

AGREEMENT TO PERFORM PROFESSIONAL SERVICES

This agreement for the provision of professional environmental consulting services ("Agreement") is made and entered in this 15th day of February, 2019 ("Effective Date"), by and between the City of Redlands, a municipal corporation ("City") and PlaceWorks, Inc., ("Consultant"). City and Consultant are sometimes individually referred to herein as a "Party" and, together, as the "Parties." In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 – ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to provide professional environmental consulting services for environmental scoping and environmental document preparation services for City (the "Services").
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing like and similar types of Services.

ARTICLE 2 – SERVICES OF CONSULTANT

- 2.1 The Services that Consultant shall perform are more particularly described in Exhibit "A," entitled "Scope of Services," which is attached hereto and incorporated herein by reference.
- 2.2 Consultant shall comply with applicable federal, state and local laws and regulations in the performance of this Agreement including, but not limited to, State prevailing wage laws.

ARTICLE 3 – RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that may assist Consultant in performing the Services.
- 3.2 City designates Brian Desatnik, Director, Development Services Department, as City's representative with respect to performance of the Services, and such person shall have the authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to performance of the Services.

ARTICLE 4 – PERFORMANCE OF SERVICES

- 4.1 Consultant shall perform and complete the Services in a prompt and diligent manner.
- 4.2 Consultant shall complete the Services by August 15, 2019, unless the Services are terminated earlier as provided for herein.

- 4.3 If Consultant's Services include deliverable electronic visual presentation materials, such materials shall be delivered in a form, and made available to the City, consistent with City Council adopted policy for the same. It shall be the obligation of Consultant to obtain a copy of such policy from City staff.

ARTICLE 5 – PAYMENTS TO CONSULTANT

- 5.1 Total compensation for Consultant's performance of the Services shall not exceed the amount of twenty-two thousand dollars (\$22,000.00). City shall pay Consultant on a time and materials basis up to the not to exceed amount in accordance with Exhibit "B" entitled "Fee Schedule" attached hereto and incorporated herein by reference.
- 5.2 Consultant shall submit monthly invoices to City describing the Services performed during the preceding month. Consultant's invoices shall include a brief description of the Services performed, the dates the Services were performed, the number of hours spent and by whom, and a description of reimbursable expenses related to the Services. City shall pay Consultant no later than thirty (30) days after receipt and approval by City of Consultant's invoice.
- 5.3 Any notice or other communication required, or which may be given, pursuant to this Agreement, shall be in writing. Any such notice shall be deemed delivered (i) on the date of delivery in person; (ii) five (5) days after deposit in first class registered mail, with return receipt requested; (iii) on the actual delivery date if deposited with an overnight courier; or (iv) on the date sent by facsimile, if confirmed with a copy sent contemporaneously by first class, certified, registered or express mail; in each case properly posted and fully prepaid to the appropriate address set forth below, or such other address as a Party may provide notice in accordance with this section:

City

Brian Desatnik, Director
Development Service Department
35 Cajon Street, Ste. 20
P.O. Box 3005 (mailing)
Redlands, CA 92373
bdesatnik@cityofredlands.org
(909) 798-7555

Consultant

Kara Kosel, Contracts Manager
PlaceWorks, Inc.
3 MacArthur Place, Suite 1100
Santa Ana, CA 92707
mteague@placeworks.com
Telephone (office): 714-966-9220
Telephone (mobile): 858-776-5574

ARTICLE 6 – INSURANCE AND INDEMNIFICATION

- 6.1 The following insurance coverage required by this Agreement shall be maintained by Consultant for the duration of its performance of the Services. Consultant shall not perform any Services unless and until the required insurance listed below is obtained by Consultant. Consultant shall provide City with certificates of insurance and endorsements evidencing such insurance prior to commencement of the Services. Insurance policies

shall include a provision prohibiting cancellation or modification of the policy except upon thirty (30) days prior written notice to City.

