as Contract Administrator.

7. **Standard of Performance.** While performing the Services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

8. **Personnel.** Consultant shall furnish all personnel necessary to perform the Services and shall be responsible for their performance and compensation. Consultant recognizes that the qualifications and experience of the personnel to be used are vital to professional and timely completion of the Services. The key personnel listed in Exhibit "C" attached hereto and incorporated herein by this reference and assigned to perform portions of the Services shall remain assigned through completion of the Services, unless otherwise mutually agreed by the parties in writing, or caused by hardship or resignation in which case substitutes shall be subject to City approval.

9. **Assignment and Subcontracting.** Neither party shall assign any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party. In any event, no assignment shall be made unless the assignee expressly assumes the obligations of assignor under this Agreement, in a writing satisfactory to the parties. Consultant acknowledges that any assignment may, at the City's sole discretion, require City Manager and/or City Council approval. Consultant shall not subcontract any portion of the work required by this Agreement without prior written approval by the responsible City Contract Administrator. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including without limitation, the insurance obligations set forth in Section 12. The Consultant acknowledges and agrees that the City is an intended beneficiary of any work performed by any subcontractor for purposes of establishing a duty of care between any subcontractor and the City.

10. **Independent Contractor.** In the performance of this Agreement, Consultant, and Consultant's employees, subcontractors and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Consultant acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Consultant, or to Consultant's employees, subcontractors and agents. Consultant, as an independent contractor, shall be responsible for any and all taxes that apply to Consultant as an employer.

## 11. **Indemnification.**

11.1 **Design Professional Defined.** For purposes of this Agreement, “Design Professional” includes the following:

- A. An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.
- B. An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.
- C. An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.
- D. An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

11.2 **Defense Obligation For Design Professional Liability.** Consultant agrees, at its cost and expense, to promptly defend the City, and the City’s employees, officers, managers, agents and council members (collectively the “Parties to be Defended”) from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings to the extent the same arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant’s Services under this Agreement.

11.3 **Indemnity For Design Professional Liability.** When the law establishes a professional standard of care for Consultant’s services, to the fullest extent permitted by law, Consultant shall indemnify, protect and hold harmless the City and the City’s employees, officers, managers, agents, and Council Members (“Indemnified Parties”) from and against any and all claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fines and penalties, liabilities or losses of any kind or nature whatsoever to the extent the same arise out of, pertain to, or

relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party.

#### **11.4 Defense Obligation For Other Than Design Professional Liability.**

Consultant agrees, at its cost and expense, to promptly defend the City, and the City's employees, officers, managers, agents and council members (collectively the "Parties to be Defended") from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings which arise out of, or relate to, or are in any way connected with: 1) the Services, work, activities, operations, or duties of the Consultant, or of anyone employed by or working under the Consultant, or 2) any breach of the Agreement by the Consultant.

This duty to defend shall apply whether or not such claims, allegations, lawsuits or proceedings have merit or are meritless, or which involve claims or allegations that any or all of the Parties to be Defended were actively, passively, or concurrently negligent, or which otherwise assert that the Parties to be Defended are responsible, in whole or in part, for any loss, damage or injury. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant's Services under this Agreement.

**11.5 Indemnity For Other Than Design Professional Liability.** Except as to the sole negligence or willful misconduct of the City, Consultant agrees to indemnify, protect and hold harmless the Indemnified Parties from and against any claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fine and penalties, liabilities or losses of any kind or nature whatsoever whether actual, threatened or alleged, which arise out of, pertain to, or relate to, or are a consequence of, or are attributable to, or are in any manner connected with the performance of the Services, work, activities, operations or duties of the Consultant, or anyone employed by or working under the Consultant or for services rendered to Consultant in the performance of this Agreement, notwithstanding that the City may have benefited from its work or services. This indemnification provision shall apply to any acts, omissions, negligence, recklessness, or willful misconduct, whether active or passive, on the part of the Consultant or anyone employed or working under the Consultant.

## **12. Insurance.**

**12.1 General Provisions.** Prior to the City's execution of this Agreement, Consultant shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

**12.1.1 Limitations.** These minimum amounts of coverage shall not constitute any limitation or cap on Consultant's indemnification obligations under Section 11 hereof.

