

PROFESSIONAL CONSULTANT SERVICES AGREEMENT

DAVID TAUSSIG AND ASSOCIATES, INC.

CONSULTANT SERVICES FOR MASTER DEVELOPER FOR CITY-OWNED PROPERTIES, RFP NO. 2093

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2021 ("Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), and DAVID TAUSSIG AND ASSOCIATES, INC., a California corporation ("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 Consultant Services for Master Developer for City-Owned Properties, RFP No. 2093 ("Project").

2. **Term.** This Agreement shall be effective on the date first written above and shall remain in effect for one (1) year, with the option of two one (1)-year extensions, unless otherwise terminated pursuant to the provisions herein.

2.1 Parties reserve the right to extend the term of this Agreement, upon mutual written consent, for one (1) year, with the option of two one (1)-year extensions.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed Three Hundred Sixty-Six Thousand Three Hundred Twenty-Five Dollars (\$366,325) payable in accordance with the terms set forth in Exhibit "B." 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

Community & Economic
Development Department
City of Riverside
Attn: Nathan Freeman
3900 Main Street
Riverside, CA 92501

To Consultant

David Taussig & Associates, Inc.
Attn: David Taussig
3390 University Ave., Suite 200
Riverside, CA 92501

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 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. Consultant will reimburse City for reasonable defense costs for claims arising out of Consultant's professional negligence based on the percentage of Consultant's liability. 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. This provision shall survive the expiration or termination of this Agreement.

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. This provision shall survive the expiration or termination of this Agreement.

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. This provision shall survive the expiration or termination of this Agreement.

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 26 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.** 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 the Superior Court, 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 each party will bear their own attorney's fees and costs.

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, military and veteran status, 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:

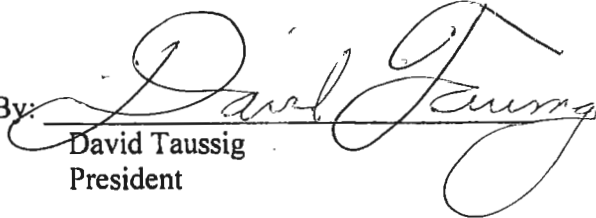
Exhibit "A" - Scope of Services
Exhibit "B" - Compensation
Exhibit "C" - Key Personnel

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

DAVID TAUSSIG AND ASSOCIATES, INC.,
a California corporation

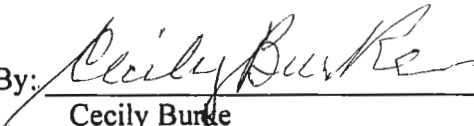
By: _____
City Manager

By: 
David Taussig
President

Attest: _____
City Clerk

and

Certified as to Availability of Funds:

By: 
Cecily Burke
Secretary

By: 
Chief Financial Officer

Approved as to Form:

By: 
Senior Deputy City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

- I. Notwithstanding the provisions in the Agreement above, Consultant and City further agree that computer software (including, without limitation, financial models, compilations of formulas, and spreadsheet models) prepared by Consultant are Instruments of Service of Consultant and shall remain the property of Consultant. Consultant shall likewise retain all common law, statutory and other reserved rights, including the copyright thereto. Final deliverables shall become the property of the City upon delivery.
- II. Further statement of work continues on the following page.

Scope of Work:

The work to be performed by the Consultant Team shall be structured to include six (6) components (“Components”) that, in combination, will provide the City with the information necessary to facilitate the successful development of all three Segments of the Project.

1) Market:

Recommend appropriate development product (e.g., residential, and non-residential product types that are consistent with the Specific Plan) that will maximize the value of the three Private Development Segments.

This shall include the following tasks:

- a) Review the locational characteristics of the three Private Development Segments of the Project, including surrounding land uses, site ingress/egress and other relevant factors.
- b) Conduct research regarding local demographics, existing land uses and vacancy rates, local economic demand, and other factors that impact demand for specific land uses
- c) Based on the findings of these analyses, forecast local demand for a variety of land use types and recommend specific land uses as the strongest candidates for market success,
- d) Project the absorption rates for the product types recommended for each of these three Private Development Segments; and
- e) Determine sales prices or valuations of the product types recommended for each of the three Private Development Segments.

