

EXCLUSIVE NEGOTIATING AGREEMENT

F & B ASSOCIATES, INC., a California corporation doing business as BEST BEVERAGE CATERING

(Development of Chow Alley at Courthouse Piazza)

This Exclusive Negotiating Agreement ("ENA") is hereby entered into this _____ day of _____, 2016, ("Effective Date") by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("CITY"), and F&B Associates, Inc., a California corporation doing business as Best Beverage Catering ("Developer"), as follows:

I.

PURPOSE/TERM

1.1. **Purpose.** The purpose of this ENA is to establish a period during which Developer shall have the exclusive right to conduct investigatory analyses of approximately 31,526 square feet of City and County of Riverside-owned land identified as Assessor Parcel Numbers 215-092-005, 006, 010 and 011 (the "Site"), for the purpose of determining Developer's interest in negotiating with City for Developer's possible lease of the Site, which is intended to culminate in a Long Term Ground Lease to include the following:

1.1.1. **Lease Term.** The lease terms are to be based upon fair market value of the Site and mutually agreeable between the City and the Developer.

1.2. **Term.** The term of this ENA shall begin on the Effective Date and shall continue for a period of six (6) months to and including 5:00 p.m. on the last day of such period ("Termination Date"), with one option to extend for an additional six-month period. Said option to extend must be requested, in writing, by Developer. This ENA may be earlier terminated pursuant to Section 8 herein. Extension to this Agreement shall be granted in accordance with Section 8.2 herein.

1.3. **Consideration.** City recognizes the value of the Site analyses to be performed by Developer and the documentation and other information likely to result therefrom. In consideration of the exclusive rights granted to Developer hereunder, Developer shall furnish to City copies of all title, parcel maps, records of survey and all related environmental documents pertaining to the Site and acquired or developed by Developer, or by a third party on Developer's behalf, as they become available.

1.4. **Right of Entry.** During the term of this ENA, representatives of the Developer shall have the right of access to and entry upon the Site for the purpose of obtaining data and making surveys and tests that Developer deems necessary to carry out the Site analyses. Prior to such access and entry onto the Site, the Developer and the City shall execute the "Right of Entry" in substantially the form attached hereto as Exhibit "B" and incorporated herein by reference.

II.

DEFINITIONS

2.1. "Site" shall mean a portion of that certain real property owned by the City and County of Riverside identified as Assessor Parcel Numbers 215-092-005, 006, 010 and 011, as further described in Exhibit "A" of this ENA, attached hereto and made a part hereof.

2.2. "Site Analyses" shall mean those investigatory activities undertaken by Developer during the Term with respect to the Site and its suitability for development.

III.

OWNER PARTICIPATION

3.1. Participation by City. This ENA shall not be construed as binding the City to enter into negotiations with Developer regarding Developer's possible lease of the Site, or any portion thereof. City may receive competing and alternative proposals from third parties during the term of this ENA, however, City shall be prohibited from considering any such proposals and/or engaging in negotiations with any proposing party, other than Developer, for the lease of the Site, or any portion thereof, until such time as this ENA has been terminated.

IV.

NEGOTIATIONS

4. Negotiations. The parties agree that negotiations, if any, under this ENA shall be conducted in accordance with the following:

4.1. Exclusive Negotiations. The City agrees to negotiate exclusively with Developer and Developer agrees to negotiate exclusively with the City with regard to the leasing and development of the Site. The City shall not consider proposals or engage in negotiations with persons or entities other than Developer, concerning the leasing and development of the Site or development of specific projects on the Site. Notwithstanding the foregoing, nothing in this ENA shall prohibit the City from: (i) providing information the City may have in its possession concerning the Site (provided this information is not confidential information within the meaning of Section 6.1 of this ENA); or (ii) referring third parties to Developer for consideration by Developer of their participation as partners, joint ventures, developers, or contractors with regard to development of the Site, or any portion thereof.

4.2. Diligence and Good Faith. The parties agree that at all times, they will negotiate diligently and in good faith to carry out the obligations of this ENA on or before the times established herein.

4.3. Cooperation. The parties agree that, at all times during this ENA, each party shall cooperate with the other party and shall supply such information and documents related to the Site as may be within the party's possession and reasonably requested by the other party.

V.