12.1.2 **Ratings.** Any insurance policy or coverage provided by Consultant or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

12.1.3 **Cancellation.** The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

12.1.4 **Adequacy.** The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Consultant pursuant to this Agreement are adequate to protect Consultant. If Consultant believes that any required insurance coverage is inadequate, Consultant will obtain such additional insurance coverage as Consultant deems adequate, at Consultant's sole expense.

12.2 **Workers' Compensation Insurance.** By executing this Agreement, Consultant certifies that Consultant is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Consultant shall carry the insurance or provide for self-insurance required by California law to protect said Consultant from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Consultant shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that Consultant is self-insured for such coverage, or 2) a certified statement that Consultant has no employees, and acknowledging that if Consultant does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

12.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Consultant against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Consultant. The City, and its officers, employees and agents, shall be named as additional insureds under the Consultant's insurance policies.

12.3.1 Consultant's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

12.3.2 Consultant's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of

not less than \$1,000,000. All of Consultant's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Consultant's performance of this Agreement, which vehicles shall include, but are not limited to, Consultant owned vehicles, Consultant leased vehicles, Consultant's employee vehicles, non-Consultant owned vehicles and hired vehicles.

12.3.3 Prior to City's execution of this Agreement, copies of insurance policies or original certificates along with additional insured endorsements acceptable to the City evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

12.3.4 The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the City and its sub-consultants, employees, officers and agents for services performed under this Agreement.
- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.
- c. The policy shall specify that the insurance provided by Consultant will be considered primary and not contributory to any other insurance available to the City and Endorsement No. CG 20010413 shall be provided to the City.

12.4 **Errors and Omissions Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the City from claims resulting from the Consultant's activities.

12.5 **Subcontractors' Insurance.** Consultant shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon City's request, Consultant shall provide City with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

13. **Business Tax.** Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

14. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

15. **City's Right to Employ Other Consultants.** City reserves the right to employ other Consultants in connection with the Project. If the City is required to employ another consultant to complete Consultant's work, due to the failure of the Consultant to perform, or due to the breach of any of the provisions of this Agreement, the City reserves the right to seek reimbursement from Consultant.

16. **Accounting Records.** Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

17. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production, website, or other similar medium without the prior written consent of the City.

18. **Ownership of Documents.** All reports, maps, drawings and other contract deliverables prepared under this Agreement by Consultant shall be and remain the property of City. Consultant shall not release to others information furnished by City without prior express written approval of City.

19. **Copyrights.** Consultant agrees that any work prepared for City which is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If any such work is deemed for any reason not to be a work made for hire, Consultant assigns all right, title and interest in the copyright in such work, and all extensions and renewals thereof, to City, and agrees to provide all assistance reasonably requested by City in the establishment, preservation and enforcement of its copyright in such work, such assistance to be provided at City's expense but without any additional compensation to Consultant. Consultant agrees to waive all moral rights relating to the work developed or produced, including without limitation any and all rights of

identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.

20. **Conflict of Interest.** Consultant, for itself and on behalf of the individuals listed in Exhibit "C", represents and warrants that by the execution of this Agreement, they have no interest, present or contemplated, in the Project affected by the above-described Services. Consultant further warrants that neither Consultant, nor the individuals listed in Exhibit "C" have any real property, business interests or income interests that will be affected by this project or, alternatively, that Consultant will file with the City an affidavit disclosing any such interest.

21. **Solicitation.** Consultant warrants that Consultant has not employed or retained any person or agency to solicit or secure this Agreement, nor has it entered into any agreement or understanding for a commission, percentage, brokerage, or contingent fee to be paid to secure this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement without liability and pay Consultant only for the value of work Consultant has actually performed, or, in its sole discretion, to deduct from the Agreement price or otherwise recover from Consultant the full amount of such commission, percentage, brokerage or commission fee. The remedies specified in this section shall be in addition to and not in lieu of those remedies otherwise specified in this Agreement.

22. **General Compliance With Laws.** Consultant shall keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of services by Consultant pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws, ordinances and regulations, and shall be solely responsible for any failure to comply with all applicable laws, ordinances and regulations. Consultant represents and warrants that Consultant has obtained all necessary licenses to perform the Scope of Services and that such licenses are in good standing. Consultant further represents and warrants that the services provided herein shall conform to all ordinances, policies and practices of the City of Riverside.

23. **Waiver.** No action or failure to act by the City shall constitute a waiver of any right or duty afforded City under this Agreement, nor shall any such action or failure to act constitute approval of or acquiescence in any breach thereunder, except as may be specifically, provided in this Agreement or as may be otherwise agreed in writing.

