

# City of La Quinta

CITY COUNCIL MEETING: July 7, 2015

## STAFF REPORT

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**AGENDA TITLE:** APPROVE PROFESSIONAL SERVICES AGREEMENT WITH THE ALTUM GROUP FOR THE VILLAGE BUILDOUT PLAN ENVIRONMENTAL IMPACT REPORT

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### RECOMMEDATION

Approve a Professional Services Agreement with The Altum Group in an amount not to exceed \$150,000 for contract planning services to prepare an Environmental Impact Report (EIR) for the Village Build Out Plan.

### EXECUTIVE SUMMARY

- At its meeting of January 6, 2015, staff presented concepts and goals to improve economic development in the Village.
- At that meeting, the City Council directed staff to proceed with the selection of a professional planning firm to prepare an Environmental Impact Report (EIR) for the Village Build Out Plan.
- Staff prepared a Request for Proposals, distributed it to qualified firms, and completed an interview process to select The Altum Group for the project.
- The project is expected to be complete by March of 2016.

### FISCAL IMPACT

The City Council allocated \$150,000.00 for this project in the 2015/2016 budget.

### BACKGROUND/ANALYSIS

In the City's continued efforts to encourage development in the Village, staff presented the City Council with concepts and strategies for incentivizing the development community to consider projects in the Village. One of these strategies is to complete the environmental review process required under the California Environmental Quality Act (CEQA) for build out conditions, so that individual projects that are consistent with the anticipated build out do not have to complete CEQA documents, but instead rely on the City's certified EIR.

The Council authorized staff to proceed with a Request for Proposals (RFP) in January. Since that time, staff completed the RFP, notified qualified planning firms of the RFP, and received seven (7) responses. An evaluation panel comprised of staff from the Community Development and Public Works departments evaluated all seven proposals, and identified the top three proposers. These three firms, Dudek, Recon and The Altum Group, were invited to interview with staff panel members. The panel members concluded, after interviewing all three firms, that The Altum Group was best qualified, and had the

greatest understanding of the issues and challenges facing the City in the Village. The Altum Group is a local firm whose principal has been involved in planning efforts in the Village for a number of years, and whose staff has a clear understanding of hydrology and traffic issues in the area.

The Altum Group has reviewed the attached Professional Services Agreement (Attachment 1), agreed with its terms, and signed the document. This request is to authorize the City Manager to sign the PSA, and initiate the project activities.

### ALTERNATIVES

The City Council may reject the selection of The Altum Group, and direct staff to re-issue the RFP, with direction on how to amend the RFP. Because the City received seven proposals, all from qualified firms, and undertook a comprehensive review of these proposals, and identified a qualified and knowledgeable firm, staff does not recommend this alternative.

Report prepared by: Les Johnson, Community Development Director

Report approved by: Frank Spevacek, City Manager

Attachment: 1. Professional Services Agreement

# ATTACHMENT 1

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is made and entered into by and between the CITY OF LA QUINTA, ("City"), a California municipal corporation, and The Altum Group ("Consultant"). The parties hereto agree as follows:

### 1.0 SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, Consultant shall provide those services related the Village Build Out Plan Environmental Impact Report (EIR) as specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference (the "Services"). Consultant represents and warrants that Consultant is a provider of first-class services and Consultant is experienced in performing the Services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar services under similar circumstances.

1.2 Compliance with Law. All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, regulations, and laws of the City and any Federal, State, or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Except as otherwise specified herein, Consultant shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the Services required by this Agreement, including a City of La Quinta business license. Consultant and its employees, agents, and subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for the performance of the Services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the performance of the Services required by this Agreement, and shall indemnify, defend (with counsel selected by City), and hold City, its elected officials, officers, employees, and agents, free and harmless against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City hereunder. Consultant shall be responsible for all subcontractors' compliance with this Section.

1.4 Familiarity with Work. By executing this Agreement, Consultant warrants that (a) it has thoroughly investigated and considered the Services to be performed, (b) it has investigated the site where the Services are to be performed, if any, and fully acquainted itself with the conditions there existing, (c) it has carefully considered how the Services should be performed, and (d) it fully understands the facilities, difficulties, and restrictions

attending performance of the Services under this Agreement. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by City, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (as defined in Section 4.2 hereof).

1.5 Standard of Care. Consultant acknowledges and understands that the Services contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, Consultant's work will be held to a heightened standard of quality. Consistent with Section 1.4 hereinabove, Consultant represents to City that it holds the necessary skills and abilities to satisfy the heightened standard of quality as set forth in this Agreement. Consultant shall adopt reasonable methods during the life of this Agreement to furnish continuous protection to the Services performed by Consultant, and the equipment, materials, papers, and other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence. The performance of Services by Consultant shall not relieve Consultant from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to City, when such inaccuracies are due to the negligence of Consultant.

1.6 Additional Services. In accordance with the terms and conditions of this Agreement, Consultant shall perform services in addition to those specified in the Scope of Services ("Additional Services") only when directed to do so by the Contract Officer, provided that Consultant shall not be required to perform any Additional Services without compensation. Consultant shall not perform any Additional Services until receiving prior written authorization from the Contract Officer, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of Consultant. It is expressly understood by Consultant that the provisions of this Section shall not apply to the Services specifically set forth in the Scope of Services or reasonably contemplated therein. It is specifically understood and agreed that oral requests and/or approvals of Additional Services shall be barred and are unenforceable. Failure of Consultant to secure the Contract Officer's written authorization for Additional Services shall constitute a waiver of any and all right to adjustment of the Contract Sum or time to perform this Agreement, whether by way of compensation, restitution, quantum meruit, or the like, for Additional Services provided without the appropriate authorization from the Contract Officer. Compensation for properly authorized Additional Services shall be made in accordance with Section 2.3 of this Agreement.

1.7 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in Exhibit "D" (the "Special Requirements"), which is incorporated herein by this reference and expressly made a part hereof. In the

event of a conflict between the provisions of the Special Requirements and any other provisions of this Agreement, the provisions of the Special Requirements shall govern.

## 2.0 COMPENSATION

2.1 Contract Sum. For the Services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with Exhibit "B" (the "Schedule of Compensation") in a total amount not to exceed One Hundred and Fifty Thousand Dollars (\$150,000.00) (the "Contract Sum"), except as provided in Section 1.6. The method of compensation set forth in the Schedule of Compensation may include a lump sum payment upon completion, payment in accordance with the percentage of completion of the Services, payment for time and materials based upon Consultant's rate schedule, but not exceeding the Contract Sum, or such other methods as may be specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City; Consultant shall not be entitled to any additional compensation for attending said meetings. Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, transportation expense, telephone expense, and similar costs and expenses when and if specified in the Schedule of Compensation. Regardless of the method of compensation set forth in the Schedule of Compensation, Consultant's overall compensation shall not exceed the Contract Sum, except as provided in Section 1.6 of this Agreement.

