

AGREEMENT TO FURNISH CONSULTING SERVICES  
FOR CONTRACT PLANNING

This agreement for consulting services ("Agreement") is made and entered into this 18<sup>th</sup> day of April, 2006 ("Effective Date"), by and between the City of Redlands, a municipal corporation ("City") and PZL, INC. ("Consultant") who 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 perform professional consulting services to assist the City Planning staff in expediting development review processing for major planning projects (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 which Consultant shall perform are more particularly described in Exhibit "A," entitled "Scope of Work and Fee Schedule," which is attached hereto and incorporated herein by this reference.
- 2.2 Consultant shall comply with all applicable Federal, State and local laws and regulations in the performance of this Agreement including, but not limited to, the Americans with Disabilities Act, the Fair Employment and Housing Act and prevailing wage laws commencing at Labor Code section 1770 *et seq.* and non-discrimination laws including the American's with Disabilities Act. Pursuant to Labor Code section 1773.2, copies of the prevailing rates of per diem wages as determined by the Director of the California Department of Industrial Relations for each craft, classification, or type of worker associated with the performance of the Services are on file at the City of Redlands office of the Public Works Department, Civic Center, 35 Cajon Street, Suite 222 (P.O. Box 3005 mailing), Redlands, California 92373.

### 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 will make reasonable provision for Consultant to enter upon City-owned property, as required by Consultant, to perform the Services.
- 3.3 City designates John Jaquess, City's Assistant Community Development Director, 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 the Services in a prompt and diligent manner, and the Services shall be conducted as directed by the City representative over the next two years beginning on the Effective Date of this Agreement.
- 4.2 At any time during the term of this Agreement, City may request that Consultant perform Extra Services. As used herein, "Extra Services" means any work which is determined necessary by City for the proper completion of the project or work for which the Services are being performed, but which the Parties did not reasonably anticipate would be necessary at the time of execution of this Agreement. Provided the Extra Work does not exceed twenty percent (20%) of the compensation to be paid by City to Consultant for the Services, such Extra Work may be agreed to by the Parties, by written amendment to this Agreement, executed by City's City Manager. Consultant shall not perform, nor be compensated for, Extra Work without such written authorization from City.

### ARTICLE 5 - PAYMENTS TO CONSULTANT

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed the amount of Fifty Thousand Dollars (\$50,000). City shall pay Consultant on a time and materials basis up to the not to exceed amount, in accordance with Exhibit "A" entitled "Scope of Work and Fee Schedule," attached hereto and incorporated herein by this reference.
- 5.2 Consultant shall submit monthly invoices to City describing the work 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, if any. City shall pay Consultant no later than thirty (30) days after receipt and approval by City of Consultant's invoice, provided the Services reflected in the invoice were performed to

the reasonable satisfaction of City in accordance with the terms of this Agreement, provided that the number of hours of Services set forth in the invoice reflect the amount of time ordinarily expended for such Services by members of the profession currently practicing in the same locality under similar conditions, and provided further that all expenses, rates and other information set forth in the invoice are consistent with the terms and conditions of the Agreement.

- 5.3 All notices shall be given in writing by personal delivery or by mail. Notices sent by mail should be addressed as follows:

City

John Jaquess, Assistant Community Development Director  
City of Redlands  
Community Development Department  
PO Box 3005  
Redlands, CA 92373

Consultant

Jim Morrissey, President  
PZL, Inc.  
41738 Fulton  
Hemet, CA 92544

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to who notices and payments are to be given by giving notice pursuant to this section 5.3.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 6.1 All insurance 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 all 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. All insurance policies shall include a provision prohibiting cancellation of the policy except upon thirty (30) days prior written notice to City.

6.2 Workers' Compensation and Employer's Liability.

A. Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout the duration of this Agreement in accordance with the laws of the State of California, with an insurance carrier acceptable to City.

B. Consultant expressly waives all rights to subrogation against City, its elected officials, officers and employees for losses arising from work performed by Consultant for City by expressly waiving Consultant's immunity for injuries to Consultant's employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this Agreement extends to any claim brought by or on behalf of any employee of Consultant. This waiver is mutually negotiated by the Parties. This waiver shall not apply to any damage resulting from the sole negligence of City, its employees or agents. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of City, its agents or employees, the obligations provided herein to indemnify, defend and hold harmless are valid and enforceable only to the extent of the negligence of Consultant, its officers, agents and employees.

6.3 Hold Harmless and Indemnification. 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 Consultant's and its officers', employees' and agents' sole negligent acts or omissions in performing the Services.

6.4 Assignment. Consultant is expressly prohibited from assigning any of the Services without the express prior written consent of City. In the event of agreement by the Parties to assign a portion of the Services, Consultant shall add the assignee as an additional insured and provide City with the insurance endorsements required by this Agreement prior to the performance of any Services by the assignee. Assignment does not include printing or other customary reimbursable expenses that may be provided for in this Agreement.

6.5 Comprehensive General Liability Insurance. Consultant shall secure and maintain in force throughout the term of this Agreement comprehensive general liability insurance with carriers acceptable to City. Minimum coverage 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. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.