DEVELOPER OBLIGATIONS

5. Developer Obligations. Developer promises and agrees to diligently pursue, and to use its best efforts, to complete the following obligations:

5.1. Information. Developer shall respond to all City requests for information by promptly providing such information and documents that are in the possession, custody and control of Developer and which have not previously been submitted by Developer to City. Any such information not transmitted to City as of the date of termination of this ENA shall be sent by the thirtieth (30th) day after termination of this ENA.

5.2. Within one hundred twenty (120) days following the Effective Date, develop and present to the City staff, for review, all of the following:

5.2.1. A conceptual development study for the project that shall include, at a minimum, the proposed lease terms and the development of the Chow Alley at Courthouse Piazza concept and a site plan;

5.2.2. A proposed time schedule for commencement and completion of the Project;
and

5.2.3. A written financial pro-forma in a reasonable form and substance regarding the anticipated costs and returns related to the development, operation, sale and lease (as applicable) of the Project.

5.3. Developer to assist City by providing all construction, maintenance, and operation of all proposed private improvements so the City can prepare the costs of additional or increased levels of public services and any new public revenues, anticipated to be generated by the Project, by phase, if applicable.

5.4 Developer is advised and informed that design and use for the Project may be subject to review and approval of the County of Riverside.

VI.

CITY OBLIGATIONS

6. City Obligations. The City promises and agrees to diligently use its best efforts to complete the following obligations within the times required herein:

6.1 Developer's Financial Information is Confidential. City shall keep Developer's statements of personal worth or personal financial data provided to establish his or her personal qualification for the project confidential as permitted by the exemption stated in California Government Code section 6254 (n).

6.2. Confidentiality of Information. For a period of two (2) years after termination of this ENA, City shall consider as confidential any proformas or similar documents prepared by Developer, related to development of the Site, and any work-product of Developer or its consultants related to the Site, which is supplied by Developer to City. During the term of this ENA, and for the period after termination specified in the immediately preceding sentence City shall refrain from releasing such information to any person or entity other than Developer or its designees, unless Developer consents to release of such information or until the City's legal counsel has determined, after notification to Developer's legal counsel, that the release of such information is required by the California Public Records Act (Government Code §6250 et al.), the U.S. Freedom of Information Act (5 U.S.C. §552 et seq.) or other applicable federal, state, or City statute, laws, or ordinances, or as may be required by an order of a court of competent jurisdiction. This section shall survive the expiration of the ENA.

6.3. Governing Body Approval Process. This ENA is subject to approval by the City Council of the City of Riverside ("City Council").

VII.

LIMITING CONDITIONS

7.1. Discretionary Approval. The acceptance by the parties hereto of the terms and provisions of this ENA is merely an accommodation to clarify the process the parties desire to commence and pursue in connection with Developer's evaluation of the Site and the conveyance by Developer to City of information pertaining to the Site and obtained or developed by Developer, or a third party on Developer's behalf. No purchase and sale or lease shall be binding upon the City until the City Council has an adequate opportunity to consider any purchase and sale or lease for approval and have, in the free exercise of their discretion, approved the purchase and sale or lease. Developer acknowledges and agrees that nothing herein restricts nor shall be deemed to restrict the City Council in the free exercise of its discretion, or in the free exercise of its executive, quasi-judicative, or legislative powers.

7.2. Limitation on Remedies. City and Developer each acknowledge and agree that neither the City nor the Developer would have entered into this ENA if it were to be liable to the other for monetary damages or other remedies. Accordingly, City and Developer each acknowledge and agree that their respective sole and exclusive right and remedy upon the breach of this ENA by the other is to terminate this Agreement.

7.3 Subject to Approval. This ENA and any subsequent conveyance or agreement contemplated by this ENA is subject to subsequent approval of the City Council.

VIII.

TERMINATION/EXTENSION

8.1. Termination. This ENA may be terminated in one of the following ways: (i) lapse; (ii) mutual agreement of the parties; or (iii) the expiration of fifteen (15) days after one party sends the other party written notice of the noticed party's failure to timely and diligently perform any of its obligations under this ENA, and the noticed party's failure to cure or correct the failure to perform within the same fifteen (15) day period.

8.2. Extension. The parties agree that Developer shall have the option to request, in writing, to extend this ENA for an additional six-month period by providing City with a minimum of 30 days prior written notice of Developer's intention to extend this ENA.