2.2 Method of Billing. Any month in which Consultant wishes to receive payment, Consultant shall submit to City no later than the tenth (10th) working day of such month, in the form approved by City's Finance Director, an invoice for Services rendered prior to the date of the invoice. Such invoice shall (1) describe in detail the Services provided, including time and materials, and (2) specify each staff member who has provided Services and the number of hours assigned to each such staff member. Such invoice shall contain a certification by a principal member of Consultant specifying that the payment requested is for Services performed in accordance with the terms of this Agreement. Subject to retention pursuant to Section 8.3, City will pay Consultant for all items stated thereon which are approved by City pursuant to this Agreement no later than thirty (30) days after invoices are received by the City's Finance Department.

2.3 Compensation for Additional Services. Additional Services approved in advance by the Contract Officer pursuant to Section 1.6 of this Agreement shall be paid for in an amount agreed to in writing by both City and Consultant in advance of the Additional Services being rendered by Consultant. Any compensation for Additional Services amounting to five percent (5%) or less of the Contract Sum may be approved by the Contract Officer. Any greater amount of compensation for Additional Services must be approved by the La Quinta City Council. Under no circumstances shall Consultant receive compensation for any Additional Services unless prior written approval for the Additional Services is obtained from the Contract Officer pursuant to Section 1.6 of this Agreement.

### 3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. If the Services not completed in accordance with the Schedule of Performance, as set forth in Section 3.2 and Exhibit C, it is understood that the City will suffer damage.

3.2 Schedule of Performance. All Services rendered pursuant to this Agreement shall be performed diligently and within the time period established in Exhibit C (the "Schedule of Performance"). Extensions to the time period specified in the Schedule of Performance may be approved in writing by the Contract Officer.

3.3 Force Majeure. The time period specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant, including, but not restricted to, acts of God or of the public enemy, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, acts of any governmental agency other than City, and unusually severe weather, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the forced delay when and if in his or her judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. Extensions to time period in the Schedule of Performance which are determined by the Contract Officer to be justified pursuant to this Section shall not entitle the Consultant to additional compensation in excess of the Contract Sum.

3.4 Term. Unless earlier terminated in accordance with Sections 8.8 or 8.9 of this Agreement, the term of this agreement shall commence on July 8, 2015 and terminate on June 30, 2016 ("Initial Term"). This Agreement may be extended for one additional year(s) upon mutual agreement by both parties ("Extended Term").

### 4.0 COORDINATION OF WORK

4.1 Representative of Consultant. The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the Services specified herein and make all decisions in connection therewith:

- a. Michael Peroni  
E-mail: [mike.peroni@thealtumgroup.com](mailto:mike.peroni@thealtumgroup.com)
- b. Nancy Ferguson  
E-mail: [nancy.ferguson@thealtumgroup.com](mailto:nancy.ferguson@thealtumgroup.com)

It is expressly understood that the experience, knowledge, capability, and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. For purposes of this Agreement, the foregoing Principals may not be changed by Consultant and no other personnel may be assigned to perform the Services required hereunder without the express written approval of City.

4.2 Contract Officer. The "Contract Officer" shall be Community Development Director Les Johnson, or such other person as may be designated in writing by the City Manager of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions, that must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability, and reputation of Consultant, its principals, and its employees were a substantial inducement for City to enter into this Agreement. Except as set forth in this Agreement, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered, voluntarily or by operation of law, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. Any attempted or purported assignment or contracting by Consultant without City's express written approval shall be null, void, and of no effect. No approved transfer shall release Consultant of any liability hereunder without the express consent of City.

4.4 Independent Contractor. Neither City nor any of its employees shall have any control over the manner, mode, or means by which Consultant, its agents, or its employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision, or control of Consultant's employees, servants, representatives, or agents, or in fixing their number or hours of service. Consultant shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant. Consultant shall have no power to incur any debt, obligation,

or liability on behalf of City. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. Except for the Contract Sum paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing the Services hereunder. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System ("PERS") as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation laws regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any payment due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

4.5 Identity of Persons Performing Work. Consultant represents that it employs or will employ at its own expense all personnel required for the satisfactory performance of any and all of the Services set forth herein. Consultant represents that the Services required herein will be performed by Consultant or under its direct supervision, and that all personnel engaged in such work shall be fully qualified and shall be authorized and permitted under applicable State and local law to perform such tasks and services.

4.6 City Cooperation. City shall provide Consultant with any plans, publications, reports, statistics, records, or other data or information pertinent to the Services to be performed hereunder which are reasonably available to Consultant only from or through action by City.

## 5.0 INSURANCE

5.1 Insurance. Prior to the beginning of any Services under this Agreement and throughout the duration of the term of this Agreement, Consultant shall procure and maintain, at its sole cost and expense, and submit concurrently with its execution of this Agreement, policies of insurance as set forth in Exhibit E (the "Insurance Requirements") which is incorporated herein by this reference and expressly made a part hereof.



## 6.0 INDEMNIFICATION.

6.1 Indemnification. To the fullest extent permitted by law, Consultant shall indemnify, protect, defend (with counsel selected by City), and hold harmless City and any and all of its officers, employees, agents, and volunteers as set forth in Exhibit F (“Indemnification”) which is incorporated herein by this reference and expressly made a part hereof.

## 7.0 RECORDS AND REPORTS.

7.1 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning Consultant’s performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of the Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

7.2 Records. Consultant shall keep, and require any subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports (including but not limited to payroll reports), studies, or other documents relating to the disbursements charged to City and the Services performed hereunder (the “Books and Records”), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Consultant’s business, custody of the Books and Records may be given to City, and access shall be provided by Consultant’s successor in interest. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds Ten Thousand Dollars (\$10,000.00), this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

7.3 Ownership of Documents. All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents,

and other materials plans, drawings, estimates, test data, survey results, models, renderings, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings, digital renderings, or data stored digitally, magnetically, or in any other medium prepared or caused to be prepared by Consultant, its employees, subcontractors, and agents in the performance of this Agreement (the "Documents and Materials") shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the expiration or termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, revise, or assignment. Consultant may retain copies of such Documents and Materials for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any Documents and Materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

In the event City or any person, firm, or corporation authorized by City reuses said Documents and Materials without written verification or adaptation by Consultant for the specific purpose intended and causes to be made or makes any changes or alterations in said Documents and Materials, City hereby releases, discharges, and exonerates Consultant from liability resulting from said change. The provisions of this clause shall survive the termination or expiration of this Agreement and shall thereafter remain in full force and effect.

