

AGREEMENT TO FURNISH ENVIRONMENTAL CONSULTANT SUPPORT SERVICES

This Agreement is made and entered into this 1st day of July, 2003 by and between the City of Redlands, a municipal corporation (hereinafter "City") and Tom Dodson & Associates, hereinafter ("Consultant").

In consideration of the mutual promises, covenants and conditions hereinafter set forth, City and Consultant agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant and Consultant hereby accepts the engagement, to perform professional planning consulting support services ("Services") for the City's preparation of an environmental document to provide compliance with the California Environmental Quality Act for a sales tax apportionment and municipal services contract between the City of Redlands and the County of San Bernardino, and a subsequent ballot measure relating to the same (the "Project").
- 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 specific Services which Consultant shall perform are more particularly described in Exhibit "A," which is attached hereto and incorporated herein by this reference.

ARTICLE 3 - RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that is pertinent to the performance of Consultant's Services.
- 3.2 City will provide access to and make provisions for Consultant to enter upon City property as required by Consultant to perform the Services.
- 3.3 City designates Jeff Shaw, to act as its representative with respect to the Services to be performed under this Agreement.

ARTICLE 4 - PERIOD OF SERVICE

- 4.1 Consultant shall perform the Services in a diligent manner so that the environmental work is complete by August 5, 2003.

ARTICLE 5 - PAYMENTS TO THE CONSULTANT

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed \$7,800, in accordance with the attached proposal letter. City shall pay Consultant on the basis shown in the attached letter.
- 5.2 Consultant shall bill City within ten days following the close of each month by submitting an invoice indicating the portion of the Services performed, who performed the Services, indirect costs, and the detailed cost of all Services including backup documentation. Payments by City to Consultant shall be made within 30 days after receipt and approval of Consultant's invoice, by warrant payable to Consultant.
- 5.3 All contractual notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail shall be addressed as follows:

City

Jeff Shaw
Community Development Dept.
35 Cajon Street, Suite 20
Redlands, CA 92373

Consultant

Attn: Tom Dodson
Tom Dodson and Associates
2150 N. Arrowhead Avenue
San Bernardino, CA 92405

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 whom notices and payments are to be given by giving notice pursuant to this paragraph.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 Consultant's Insurance to be Primary

All insurance required by this Agreement is to be maintained by Consultant for the duration of this Project and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by the City. Consultant shall not perform any Services pursuant to this Agreement 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 work. 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 amounts which meet statutory requirements with an insurance carrier acceptable to City.
- B. Consultant expressly waives all rights to subrogation against City, its officers, employees and volunteers 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 shall not apply to any damage resulting from the sole negligence of City, its agents and employees. 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 is valid and enforceable only to the extent of the negligence of Consultant, its officers, agents and employees.

6.3 Comprehensive General Liability Insurance. Consultant shall secure and maintain in force throughout the duration 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. Consultant shall obtain an endorsement that City shall be named as an additional insured.

6.4 Professional Liability Insurance. Consultant, shall secure and maintain professional liability insurance throughout the duration of this Agreement in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate.

6.5 Business Auto Liability Insurance. Consultant shall have business auto liability coverage, with minimum limits of 1 million (\$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, hired and non-owned vehicles, and employee non-ownership vehicles. Consultant shall obtain an endorsement that City shall be named as an additional insured.

6.6 Assignment and Insurance Requirements. Consultant is expressly prohibited from subletting or assigning any of the services covered by this Agreement without the express written consent of City. In the event of mutual agreement between parties to sublet a portion of the Services, the Consultant will add the subcontractor as an additional insured and provide City with the

insurance endorsements prior to any work being performed by the subcontractor. Assignment does not include printing or other customary reimbursable expenses that may be provided in this Agreement.

