

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of October 17, 2018, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on August 21, 2018, by and between ANDERSON REAL ESTATE GROUP INC., a California corporation ("Consultant"), with a place of business at 2883 E. Spring Street, Suite 100, Long Beach, California 90806, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with as-needed real estate broker services ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Thirty Thousand Dollars (\$30,000), at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the necessary funds for such payment by the City in each fiscal year during the term of

1 this Agreement. For the purposes of this Section, a fiscal year commences on
2 October 1 of the year and continues through September 30 of the following year. In
3 the event that the City Council of the City fails to appropriate the necessary funds
4 for any fiscal year, then, and in that event, the Agreement will terminate at no
5 additional cost or obligation to the City.

6 C. Consultant may select the time and place of performance for
7 these services; provided, however, that access to City documents, records and the
8 like, if needed by Consultant, shall be available only during City's normal business
9 hours and provided that milestones for performance, if any, are met.

10 D. Consultant has requested to receive regular payments. City
11 shall pay Consultant in due course of payments following receipt from Consultant
12 and approval by City of invoices showing the services or task performed, the time
13 expended (if billing is hourly), and the name of the Project. Consultant shall certify
14 on the invoices that Consultant has performed the services in full conformance with
15 this Agreement and is entitled to receive payment. Each invoice shall be
16 accompanied by a progress report indicating the progress to date of services
17 performed and covered by the invoice, including a brief statement of any Project
18 problems and potential causes of delay in performance, and listing those services
19 that are projected for performance by Consultant during the next invoice cycle.
20 Where billing is done and payment is made on an hourly basis, the parties
21 acknowledge that this arrangement is either customary practice for Consultant's
22 profession, industry or business, or is necessary to satisfy audit and legal
23 requirements which may arise due to the fact that City is a municipality.

24 E. Consultant represents that Consultant has obtained all
25 necessary information on conditions and circumstances that may affect its
26 performance and has conducted site visits, if necessary.

27 F. CAUTION: Consultant shall not begin work until this
28 Agreement has been signed by both parties and until Consultant's evidence of

1 insurance has been delivered to and approved by City.

2 2. TERM. The term of this Agreement shall commence at midnight on
3 July 1, 2018, and shall terminate at 11:59 p.m. on June 30, 2020, unless sooner terminated
4 as provided in this Agreement, or unless the services or the Project is completed sooner.

5 3. COORDINATION AND ORGANIZATION.

6 A. Consultant shall coordinate its performance with City's
7 representative, if any, named in Exhibit "C", attached to this Agreement and
8 incorporated by this reference. Consultant shall advise and inform City's
9 representative of the work in progress on the Project in sufficient detail so as to
10 assist City's representative in making presentations and in holding meetings on the
11 Project. City shall furnish to Consultant information or materials, if any, described
12 in Exhibit "D", attached to this Agreement and incorporated by this reference, and
13 shall perform any other tasks described in the Exhibit.

14 B. The parties acknowledge that a substantial inducement to City
15 for entering this Agreement was and is the reputation and skill of Consultant's key
16 employee, named in Exhibit "E" attached to this Agreement and incorporated by this
17 reference. City shall have the right to approve any person proposed by Consultant
18 to replace that key employee.

19 4. INDEPENDENT CONTRACTOR. In performing its services,
20 Consultant is and shall act as an independent contractor and not an employee,
21 representative or agent of City. Consultant shall have control of Consultant's work and the
22 manner in which it is performed. Consultant shall be free to contract for similar services to
23 be performed for others during this Agreement; provided, however, that Consultant acts in
24 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
25 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
26 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
27 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
28 the usual and customary rights, benefits or privileges of City employees. Consultant

1 expressly warrants that neither Consultant nor any of Consultant's employees or agents
2 shall represent themselves to be employees or agents of City.

3 5. INSURANCE.