2) Infrastructure Analysis:

Determine the Backbone Infrastructure required for each of the three Segments of the Project. This shall include the following tasks:

- a) Determine the types and quantities of Backbone Infrastructure for each Segment;
- b) Develop cost assumptions for Backbone Infrastructure for each Segment;
- c) Determine the timing of Backbone Infrastructure for each Segment; and
- d) Prepare a Backbone Infrastructure Table that lists the Backbone Infrastructure costs, by type of facility and year, for each Project Segment.

3) Fiscal Analysis:

Review the City budget and proposed development in each of the three Project Segments to estimate annual recurring costs and revenues related to the City’s provision of Public Services within each of these Segments. This shall include the following tasks:

- a) Utilize, as appropriate, both a Per Capita/Employee Multiplier Approach and Case Study Approach to most accurately determine fiscal impacts of the development of each Project Segment on the City General Fund; and
- b) Obtain input from City operating departments as may be necessary, coordinating through the City’s Community & Economic Development Department, to ensure fiscal impacts are confirmed; and
- c) Analyze fiscal impacts projected during development and at buildout of each Project Segment.

4) Public Facilities Financing Plan:

Recommend specific public finance programs available to finance Public Infrastructure and Public Services necessary to develop each of the three Project Segments. This work shall include the following tasks:

- a) Inform City regarding the anticipated levels of financial burden placed on each of the three Segments of the Project by Backbone Infrastructure
- b) Prepare a cost allocation analysis that distributes Backbone Infrastructure costs to residential and nonresidential development based on specific land use categories anticipated to be constructed within each Project Segment, consistent with any proposed disposition strategy and infrastructure phasing approach;
- c) Identify and determine amounts of funding (including bonding capacity) available through alternative public finance mechanisms available to fund the Backbone Infrastructure and Public Services within each Project Segment;
- d) Determine the residual costs of Backbone Infrastructure that will not be fundable through the recommended public finance mechanisms; and
- e) Prepare a summary matrix listing funding availability for each public financing program by year, the Backbone Infrastructure to be funded each year, and remaining Backbone Infrastructure costs not covered by the recommended public financing mechanisms.

5) Pro Forma Analysis:

Prepare a dynamic residual land value analysis pro forma that projects the anticipated values of entitled properties for each of the two Private Development Segments, utilizing assumptions and recommendations made in the four prior Components of this analysis listed above. This work shall include the following tasks:

- a) Prepare cost assumptions for vertical construction and in-tract improvements of product types for each of the three Private Development Segments;
- b) Estimate indirect costs, such as architecture, construction management fees, etc.
- c) Determine marketing and sales costs
- d) Prepare financing assumptions (such as anticipated equity, construction and takeout loan interest rates and terms etc.) and related soft costs;
- e) Develop proformas reflecting preferred investor internal rates of return, cash-on-cash returns, etc.;
- f) Prepare budgets and cashflows to advise City on the timing of its most effective land disposition strategy, including comparison of sales or lease structures.

6) Services:

Provide project management and general services throughout all six Components of this engagement, including assisting the City in development of a disposition strategy for the Private Development Segments. This will involve reviewing comments on strategy and development of RFQ's or RFP's for either individual or consolidated parcels as part of a developer solicitation process. Project management and general services shall include the following tasks:

- a) Meet or hold phone and/or zoom or Microsoft Team meetings with City's technical staff (Community & Economic Development, Public Works, Riverside Public Utilities, and other City departments when requested including the City Manager's Office);