IX.

GENERAL TERMS AND CONDITIONS

9. General Terms and Conditions. The following general terms, conditions, and covenants shall apply to this ENA:

9.1. Assignment. There shall be no assignment or other transfer ("Assignment") of the rights and/or obligations of Developer under this ENA unless the City has given its prior written approval to the Assignment. The City shall not unreasonably withhold its approval of an Assignment that meets the following requirements: (i) the Assignment is to a validly organized and existing business entity which is a corporate affiliate or subsidiary of Developer, of which Developer is a general partner, or of which Developer is the majority shareholder (meaning owning at least 51% of the outstanding stock entitled to voting rights in the business entity); (ii) the Assignment is to an entity that expressly assumes the obligations of Developer under this ENA in a writing satisfactory to the City; (iii) Developer remains fully responsible for the performance of, and liable for the obligations of, Developer under this ENA; and (iv) the assignee is financially capable of performing the duties and discharging the obligations it is assuming. Developer shall promptly notify the City in writing of any and all changes whatsoever in the identity of the persons in control of Developer and the degree thereof.

9.2. Nondiscrimination. Developer agrees to refrain from discriminating against persons in the course of its conduct under this ENA on the basis of race, color, creed, religion, sex, marital status, ancestry, national origin, familial status, physical disability, mental disability, or medical condition (including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS), the Human Immune Deficiency Virus (HIV), or condition related thereto), of any person or group of persons, and shall comply with the applicable anti-discrimination provisions of the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) and the California Fair Employment and Housing Act (Cal. Government Code §12900 et seq.), as they exist on the date of this ENA or as they may thereafter be amended, repealed and reenacted, or otherwise modified. Developer further agrees not to establish or permit any such practice or practices of discrimination or segregation with

reference to its conduct under this ENA. Any further agreement between the parties shall contain appropriate, City approved, non-discrimination and non-segregation provisions binding Developer and its successors and assignees, and shall be covenants running with all affected parcels of the Site.

9.3. Non-liability of City Officials and Employees. No council member, official, consultant, attorney, or employee of the City shall be personally liable to Developer, or any successor, or assign, or any person claiming under or through them, in the event of any default or breach by the City or for any amount which may become due to Developer or to its successor, or on any obligations arising under this ENA.

9.4. Conflicts of Interest. No board member, official, consultant, attorney, or employee of the City shall have any personal interest, direct or indirect, in this ENA nor shall any such member, official or employee participate in any decision relating to this ENA which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

9.5. Warranty Against Payment of Consideration for ENA. Developer represents and warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this ENA, other than payments to consultants retained by Developer to assist it in the negotiation of this ENA.

9.6. No Third Party Beneficiaries. This ENA, its provisions, and its covenants, are for the sole and exclusive benefit of the City and Developer. No other parties or entities are intended to be, or shall be considered, a beneficiary of the performance of any of the parties' obligations under this ENA.

9.7. Integration. This ENA consists of pages 1 through 9, inclusive, and Exhibits "A" and "B", attached hereto and incorporated herein by this reference, which constitute the entire understanding and agreement of the parties and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

9.8. Recitals and Definitions. The Recitals and Definitions set forth at the beginning of this ENA are a substantive and integral part of this ENA and are incorporated herein by this reference.

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

9.10. Interpretation. The City and Developer acknowledge that this ENA is the product of mutual arms-length negotiation and drafting and each represents and warrants to the other that it has been represented by legal counsel in the negotiation and drafting of this ENA. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this

ENA. In any action or proceeding to interpret or enforcement of this ENA, the finder of fact may refer to such extrinsic evidence not in direct conflict with any specific provision of this ENA to determine and give effect to the intention of the parties hereto.

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

9.12. Amendments to ENA. Any amendments to this ENA must be in writing and signed by the appropriate authorities of the City and Developer. The Community & Economic Development Director or Deputy Director shall have the authority to make minor amendments to this ENA, including, but not limited to, the granting of extensions of time to Developer, on behalf of the City so long as such actions do not materially change the ENA or make a commitment of additional funds of the City. All other changes, modifications, and amendments shall require the prior approval of the City's governing bodies.

