

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at the City of Redondo Beach, California, as of January 5, 2021 by and between the CITY OF REDONDO BEACH, a chartered municipal corporation ("CITY"), and KEYSER MARSTON ASSOCIATES, INC., a California corporation ("CONSULTANT"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in Exhibit "A".

The parties to this Agreement agree that Consultant, in performing the services described in Exhibit A, will not make any warranties or guarantees as to the future value of any real or personal property, nor will it make any express warranties or guarantees of estimated or probable construction cost or cost estimates being exceeded, nor will it guarantee the availability of funds or specified rates of return and/or interest. Further, the parties agree that Consultant will not perform services as a construction manager, appraiser of the fair market value of real estate, real estate broker, or agent, or property manager.

2. **Payment.** City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all billings for said services to City in the manner specified in Exhibit "B".

3. **Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment, which may be required for furnishing services pursuant to this Agreement.

4. **General Provisions.** The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with the general provisions.

5. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement.

EXECUTED as of the day first above-stated.

CITY OF REDONDO BEACH,
a chartered municipal corporation

KEYSER MARSTON ASSOCIATES, INC.,
a California corporation

By: _____
William C. Brand

By: _____

Title: Mayor

Title: _____

ATTEST:

Eleanor Manzano, City Clerk

APPROVED:

Diane Strickfaden, Risk Manager

APPROVED AS TO FORM:

Michael W. Webb, City Attorney

EXHIBIT A

SCOPE OF SERVICES

1. Upon the City's request, Consultant shall perform disposition and financial advisory consulting services for the City, including but not be limited to, the following services.
2. Consult, assist, and advise the City with respect to marketing, financial and disposition issues.
3. Participate in formal and informal discussions and presentations with potential developers and community officials.
4. Undertake an evaluation of existing economic feasibility studies and prepare the highest and best use analysis.
5. Perform financial testing of land use and development concepts, including review of projected development cost, income, and financing for private capital.
6. Advise on alternative financing options for a public private partnership, including funding of public improvements and private investment.
7. Structure options for land disposition business terms, including reuse fair market value and reuse value, ground leases and participating land sales.
8. Assist City staff in drafting documents, including without limitation the Summary Report under Section 33433 pursuant to the California Redevelopment Law.

METHOD AND TIME OF PERFORMANCE

This Agreement shall commence on November 1, 2020 and continue until October 31, 2022, unless otherwise terminated as herein provided. Consultant shall perform the services described herein within a time schedule as mutually agreed upon by both parties.

EXHIBIT B

COMPENSATION

Provided Consultant is not in default under this Agreement, Consultant shall be compensated as provided below.

1. Amount. Consultant shall be paid in accordance with the following hourly rate schedule.

Chairman, President, Managing Principals*	\$280.00
Senior Principals*	\$270.00
Principals*	\$250.00
Managers*	\$225.00
Senior Associates	\$187.50
Associates	\$167.50
Senior Analysts	\$150.00
Analysts	\$130.00
Technical Staff	\$ 95.00
Administrative Staff	\$ 80.00

2. Expenses. Consultant shall be reimbursed for expenses at cost; provided however, that Consultant obtains City's prior written authorization and documentation evidencing the expenditure. Reimbursable expenses include auto mileage, parking, delivery, electronic data processing, graphics and printing, airfares, hotels and motels, meals, car rentals, and taxis. All expenses must be reasonable. Reimbursement may be denied at the City's sole discretion if those expenses are deemed unreasonable.

3. Not to Exceed Amount. Notwithstanding the foregoing, the total amount paid to Consultant shall not exceed \$50,000.

4. Method of Payment. Consultant shall provide monthly invoices to City for approval and payment. Invoices must be based on the hours worked, staff, applicable billing rate, expenses incurred, in the month prior to the invoice submission. Invoices must be itemized, adequately detailed, based on accurate records, and in a form reasonably satisfactory to City, and attach the prior written authorization of the City and copies of receipts to substantiate expense requests. Consultant shall provide any other back-up material upon request.

5. Schedule for Payment. City agrees to pay Consultant within thirty (30) days of the City's receipt of the monthly invoice.

* Rates for individuals in these categories will be increased by 50% for time spent in court testimony

EXHIBIT C

GENERAL PROVISIONS

1. Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.

2. Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

3. Consultant's Liability. The Consultant shall be responsible for all injuries to persons and for all damage to real or personal property of City or others, caused by or arising from the negligence of itself, its employees, or its agents during the progress of or connected with the rendition of services hereunder. Consultant shall defend and hold harmless and indemnify the City and its officials, officers, employees, volunteers, and contractors, from all costs and claims for damages to real or personal property, or personal injury to any party, resulting from the negligence or willful misconduct of itself, its employees, or its agents, arising out of the Consultant's performance of work under this Agreement. This obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.