4 A. As a condition precedent to the effectiveness of this
5 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
6 duration of this Agreement, from insurance companies that are admitted to write
7 insurance in California and have ratings of or equivalent to A:V by A.M. Best
8 Company or from authorized non-admitted insurance companies subject to Section
9 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
10 by A.M. Best Company, the following insurance:

11 i. Commercial general liability insurance (equivalent in
12 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less
13 than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.
14 This coverage shall include but not be limited to broad form contractual
15 liability, cross liability, independent contractors liability, and products and
16 completed operations liability. City, its boards and commissions, and their
17 officials, employees and agents shall be named as additional insureds by
18 endorsement (on City's endorsement form or on an endorsement equivalent
19 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or both CG 20 10
20 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and CG 20 37 07 04),
21 and this insurance shall contain no special limitations on the scope of
22 protection given to City, its boards and commissions, and their officials,
23 employees and agents. This policy shall be endorsed to state that the insurer
24 waives its right of subrogation against City, its boards and commissions, and
25 their officials, employees and agents.

26 ii. Workers' Compensation insurance as required by the
27 California Labor Code and employer's liability insurance in an amount not
28 less than \$1,000,000. This policy shall be endorsed to state that the insurer

1 waives its right of subrogation against City, its boards and commissions, and
2 their officials, employees and agents.

3 iii. Professional liability or errors and omissions insurance
4 in an amount not less than \$1,000,000 per claim.

5 iv. Commercial automobile liability insurance (equivalent in
6 scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in
7 an amount not less than \$500,000 combined single limit per accident.

8 B. Any self-insurance program, self-insured retention, or
9 deductible must be separately approved in writing by City's Risk Manager or
10 designee and shall protect City, its officials, employees and agents in the same
11 manner and to the same extent as they would have been protected had the policy
12 or policies not contained retention or deductible provisions.

13 C. Each insurance policy shall be endorsed to state that coverage
14 shall not be reduced, non-renewed or canceled except after thirty (30) days prior
15 written notice to City, shall be primary and not contributing to any other insurance
16 or self-insurance maintained by City, and shall be endorsed to state that coverage
17 maintained by City shall be excess to and shall not contribute to insurance or self-
18 insurance maintained by Consultant. Consultant shall notify City in writing within
19 five (5) days after any insurance has been voided by the insurer or cancelled by the
20 insured.

21 D. If this coverage is written on a "claims made" basis, it must
22 provide for an extended reporting period of not less than one hundred eighty (180)
23 days, commencing on the date this Agreement expires or is terminated, unless
24 Consultant guarantees that Consultant will provide to City evidence of uninterrupted,
25 continuing coverage for a period of not less than three (3) years, commencing on
26 the date this Agreement expires or is terminated.

27 E. Consultant shall require that all subconsultants or contractors
28 that Consultant uses in the performance of these services maintain insurance in

1 compliance with this Section unless otherwise agreed in writing by City's Risk
2 Manager or designee.

3 F. Prior to the start of performance, Consultant shall deliver to City
4 certificates of insurance and the endorsements for approval as to sufficiency and
5 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the
6 insurance, furnish to City certificates of insurance and endorsements evidencing
7 renewal of the insurance. City reserves the right to require complete certified copies
8 of all policies of Consultant and Consultant's subconsultants and contractors, at any
9 time. Consultant shall make available to City's Risk Manager or designee all books,
10 records and other information relating to this insurance, during normal business
11 hours.

12 G. Any modification or waiver of these insurance requirements
13 shall only be made with the approval of City's Risk Manager or designee. Not more
14 frequently than once a year, City's Risk Manager or designee may require that
15 Consultant, Consultant's subconsultants and contractors change the amount, scope
16 or types of coverages required in this Section if, in his or her sole opinion, the
17 amount, scope or types of coverages are not adequate.

18 H. The procuring or existence of insurance shall not be construed
19 or deemed as a limitation on liability relating to Consultant's performance or as full
20 performance of or compliance with the indemnification provisions of this Agreement.

21 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
22 contemplates the personal services of Consultant and Consultant's employees, and the
23 parties acknowledge that a substantial inducement to City for entering this Agreement was
24 and is the professional reputation and competence of Consultant and Consultant's
25 employees. Consultant shall not assign its rights or delegate its duties under this
26 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
27 of City, except that Consultant may with the prior approval of the City Manager of City,
28 assign any moneys due or to become due Consultant under this Agreement. Any

1 attempted assignment or delegation shall be void, and any assignee or delegate shall
2 acquire no right or interest by reason of an attempted assignment or delegation.
3 Furthermore, Consultant shall not subcontract any portion of its performance without the
4 prior approval of the City Manager or designee, or substitute an approved subconsultant
5 or contractor without approval prior to the substitution. Nothing stated in this Section shall
6 prevent Consultant from employing as many employees as Consultant deems necessary
7 for performance of this Agreement.