- b) Coordinate with City team and any of its technical consultants to provide disposition strategy input and comments including direction and recommendations on development and infrastructure phasing, identification of early term implementation opportunities, mid-term opportunities and longer-term opportunities;
- c) RFQ or RFP preparation and the provision of comments on any developer review or ranking procedure to be utilized in the developer selection process. Consultants will also be available to be included in technical committees reviewing responses to any RFP or RFQ packages;
- d) Assist City in outlining strategy for City's subsequent negotiations with one or more developers including assistance in defining terms, schedules, responsibilities, and conditions of prospective developer transactions, including input on due diligence tasks and reporting requirements, term sheets, exclusive agreement(s) to negotiate ("ENA's), purchase, sale and development agreement(s) ("PSA") and/or lease agreements between one or more development teams; and
- e) Provide feedback and decipher any issues during the ENA, PSA and/ or lease negotiation process to ensure that any developer transaction is successfully completed. While services anticipated herein do not include entitlement services, the Consultant will be available for feedback and input during any Term Sheet and PSA process.
- f) Attend up to 12 hours of community engagement workshops/meetings pertaining to this project.

7) **(Optional) Legal Services**

The City recommends the Consultant provide for optional services. These services are optional and may or may not be used by the City.

The City may need the Consultant to provide Legal Services that would help with the review of the RFP to ensure it includes everything we may need from a legal standpoint as it relates to the City's plan. Consultant Legal Services would then assist with the documentation any infrastructure financing, development agreement, purchase agreement, and any other related documents the City needs to enter into with a master developer

EXHIBIT “B”
COMPENSATION

PRICING

The proposed budget for Components 1-6 as listed in the RFP's Scope of Services will be billed on a time and materials basis, not to exceed **\$366,325**. A brief description of each deliverable, including the file type(s), is included in Table 1. The Consultant Team shall be remunerated for consulting services on an hourly basis according to the rates set forth in Table 2 below, with invoices being submitted to the City monthly.

Table 1: List of Deliverables

No.	Component	Brief Deliverable Description	File Type
1	Market Analysis	Highest and Best Use Analysis: Residential, Retail, Commercial, and Hotel	Word Document and PDF
2	Infrastructure Analysis	Infrastructure Table, Associated Costs, Phasing, and Exhibits for Each of the Three Segments	Excel
3	Fiscal Analysis	FIR for Each Project Segment [Total of Three (3)]	Word Document and PDF
4	PFFP	PFFP with One (1) Section for Each Project Segment	Word Document and PDF
5	Proforma Analysis	Land Residual Study	PDF
6	Services	Overall Management Coordination, City Supported Development Strategy, RFQ(s) Solicitation, RFP(s), and/or ENA(s)	Word Document

The work effort for each of the DTA Team members and their firms will vary at different points in the administration of the scope of services and any subsequent developer selection and negotiation process, depending on tasks specifically assigned by the City and the issues that the Consultant Team is to address. Therefore, the budget will be best structured on a time and materials basis, with a maximum budget of \$366,325. DTA will keep track of each subconsultant's billings and include them on a comprehensive invoice to be submitted on a monthly basis. Staff time will be billed at standard hourly rates and direct expenses, such as for travel, data, and copying, will be billed at cost.

As is the case with any scope of work, maximum not-to-exceed monthly budgets may be subject to amendments to the budget approved by the City and, as determined necessary by the City, to provide resources required to carry out tasks not fully anticipated at the time the budgets were established within the Scope of Services (see limitations below). However, it is assumed that once the stage of an ENA is entered into, provisions in the ENAs and any subsequent PSAs or DDAs shall ensure that all Consultant Team-incurred expenses by the City will be considered transactional expenses that a developer team will be responsible for reimbursing.

A Hourly Rates

All fees for services shall be charged according to the professional services fee schedule identified in Table 2. Only actual hours worked shall be billed.

Table 2: DTA's Fee Schedule

Labor Category	Labor Rate	Labor Category	Labor Rate
DTA		Moote	
President/Managing Director	\$300/Hour	Principal Estimator	\$175/Hour
Senior Vice President	\$275/Hour	Senior Project Manager	\$150/Hour
Vice President	\$240/Hour	Project Manager	\$135/Hour
Senior Manager	\$205/Hour	Senior Estimator	\$135/Hour
Manager	\$200/Hour	Estimator	\$125/Hour
Senior Associate	\$185/Hour	Support Staff	\$85/Hour
Associate III	\$175/Hour	Land Optimization Strategies ("LOS")	
Associate II	\$165/Hour	Principal	\$295/Hour
Associate I	\$150/Hour	Administrative Staff	\$120/Hour
Research Associate II	\$140/Hour	Community Strategic Advisors ("CSA")	
Research Associate I	\$125/Hour	Principal/Owner	\$275/Hour
Market Profiles			
Principals	\$250/Hour		
Senior Project Manager	\$175/Hour		
Senior Economist	\$150/Hour		
Research Analyst	\$125/Hour		
Production	\$75/Hour		