4. Equal Employment Opportunity. During the performance of this Agreement, the Consultant agrees as follows:

a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, religion, sex, national origin, or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

b. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or physical handicap.

c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

5. Consultant Not Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6. Products of Consulting. All products of consulting, with the exception of computer models developed by Consultant, shall become the property of the City and shall be delivered to the City before the end of performance under this Agreement. Computer models remain the exclusive property of Consultant. Contractual obligations do not include access to or ownership transfer of any electronic data processing files, programs or models completed directly for or as by-products of any research effort, unless explicitly so agreed as part of this Agreement.

7. Records. Consultant, including any of its subcontractors shall maintain full and complete documents and records, including accounting records, employee time sheets, work papers, and correspondence pertaining to the services set forth in Exhibit "A". Consultant, including any of its subcontractors shall make such documents and records available for City review or audit upon request and reasonable notice, and shall keep such documents and records, for at least three (3) years after Consultant's completion of performance of this Agreement. Copies of all pertinent reports and correspondence shall be furnished to the City for its files.

8. Subcontractors. Consultant shall provide properly skilled professional and technical personnel to perform any approved subcontracting duties.

9. Conflict of Interest. Consultant acknowledges, represents and warrants that Consultant shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Agreement.

10. Assignment Prohibited. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

11. Changes. The City may, from time to time, request changes in the Scope of Services of the Agreement to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant's compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Agreement.

12. Termination. This Agreement may be terminated by either party on thirty (30) days written notice to the other. The effective date of cancellation being the 30th day of said written notice. Consultant shall be entitled to the compensation earned by it prior to the date of termination, computed pro rata up to and including the date of termination.

13. Attorney's Fees. In the event that it becomes necessary for either party to this Agreement to bring a legal suit to enforce any of the provisions of this Agreement, the parties agree

that a court of competent jurisdiction may determine and fix reasonable attorney fees to be paid the successful litigant.

14. Insurance. Consultant shall comply with the requirements set forth in Exhibit "D." Insurance requirements that are waived by the City's Risk Manager do not require amendments or revisions to this Agreement.

15. Non Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Agreement.

16. Compliance with Laws. Consultant shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Agreement, including without limitation all environmental laws, employment laws, and non-discrimination laws.

17. Non Exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Consultant hereunder shall be non exclusive, and City reserves the right to employ other contractors in connection with the project.

18. Severance. Any provision of this Agreement that is found invalid or unenforceable shall be deemed severed, and all remaining provisions of this Agreement shall remain enforceable to the fullest extent permitted by law.

19. Authority. City warrants and represents that upon City Council approval, the Mayor of the City of Redondo Beach is duly authorized to enter into and execute this Agreement on behalf of City. The party signing on behalf of Consultant warrants and represents that he or she is duly authorized to enter into and execute this Agreement on behalf of Consultant, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Agreement on behalf of Consultant.

20. Waiver. The waiver by the City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

21. Notice. Written notices to City and Consultant shall be given by registered or certified mail, postage prepaid and addressed to or personally served on the following parties.

Consultant: Keyser Marston Associates, Inc.
500 South Grand Avenue, Ste 1480
Los Angeles, CA 90071
Attn: Kathe Head

City: City of Redondo Beach
Community Services Department
1922 Artesia Blvd
Redondo Beach, CA 90278

Attn: Angelica Zavala

All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by registered or certified mail. Changes in the respective address set forth above may be made from time to time by any party upon written notice to the other party.

EXHIBIT D

INSURANCE REQUIREMENTS FOR CONSULTANTS

Without limiting Consultant's indemnification obligations under this Agreement, Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

Workers' Compensation insurance as required by the State of California.

Employer's Liability Insurance.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The general aggregate limit shall apply separately to this project.

Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Endorsement:

General Liability: The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of work performed by or on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance, or as a separate owner's policy.

Automobile Liability: The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant.

For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, elected and appointed officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Each insurance policy shall be endorsed to state that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

Each insurance policy shall be in effect prior to awarding the contract and each insurance policy or a successor policy shall be in effect for the duration of the project. The maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract on the Consultant's part.

Acceptability of Insurers

Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII and which are authorized to transact insurance business in the State of California by the Department of Insurance.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on the City authorized forms provided with the contract specifications. Standard ISO forms which shall be subject to City approval and amended to conform to the City's requirements may be acceptable in lieu of City authorized forms. All certificates and endorsements shall be received and approved by the City before the contract is awarded. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Subcontractors

Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

Risk Management

Consultant acknowledges that insurance underwriting standards and practices are subject to change, and the City reserves the right to make changes to these provisions in the reasonable discretion of its Risk Manager.