

**AGREEMENT FOR CONSULTING SERVICES**

THIS AGREEMENT is made at Long Beach, California on the 1<sup>st</sup> day of October 2020, by and between the CITY OF LONG BEACH ("City") and the NATIONAL COUNCIL FOR COMMUNITY DEVELOPMENT, INC., a New York not-for-profit corporation, dba The National Development Council ("CONSULTANT"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this AGREEMENT, CONSULTANT shall provide the City professional services as specified in Exhibit "A," entitled "Scope of Work," attached hereto and made a part hereof. Any changes made to Exhibit A must be mutually agreed upon by all parties.
2. **Payment.** City shall pay CONSULTANT for services rendered pursuant to this AGREEMENT at the times and in the manner set forth in Exhibit "B," entitled "Compensation." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this AGREEMENT. The cost for the services rendered pursuant to this AGREEMENT shall be paid by the City. CONSULTANT shall submit all billings for said services separately to the City on a monthly basis. Payment shall be made within thirty (30) days of the receipt of the correctly formatted invoice pertaining to items approved by the City. The maximum annual obligation of the City under this AGREEMENT is \$75,000.00. Any increase or decrease in compensation necessitated either by any changes mutually agreed to in the scope of work described in Exhibit A or by any delay in performance due to circumstances beyond the control of the City or CONSULTANT must be negotiated and agreed upon in writing among the parties.
3. **Facilities and Equipment.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this AGREEMENT.
4. **Term.** The term of this AGREEMENT shall be for two years, from October 1, 2020 through September 30, 2022. At the sole discretion of the City, the term of this AGREEMENT may be extended if the City provides written notice to CONSULTANT.
5. **Indemnification.** CONSULTANT shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) CONSULTANT's breach or failure to comply with any of its obligations contained in this AGREEMENT, or (2) negligent or willful acts, errors, omissions or misrepresentations committed by CONSULTANT, its officers, employees, agents, subcontractors, or anyone under CONSULTANT's control, in the performance of work or services under this AGREEMENT (collectively "Claims" or individually "Claim"). City shall notify CONSULTANT of any Claim, shall tender the defense of the Claim to CONSULTANT, and shall assist CONSULTANT, as may be reasonably requested, in the defense. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, CONSULTANT's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties. The provisions of this Section shall survive the expiration or termination of this AGREEMENT.
6. **Insurance Requirements.** CONSULTANT agrees to comply with City's insurance requirements and shall provide City with certificates of insurance and endorsements at City's request.

Approval of insurance coverage does not, in any way, relieve the CONSULTANT of any liability.

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7. **Conflict of Interest.** CONSULTANT shall not enter into any contract or agreement during the performance of this AGREEMENT that will create a conflict of interest with its duties to City under this AGREEMENT.
8. **Independent Contractor.** At all times during the term of this AGREEMENT, CONSULTANT shall be an independent contractor and shall not be an employee of City. City shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this AGREEMENT, however, City shall not have the right to control the means by which CONSULTANT accomplishes services pursuant to this AGREEMENT.
9. **Licenses, Permits, Etc.** CONSULTANT represents and warrants to City that it has all professional licenses, permits, qualifications and approvals of whatsoever nature that are legally required for CONSULTANT to complete the scope of services. CONSULTANT represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this AGREEMENT any licenses, permits, and approvals which are legally required for CONSULTANT to complete the scope of services.
10. **Standard of Performance.** CONSULTANT shall perform all services required pursuant to this AGREEMENT in a manner and according to the standards of highest quality.
11. **CONSULTANT No Agent.** Except as City may authorize in writing, CONSULTANT shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this AGREEMENT, to bind the City to any obligation whatsoever.
12. **Termination by City.** Should City, at any time, become dissatisfied with CONSULTANT's performance under this AGREEMENT, it may terminate this AGREEMENT upon giving thirty (30) days written notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be compensated for all reasonably satisfactory work completed at the time of termination.
13. **Best Efforts to Use Long Beach Businesses.** CONSULTANT shall use its best efforts to utilize Long Beach businesses for services, when necessary, to perform activities pursuant to this AGREEMENT.
14. **Assignment Prohibited.** No party to this AGREEMENT may assign any right or obligation pursuant to this AGREEMENT. Any attempted or purported assignment of any right or obligation pursuant to this AGREEMENT shall be void of no effect.
15. **Non-Discrimination/Fair Employment Practices.** In connection with performance of this AGREEMENT and subject to applicable rules and regulations, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, national origin, color, age, gender, sexual orientation, gender identity, AIDS, HIV status, handicap, or disability. CONSULTANT shall ensure that applicants are employed, and that employees are treated during their employment, without regard to these bases. These actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
16. **Notices.** All notices pursuant to this AGREEMENT shall be in writing and mailed, postage prepaid, first class mail or personally delivered as follows:

If to City: City of Long Beach, Economic Development Department  
411 West Ocean Blvd., 10<sup>th</sup> Floor  
Long Beach, California 90802

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If to CONSULTANT: Mr. Daniel Marsh III, President  
The National Development Council  
One Battery Park Plaza  
24 Whitehall Street, Suite 710  
New York, NY 10004  
212-682-1106

17. **Integration Clause.** This AGREEMENT constitutes the entire agreement of the parties and may not be amended, except in writing signed by both parties.
18. **Severability Clause.** Should any provision of this AGREEMENT ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.
19. **Law Governing.** This AGREEMENT shall in all respects be governed by the law of the State of California.
20. **Exhibits.** The following exhibits are attached hereto and incorporated herein by reference:
  - A. Exhibit "A," entitled "Scope of Work"
  - B. Exhibit "B," entitled "Compensation"

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT the day and year first above written.

City:

CITY OF LONG BEACH

By:

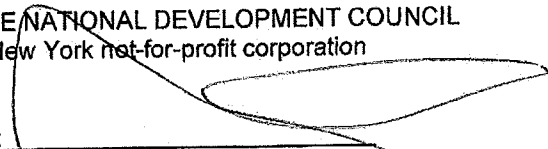
Its:

  
JOHN KASLER

CONSULTANT:

THE NATIONAL DEVELOPMENT COUNCIL  
a New York not-for-profit corporation

By:

  
Daniel Marsh III, President

A12-02105

APPROVED AS TO FORM

11.10.2020  
CHARLES PARKIN, City Attorney

By:

  
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY

**Exhibit A**

**Exhibit B**

**COMPENSATION**

Payments for services rendered pursuant to this AGREEMENT shall be made monthly on a retainer basis for all services rendered and costs incurred by CONSULTANT. CONSULTANT shall submit all billings for said services separately to the City on a monthly basis. Payment shall be made within thirty (30) days of the receipt of a correctly formatted invoice. The total fees and costs payable annually hereunder shall not exceed \$75,000.00 payable at a rate of \$6,250 per month commencing on October 1, 2020.



Headquarters  
One Battery Park Plaza  
24 Whitehall Street  
Suite 710  
New York, NY 10004

## Exhibit B Scope of Services

### A. General

The Scope of Services describes the assistance available under this Agreement for Technical Assistance Services during the specified contract period. Assuming a commencement date of October 1, 2020, all services shall be completed by September 30, 2022. The Client and NDC, by mutual agreement, may revise this Scope of Services from time to time. The assistance within this Scope of Services includes:

### B. Services

The Scope of Services describes the assistance available under this Technical Assistance Agreement during the specified contract period. The Client and NDC, by mutual agreement, may revise this Scope of Services from time to time. The assistance within this Scope of Services includes:

NDC shall provide a minimum of one (1) day per month of on-site technical assistance to the Client in the areas defined in this Exhibit. Off-site technical assistance will be made available to the Client as requested via email, phone, facsimile or other means between on-site engagements.