8 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
9 certifies that, at the time Consultant executes this Agreement and for its duration,
10 Consultant does not and will not perform services for any other client which would create
11 a conflict, whether monetary or otherwise, as between the interests of City and the interests
12 of that other client. Consultant further certifies that Consultant does not now have and shall
13 not acquire any interest, direct or indirect, in the area covered by this Agreement or any
14 other source of income, interest in real property or investment which would be affected in
15 any manner or degree by the performance of Consultant's services hereunder. And,
16 Consultant shall obtain similar certifications from Consultant's employees, subconsultants
17 and contractors.

18 8. MATERIALS. Consultant shall furnish all labor and supervision,
19 supplies, materials, tools, machinery, equipment, appliances, transportation and services
20 necessary to or used in the performance of Consultant's obligations under this Agreement,
21 except as stated in Exhibit "D".

22 9. OWNERSHIP OF DATA. All materials, information and data
23 prepared, developed or assembled by Consultant or furnished to Consultant in connection
24 with this Agreement, including but not limited to documents, estimates, calculations,
25 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
26 models, reports, summaries, drawings, designs, notes, plans, information, material and
27 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
28 and City shall have the unrestricted right to use and disclose the Data in any manner and

1 for any purpose without payment of further compensation to Consultant. Copies of Data
2 may be retained by Consultant but Consultant warrants that Data shall not be made
3 available to any person or entity for use without the prior approval of City. This warranty
4 shall survive termination of this Agreement for five (5) years.

5 10. TERMINATION. Either party shall have the right to terminate this
6 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
7 prior written notice to the other party. In the event of termination under this Section, City
8 shall pay Consultant for services satisfactorily performed and costs incurred up to the
9 effective date of termination for which Consultant has not been previously paid. The
10 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective
11 date of termination, Consultant shall deliver to City all Data developed or accumulated in
12 the performance of this Agreement, whether in draft or final form, or in process. And,
13 Consultant acknowledges and agrees that City's obligation to make final payment is
14 conditioned on Consultant's delivery of the Data to City.

15 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
16 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
17 performing its services, during the term of this Agreement and for five (5) years following
18 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
19 all information, whether written, oral or visual, obtained by any means whatsoever in the
20 course of performing its services for the same period of time. Consultant shall not disclose
21 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit
22 of others except for the purpose of this Agreement.

23 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
24 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
25 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
26 without breach of this Agreement by Consultant; or (c) a third party who has a right to
27 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
28 disclosed pursuant to subpoena or court order.

1 13. ADDITIONAL COSTS AND REDESIGN.

2 A. Any costs incurred by City due to Consultant's failure to meet
3 the standards required by the scope of work or Consultant's failure to perform fully
4 the tasks described in the scope of work which, in either case, causes City to request
5 that Consultant perform again all or part of the Scope of Work shall be at the sole
6 cost of Consultant and City shall not pay any additional compensation to Consultant
7 for its re-performance.

8 B. If the Project involves construction and the scope of work
9 requires Consultant to prepare plans and specifications with an estimate of the cost
10 of construction, then Consultant may be required to modify the plans and
11 specifications, any construction documents relating to the plans and specifications,
12 and Consultant's estimate, at no cost to City, when the lowest bid for construction
13 received by City exceeds by more than ten percent (10%) Consultant's estimate.
14 This modification shall be submitted in a timely fashion to allow City to receive new
15 bids within four (4) months after the date on which the original plans and
16 specifications were submitted by Consultant.

17 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
18 amended, nor any provision or breach waived, except in writing signed by the parties which
19 expressly refers to this Agreement.