- A. Workers' Compensation and Employer's Liability insurance in the amount that meets statutory requirements with an insurance carrier acceptable to City, or certification to City that Consultant is self-insured or exempt from the workers' compensation laws of the State of California. Consultant shall execute and provide City with Exhibit "C" entitled "Workers' Compensation Insurance Certification," which is attached hereto and incorporated herein by this reference prior to performance of the Services.
 - B. Comprehensive General Liability insurance with carriers acceptable to City in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, for public liability, property damage and personal injury is required. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
 - C. Business Auto Liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit bodily injury liability and property damage liability. This coverage shall include all Consultant owned vehicles used in connection with Consultant's provision of the Services, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
 - D. Consultant is expressly prohibited from assigning or subcontracting any of the Services without the prior written consent of City. In the event of mutual agreement by the Parties to assign or subcontract a portion of the Services, Consultant shall add such assignee or subcontractor as an additional insured to the insurance policies required hereby and provide City with the insurance endorsements prior to any Services being performed by the assignee or subcontractor.
- 6.2 Consultant shall defend, indemnify and hold harmless City and its elected officials, employees and agents from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any negligent act or omission by, or the willful misconduct of, Consultant, or its officers, employees and agents in performing the Services.

ARTICLE 7 – CONFLICTS OF INTEREST

- 7.1 Consultant covenants and represents that it does not have any investment or interest in any real property that may be the subject of this Agreement or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's Services. Consultant further covenants and represents that in the performance of its duties hereunder, no person having any such interest shall perform any Services under this Agreement.

7.2 Consultant agrees it is not a designated employee within the meaning of the Political Reform Act because Consultant:

A. Does not make a governmental decision whether to:

- (i) approve a rate, rule or regulation, or adopt or enforce a City law;
- (ii) issue, deny, suspend or revoke any City permit, license, application, certification, approval, order or similar authorization or entitlement;
- (iii) authorize City to enter into, modify or renew a contract;
- (iv) grant City approval to a contract that requires City approval and to which City is a party, or to the specifications for such a contract;
- (v) grant City approval to a plan, design, report, study or similar item;
- (vi) adopt, or grant City approval of, policies, standards or guidelines for City or for any subdivision thereof.

B. Does not serve in a staff capacity with City and in that capacity, participate in making a governmental decision or otherwise perform the same or substantially the same duties for City that would otherwise be performed by an individual holding a position specified in City's Conflict of Interest Code under Government Code section 87302.

7.3 In the event City determines that Consultant must disclose its financial interests, Consultant shall complete and file a Fair Political Practices Commission Form 700, Statement of Economic Interests, with the City Clerk's office pursuant to the written instructions provided by the City Clerk.

ARTICLE 8 – GENERAL CONSIDERATIONS

8.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for the use of in-house counsel by a Party.

8.2 Consultant shall not assign any of the Services, except with the prior written approval of City and in strict compliance with the terms and conditions of this Agreement. Any assignment or attempted assignment without such prior written consent may, in the sole discretion of City, result in City's immediate termination of this Agreement.

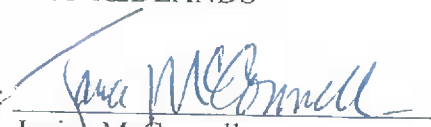
8.3 Consultant is for all purposes under this Agreement an independent contractor and shall perform the Services as an independent contractor. Neither City nor its agents shall have control over the conduct of Consultant or Consultant's employees, except as herein set forth. Consultant shall supply all necessary tools and instrumentalities required to perform the Services. Assigned personnel employed by Consultant are for its account only, and in no event shall Consultant or personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of City. Consultant

shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent, nor shall Consultant have any authority, express or implied, to bind City to any obligation.

- 8.4 This Agreement may be terminated by City, in its sole discretion, by providing not less than five (5) days prior written notice to Consultant of City's intent to terminate. If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed Services, and (2) any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant. Upon receipt of a termination notice, Consultant shall immediately discontinue its provision of the Services and, within five (5) days of the date of the termination notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of project related data, design calculations, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services. Consultant shall be compensated on a pro-rata basis for Services completed up to the date of termination.
- 8.5 Consultant shall maintain books, ledgers, invoices, accounts and other records and documents evidencing costs and expenses related to the Services for a period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement. Such books shall be available at reasonable times for examination by City at the office of Consultant.
- 8.6 This Agreement, including the Exhibits incorporated herein by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein, and any prior negotiations, written proposals or verbal agreements relating to such matters are superseded by this Agreement. Except as otherwise provided for herein, any amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.
- 8.7 This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 8.8 If one or more of the sentences, clauses, paragraphs or sections contained in this Agreement is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate the remaining sentences, clauses, paragraphs or sections contained herein, unless to do so would deprive a Party of a material benefit of its bargain under this Agreement.

IN WITNESS WHEREOF, duly authorized representatives of City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

By: 
Janice McConnell,
Acting City Manager

PLACEWORKS, INC.