7.4 Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, rights of reproduction, and other intellectual property embodied in the Documents and Materials. Consultant shall require all subcontractors, if any, to agree in writing that City is granted a non-exclusive and perpetual license for the Documents and Materials the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all of the Documents and Materials. Consultant makes no such representation and warranty in regard to the Documents and Materials which were prepared by design professionals other than Consultant or provided to Consultant by City. City shall not be limited in any way in its use of the Documents and Materials at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

7.5 Release of Documents. The Documents and Materials shall not be released publicly without the prior written approval of the Contract Officer or as required by law.

Consultant shall not disclose to any other entity or person any information regarding the activities of City, except as required by law or as authorized by City.

#### 8.0 ENFORCEMENT OF AGREEMENT.

8.1 California Law. This Agreement shall be interpreted, construed, and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within forty-five (45) days after service of the notice, or such longer period as may be permitted by the Contract Officer; provided that if the default is an immediate danger to the health, safety, or general welfare, City may take such immediate action as City deems warranted. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City's right to terminate this Agreement without cause pursuant to Section 8.8. During the period of time that Consultant is in default, City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, City may, in its sole discretion, elect to pay some or all of the outstanding invoices during any period of default.

8.3 Retention of Funds. City may withhold from any monies payable to Consultant sufficient funds to compensate City for any losses, costs, liabilities, or damages it reasonably believes were suffered by City due to the default of Consultant in the performance of the Services required by this Agreement.

8.4 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. City's consent or approval of any act by Consultant requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act of Consultant. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.5 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.6 Legal Action. In addition to any other rights or remedies, either party may take legal action, at law or at equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.7 Termination Prior To Expiration Of Term. This Section shall govern any termination of this Agreement, except as specifically provided in the following Section 8.9 for termination for cause. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Consultant shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 8.3.

8.8 Termination for Default of Consultant. If termination is due to the failure of Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.2, take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of setoff or partial payment of the amounts owed City as previously stated in Section 8.3.

8.9 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees; provided, however, that the attorneys' fees awarded pursuant to this Section shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing party in the conduct of the litigation. Attorneys' fees shall include attorneys' fees on any appeal, and in addition a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery, and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such

action and shall be enforceable whether or not such action is prosecuted to judgment. The court may set such fees in the same action or in a separate action brought for that purpose.

#### 9.0 CITY OFFICERS AND EMPLOYEES; NONDISCRIMINATION.

9.1 Non-liability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Consultant, or any successor in interest, in the event or any default or breach by City or for any amount which may become due to Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. Consultant covenants that neither it, nor any officer or principal of it, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of the Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to this Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant 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 Agreement.

9.3 Covenant against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

#### 10.0 MISCELLANEOUS PROVISIONS

10.1 Notice. Any notice, demand, request, consent, approval, or communication either party desires or is required to give the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the address set

forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To City:  
CITY OF LA QUINTA  
Attention: Les Johnson  
Community Development Director  
78-495 Calle Tampico  
La Quinta, California 92253

To Consultant:  
THE ALTUM GROUP  
Attention: Mike Peroni  
73-710 Fred Waring Drive, Suite 219  
Palm Desert, CA 92260

10.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.3 Section Headings and Subheadings. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

10.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument

10.5 Integrated Agreement. This Agreement including the exhibits hereto is the entire, complete, and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

10.6 Amendment. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by Consultant and by the City Council of City. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

10.7 Severability. In the event that any one or more of the articles, phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable, such invalidity or unenforceability shall not affect any of the remaining articles, phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

10.8 Unfair Business Practices Claims. In entering into this Agreement, Consultant offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials related to this Agreement. This assignment shall be made and become effective at the time City renders final payment to Consultant without further acknowledgment of the parties.

10.9 No Third Party Beneficiaries. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

10.10 Authority. The persons executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

CITY OF LA QUINTA,  
a California municipal corporation

CONSULTANT:

By: Michael Peroni

Name: MICHAEL A. PERONI

Title: President, THE ALTUM GROUP

\_\_\_\_\_  
FRANK J. SPEVACEK, City Manager

Dated: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
SUSAN MAYSELS, City Clerk, La Quinta,  
California

APPROVED AS TO FORM:

\_\_\_\_\_  
WILLIAM H. IHRKE, City Attorney  
City of La Quinta, California

Two signatures are required if Consultant is a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of RIVERSIDE

On 06/26/2015 before me, ELVIRA SCHULTE, NOTARY PUBLIC  
(here insert name and title of the officer)

personally appeared \*\*\* MICHAEL A PERONI \*\*\*

with an Professional Service Agreement for La Quinta Village E.I.R., and \*\*\*

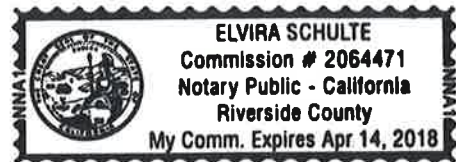
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who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Elvira Schulte*



(Seal)

Exhibit A  
Scope of Services

**EXHIBIT “A”  
 Scope of Work for the Village Build-out Plan  
 Environmental Impact Report  
 City of La Quinta  
 May 8, 2015**



**Scope of Work**

<b>Task 1: Prepare Initial Study and Notice of Preparation</b>	
<i>A. Project Initiation</i>	<ul style="list-style-type: none"> <li>Review the City’s Village Build-Out Plan then conduct a Site Visit to walk the area and take photographs of existing conditions to prepare for the Project Kick-off Meeting.</li> <li>Attend a Kick-off Meeting with City staff to discuss the Build-Out Plan, and review Altum’s scope of work for the preparation of the Project-Level EIR. Kunzman’s project manager will also attend the kick off meeting.</li> <li>Prepare a comprehensive Project Description based on the City’s Build-Out Plan and prepare a description of potential Alternatives to the Build-Out Plan for review by City staff.</li> </ul>
<i>B. Initial Study and Notice of Preparation</i>	<ul style="list-style-type: none"> <li>Based on the approved Project Description and description of Alternatives, Altum will prepare a Draft Initial Study, Notice of Preparation, SCH Summary, and Distribution List for City staff review.</li> <li>City staff will review the NOP package and provide comments that will be incorporated into a revised IS/NOP for public review.</li> <li>Attend the Public Scoping Meeting</li> </ul>
<i>Task 1 Deliverables:</i>	<ul style="list-style-type: none"> <li>3 printed copies of the draft IS/NOP, one electronic copy in Microsoft Word and the draft NOP Distribution List.</li> <li>3 printed copies of the revised final IS/NOP, one electronic copy in Microsoft Word and one electronic copy in PDF format.</li> <li>Up to 50 distribution copies (on CD) of the IS/NOP.</li> <li>One printed copy and one electronic copy of the transmittal documents (Notice of Completion, Notice of Availability), including USPS or other delivery system confirmation).</li> </ul>
<b>Task 2 Prepare Draft Environmental Impact Report</b>	
<i>A. Traffic Impact Analysis – Kunzman Associates</i>	<p>Based on the Village Build-Out Plan Kunzman will prepare the Traffic Impact Analysis for the preferred build-out scenario and three Alternatives as defined in the RFP.</p> <ul style="list-style-type: none"> <li><b>Review Project Site Alternatives</b> <ul style="list-style-type: none"> <li>Review project site land use densities and roadway network alternatives.</li> <li>Assess adjacent roadway general plan classifications, intersection spacing criteria, and driveway spacing criteria.</li> </ul> </li> </ul>