20 15. LAW. This Agreement shall be construed in accordance with the laws
21 of the State of California, and the venue for any legal actions brought by any party with
22 respect to this Agreement shall be the County of Los Angeles, State of California for state
23 actions and the Central District of California for any federal actions. Consultant shall cause
24 all work performed in connection with construction of the Project to be performed in
25 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,
26 county or municipal governments or agencies (including, without limitation, all applicable
27 federal and state labor standards, including the prevailing wage provisions of sections 1770
28 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire

1 marshal, health officer, building inspector, or other officer of every governmental agency
2 now having or hereafter acquiring jurisdiction.

3 16. PREVAILING WAGES.

4 A. Consultant agrees that all public work (as defined in California
5 Labor Code section 1720) performed pursuant to this Agreement (the "Public
6 Work"), if any, shall comply with the requirements of California Labor Code sections
7 1770 *et seq.* City makes no representation or statement that the Project, or any
8 portion thereof, is or is not a "public work" as defined in California Labor Code
9 section 1720.

10 B. In all bid specifications, contracts and subcontracts for any
11 such Public Work, Consultant shall obtain the general prevailing rate of per diem
12 wages and the general prevailing rate for holiday and overtime work in this locality
13 for each craft, classification or type of worker needed to perform the Public Work,
14 and shall include such rates in the bid specifications, contract or subcontract. Such
15 bid specifications, contract or subcontract must contain the following provision: "It
16 shall be mandatory for the contractor to pay not less than the said prevailing rate of
17 wages to all workers employed by the contractor in the execution of this contract.
18 The contractor expressly agrees to comply with the penalty provisions of California
19 Labor Code section 1775 and the payroll record keeping requirements of California
20 Labor Code section 1771."

21 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
22 constitutes the entire understanding between the parties and supersedes all other
23 agreements, oral or written, with respect to the subject matter in this Agreement.

24 18. INDEMNITY.

25 A. Consultant shall indemnify, protect and hold harmless City, its
26 Boards, Commissions, and their officials, employees and agents ("Indemnified
27 Parties"), from and against any and all liability, claims, demands, damage, loss,
28 obligations, causes of action, proceedings, awards, fines, judgments, penalties,

1 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
2 in connection with (1) Consultant's breach or failure to comply with any of its
3 obligations contained in this Agreement, including any obligations arising from the
4 Project's compliance with or failure to comply with applicable laws, including all
5 applicable federal and state labor requirements including, without limitation, the
6 requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful
7 acts, errors, omissions or misrepresentations committed by Consultant, its officers,
8 employees, agents, subcontractors, or anyone under Consultant's control, in the
9 performance of work or services under this Agreement (collectively "Claims" or
10 individually "Claim").

11 B. In addition to Consultant's duty to indemnify, Consultant shall
12 have a separate and wholly independent duty to defend Indemnified Parties at
13 Consultant's expense by legal counsel approved by City, from and against all
14 Claims, and shall continue this defense until the Claims are resolved, whether by
15 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
16 breach, or the like on the part of Consultant shall be required for the duty to defend
17 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
18 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
19 in the defense.

20 C. If a court of competent jurisdiction determines that a Claim was
21 caused by the sole negligence or willful misconduct of Indemnified Parties,
22 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the
23 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
24 percentage of willful misconduct attributed by the court to the Indemnified Parties.

25 D. The provisions of this Section shall survive the expiration or
26 termination of this Agreement.

27 19. AMBIGUITY. In the event of any conflict or ambiguity between this
28 Agreement and any Exhibit, the provisions of this Agreement shall govern.

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20. NONDISCRIMINATION.

A. 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, sex, 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.

B. It is the policy of City to encourage the participation of Disadvantaged, Minority and Women-Owned Business Enterprises in City's procurement process, and Consultant agrees to use its best efforts to carry out this policy in its use of subconsultants and contractors to the fullest extent consistent with the efficient performance of this Agreement. Consultant may rely on written representations by subconsultants and contractors regarding their status. Consultant shall report to City in May and in December or, in the case of short-term agreements, prior to invoicing for final payment, the names of all subconsultants and contractors hired by Consultant for this Project and information on whether or not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in accordance with the provisions of the Ordinance, this Agreement is subject to the applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the Long Beach Municipal Code, as amended from time to time.