By: 
Dwayne Mears, Principal

Attest:


Jeanne Donaldson, City Clerk

EXHIBIT "A"

SCOPE OF SERVICES

This environmental work is being performed for the possible ballot measure that may be placed on the November 2019 ballot to amend the General Plan and a growth control ordinance. The general parameters of the draft ballot measure are:

- The Transit Villages Planning Area (TVPA) for General Plan purposes will be the boundaries of the proposed specific plan.
- The City proposes to exempt the TVPA from all provisions added by Measure U to the General Plan, including:
 - a. Traffic Level of Service (LOS) limitations that are described in Measure U, such as maintaining or mitigating to LOS 'C' or the existing LOS whichever is applicable.
 - b. The TVPA will be exempt from the Measure U restriction on creating new residential land uses (which will allow the City to implement a form based code for zoning that will be used for the specific plan).
 - c. Density in the TVPA will be allowed to increase over the present General Plan's limitation of approximately 27 DU/acre (which will allow the City to implement a form based code for zoning that will be used for the specific plan).
 - d. Building height maximum in the TVPA proposed to be five stories or 68 feet high.
- The City suggests a "cap" on the building permits allowed per year in the TVPA of 400 per year. No cap is envisioned concerning density (expressed as DU/acre); TVPA zoning will address maximum buildout through building mass/form limitations and perhaps Floor-Area Ratio (FAR).
- Reduction in residential building permits issued annually outside of the TVPA to be in the 200-300 range (reduced from the existing limitation of 400 annually).
- The preliminary project description for the Transit Villages Specific Plan involves:
 - a. Two thousand (2,000) dwelling units in the specific plan area;
 - b. Retail square-footage totaling approximately 265,000 square-feet in the specific plan area;
 - c. Office square-footage totaling approximately 238,000 square-feet in the specific plan area.



February 12, 2019

Brian Foote, AICP
Planning Director
City of Redlands
Planning Department
35 Cajon Street, Suite 20
Redlands, CA 92373

Subject: General Plan Policy Amendment

Dear Mr. Foote:

Thank you for this opportunity to be of service to the City of Redlands. This letter includes a scope and not-to-exceed price for helping to prepare an environmental document that would allow for successful transit oriented design (TOD) projects.

Understanding of the Project

This level of effort involves helping to craft the project description needed for the environmental analysis and prepare the initial study that will focus the EIR on the changes. While nothing has been determined at this point, the expectation is that the scope of the project and the level of analysis will require either a stand-alone environmental impact report or another document that would allow tiering from the General Plan EIR. The level of analysis and the type of environmental document will be determined as part of this effort.

- » Project Kick-off and Environmental Expectation
 - Kick-off Meeting or conference call to confirm product
 - Project schedule review with PlaceWorks team
 - Identification of City-contracted traffic consultant
 - Team coordination meetings
- » Project Description
 - Geographic area affected by the project
 - Expected changes to general plan
 - Expected changes to zoning code
- » Notice of Preparation
 - Scoping document
 - Graphics for NOP
 - EIR process to be followed by City
 - Identify affected agencies as mailing list

This scope assumes preparation of the Notice of Preparation (NOP) but stops short of circulation and presenting at a scoping meeting. The deliverable will be an NOP and mailing list ready to circulate.



Proposed Schedule

PlaceWorks assumes beginning work by February 15, 2019, and complete the scope by March 15, 2019. The kick-off meeting would occur sometime during the week of February 18th, and may occur as a conference call if schedules do not allow an in-person meeting.

Cost Estimate

PlaceWorks will conduct the above scope for the not-to-exceed cost of \$22,000. We will bill on a time-and-materials basis but will not exceed this cost estimate without authorization from the City.

Acknowledgment

This proposal shall remain valid for a period of 90 days from the time of submittal. As an Associate Principal, I am authorized to bind PlaceWorks project team to the contents of this proposal.

We look forward to working with you to bring about the successful completion of this project. If you have any questions regarding the contents of this proposal, please feel free to contact the undersigned.

Respectfully submitted,

PLACEWORKS



Mark Teague, AICP
Associate Principal

EXHIBIT "B"
FEE SCHEDULE

PlaceWorks, Inc., will conduct the above scope for the not-to-exceed cost of \$22,000.
PlaceWorks will bill on a time-and-materials basis, but will not exceed this cost estimate without authorization from the City.

EXHIBIT "C"**WORKERS' COMPENSATION INSURANCE CERTIFICATION**

Every employer, except the State, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

CHECK ONE

☒ I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work and activities required or permitted under this Agreement. (Labor Code §1861).