24. **Amendments.** This Agreement may be modified or amended only by a written agreement and/or change order executed by the Consultant and City.

25. **Termination.** City, by notifying Consultant in writing, shall have the right to terminate any or all of Consultant's services and work covered by this Agreement at any time. In the event of such termination, Consultant may submit Consultant's final written statement of the amount of Consultant's services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete, subject to the City's rights under Sections 15 and 25 hereof. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and other documents only after delivered to City.



25.1 Other than as stated below, City shall give Consultant thirty (30) days prior written notice prior to termination.

25.2 City may terminate this Agreement upon fifteen (15) days written notice to Consultant, in the event:

25.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

25.2.2 City decides to abandon or postpone the Project.

26. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset, shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

27. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

28. **Venue and Attorneys' Fees.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees. However, the recovery of attorneys' fees by the prevailing party is limited to individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fee. In no action shall an award of attorneys' fees to the prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

29. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

30. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

31. **Authority.** The individuals executing this Agreement and the instruments referenced herein on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions hereof and thereof.

32. **Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

33. **Interpretation.** City and Consultant acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this Agreement.

33.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers, are to sections in the Agreement unless expressly stated otherwise.

33.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

33.3 In the event of a conflict between the body of this Agreement and Exhibit "A" - Scope of Services hereto, the terms contained in Exhibit "A" shall be controlling.

34. **Exhibits.** The following exhibits attached hereto are incorporated herein to this Agreement by this reference:

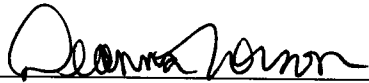
Exhibit "A" - Scope of Services

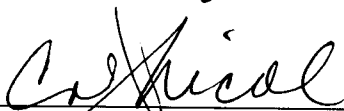
Exhibit "B" - Compensation

Exhibit "C" - Key Personnel

IN WITNESS WHEREOF, City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE, a California  
charter city and municipal corporation  
a California corporation

By:   
City Manager **16**

Attest:   
City Clerk

\*Certified as to Availability of Funds:

By:   
Finance Director

\*Required if not approved by Council action.

Beacon Economics, LLC, a  
California limited liability company

By: 

\_\_\_\_\_  
[Printed Name]

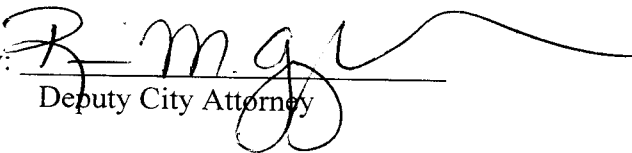
\_\_\_\_\_  
[Title]

By: 

\_\_\_\_\_  
[Printed Name]

\_\_\_\_\_  
[Title]

Approved as to Form:

By:   
Deputy City Attorney

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CA: 14-0011

**EXHIBIT “A”**

**SCOPE OF SERVICES**

#### **4. Nature of Engagement:**

##### **a. REGIONAL INTELLIGENCE REPORT (RIR)**

Beacon's Regional Intelligence Report (RIR) is a six-page quarterly document designed to help the reader gain perspective on the local economy. Unlike most economic reports, the RIR will focus on the City, with short write-ups on the national and state economy for comparison. It will be designed to help the City's

leadership better understand the economic reality it faces relative to the broader economies. By producing it quarterly, the City will be able to stay on top of current economic trends.

The product will be delivered as an electronically readable, single page version in PDF format.

The RIR will be constructed for the City with the following components:

1. City Overview\*
2. State Overview (one page)
3. National Overview (one page)
4. City of Riverside Branding

*\*City overview will be a three-page section, which will draw from the following data points to compile an informative City focused story.*

*In each report, using data from the EDD, Beacon will detail the key industries in the area using a variety of measures. This analysis will help the City understand and quantify which of its industries are large or small and which ones are growing or shrinking; which industries are seeing the greatest increase in the number of firms located within the City; which sectors have seen the greatest expansion in their payroll; which sectors offer the best wages and what areas of the economy are poised for growth.*

*In addition, Beacon will tie these trends into performance in the commercial real estate market. This will enable the City to better understand whether, for example, growth in professional or finance jobs led to rising rents and falling vacancies or a surge in new permitting in the local office market.*

**Labor Markets:**

- Employers/Number of Establishments by Industry
- Employment by Industry
- Total Payroll by Industry
- Annual Average Wages by Industry
- Year over year growth comparisons for each