A. During the performance of this Agreement, the Consultant certifies and represents that the Consultant will comply with the EBO. The

1 Consultant agrees to post the following statement in conspicuous places at its place
2 of business available to employees and applicants for employment:

3 "During the performance of a contract with the City of Long Beach, the
4 Consultant will provide equal benefits to employees with spouses and its
5 employees with domestic partners. Additional information about the City of
6 Long Beach's Equal Benefits Ordinance may be obtained from the City of
7 Long Beach Business Services Division at 562-570-6200."

8 B. The failure of the Consultant to comply with the EBO will be
9 deemed to be a material breach of the Agreement by the City.

10 C. If the Consultant fails to comply with the EBO, the City may
11 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
12 to become due under the Agreement may be retained by the City. The City may
13 also pursue any and all other remedies at law or in equity for any breach.

14 D. Failure to comply with the EBO may be used as evidence
15 against the Consultant in actions taken pursuant to the provisions of Long Beach
16 Municipal Code 2.93 et seq., Contractor Responsibility.

17 E. If the City determines that the Consultant has set up or used its
18 contracting entity for the purpose of evading the intent of the EBO, the City may
19 terminate the Agreement on behalf of the City. Violation of this provision may be
20 used as evidence against the Consultant in actions taken pursuant to the provisions
21 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

22 22. NOTICES. Any notice or approval required by this Agreement shall
23 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
24 postage prepaid, addressed to Consultant at the address first stated above, and to City at
25 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy
26 to the City Engineer at the same address. Notice of change of address shall be given in
27 the same manner as stated for other notices. Notice shall be deemed given on the date
28 deposited in the mail or on the date personal delivery is made, whichever occurs first.

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23. COPYRIGHTS AND PATENT RIGHTS.

A. Consultant shall place the following copyright protection on all Data: © City of Long Beach, California _____, inserting the appropriate year.

B. City reserves the exclusive right to seek and obtain a patent or copyright registration on any Data or other result arising from Consultant's performance of this Agreement. By executing this Agreement, Consultant assigns any ownership interest Consultant may have in the Data to City.

C. Consultant warrants that the Data does not violate or infringe any patent, copyright, trade secret or other proprietary right of any other party. Consultant agrees to and shall protect, defend, indemnify and hold City, its officials and employees harmless from any and all claims, demands, damages, loss, liability, causes of action, costs or expenses (including reasonable attorney's fees) whether or not reduced to judgment, arising from any breach or alleged breach of this warranty.

24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants

that Consultant has not employed or retained any entity or person to solicit or obtain this Agreement and that Consultant has not paid or agreed to pay any entity or person any fee, commission or other monies based on or from the award of this Agreement. If Consultant breaches this warranty, City shall have the right to terminate this Agreement immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments due under this Agreement or otherwise recover the full amount of the fee, commission or other monies.

25. WAIVER. The acceptance of any services or the payment of any

money by City shall not operate as a waiver of any provision of this Agreement or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.

26. CONTINUATION. Termination or expiration of this Agreement shall

1 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
2 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

3 27. TAX REPORTING. As required by federal and state law, City is
4 obligated to and will report the payment of compensation to Consultant on Form 1099-
5 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
6 resulting from payments under this Agreement. Consultant shall submit Consultant's
7 Employer Identification Number (EIN), or Consultant's Social Security Number if
8 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
9 Financial Management. Consultant acknowledges and agrees that City has no obligation
10 to pay Consultant until Consultant provides one of these numbers.

11 28. ADVERTISING. Consultant shall not use the name of City, its officials
12 or employees in any advertising or solicitation for business or as a reference, without the
13 prior approval of the City Manager or designee.

14 29. AUDIT. City shall have the right at all reasonable times during the
15 term of this Agreement and for a period of five (5) years after termination or expiration of
16 this Agreement to examine, audit, inspect, review, extract information from and copy all
17 books, records, accounts and other documents of Consultant relating to this Agreement.