9.13. Administration. This ENA shall be administered by the Community & Economic Development Director or Deputy Director, or their designated representative, following approval of this ENA by the City Council. The City shall maintain authority of this ENA through the Community & Economic Development Director or Deputy Director (or their authorized representative). The Community & Economic Development Director or Deputy Director (or their authorized representative) shall have the authority to issue interpretations with respect to this ENA on behalf of the City so long as such actions do not materially change the ENA or make a commitment of additional funds of the City.

9.14. Notices, Demands and Communications Between the Parties. Formal notices, demands and communications between the parties shall be given in writing and personally served or dispatched by registered or certified mail, postage prepaid, return receipt requested, or by reputable overnight delivery service, or personal delivery, to the principal offices of the parties, as designated below. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section. Any such notice shall be deemed to have been received upon the date personal service is affected, if given by personal service, or upon the expiration of three (3) business days after mailing, if given by certified mail, return receipt requested, postage prepaid.

To City:

City of Riverside
Community & Econ.
Development Dept.
Attn: Emilio Ramirez
3900 Main Street, 3rd Floor
Riverside, California 92522

To Developer:

F & B Associates, Inc.
Attn: Dirk Alton, President
4901 Morena Blvd., Suite 1107
San Diego, CA 92117

9.15. Computation of Time. The time in which any act is to be done under this ENA is computed by excluding the first day (such as the Effective Date) and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Government Code Sections 6700 and 6701. If any act is to be done by a particular time during a day, that time shall be Pacific Standard Zone time.

9.16. Authority. The individuals executing this ENA on behalf of Developer and the instruments referenced on behalf of Developer represent and warrant that they have the legal power, right and actual authority to bind Developer to the terms and conditions hereof and thereof.

9.17. Counterpart Originals. This ENA may be executed in duplicate originals, each of which is deemed to be an original.

9.18. Effective Date of ENA. This ENA shall not become effective until the date it has been formally approved by the City's governing body and executed by the appropriate authorities of the City and Developer. This date shall be affixed on the cover page of this ENA and shall be used as the "Effective Date" for purposes of calculating time under this ENA.

IN WITNESS WHEREOF, the parties hereto have executed this ENA on the date and year first-above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

By: _____
City Manager

ATTEST:

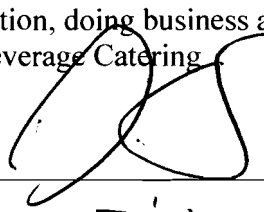
By: _____
City Clerk

APPROVED AS TO FORM:

By:  _____
Deputy City Attorney

16-0598

F & B Associates, Inc., a California
corporation, doing business as
Best Beverage Catering

By:  _____
Printed Name: DIRK ALTON

Its: President

By:  _____

Printed Name: NIELS REINHOLD

Its: Secretary

EXHIBIT A

SITE MAP

(Attached behind this page.)

Exhibit "A"