As stated earlier, DTA will be the lead firm on this engagement. CAS, LOS, Moote, and Market Profiles will be subconsultants to DTA. DTA will have separate billing agreements with the subconsultants.

All hourly rates for services apply through June 30, 2022, and are subject to a cost-of-living increase at that time. On or about the first two weeks of each month during which consulting services are rendered hereunder, DTA shall present to the City an invoice covering the current consulting services performed and reimbursable expenses incurred pursuant to this Notice of Authorization. Invoices shall be paid by the City within 30 days of the date of each invoice. A 1.2% charge may be imposed monthly against accounts that are not paid within 45 days of the date of each invoice. The prevailing party in any legal action brought by one party against the other and arising out of this Consultant Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.

B Limitations

This budget covers only those tasks outlined in the Scope of Services. Additional consulting services beyond those included in the Scope of Services ("Additional Work") shall require additional fees. The Consultant Team will notify the City if Additional Work has been requested by the City or any other parties before proceeding with such work, which will be billed at the hourly rates listed in Table 2. The following are examples of Additional Work:

- Our budget assumes that all work shall be completed within 18 months of receiving the Notice to Proceed. If additional time is required, an amendment to the Fee Schedule may be applicable.

- Any appraisals required under State law prior to any transactional agreement by the City must be ordered and paid for by the City.
- The Fee Schedule does not include tasks related directly to the procurement of entitlements for the Project Segment in the City of Colton, nor the marketing of the three Project Segments to other public agencies or non-profits as required under the Surplus Land Act. Work related to either of these tasks will be considered to be out of scope and will require additional fees if they cause the maximum budget to be exceeded.
- The Consultant Team's cost expenses would be completely reimbursed as a transactional expense borne by the developers of each Project Segment with such expenses required in any ENA, PSA, DDA, or Lease Agreement.
- For the FIA and PFFP, our budget assumes that we will analyze one set of land uses for each of the three (3) Project Segments. Additional budget will be requested if supplementary land uses are to be examined in the analyses.
- Any expenses incurred as a result of Additional Work.
- **Component 6 Assumptions:**
 - Assumes two 1-hour meetings with the City on each Scope of Service Component 1-5.
 - Assumes one 2-hour meeting with the Consultant Team to discuss results and a potential proposed development strategy. Also, assumes preparation time and one 2-hour meeting with the City to review and discuss potential development strategy for the City's confirmation.
 - Assumes that only three Project Segments are involved in each step and no more than three (3) RFPs are needed. To the extent that City staff provide support in the preparation of the documents, costs could be lower.
 - It is also assumed that if additional financial modeling is necessary, that would be an ancillary cost that would be outside this scope of work and require City reimbursement based on the hourly rates of the Consultant Team.
 - Assumes that the Consultant Team's cost expenses would be completely reimbursed as a transactional expense borne by the developers of each Project Segment with such expenses required in any ENA, PSA, DDA, or Lease Agreement.

EXHIBIT “C”

KEY PERSONNEL

David Taussig, President, David@FinanceDTA.com

Kuda Wekwete, Managing Director, Kuda@FinanceDTA.com

Benjamin Strozier, Manager, Benjamin@FinanceDTA.com

Subcontractors:

- Community Strategic Advisors: Christine Shingleton, Owner
- Moote Companies: Marjorie Knitter, President, and Paul Moote, Vice President
- Market Profiles: Boyd Martin, CEO, David Dickey, Senior Economist, and Judi Schweitzer, President/Chief Sustainability Advisor
- Land Optimization Strategies: Barry Gross, President and Owner