**EXHIBIT "A"**  
**Scope of Work for the Village Build-out Plan**  
**Environmental Impact Report**  
**City of La Quinta**  
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	<ul style="list-style-type: none"> <li>• Interface via teleconference with the project applicant/project team (if necessary).</li> <li>• Make recommendations to project applicant/project team regarding access and circulation features (if necessary).</li> <li>• <b>Determine Scope of Traffic Impact Analysis With City Staff</b> <ul style="list-style-type: none"> <li>• Propose project trip generation rates based upon the Institute of Transportation Engineers, <u>Trip Generation</u>, 9th Edition, 2012 with the appropriate internal capture and pass-by estimates. The maximum build-out scenario will be analyzed, and traffic volumes and Level of Service data for each of three (3) alternatives will be analyzed on a quantitative basis.</li> <li>• Propose project trip distribution and assignment based upon anticipated trip patterns for the proposed development.</li> <li>• Determine the study area, including intersections to be analyzed.</li> <li>• Identify other development projects and ambient traffic growth rate to use in the traffic impact analysis.</li> <li>• Prepare a proposed scoping agreement/memorandum of understanding for the traffic impact analysis, including assumptions and methodology, for City staff approval.</li> <li>• Interact with City staff and finalize traffic impact analysis scoping agreement/memorandum of understanding as needed.</li> <li>• Attend the project Kick-off meeting.</li> </ul> </li> <li>• <b>Inventory Existing Roadway Conditions and Collect Existing Peak Hour Intersection Turning Movement Volume Data</b> <ul style="list-style-type: none"> <li>• Procure weekday morning/evening peak hour intersection turning movement counts at up to fourteen (14) study area intersections as necessary.</li> <li>• Obtain up to nineteen (19) 24-hour two-way roadway link counts as necessary.</li> <li>• Conduct a field inventory of (1) intersection traffic control devices, (2) intersection approach lanes, and (3) roadway link through travel lanes for study area.</li> <li>• Review existing transit service in the study area.</li> </ul> </li> <li>• <b>Determine Existing Plus Project Traffic Volumes</b> <ul style="list-style-type: none"> <li>• Assign project trip generation and project trip distribution.</li> <li>• Calculate existing plus project peak hour intersection turning movement traffic volumes at study area intersections.</li> <li>• Calculate existing plus project daily traffic volumes on study area roadway links.</li> </ul> </li> <li>• <b>Determine Cumulative Traffic Volumes for Project Full Occupancy Year, Without Project</b></li> </ul>
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**EXHIBIT "A"**  
**Scope of Work for the Village Build-out Plan**  
**Environmental Impact Report**  
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	<ul style="list-style-type: none"> <li>• Determine trip generation and trip distribution for other development projects (up to 20 cumulative other development projects as necessary).</li> <li>• Calculate the background growth component of future traffic volumes.</li> <li>• Calculate cumulative future peak hour intersection turning movement traffic volumes at study area intersections without project traffic.</li> <li>• Calculate cumulative future daily traffic volumes on study area roadway links without project traffic.</li> <li>• <b>Determine Cumulative Traffic Volumes for Project Full Occupancy Year, With Project</b> <ul style="list-style-type: none"> <li>• Determine trip generation and trip distribution for other development projects (up to 20 cumulative other development projects as necessary).</li> <li>• Calculate cumulative future peak hour intersection turning movement traffic volumes at study area intersections with project traffic.</li> <li>• Calculate cumulative future daily traffic volumes on study area roadway links with project traffic.</li> <li>• Conduct peak hour evaluations of project entrances, including inbound and outbound queue stacking requirements, and traffic signal warrants.</li> </ul> </li> <li>• <b>Determine Cumulative Traffic Volumes for General Plan Build-out Conditions, Without Project</b> <ul style="list-style-type: none"> <li>• Determine build-out future traffic volumes based upon the City of La Quinta Traffic Model.</li> <li>• Calculate build-out future peak hour intersection turning movement traffic volumes at study area intersections without project traffic.</li> <li>• Calculate build-out future daily traffic volumes on study area roadway links without project traffic.</li> </ul> </li> <li>• <b>Determine Cumulative Traffic Volumes for General Plan Build-out Conditions, With Project</b> <ul style="list-style-type: none"> <li>• Calculate build-out future peak hour intersection turning movement traffic volumes at study area intersections with project traffic.</li> <li>• Calculate build-out future daily traffic volumes on study area roadway links with project traffic.</li> </ul> </li> <li>• <b>Prepare Traffic Impact Analysis</b></li> </ul>
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**EXHIBIT "A"**  
**Scope of Work for the Village Build-out Plan**  
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	<ul style="list-style-type: none"> <li>• Analyze existing intersection performance based on the Intersection Capacity Utilization and Highway Capacity Manual delay methodologies.</li> <li>• Analyze existing plus project traffic volumes to determine intersection operation performance.</li> <li>• Determine traffic improvements needed to serve the above traffic scenario.</li> <li>• Analyze cumulative future traffic volumes to determine intersection operation performance without project traffic.</li> <li>• Determine traffic improvements needed to serve the above traffic scenario without project traffic.</li> <li>• Analyze cumulative future traffic volumes to determine intersection operation performance with project traffic.</li> <li>• Determine traffic improvements needed to serve the above traffic scenario with project traffic.</li> <li>• Analyze build-out future traffic volumes to determine intersection operation performance without project traffic.</li> <li>• Determine traffic improvements needed to serve the above traffic scenario without project traffic.</li> <li>• Review funding sources for study area circulation improvements, including the currently proposed transportation improvements that the City is taking forward in the Capital Improvement Program.</li> <li>• Prepare a draft traffic impact analysis report that incorporates findings and all supporting calculations and assumptions. The traffic impact analysis will be stamped and signed by a Registered Engineer in the State of California.</li> </ul>
<p><i>B. Hydrology Study – The Altum Group</i></p>	<p>The La Quinta Village area is included within the boundaries of a Focused Drainage Study to be prepared by RBF/Baker for a portion of the City of La Quinta. The La Quinta Village area is impacted by Site 4, the Calle Tampico/Bermudas storm drain. While the Focused Drainage Study will calculate the 100-year storm event (1, 3, 6, and 24-hour) for the entire study area, Altum will prepare a Preliminary Hydrology Study tiered off of this Focused Drainage Study for the La Quinta Village area.</p> <ul style="list-style-type: none"> <li>• The Preliminary Hydrology Study for La Quinta Village will calculate the 10-year storm for the 1-hour and 3-hour events to determine the design storm necessary.</li> <li>• The existing topographic features and elevations for the Preliminary Hydrology Study will be based on the topographic information used for the Focused Drainage Study to assure that comparable data is used and similar results are realized. Altum has assumed that the City of La Quinta will make this information available for the purposes of this report.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Altum will determine the 10-year retention volumes necessary for the current level of development for the La Quinta Village as well as the proposed development build-out of the Village. These retention volumes will be used to determine the feasibility of providing onsite retention, or if a drainage mitigation fee is preferable and to explore potential sites within the Village boundary for onsite retention.</li> <li>• The Preliminary Hydrology Study will not address Water Quality issues that may be required by State and/or Federal rules and regulations. Development of currently undeveloped sites or proposed redevelopment of existing sites within the Village will be required to meet Water Quality regulations on a site-by-site basis.</li> </ul>
<p><i>C. Air Quality and Global Climate Change – Kunzman Associates</i></p>	<p>Based on the Village Build-Out Plan Kunzman will prepare the Air Quality/Global Climate Change Analysis for the preferred build-out scenario and three Alternatives as defined in the RFP.</p> <ul style="list-style-type: none"> <li>• Identify the existing air quality setting in the area.</li> <li>• Identify applicable international, federal, state, SCAQMD's, and local rules and regulations, State greenhouse gas (GHG) regulations Assembly Bills (AB) 32 and 1493, Senate Bills (SB) 32, 97, 107, 375, 527, 1368, and 1771, and Executive Orders S-3-05 and S-14-08.</li> <li>• Obtain existing air quality data from air quality monitoring stations within the study area utilizing California Air Resources Board (CARB) data sources. Data will be obtained for air pollutants, including ozone, carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), PM10, and PM2.5.</li> <li>• Identify greenhouse gases (GHGs) and their associated impacts to global climate change.</li> <li>• Identify thresholds of significance for the criteria pollutants and GHGs within the Salton Sean Air Basin (SSAB) of the SCAQMD.</li> <li>• Evaluate and quantify regional criteria pollutant and GHG emissions associated with construction and operational activities for the proposed commercial/residential project based on the Village Build-Out Plan provided by the City and utilizing the CalEEMod Model. If significant emission levels are found to be created from construction and/or operational activities, feasible mitigation will be developed and quantified.</li> <li>• Evaluate and quantify local criteria pollutant associated with construction and operational activities for the proposed commercial/residential project per SCAQMD Localized Significance Threshold (LST) methodology. If significant emission levels are found to be created, feasible mitigation will be developed and quantified.</li> <li>• If the traffic data deems it necessary, prepare a micro-scale CO screening analysis of the study area intersections based on the conditions in the Traffic Study prepared for the proposed project</li> </ul>