**Residential Real Estate Market:**

- Median new home, existing home, and condo sales prices
- New Home, Existing Home, and Condo Sales
- Notices of Default
- Foreclosures/trustees deeds
- Apartment rental rates (Riverside submarket)
- Apartment vacancy rates (Riverside submarket)
- Apartment net absorption (Riverside submarket)
- Year over year comparisons for each

**Commercial Real Estate Market:**

- Office rental rates (Riverside submarket)
- Office vacancy rates (Riverside submarket)
- Office net absorption (Riverside submarket)
- Retail rental rates (Riverside submarket)
- Retail vacancy rates (Riverside submarket)
- Retail net absorption (Riverside submarket)
- Industrial rental rates (Riverside submarket)
- Industrial vacancy rates (Riverside submarket)
- Industrial net absorption (Riverside submarket)
- Year over year comparisons for each

#### **b. Confidential Employment Data from EDD**

To provide a higher degree of accuracy to the analysis of the conditions of the industries within the City, Beacon and the City may apply with the State's Employment Development Department (EDD) for a confidentiality agreement that would allow Beacon to access all employment and payroll data, including individual employer level data, for all ZIP codes within and touching the City's boundaries. Beacon can then apply GIS (mapping) software to extract sub-regional (city) data.

This data will enable Beacon and the City to get a more detailed view into the types of businesses in the area, their growth patterns (augmenting or declining), as well as the number of new firms that are coming on line by Industry. In order to avoid disclosing confidential information to the public, the report will roll up employment data by industry, but the advantage is that the level of industry break out will be:

1. Much more up-to-date than the publicly available sources in that the confidential data are only 2 quarters behind, while the publicly available data can lag by a year or more; and
2. Much more detailed—where the publicly available data can break out new firms in the manufacturing industry (two digit NAICS), there is no further detail beyond that; in contrast, the confidential data provides a 6-digit NAICS code associated with each employer location so that Beacon can distinguish, for example, between food manufacturing and high-tech manufacturing (with this degree of detail, deeper analysis could also be made available). This will enable Beacon to provide a more detailed view into the types of businesses that have added jobs, are still on the decline, or have recently formed in the region, and help the City to act more strategically when carrying out their economic development mission.

The confidentiality agreement covers up to three years. Beacon strongly encourages that the City engage in the three-year contract (with the EDD) because writing a shorter-term contract provides no cost savings, yet would incur additional costs should an extension be desired.

As part of the three year agreement, Beacon will provide the City a rolled up, non-confidential version of the employment database in Excel format each quarter for

internal use including analysis and presentation building. Designated City staff (identified during the application process) would also be able to comb the confidential employment database, allowing the City to do its own internal analysis.

**c. Presentations**

After an RIR is delivered and reviewed by the Client and its team, Beacon can be available for presentations each quarter to answer questions concerning the report and to provide context where necessary.

**5. As part of this agreement, the City needs to consider:**

- a. The City would need to participate in the EDD confidential data application process because under state guidelines the confidentiality agreement with EDD and a local municipality must be applied for by the official economic development agency for that region.
- b. To pull out smaller geographical employment data from within the city, such as designated places or neighborhoods (or any other geography the Client should choose), the Client will need to provide the GIS shape files or a detailed definition of those boundaries in order for Beacon to extract the sub-area data. There would be additional costs from Beacon for this next level of analysis should it be requested.
- c. The City will not share confidential Employment Data except with the Individuals within the Economic Development department who are a party to the EDD Confidentiality Agreement

**6. Pricing**

Under this Agreement, all services and products described herein are priced as follows:

Products & Services	Year One Price	Years Two & or Three (If applicable)
Regional Intelligence Report	\$15,000 (normally \$18,000)	\$15,000 per year <sup>2</sup>
EDD Confidential Data (Historical)	N/A	N/A
EDD Confidential Data Annual	\$2,000	\$2,000 per year <sup>2</sup>
Quarterly Presentations <sup>1</sup>	\$2,500 per <sup>1</sup>	\$2,000 per <sup>1</sup>

<sup>1</sup>Mileage/travel expenses are not included and will be billed separately.

<sup>2</sup>Only applicable should client choose to commence with years 2 & 3 of contract.

- 7. Payment Terms** – Beacon will deliver the products and services as priced above, including all data expenses. 50% of each year's payment will be due upon commencement of work for that year and the remaining 50% of each year's payment will be due within 30 days of delivery of the final RIR associated with that year.