6.7 Hold Harmless and Indemnification. Consultant shall defend, indemnify and hold harmless City, its elected officials, officers, employees and agents, from and against any and all actions, claims, demands, lawsuits, losses and liability for damages to persons or property, including costs and attorney fees, that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with Consultant's negligent and/or intentionally wrongful acts or omissions under this Agreement; but excluding such actions, claims, demands, lawsuits and liability for damages to persons or property arising from the sole negligence or intentionally wrongful acts of City, its officers, employees or agents.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 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.
- 7.2 Consultant shall not assign any of the Services required by this Agreement, except with the prior written approval of City and in strict compliance with the terms, provisions and conditions of this Agreement.
- 7.3 Consultant's key personnel for the Project is Tom Dodson. Consultant agrees that the key personnel shall be made available to the Project and that he shall not be replaced without concurrence from City.
- 7.4 All documents, records, drawings, designs, cost estimates, electronic data files, databases, and other documents developed by Consultant pursuant to this Agreement 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 will be at City's sole risk.
- 7.5 Consultant is for all purposes an independent contractor. Consultant shall supply all tools and instrumentalities required to perform the consulting services in this Agreement. 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.
- 7.6 Unless earlier terminated, as provided for below, this Agreement shall terminate upon completion and acceptance by City of the Services.
- 7.7 This Agreement may be terminated by the City, without cause, by providing five (5) days

prior written notice to the Consultant (delivered by certified mail, return receipt requested) of intent to terminate.

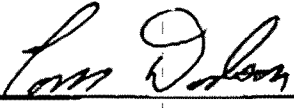
- 7.8 This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 7.9 If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed services, and (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.
- 7.10 Upon receipt of a termination notice, Consultant shall (1) promptly discontinue all services affected, and (2) 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 required by this Agreement.
- 7.11 Consultant shall maintain books and accounts of all Project related payroll costs and all expenses. Such books shall be available at all reasonable times for examination by the City at the office of Consultant.
- 7.12 This Agreement, including the attachments incorporated herein by reference, represents the entire agreement and understanding between the parties as to the matters contained herein, and any prior negotiations, proposals or oral arguments are superseded by this Agreement. Any amendment to this Agreement shall be in writing, approved by the City Council of City and signed by City and Consultant.
- 7.13 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

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

City of Redlands

Consultant

By: 
KARL N. HAWS
Mayor

By: 
Tom Dodson

Attest:

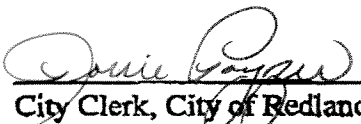

City Clerk, City of Redlands

EXHIBIT "A"

MEMORANDUM

June 26, 2003

From: Tom Dodson

To: Jeff Shaw/Dan McHugh

Subj: Proposal to provide environmental consulting support for service contract between the City of Redlands and San Bernardino County

In our recent discussions, you requested that I provide a proposal to assist the City of Redlands to conduct an environmental review for a contract between the City and County for provision of services to an unincorporated area in the northwest portion of the City. You requested that Tom Dodson & Associates (TDA) provide the City with support in preparing an environmental document to provide compliance with the California Environmental Quality Act for the City. The Initial Study being requested would assist the City and County to determine whether the impacts of implementing the proposed project will require the adoption of a Categorical/Statutory Exemption, adoption of a Negative Declaration or certification of an environmental impact report (EIR). This proposal outlines the work effort that I believe will be necessary to provide sufficient environmental consulting support to achieve the goal of complying with the CEQA for this project..

I propose to implement the following tasks to determine the type of environmental determination required for the proposed contract and an ultimate ballot measure for the City's voters.

Task 1: Prepare a project description.

TDA will compile all relevant data regarding the area that will be encompassed within the proposed contract service area. As you know, the key issues related to consideration of this project are the ability to provide adequate services within the new area and the existing City service areas and potential growth inducement issues. I anticipate that the effort to define the proposed contract for evaluation will require about 10 hours, including interviews with the City and County staff to define a mutually acceptable basis for the contract. It is assumed that the City of Redlands will provide the supporting contract and other information required to characterize the proposed action for the Initial Study. The fee for this task will be \$1,500

Task 2: Prepare an Initial Study in conformance with the State CEQA Guidelines that will allow the City to make an independent decision regarding appropriate environmental document for the proposed project. Utilizing the project description, TDA will prepare a detailed Initial Study that

will forecast the potential impacts of the proposed project. For a project such as that proposed, documentation is essentially a demonstration that the extension of specific services into the project area has only limited potential to cause significant physical changes in the environment. I anticipate that the forecast will verify that the project will support the adoption of an exemption or a Negative Declaration. I consider it a very low probability that an EIR will be required. The fee for preparing the Initial Study is \$3,800. I do not envision requiring that any technical studies be prepared to support this Initial Study.