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	<p>and verify if it is in accordance with the SCAQMD requirements as described in the <i>CEQA Air Quality Handbook</i>.</p> <ul style="list-style-type: none"> <li>• Provide a qualitative odor analysis from the on-going operations of the proposed project. The odor analysis will identify the potential sources of odors and the number of variables that can influence the potential for an odor impact as well as providing detail of what constitutes a significant odor impact.</li> <li>• Evaluate the operational GHG emissions using CalEEMod 2013.2.2. The project's emissions will also be compared to the SCAQMD's draft GHG emissions threshold of 3,000 metric tons of CO<sub>2</sub>e per year for all land uses.</li> <li>• The City of La Quinta included a Greenhouse Inventory and Reduction Plan along with their 2035 General Plan Update . Therefore, the project will be compared with the goals and policies of the Greenhouse Inventory and Reduction Plan, the La Quinta 2035 General Plan Livable Community Section, and the CARB Scoping Plan.</li> <li>• Prepare an air quality and global climate change report documenting the results of the study. The report will summarize the results of the previous work tasks.</li> </ul>
<p><i>D. Historical Resources – Applied Earthworks</i></p>	<p>Based on the Village Build-Out Plan Applied Earthworks will identify the historic properties that may be affected by development under Village Build-Out Plan and evaluate potential impact that may be associated with adjacency to new uses.</p> <ul style="list-style-type: none"> <li>• Meet with the City staff to review the comprehensive inventory of historic structures that lie within or adjacent to the proposed redevelopment projects and discuss key elements of the historic character in the Village that are to be retained and enhanced during any build-out phase. This could be done in the context of the kick-off meeting.</li> <li>• In conjunction with the City and the Project Team, A/E staff will review the proposed Build-Out Plan and Alternatives. During this phase, A/E will determine which structures may be sensitive to redevelopment goals and objectives and explore ways of encouraging new development while enhancing the historic character of the Village.</li> <li>• Following initial meetings, a site visit will be completed by an Architectural Historian who will conduct a reconnaissance-level built environment survey of the redevelopment areas as established by the Project Team to determine whether or not the proposed project has the potential to indirectly impact historic buildings/structures.</li> <li>• Following completion of this study, A/E will prepare the cultural resources section for the project EIR.</li> </ul>