18 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or
19 designed to or entered for the purpose of creating any benefit or right for any person or
20 entity of any kind that is not a party to this Agreement.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

ANDERSON REAL ESTATE GROUP INC.,
a California corporation

1/25, 2018⁹JA

By [Signature]
Name JEFF ANDERSON
Title CEO

1/25, 2018⁹TC

By [Signature]
Name TORRY CARRICK
Title PRESIDENT

Tom Modica
Assistant City Manager

"Consultant"

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

CITY OF LONG BEACH, a municipal
corporation

March 27, 2018

By [Signature]
City Manager

"City"

This Agreement is approved as to form on 2-14, ²⁰¹⁹~~2018~~.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lana Beach, CA 90802-4664

EXHIBIT “A”

Scope of Work

EXHIBIT A

REAL ESTATE BROKER SERVICES SCOPE OF SERVICES

Services to be provided include, but are not limited to, the following:

STRATEGIC PLANNING

- Demographic analysis
- User needs assessment
- Space programming
- Market survey research
- Request for proposals
- Building and space evaluations
- Financial analysis
- Proposal summary and analysis
- Letter of understanding/Business terms

TRANSACTION SERVICES

- Tenant representation
- Site acquisitions
- Site dispositions
- Lease renewals/restructures
- Project management
- Sale/leaseback
- Document/Lease review
- Negotiation
- Design and Construction
- Construction management

ADMINISTRATIVE

- Lease administration
- Benchmarking
- Policies and procedures
- Operating expenses audits
- Facility audits

EXHIBIT “B”

Rates or Charges

EXHIBIT B

Anderson Real Estate Group Rates or Charges (Fee Schedule)

SALES AND OTHER TRANSFERS

Sales of Improved and Unimproved Property - Gross Sales Price Less than or equal to \$5MM - 6% of the gross sales price.

Sales of Improved and Unimproved Property - Gross Sales Price Greater than \$5MM - 5.5% of the gross sales price.

Joint Venture / Public Private Partnership - Should this occur in lieu of a sale, 6% of the basis of the value of the property as determined in the joint venture agreement and the percentage interest thereof which is being conveyed to the joint venture or the joint ventures.

Business Opportunity - 10% of the gross sales price.

For all of the above, should another broker not be party to a transaction with a gross consideration in excess of \$3MM, our fee would be discounted by 15%.

LEASES

Leases (including a sublease or assignment), regardless of property type (Office/Industrial/Retail/Land/Other) or lease type (Net/Gross/Other), for a term of **less than 7 years** - 6% of the total consideration.

Leases (including a sublease or assignment), regardless of property type (Office/Industrial/Retail/Land/Other) or lease type (Net/Gross/Other), for a term of **greater than 7 years** - 5% of the total consideration.

Leases (including a sublease or assignment), regardless of property type (Office/Industrial/Retail/Land/Other) or lease type (Net/Gross/Other), for a term of **greater than 20 years** - 4% of the total consideration paid through the first 30 years.

OPTIONS TO RENEW, EXTEND, OR LEASE ADDITIONAL SPACE

Should the term of the lease be extended or the tenant occupy additional space, a leasing commission in accordance with the provisions of this schedule using the rates applicable that would have applied if the renewal or extension period were in force at the time the original lease was made.

PURCHASE OPTION

EXHIBIT B

If the property at which the lease is made is purchased by the tenant pursuant to an option contained in the lease, a sales commission in accordance with the provisions of this schedule shall be paid when the purchase is affected, less the amount of paid lease commissions related to the portion of the lease term extending beyond the effective date of said purchase.

NON-TRANSACTIONAL HOURLY CONSULTING SERVICES

- Commercial Director and Commercial Vice President hourly rate: \$275
- Commercial Associate hourly rate: \$175
- Marketing Director hourly rate: \$75
- Director of Operations hourly rate: \$115
- Project Manager hourly rate: \$115
- Listing Coordinator hourly rate of \$50

MISCELLANEOUS

Leasing Commissions - To be paid upon delivery of fully executed Lease by Lessor and Lessee.

Escrow Transactions - Commissions shall be paid upon the closing of the transaction through escrow.

Absent an Escrow - Commissions shall be paid upon execution and delivery of the instrument of conveyance or establishment of the entitlement of ownership.

EXHIBIT “C”

City’s Representative:

Mary Frances Torres, Project Manager

(562) 570-6846

EXHIBIT “D”

Materials/Information Furnished: None

EXHIBIT “E”

Consultant’s Key Employee:

Jeff Anderson