- 1) Assist the Client in the design, implementation, and monitoring of the financing elements of an economic development plan and small business development of the Client.
- 2) Assist the Client with the marketing, structuring and underwriting U.S. Economic Development Administration (EDA) loans.
- 3) At the Client's request, NDC will review and evaluate projects being considered by the Client for community and economic development assistance. This assistance provided by NDC may include, but not be limited to:
  - Evaluating developer experience and capacity.
  - Financial review of the sources and uses, operating proformas, and financial statements.
  - Structuring of deals with available public sector economic development programs.
  - Review of appraisals, cost assumptions, capital budgets, operating statements, marketing data and other funding commitments.
  - Advising on tax credit equity sources, requirements and structuring
  - Identifying other funding sources for the range of commercial, industrial, and residential real estate and business credit deals.
  - Assisting with development issues during pre-development and development.
  - Advising on program regulations issues.
  - Providing access to ZoomGrants portal for grant programs, via NDC's subscription to ZoomGrants
- 4) NDC will provide technical support or financial analysis to the Client with respect to its economic and housing development program proposals. Such assistance and analysis may include, but is not limited to:
  - Reviewing program compatibility with other private and public financing programs.
  - Recommending revisions to the program to increase its ability to leverage additional private, federal, state and philanthropic resources.
  - Identifying issues associated with the application, review, underwriting and compliance monitoring on programs that could improve their effectiveness in meeting the Client's development goals and objectives.

- 5) NDC will provide technical assistance and advocacy in the Client's efforts to seek funding or leverage existing resources through governmental programs including, but not limited to:

Federal Resources

- U.S. Department of Commerce Economic Development Administration (EDA)
- Community Development Block Grant (CDBG) program
- HOME Investment Partnership program
- HUD Section 108 loans, including Brownfields Economic Development Initiative (BEDI) grants
- U.S. Environmental Protection Agency (EPA) Brownfields Program, including Community-wide Assessment Grants, Targeted Assessments, Supplemental Pilot Program, and Brownfields Revolving Loan Fund
- U.S. Small Business Administration 7(a), 504, and Microenterprise programs
- New Markets Tax Credit Program
- Federal Home Loan Bank Community Investment Program
- Rehabilitation Tax Credits (Historic Tax Credits)
- Low Income Housing Tax Credit (LIHTC)

State of California Resources

- California Infrastructure and Economic Development Bank loan program
- California Housing programs including: Housing and Community Development requirements and Tax Credit Allocation and California Debt Limit Allocation Committee requirements
- California State Brownfields programs under Department of Toxic Substances Control and State Water Resources Board

- 6) The Contractor shall provide additional assistance to the Client when requested to:
- Attend meetings with developers, private lenders, Federal and State officials and others.
  - Work with State and Federal officials to insure their continued support and assistance to the City's programs and projects.
  - Assist in modification of grant agreements and loan documentation as well as work to insure approval of such modifications by authorizing agencies.
  - Assist in the negotiations of terms and repayments on financing programs.
  - Inform staff of changes in Federal and State programs in a timely fashion.
- 7) Technical Assistance is defined to also include training in the development of financing tools, financing analysis skills, loan programs and packaging requirements in both housing and economic development with the goal of building the capacity of the Client's staff to analyze projects and utilize public and private financing tools.
- 8) Assistance to the Client in marketing, developing and maintaining the commitment of lending institutions, developers, federal state and local government officials and community groups to the Client's redevelopment plans and/or specific projects. Assistance shall include but not be limited to the following, upon request:
- Attend briefings with lending institutions and potential applicants to explain the Client's economic development, small business and housing financing programs.
  - Make formal presentations to professional organizations of lending institutions, lawyers, accountants, architects, developers, etc.
  - Attend other meetings and conduct other presentations (including preparation of necessary presentation materials) as requested by the Client.
- 9) Where applicable and upon request by the Client, NDC shall make available to the Client, and/or developers selected by the Client, programs and associated financial products administered by NDC. NDC may assess additional fees for such programs if it is NDC's policy to charge such fees. Such programs may include, but are not limited to:

- SBA 7(a) loan Guarantee Program (Grow American Loan Fund)
  - Low Income Housing Tax Credit syndication services (Corporate Equity Fund)
  - Rehabilitation (Historic) Tax Credit syndication services (Corporate Equity Fund)
  - New Markets Tax Credits (Housing and Economic Development Corp.)
  - Renewable Energy Production Tax Credit and Loan Guarantee Program
  - Distressed Properties Program
  - Housing development services
- 10) NDC will facilitate access to its nationally recognized development finance training for the staff and Commissioners of the City.