6.6 Professional Liability Insurance. Consultant shall secure and maintain professional liability insurance throughout the term of this Agreement in the amount of One Million Dollars (\$1,000,000) per claim made. Certificate of liability insurance and endorsement shall be delivered to City prior to commencement of the services.

- 6.7 Business Auto Liability Insurance. Consultant shall have personal auto liability coverage, with minimum limits of one million dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. This coverage shall include all Consultant owned vehicles used on the project. Such insurance shall be primary and non-contributing to any insurance or self insurance maintained by City. A certificate of liability insurance and endorsement shall be delivered to City prior to commencement of the services.

## ARTICLE 7 - CONFLICTS OF INTEREST

- 7.1 Consultant covenants and represents that it does not have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the geographical area covered by this Agreement or any other source of income, interest in real property or investment which 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 or participate in:
- (i) the making or any governmental decisions regarding approval of a rate, rule or regulation, or the adoption or enforcement of laws;
  - (ii) the issuance, denial, suspension or revocation of permits, licenses, applications, certifications, approvals, orders or similar authorizations or entitlements;
  - (iii) authorizing City to enter into, modify or renew a contract;
  - (iv) granting 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) granting City approval to a plan, design, report, study or similar item;
  - (vi) Adopting, or granting 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 all 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 officially determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file the subject Form 700 with the City Clerk's office pursuant to the written instructions provided by the Office of the City Clerk.

#### ARTICLE 8 - GENERAL CONSIDERATIONS

- 8.1 Attorneys' Fees. 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 of the Parties at rates prevailing in San Bernardino County, California.
- 8.2 Prohibition Against Assignment. 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.
- 8.3 Documents and Records. All documents, records, drawings, designs, cost estimates, electronic data files, databases and other documents developed by Consultant in connection with its performance of the Services, and any copyright interest in such documents, shall become the property of City and shall be delivered to City upon completion of the Services, or upon the request of City. Any reuse of such documents, and any use of incomplete documents, shall be at City's sole risk.
- 8.4 Independent Contractor Status. Consultant is for all purposes under this Agreement an independent contractor and should perform the Services as an independent contractor. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as herein set forth. Consultant shall supply all tools and instrumentalities required to perform the Services. All personnel employed by Consultant are for its account only, and in no event shall Consultant or any 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.

8.5 Termination.

A. Unless earlier terminated, as provided for below, this Agreement shall terminate upon completion and acceptance of the Services by City.

B. This Agreement may be terminated by City, in its sole discretion, by providing five (5) business days prior written notice to Consultant (delivered by certified mail, return receipt requested) of City's intent to terminate.

C. 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.

D. Upon receipt of a termination notice, Consultant shall immediately discontinue its provisions 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 any 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.

8.6 Books and Records. Consultant shall maintain any and all books, ledgers, invoices, accounts and all 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 all reasonable times for examination by City at the office of Consultant.

8.7 Entire Agreement/Amendment. 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. Any amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.

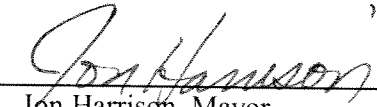
8.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

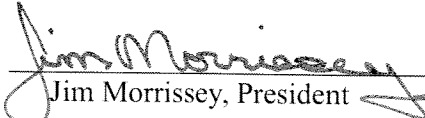
- 8.9 Severability. If one or more of the sentences, clauses, paragraphs or sections contained in this Agreement is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of 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 the City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

PZL, INC.

By:   
Jon Harrison, Mayor

By:   
Jim Morrissey, President

Attest:

  
City Clerk

EXHIBIT "A"

SCOPE OF WORK AND FEE SCHEDULE



# PZL, INC.

Planning

Zoning

Land Use

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March 9, 2006

MAR 13 2006

John Jaquess, Assistant Community Development Director  
Community Development Department  
**City of Redlands**  
P.O. Box 3005  
Redlands, CA 92373

**SUBJECT: PROPOSAL FOR CONTRACT STAFF**

Dear John:

Thank you for the opportunity to assist the City of Redlands as a contract planner to evaluate and process a residential specific plan and associated EIR within the city limits. I look forward to helping the City achieve their desired result in the design and implementation of the proposed project.

Project Understanding

It is my understanding the City is interested in utilizing contract planning services to assist in the expedited processing of a specific plan and EIR. It is also my understanding that this will probably involve the subsequent processing of additional materials, such as site plans, building plans, and other materials that might extend the review process through to the construction and possibly the occupancy of the proposed project.