TENTH ST

MAIN ST

ORANGE ST

Historic Courthouse

ELEVENTH ST

215-092-010

215-092-011

215-092-005

215-092-006

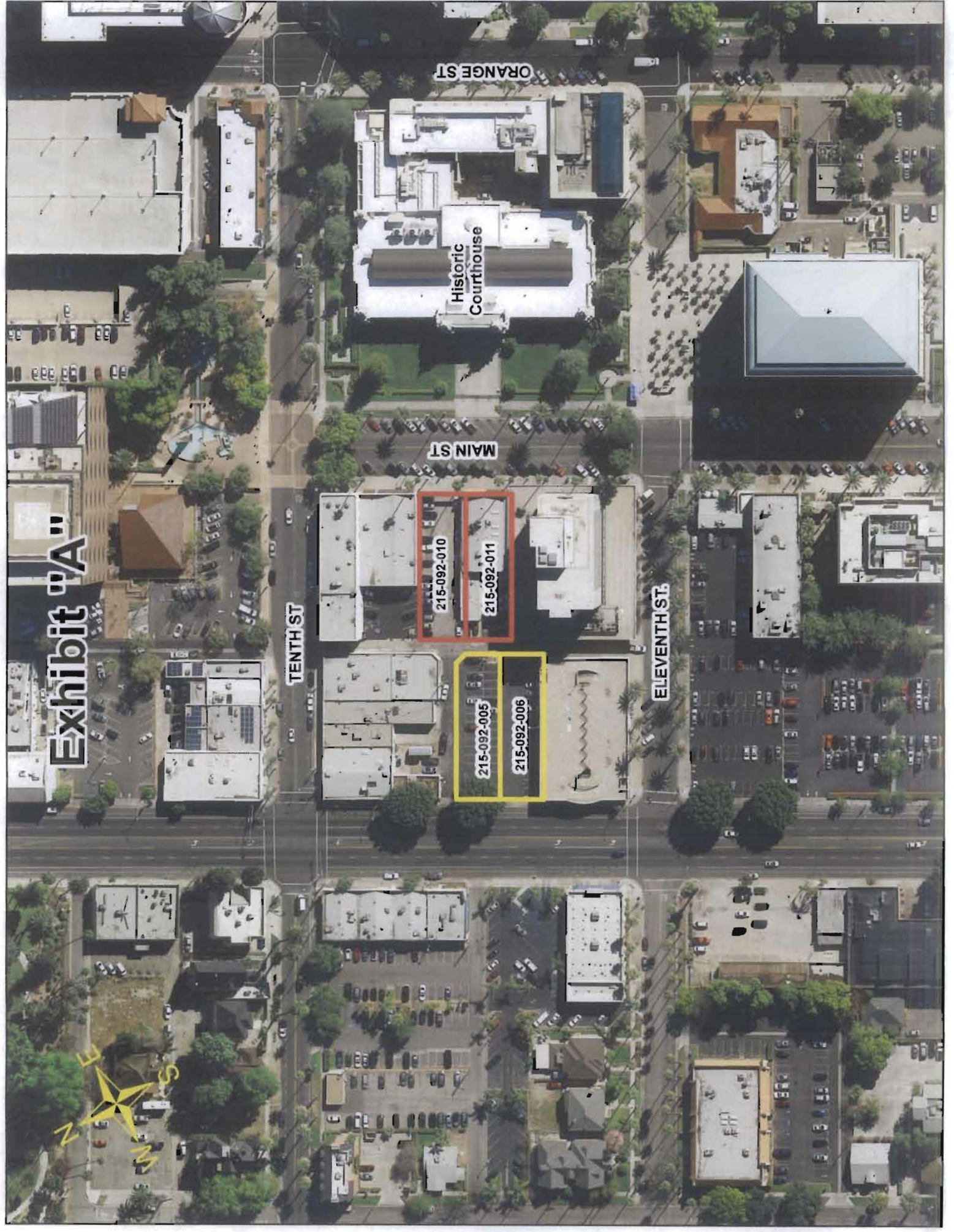


EXHIBIT B

RIGHT OF ENTRY AGREEMENT

(Attached behind this page.)

Project: Potential Long Term Lease and Development of Vacant City and
County of Riverside-owned Land
Assessor's Parcel No's.: 215-092-005, 006, 010 and 011

RIGHT OF ENTRY AGREEMENT

This Right of Entry Agreement ("Agreement") is made and entered into this _____ day of _____ 2016, by and between the **City of Riverside**, a California charter city and municipal corporation ("City"), and **F&B Associates, Inc., a California corporation doing business as Best Beverage Catering** ("Grantee").

1. **Scope.** City, owner of Assessor's Parcel Numbers 215-092-005 and 006 and lessee of County of Riverside-owned Assessor's Parcel Numbers 215-092-010 and 011 ("Property"), hereby grants permission to Grantee, its employees, agents and subcontractors to enter upon a portion of the Property as identified on Exhibit "A" attached hereto and incorporated herein by reference. Grantee's use of the Property is for site analysis for the potential long term lease and development of the Property, and for no other purpose.

2. **Term.** This Agreement will be effective on the date written above and shall be co-terminus with that certain Exclusive Negotiation Agreement between the City and the Grantee. Grantee shall provide City with twenty-four (24) hours advanced written notice directed to David Welch at (951) 826-5649 of the date upon which Grantee will enter and use the Property.

3. **Compensation.** Intentionally deleted.

4. **Condition of Premises.** During the term of this Agreement, Grantee is to avoid damaging or contaminating the Property, including all landscaping or plants, and shall take all reasonable steps to maintain the Property in an orderly and appealing manner. At the completion of the work, Grantee will restore the Property to a condition equal to or better than its condition at the commencement of the term of this Agreement.