Services requested by the City to be provided by Beacon that are beyond the scope of this Agreement will be billed separately to the City. Beacon will prepare a budget for all requests that are beyond the scope of this Agreement and the City will approve all such requests and budgets in advance in writing.

8. **Schedule** – While the final deliverable dates can be negotiated, Beacon proposes to engage in the confidentiality agreement immediately, should the client decide to include this service. Beacon will need two weeks to clean and process the confidential employment data once Beacon receives it. From that time, Beacon needs approximately 45 days to complete the first draft of the RIR.

**9. Limited Warranties and Warranty Disclaimer**

- a. Each party represents and warrants to the other that (i) it has the right and power to enter into and fully perform the obligations it has undertaken in this Agreement; (ii) it is not under any obligations, contractual or otherwise, to any other entity that might conflict, interfere, or be inconsistent with any of the provisions of this Agreement; and (iii) it shall comply in all material respects with all applicable laws, rules and regulations necessary for it to perform its obligations under this Agreement.
  - b. Firm represents and warrants that any materials, information or other input provided or made accessible to Client under this Agreement do not infringe the intellectual property rights of any third party.
  - c. Client represents and warrants that its services and contributions to the deliverables do not infringe the intellectual property rights of any third party.
  - d. Firm obtains all information furnished pursuant to this Agreement from sources believed by it to be accurate and reliable.
10. **Confidential Information** – Each party agrees (i) not to use or disclose to any third party the confidential information disclosed to it by the other party for any purpose other than as contemplated by this Agreement, and (ii) to protect the disclosing party's confidential information with at least the same degree of care it uses to protect its own confidential information, but at a minimum to use commercially reasonable efforts. Any independent contractors used by Firm or Client under this Agreement must agree to be bound by these confidentiality obligations. The confidentiality obligations of this Agreement shall not apply to confidential information to the extent that the party receiving such confidential information can prove it (i) was lawfully received from a third party free of any obligation to keep it confidential; (ii) is or becomes publicly available, by other than unauthorized disclosure; (iii) is independently developed without any reference to the confidential information, as evidenced by contemporaneous written records of receiving party; or (iv) is required to be disclosed by law, regulation or court order; provided that, with respect to any of the foregoing exceptions, the receiving party will give the disclosing party prompt notice prior to such disclosure. The parties expressly agree that the parties shall not provide to one another hereunder any personally identifying information of individuals or consumers.

- a. For purposes of this Agreement, "Confidential Information" means economic models, sales projections, financial data, product descriptions, potential product development ideas, database descriptions, business workflow, and business information (including, without limitation, computer programs, software, databases, names and expertise of employees, suppliers, and consultants, customer lists, algorithms, know-how, formulas, processes, ideas, inventions (patentable or not), schematics and other technical, business, financial, customer and product development plans, forecasts, strategies and information) which are confidential, nonpublic, competitively sensitive, private, and/or proprietary.
- b. This Agreement shall also apply to information that the party receiving such confidential information should reasonably construe as confidential.

11. **Product ownership** – While the physical deliverables will become the property of the Client, all the underlying models and methodology remain the intellectual property of the Firm.

**Next Steps** – Beacon is excited at the prospect of continuing its relationship with the City of Riverside. For comments or questions about this proposal or to discuss it in more detail, please feel free to contact Beacon's Managing Partner, Sherif Hanna at 424-646-4656 or at [sherif@beaconecon.com](mailto:sherif@beaconecon.com). Thank you for your consideration.

**EXHIBIT “B”**

**COMPENSATION**

**(Inserted behind this page)**

## Pricing

Under this Agreement, all services and products described herein are priced as follows:

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**Payment Terms** – Beacon will deliver the products and services as priced above, including all data expenses. 50% of each year's payment will be due upon commencement of work for that year and the remaining 50% of each year's payment will be due within 30 days of delivery of the final RIR associated with that year.

Services requested by the City to be provided by Beacon that are beyond the scope of this Agreement will be billed separately to the City. Beacon will prepare a budget for all requests that are beyond the scope of this Agreement and the City will approve all such requests and budgets in advance in writing.

**EXHIBIT “C”**

**KEY PERSONNEL**

**Dr. Christopher Thornberg**

**Jordan Levine**

**Eric Meux**

**Dustin Schrader**

**Rafael De Anda**

**Brian Vanderplas**