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<p><i>E. Prepare Administrative Draft EIR</i></p>	<p>The Draft EIR will include the following components:</p> <ul style="list-style-type: none"> <li>• Executive Summary – Summary that is a miniature version of the Draft EIR, providing a synopsis of the project description, project impacts, mitigation measures, and alternatives analysis, that can be read in place of the larger EIR.</li> <li>• Introduction to the Draft EIR – Provides information on the purpose of and authority for the preparation of the EIR, identify the project applicant, identify the lead agency and responsible/trustee agencies, and provide a list of places where the Draft EIR is available for review and how to provide comments to the lead agency within the 45-day public review period.</li> <li>• Comprehensive Project Description that describes the project location and environmental setting, project characteristics including the size of the site and the area to be affected, other agencies who have oversight of the project and any other pertinent information (construction schedule, number of employees, equipment list etc).</li> <li>• Environmental Impact Analysis             <ul style="list-style-type: none"> <li>• Introduction to the Chapter (brief outline of what is in each section), identification of cumulative projects</li> <li>• Existing Conditions and Issues (Environmental Setting)</li> <li>• Impact Analysis of all issues identified in NOP, responses received on the NOP and at the Public Scoping Meeting (if held) that require further analysis</li> <li>• Finding of Significance of an Impact</li> <li>• Analysis of Cumulative Impacts</li> <li>• Mitigation measures to reduce impacts/resolve issues</li> <li>• Findings (Level of Significance after Mitigation is implemented)</li> </ul> </li> <li>• Alternatives Analysis – Three (3) alternatives (including the no-project alternative) will be determined in consultation with City staff and the applicant</li> <li>• Other CEQA Sections             <ul style="list-style-type: none"> <li>• Growth Inducing Impacts</li> <li>• Unavoidable Adverse Effects</li> <li>• Irreversible Commitment of Resources</li> <li>• Short-term vs Long-term Impacts</li> <li>• Impacts Found to be Less Than Significant (Summary of the Initial Study)</li> </ul> </li> </ul>
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**EXHIBIT "A"**  
**Scope of Work for the Village Build-out Plan**  
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<i>F. Draft EIR Screencheck</i>	<ul style="list-style-type: none"> <li>Altum will provide the Draft EIR to the City for screencheck review. Following the City's review, Altum will revise the Draft per the City's comments and resubmit for a second review.</li> <li>Altum will revise the Draft per the City's comments and provide a "proof check" copy of Draft for final review and authorization to print/distribute.</li> <li>Draft EIR will be distributed to the State Clearinghouse, County Clerk and other agencies and interested parties for 45 days.</li> </ul>
<i>Task 2 Deliverables:</i>	<ul style="list-style-type: none"> <li>3 printed copies of the Draft EIR, one e-copy in MS Word, and one e-copy in PDF format.</li> <li>3 printed copies of all technical appendices and one e- copy in PDF format.</li> <li>3 printed copies of the revised Draft EIR in track changes, and one e-copy in MS Word.</li> <li>15 printed copies of the release Draft EIR, one e-copy in MS Word and one e-copy in PDF format.</li> <li>Up to 30 e-copies of the release Draft EIR for distribution.</li> <li>One printed copy of the Notice of Completion and Notice of Availability, transmittal memos, etc. (including UPS or USPS labels and delivery confirmations) and one e-copy in PDF format.</li> </ul>
<b>Task 3: Responses to Public Comments</b>	
<i>A. Respond to Comments</i>	<ul style="list-style-type: none"> <li>Altum will review comment letters and provide a summary of comments and strategy for preparing responses</li> <li>Provide responses for up to ten (10) comment letters from agencies and the public (maximum six (6) comments per letter).</li> </ul>
<i>Task 3 Deliverables</i>	<ul style="list-style-type: none"> <li>3 printed copies of the draft response to comments, one e-copy in MS Word, and one e- copy in PDF format.</li> <li>3 printed copies of the revised final response to comments, one e-copy in MS and one e-copy in PDF format.</li> <li>All required distribution copies, based on comments received.</li> <li>One printed copy of all transmittal documents (labels and delivery confirmations) and one e-copy in PDF format.</li> </ul>
<b>Task 4: Findings and Statement of Overriding Considerations</b>	
<i>A. Findings of Fact</i>	<ul style="list-style-type: none"> <li>Prepare Findings of Fact for each environmental issue and a Statement of Overriding Consideration for City Attorney Review</li> <li>Work with City Attorney to finalize the Findings</li> </ul>

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<i>Task 4 Deliverables</i>	<ul style="list-style-type: none"> <li>• 3 printed copies of the draft Findings, one e-copy in MS Word.</li> <li>• 3 printed copies of the revised final Findings, one e-copy in MS and one e-copy in PDF format.</li> </ul>
<b>Task 5: Meetings and Hearings</b>	
<i>Project Management</i>	<ul style="list-style-type: none"> <li>• Prepare monthly status reports and attend monthly status meetings. Other members of the Altum team may attend via conference call.</li> <li>• Attend two meetings to review the Draft EIR, and two meetings to review the Final EIR and Findings. Note: one of these meetings may be used to review the Comments and Responses.</li> <li>• Prepare meeting agendas and meeting minutes.</li> <li>• Communicate with City staff for issue resolution and progress reporting. Provide notes on telephone conversations to project team, cc on e-mails, etc.</li> <li>• Provide project schedule updates as changes occur.</li> </ul>
<i>Public Hearings</i>	<ul style="list-style-type: none"> <li>• Attend and participate in two Planning Commission</li> <li>• Attend and participate in two City Council public hearings.</li> </ul>
<b>Task 6: Preparation of Final EIR</b>	
<i>A. Prepare Administrative Final EIR</i>	<ul style="list-style-type: none"> <li>• Compile comments on the Draft EIR and annotate comment letters.</li> <li>• Review comments with City staff and formulate responses for review.</li> <li>• City staff review of responses to comments (assume one round with second review as part of the compiled Final EIR)</li> <li>• Prepare errata and revise Draft EIR (if necessary, anticipate only minor editorial revisions).</li> <li>• Prepare Mitigation Monitoring Program (MMRP).</li> <li>• Compile Final EIR for City staff review</li> </ul>
<i>B. Staff Review of Final EIR</i>	<ul style="list-style-type: none"> <li>• Staff review of compiled final EIR.</li> <li>• Revise Admin Final per comments.</li> <li>• Staff 2<sup>nd</sup> review</li> <li>• Revise Admin Final per comments.</li> <li>• Provide "proof check" copy of Final for final review and authorization to print/distribute.</li> </ul>
<i>C. Final Compiled EIR</i>	<ul style="list-style-type: none"> <li>• A Final document will be assembled after the Notice of Determination is filed. The Final document will include the Draft EIR (as revised) public comments and responses, MMRP, and other relevant data such as the CEQA findings and resolutions. This document will be used by City staff during the subsequent construction and long term operation of the project (operational Conditions of Approval).</li> </ul>

**EXHIBIT "A"**  
**Scope of Work for the Village Build-out Plan**  
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<i>Task 6 Deliverables</i>	<ul style="list-style-type: none"><li>• 5 printed copies of the Final EIR, one e-copy in MS Word and one e-copy in PDF format.</li></ul>
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Exhibit B  
Schedule of Compensation

With the exception of compensation for Additional Services, provided for in Section 2.3 of this Agreement, the maximum total compensation to be paid to Consultant under this Agreement is one hundred and fifty thousand dollars (\$150,000.00) ("Contract Sum"). The Contract Sum shall be paid to Consultant in installment payments made on a monthly basis and in an amount identified in Consultant's schedule of compensation attached hereto for the work tasks performed and properly invoiced by Consultant in conformance with Section 2.2 of this Agreement.