Task 3: Assist the City to process the recommended CEQA determination for the proposed project. Working with the City and County, TDA will support public circulation of the Initial Study for the proposed project; prepare a mitigation monitoring program, if required; respond to comments; and attend any hearings for the proposed project before the City. I anticipate up to 30 hours for a fee of \$2,500. However, this task is inherently open ended, and unlike the previous tasks which I can perform on a fixed fee basis, this task must be performed on a time and materials basis with a not to exceed fee of \$2,500. If this fee needs to be adjusted because of additional time demands (such as several hearings), such an increase would be mutually agreed upon before expending the time.

The end result of implementing the above proposal will be the completion of the CEQA process for the proposed project. All work will be performed in a timely manner to meet identified City schedules by Tom Dodson. The total estimated fee to complete the tasks outlined in this proposal is \$7,800. If this proposal is acceptable to you, I am ready to initiate TDA's work effort immediately upon authorization. This work effort will be scheduled closely with the City's goals for implementing the proposed contract. Should you have any questions regarding this proposal, please feel free to give me a call.

Sincerely,

Tom Dodson

Resolution No. 6174 - Street Vacation No. 125 - On motion of Councilmember Gilbreath, seconded by Councilmember George, Resolution No. 6174 a resolution of the City Council of the City of Redlands declaring its intention to vacate a portion of New Jersey Street, south of Park Avenue (Pence Construction, Inc., applicant) and setting the public hearing for this street vacation at 7:00 P.M. on August 5, 2003, was unanimously adopted.

Request for Proposals - Environmental Assessment - On motion of Councilmember Gilbreath, seconded by Councilmember George, the City Council unanimously directed staff to prepare a request for proposals to prepare an Environmental Impact Report for the Covington Project (General Plan Amendment No. 93, Agricultural Preserve Removal No. 100, Zone Change No. 390, Conditional Use Permit No. 780, and Tract No. 61361 for property located south of Highview Drive and East of Freya Drive).

Funds - Agreement - Environmental Services - Donut Hole Contract - Community Development Director Shaw reported the City is negotiating a contract with the County of San Bernardino pertaining to sales tax sharing and the provision of City services to the Donut Hole. A subsequent ballot measure to the voters relating to this contract is also part of the project. An environmental assessment of this project needs to be completed over the next ten days so as to be completed for City Council consideration at their meeting of August 5, 2003. Representing The Redlands Association, Bill Cunningham demanded the City Council conform fully with CEQA laws and guidelines and the California Government Code regarding City Council initiatives and did not feel sufficient time was allowed for the public to comment on the proposed contract. City Attorney McHugh stated this action conforms with CEQA, the Government Code, and the Brown Act. Councilmember Harrison moved to approve an agreement with Tom Dodson and Associates for environmental services related to the review, evaluation and preparation of an initial study and recommendation regarding a contract for sales tax sharing and provision of City services between the City of Redlands and the County of San Bernardino and a subsequent ballot measure and authorized the Mayor and City Clerk to execute the agreement on behalf of the City. Motion seconded by Councilmember Peppler and carried unanimously. Councilmember Harrison moved to appropriate \$7,800.00 for professional services. Motion seconded by Councilmember Peppler and carried unanimously.

Contract - Cable Television Consultant Services - On motion of Councilmember Gilbreath, seconded by Councilmember George, the City Council unanimously approved a contract with Gerald Hanson for cable television consultant services for the period July 1, 2003, through June 30, 2004, noting funds have been included in the Fiscal Year 2003-04 budget for this contract and authorized the Mayor and City Clerk to execute the contract on behalf of the City.