Project Experience

In order to familiarize you with my background I have attached my resume' and company Statement of Qualifications for your review. In addition to the items listed, I have had the opportunity to either prepare documentation and/or review a number of large projects, including the following:

- Assisted the City of Palm Springs as a contract planner in their initial evaluation of the Palm Hills Specific Plan and environmental impact report. The proposed project, which had been evaluated by the City over several decades, and which was eventually approved by the City, consisted of 1,200

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41738 Fulton Ave., Hemet, CA 92544

Phone: (951) 925-8455 • Fax: (951) 925-8588 • E-mail: pzl@verizon.net

residential and hotel units and an 18-hole golf course on approximately 1,204 acres on property generally located in the southern end of the City above Bob Hope's former residence. Very sensitive environmental issues existed due to the potential presence of Big Horn Sheep and general community concern about development in the mountain areas. I was responsible for reviewing materials submitted by the applicant and EIR material prepared by the City's EIR consultant. I was also responsible for crafting the general plan amendment language for the applicant in order to provide a basis for the City's evaluation of the difference between the subject property and other mountainous areas. I also completed an extensive rewrite of the land use section of the environmental impact report using add/delete format. The project is currently being litigated.

- Assisted LSA Associates in the preparation of environmental documentation for the Riverside County Integrated Plan (the County's new General Plan). My specific area of responsibility was to contact and obtain information on the type and extent of operations for public agencies within the County. This consisted of contacting by mail, with follow-up phone calls, to the various fire districts, sheriff's department, water and/or sewer districts, recreation districts, conservation districts, school districts, libraries, medical providers, and other public agencies. I then prepared a comprehensive analysis of the ability of each sector to provide services within certain defined geographic areas of the county.
- Assisted the City of Coachella as a contract planner to process, review, and evaluate a general plan amendment, zone change, specific plan, tentative tract map, development agreement, and associated environmental impact report. The project consisted of a 454-acre residential and commercial specific plan with an 18-hole golf course. The applicant requested expedited processing with a very ambitious schedule. The schedule was maintained until the project started to approach the point of determining whether or not a hearing could be scheduled. At that time processing was terminated by the City because the City Attorney was concerned about the cost/benefit of the project. Without the ability to complete the project within the desired time frame the project was withdrawn.
- Responsible for reviewing the Lytle Creek North Planned Development Project Environmental Impact Report (EIR) for the City of Rialto. The EIR was a very detailed evaluation of a proposed project encompassing 2,466 residential units, 678,450 square feet of mixed commercial development, a school site, parkland, open space areas, and an on-site package treatment plant on 647.4 acres. The project evaluated a combination of applications, including a preliminary development plan, general plan amendment, zone change, tentative maps, and other related applications. The purpose of the

evaluation was to identify specific areas of concern for the City in their review of the project.

- Assisted Michael Brandman Associates in the preparation of a number of sections of the environmental impact report for "The Preserve" in the Chino Agricultural Preserve. The proposed project consisted of allowing up to 8,200 dwelling units on 1,206 acres, 797 acres of business uses (Community Core, Light Industrial, Airport Related, Business Park/Office, Regional Commercial, Neighborhood Commercial), 429 acres of public facilities, and over 3,000 acres in open space (Recreation, Agricultural and Natural Open Space) in the City of Chino. The sections I prepared included land use, traffic, agriculture, aesthetics, alternatives, hazards, population and housing, growth inducement, significant irreversible environmental changes, and responses to comments. The proposed project was approved.

#### Supervision

It is my understanding **PZL, Inc.** will work under the direction of John Jaquess and that adequate and timely information will be conveyed to **PZL, Inc.** to ensure a proper understanding of the tasks assigned/requested by the City, including the time frame and manner in which they are to be completed.

#### Work Location

Most of the work is to be completed at the office of **PZL, Inc.**, although it is my understanding that room can be made available, when necessary, to undertake work at the Redlands' City offices.

#### Billing Rates

Current billing rates are \$90.00/hour and \$0.485/mile. Billing rates are "portal to portal" and, therefore, would include driving time to and from the City or other locations of business related to the proposed project. Reproduction is expected to occur at the City offices. Should this need to occur at other locations this effort will be billed at cost plus 15%.

#### Payment Schedule

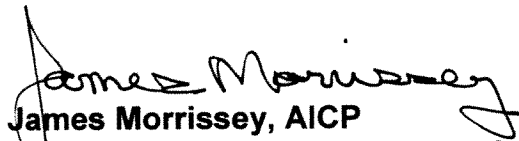
It is my understanding that funds will be deposited with the City of Redlands and continually maintained by the developer at an adequate level to ensure prompt payment of all invoices. All project invoices will be submitted to the City of Redlands and are payable to **PZL, Inc.** within 30 days of the invoice date. Invoices will generally be filed on a monthly basis, depending upon the level of project activity.

Insurance

I have recently changed insurance companies and now utilize the United States Liability Insurance Company, Policy # CX1005502. This carrier will continue to maintain my company's coverage for general liability and professional liability in the amount of \$1,000,000.00 each, with an aggregate of \$1,000,000.00 each. This company is an admitted carrier in the State of California. Since **PZL, Inc.** does not have other personnel besides the undersigned, Worker's Compensation Insurance has not been obtained.

I hope this information is helpful. Should you have any questions, please do not hesitate to contact me.

Sincerely,



**James Morrissey, AICP**  
President, PZL Inc., a California Corporation