**EXHIBIT "B"**

**La Quinta Village Build-Out Plan EIR - Cost Estimate  
May 8, 2015**



Task and Description		PIC	PM	PE	Asst PM	Env Planner	GIS	WP/Edit	Admin	Total Hours	Total Labor	Subconsultants and Direct Costs
		\$160	\$140	\$140	\$110	\$90	\$90	\$70	\$70			
<b>Initial Study and Notice of Preparation</b>												
1	Project Initiation	4	8		8					20	\$ 2,640	
2	Prepare Initial Study and NOP (two rounds)		6		20	14	10	10	6	66	\$ 6,320	\$ 1,200
3	Public Scoping Meeting		4				4	2		10	\$ 1,060	\$ 200
<b>SUBTOTAL</b>		<b>4</b>	<b>18</b>	<b>0</b>	<b>28</b>	<b>14</b>	<b>14</b>	<b>12</b>	<b>6</b>	<b>96</b>	<b>\$ 10,020</b>	<b>\$ 1,400</b>
<b>Draft Environmental Impact Report</b>												
1	Traffic Impact Analysis									0	\$ -	\$ 32,130
2	Hydrology Study			90					16	106	\$ 13,720	
3	Air Quality/Global Climate Change Analysis									0	\$ -	\$ 13,140
4	Historical Resources Adjacency Review									0	\$ -	\$ 9,000
5	Prepare Administrative Draft EIR (two rounds)	6	36		100	50	20	30	8	250	\$ 25,960	
6	Prepare Draft EIR and Notices for Public Review		6		6		4	10	10	36	\$ 3,260	\$ 1,500
<b>SUBTOTAL</b>		<b>6</b>	<b>42</b>	<b>90</b>	<b>106</b>	<b>50</b>	<b>24</b>	<b>40</b>	<b>34</b>	<b>392</b>	<b>\$ 42,940</b>	<b>\$ 55,770</b>
<b>Responses to Comments</b>												
1	Prepare Responses to Comments	8	16	4	36			14	4	82	\$ 9,300	
2	Revise Per Comments and Include in Final EIR	4	8		22				4		\$ 4,460	\$ 500
<b>SUBTOTAL</b>		<b>12</b>	<b>24</b>	<b>4</b>	<b>58</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>8</b>	<b>82</b>	<b>\$ 13,760</b>	<b>\$ 500</b>
<b>Findings and Statement of Overriding Consideration</b>												
1	Prepare Findings and SOC		8		32			4	2	46	\$ 5,060	
2	Revise Per Comments and Include in Final EIR		8						2	10	\$ 1,260	
<b>SUBTOTAL</b>		<b>0</b>	<b>16</b>	<b>0</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>56</b>	<b>\$ 6,320</b>	<b>\$ -</b>
<b>Meetings and Hearings</b>												
1	Project Management and Coordination	6	30						8	44	\$ 5,720	\$ 500
2	Meetings with City Staff (up to 10 meetings)	6	18						8	32	\$ 4,040	
3	Public Hearings (up to 4 hearings)	8	18						8	34	\$ 4,360	
<b>SUBTOTAL</b>		<b>20</b>	<b>66</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>110</b>	<b>\$ 14,120</b>	<b>\$ 500</b>
<b>Preparation of Final EIR</b>												
1	Prepare Administrative Final EIR (2 rounds)		8		16			4	8	36	\$ 3,720	
2	Final Compiled EIR		2						8	10	\$ 840	\$ 1,800
<b>SUBTOTAL</b>		<b>0</b>	<b>10</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>16</b>	<b>46</b>	<b>\$ 4,560</b>	
<b>TOTAL</b>		<b>42</b>	<b>176</b>	<b>94</b>	<b>240</b>	<b>64</b>	<b>38</b>	<b>74</b>	<b>92</b>	<b>782</b>	<b>\$ 91,720</b>	<b>\$ 58,170</b>
<b>GRAND TOTAL</b>												<b>\$ 149,890</b>

**Notes:** PIC = Principle in Charge; PM = Project Manager; PE = Professional Engineer; ASST PM = Assistant Project Manager; Env Planner; Environmental Planner; GIS = Geographical Information Systems Tech; WP/Edit = Word Processing and Editing; Admin = Administrative functions.

**Exhibit C**  
**Schedule of Performance**

Consultant shall complete all services identified in the Scope of Services, Exhibit A of this Agreement, in accordance with the Project Schedule, attached hereto and incorporated herein by this reference.