5. **Termination.** This Agreement may be terminated by either party upon three (3) days prior written notice to the other party or immediately by the City if it is determined that Grantee's actions are unsafe or a liability to the City.

6. **Access to the Property.** Grantee shall make every reasonable effort to keep access to the Property open at all times and shall not interfere with City's activities in any way.

7. **Indemnification.** Except as to sole negligence or willful misconduct of the City, Grantee agrees to indemnify, defend and hold the City, its officers and employees, harmless from and against all claims, damages, losses, liability, cost or expense, including attorney's fees, which arises out of or is in any way connected with the performance of work under this Agreement by Grantee or any of Grantee's employees, agents or subcontractors. Grantee shall also be responsible for any attorneys' fees the City incur in the event the City has to file any action in connection with this right of entry.

The parties expressly agree that any payment, attorney's fee, costs or expenses the City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense or cost for the purpose of this Section, and that this Section shall survive the expiration or early termination of this Agreement.

8. **Workers' Compensation Insurance.** By executing this Agreement, Grantee certifies that it 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. Grantee shall carry the insurance or provide for self-insurance required by California law to protect Grantee from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Grantee shall file with City either (1) a certificate of insurance showing that such insurance is in effect, or that they are self-insured for such coverage, or (2) a certified statement that they have no employees, and acknowledging that if they do 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.

9. **General Commercial Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Grantee shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Grantee 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 Grantee. The City, and its officers, employees and agents, shall be named as additional insureds under the Grantee's insurance policies.

All liability insurance shall be issued by insurance companies authorized to transact liability 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.

Grantee's commercial general liability insurance policies 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, unless otherwise approved or reduced by the City's Risk Manager ("Risk Manager"), or his designee.

Grantee's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence unless otherwise approved or reduced by the Risk Manager, or his designee.

These minimum amounts of coverage shall not constitute any limitation or cap on Grantee's indemnification obligations under Section 7 hereof.

Prior to City's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements 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.

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.

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

10. **Hazardous Substances Indemnity.** Grantee expressly agrees to and shall indemnify, defend, release and hold the City, its officers, officials, directors, agents, servants, employees, attorneys and contractors harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorneys' fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Property by Grantee, or its respective officers, directors, agents, servants, employees or contractors, or by any other third party acting under the control or request of Grantee, other than the City and its respective officers, agents, servants, employees or contractors. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this Agreement.

11. **Hazardous Substances Defined.** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, et seq.; The Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"); The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; The Clean Water Act, 33 U.S.C. § 1251, et seq.; The Hazardous Waste Control Act, California Health and Safety Code ("H. & S.C.") § 25100, et seq.; the Hazardous Substance Account Act, H. & S.C. § 25330, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, et seq.; Underground Storage of Hazardous Substances H. & S.C. § 25280, et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H & S.C. § 25300 et seq.); The Hazardous Waste Management Act, H. & S.C. §§ 25170.1, et seq.; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 et seq.; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, et seq., all as amended,

or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

12. **Venue.** Any action at law or in equity brought by any 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.

13. **Nondiscrimination.** During Grantee's performance of this Agreement, it 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, Grantee agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

14. **Notices.** Service of any notices, bills, invoices or other documents required or permitted under this Agreement shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows.

<u>City</u>	<u>Grantee</u>
City of Riverside 3900 Main Street Riverside, California 92522 Attn: David Welch (951) 826-5649	F & B Associates, Inc. 4901 Morena Blvd., Suite 1107 San Diego, CA 92117 Attn: Dirk Alton (415) 205-5901

15. **Assignment.** It is mutually understood and agreed that this Agreement is personal to Grantee and shall be binding upon Grantee and its successors and may not be assigned or transferred in any way. Any transfer shall be void and of no effect.

16. **Authority.** The individuals executing this Agreement each represent and warrant that they have the legal power, right and actual authority to bind their respective entities to the terms and conditions hereof and thereof.

17. **Severability.** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date and year first written above.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

By: _____
David Welch
Real Property Services Manager

F&B Associates, Inc., a California
corporation, doing business as
Best Beverage Catering

By: _____

Its: DAK ALTON President

By: _____

Attested to:

Its: NIELS REINHOLD
Secretary

By: _____
City Clerk

Approved as to Form:

Deputy City Attorney