☐ I affirm that at all times, in performing the work and activities required or permitted under this Agreement, I shall not employ any person in any manner such that I become subject to the workers' compensation laws of California. However, at any time, if I employ any person such that I become subject to the workers' compensation laws of California, immediately I shall provide the City with a certificate of consent to self-insure, or a certification of workers' compensation insurance.

I certify under penalty of perjury under the laws of the State of California that the information and representations made in this certificate are true and correct.

PlaceWorks, Inc.

Date: 2/28/2019

By: 

Dwayne Mears, Principal



Sole Source/ Single Source/ Standardization Form

For procurement of supplies, equipment and services valued at \$5,000 and over

NOTE: Every question must be answered with appropriate documentation attached; incomplete forms will be immediately rejected by Purchasing.

Date: February 12, 2019

TO: Purchasing Division

FROM: Development Services Department

Purchase Requisition: #77378

Estimated Total Cost: \$ 25,000 ^{22,000} _{as per proposal & agreement}

Proposed Vendor: PlaceWorks, Inc.

Request Term: February 12, 2019 to December 31, 2019

This form must accompany the purchase document whenever an exception to the competitive process is requested. Requests for goods and/or services from a specific vendor or limited to a specific brand, where substitutes to the recommended vendor or brand are unacceptable, must be accompanied by a written justification explaining the circumstances that make alternatives unacceptable.

The City Manager will determine whether the justification is appropriate. Requests for exception must be supported by factual statements that will pass an audit.

INSTRUCTIONS

1. Please check all applicable categories (a. through i.) below and provide additional information where indicated.

- ☐ a. The requested product is an integral repair part or accessory compatible with existing equipment.

Existing Equipment: _____

Manufacturer/Model Number: _____

Age: _____

Current Estimated Value: _____

- ☐ b. The requested product has unique design/performance specifications or quality requirements that are not available in comparable products.

- ☐ c. I have standardized the requested product and the use of another brand/model would require considerable time and funding to evaluate.

- ☐ d. The requested product is one in which I (and/or my staff) have specialized training and/or extensive expertise. Retraining would incur substantial cost in time and/or funding.

- ☐ e. The requested product is used or demonstration equipment available at a lower-than-new cost.

- ☐ f. Repair/Maintenance service is available only from manufacturer or designated service representative.

- ☐ g. Upgrade to or enhancement of existing software is available only from manufacturer.

- ☒ h. Service proposed by vendor is unique; therefore, competitive bids are not available or applicable.

- ☒ i. Other factors (provide detailed explanation in #2 below).

2. Provide a detailed explanation and pertinent documentation *for each category* checked in item 1 above. Attach additional sheets if necessary:

h) PlaceWorks, Inc., employs an environmental planner (Mark Teauge) and associated staff that possesses specialized knowledge and prior experience evaluating ballot measures for compliance with the California Environmental Quality Act (CEQA). Preparing and circulating an RFP/RFQ is not likely to result in the City obtaining a more highly qualified firm.

i) PlaceWorks, Inc., is able to complete the environmental analysis and prepare an appropriate environmental document on a **condensed timeline in accordance with the needs of the City** (to meet the deadlines necessary to introduce a ballot measure for the November 2019 general election). PlaceWorks, Inc., will be able to immediately begin work upon execution of this single source contract. Preparing and circulating an RFP/RFQ is not likely to result in the City identifying a firm that could perform the work in less time.

→ Time is of the essence. *an*

3. Was an evaluation of other equipment, products, or services performed?

☐ Yes ☒ No

If yes, please explain the type of evaluation performed and provide all supporting documentation:

4. List below the name of each individual who was involved in the evaluation, if conducted, and in making the recommendation to procure this product or service. Attach additional information, if necessary.

Brain Desatnik, Development Services Director

5. Explain what action(s) the department would take if the sole/single source services were no longer available.

The delay caused by releasing a RFP/RFQ for these services and obtaining responses (a minimum 30-day process, and typically up to 60 days to execute a contract) would result in delaying the environmental review work that will likely result in an inability to complete the environmental review process prior to the deadline for the November 2019 election, and is not recommended.

4 Page

Signature / Date

Purchasing Approvals

Purchasing Agent Approval NAJ / 2/14/19. Date




City Manager Approval / Date

2/14/19

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res not applicable



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35 Cajon Street, Suite 20
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PLACEWORKS


Mark Teague, AICP
Associate Principal