**EXHIBIT "C"**  
**La Quinta Village Bulld-Out Plan EIR - Project Schedule**  
**May 8, 2015**

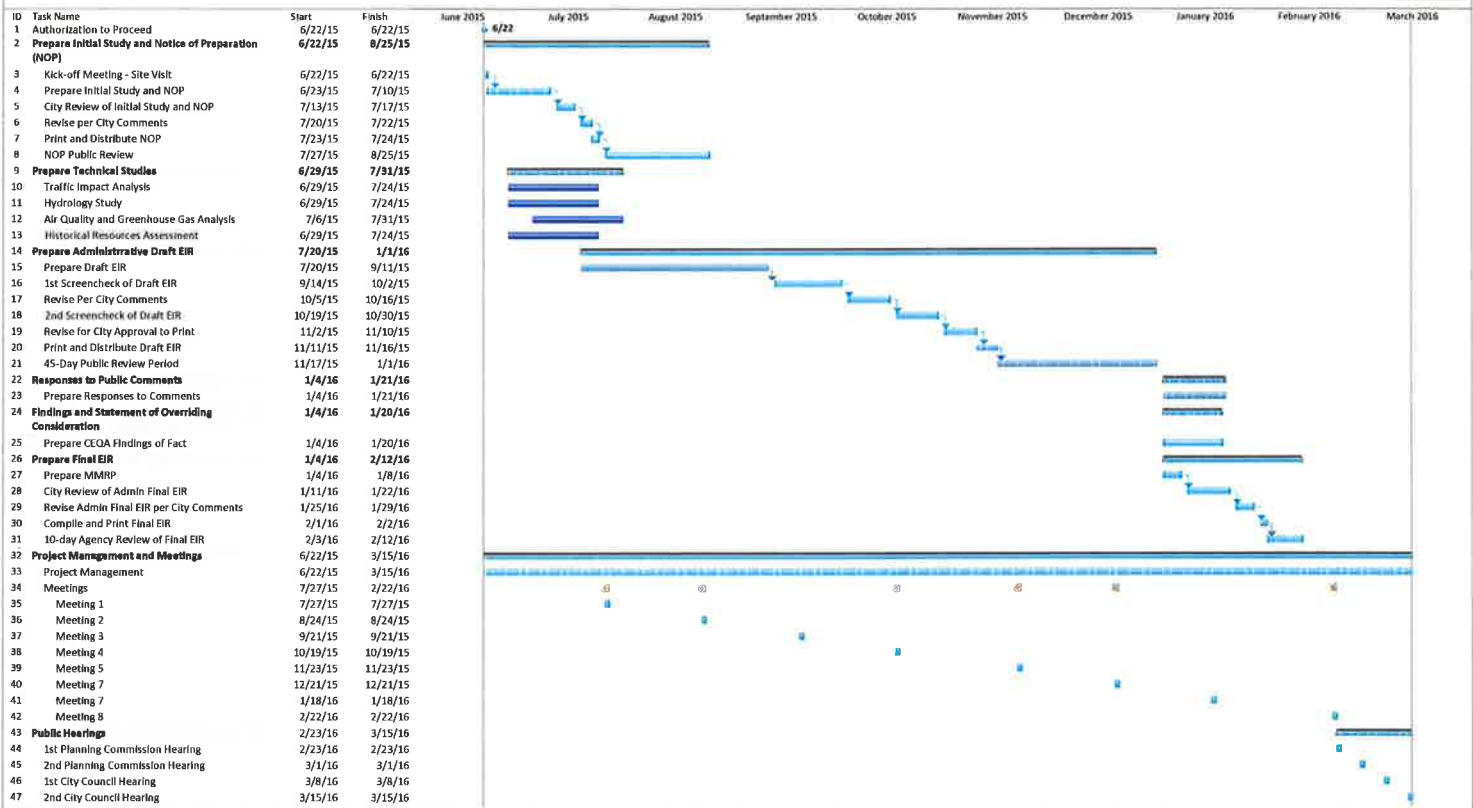




Exhibit D  
Special Requirements

"None"

Exhibit E  
Insurance Requirements

E.1 Insurance. Prior to the beginning of and throughout the duration of this Agreement, the following policies shall be maintained and kept in full force and effect providing insurance with minimum limits as indicated below and issued by insurers with A.M. Best ratings of no less than A-:VI:

Commercial General Liability (at least as broad as ISO CG 0001)  
\$1,000,000 (per occurrence)  
\$2,000,000 (general aggregate)

Commercial Auto Liability (at least as broad as ISO CA 0001)  
\$1,000,000 (per accident)

Errors and Omissions Liability  
\$1,000,000 (per claim and aggregate)

Workers' Compensation  
(per statutory requirements)

Consultant shall procure and maintain, at its cost, and submit concurrently with its execution of this Agreement, Commercial General Liability insurance against all claims for injuries against persons or damages to property resulting from Consultant's acts or omissions rising out of or related to Consultant's performance under this Agreement. The insurance policy shall contain a severability of interest clause providing that the coverage shall be primary for losses arising out of Consultant's performance hereunder and neither City nor its insurers shall be required to contribute to any such loss. A certificate evidencing the foregoing and naming City and its officers and employees as additional insured (on the Commercial General Liability policy only) shall be delivered to and approved by City prior to commencement of the services hereunder.

Consultant shall carry automobile liability insurance of \$1,000,000 per accident against all claims for injuries against persons or damages to property arising out of the use of any automobile by Consultant, its officers, any person directly or indirectly employed by Consultant, any subcontractor or agent, or anyone for whose acts any of them may be liable, arising directly or indirectly out of or related to Consultant's performance under this Agreement. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person. The term "automobile" includes, but is not limited to, a land motor vehicle, trailer or semi-trailer designed for travel on public roads. The automobile insurance policy shall contain a severability of interest clause providing that coverage shall be primary for losses arising out of Consultant's performance hereunder and neither City nor its insurers shall be required to contribute to such loss.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Consultant shall carry Workers' Compensation Insurance in accordance with State Worker's Compensation laws with employer's liability limits no less than \$1,000,000 per accident or disease.

Consultant shall provide written notice to City within ten (10) working days if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event any of said policies of insurance are cancelled, Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Exhibit to the Contract Officer. The procuring of such insurance or the delivery of policies or certificates evidencing the same shall not be construed as a limitation of Consultant's obligation to indemnify City, its officers, employees, contractors, subcontractors, or agents.

E.2 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement.
- b. Order Consultant to stop work under this Agreement and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.
- c. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to any other remedies City may have. The above remedies are not the exclusive remedies for Consultant's failure to maintain or secure appropriate policies or endorsements. Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of work under this Agreement.

E.3 General Conditions Pertaining to Provisions of Insurance Coverage by Consultant.  
Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (*e.g.* elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.

8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to City.

9. Consultant agrees to ensure that subcontractors, and any other party involved with the project that is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.

10. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein (with the exception of professional liability coverage, if required) and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

11. The City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.

12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

13. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

14. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated

for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.

15. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five (5) days of the expiration of coverages.

16. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials, and agents.

17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

18. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.

19. The requirements in this Exhibit supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

20. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

21. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

Exhibit F  
Indemnification

F.1 General Indemnification Provision.

a. Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend (with counsel selected by City), and hold harmless City and any and all of its officials, employees, and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities of every kind, nature, and description, damages, injury (including, without limitation, injury to or death of an employee of Consultant or of any subcontractor), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation, to the extent same are cause in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement. With respect to the design of public improvements, the Consultant shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit A without the written consent of the Consultant.

b. Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend (with counsel selected by City), and hold harmless the Indemnified Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, and fees of expert consultants or expert witnesses) incurred in connection therewith and costs of investigation, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees, or subcontractors of Consultant.

F.2 Standard Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth herein this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible according to the terms of this Exhibit. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in

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no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

a. Indemnity Provisions for Contracts Related to Construction. Without affecting the rights of City under any provision of this agreement, Consultant shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Consultant will be for that entire portion or percentage of liability not attributable to the active negligence of City.

b. Indemnification Provision for Design Professionals.

1. Applicability of Section F.2(b). Notwithstanding Section F.2(a) hereinabove, the following indemnification provision shall apply to Consultants who constitute "design professionals" as the term is defined in paragraph 3 below.

2. Scope of Indemnification. To the fullest extent permitted by law, Consultant shall indemnify, defend (with counsel selected by City), and hold harmless the Indemnified Parties from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including, without limitation, injury to or death of an employee of Consultant or of any subcontractor), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, court costs, attorneys' fees, litigation expenses, and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation, that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, any subcontractor, anyone directly or indirectly employed by them or anyone that they control.

3. Design Professional Defined. As used in this Section F.2(b), the term "design professional" shall be limited to licensed architects, registered professional engineers, licensed professional land surveyors and landscape architects, all as defined under current law, and as may be amended from time to time by Civil Code § 2782.8.

