

**AGREEMENT BETWEEN THE CITY OF LANCASTER AND SARGENT TOWN  
PLANNING FOR CONSULTANT SERVICES TO PREPARE AN URBAN MASTER  
PLAN AND AN ENVIRONMENTAL IMPACT REPORT FOR A 400± ACRE AREA TO  
THE EAST, SOUTH AND WEST OF THE ANTELOPE VALLEY HOSPITAL (AVH)**

THIS AGREEMENT is made and entered into, on the date hereinafter noted, by and between the CITY OF LANCASTER, a municipal corporation, hereinafter referred to as “CITY” and Sargent Town Planning, hereinafter referred to as “CONSULTANT”, for the purpose of retaining professional consultant services to prepare an Urban Master Plan and an Environmental Impact Report for a 400± acre area to east, south and west of the Antelope Valley Hospital (AVH) as described in “Exhibit A” attached hereto and made a part hereof by reference.

WHEREAS, CITY as lead agency under the California Environmental Quality Act (“CEQA”) has determined that an Urban Plan and an Environmental Impact Report should be prepared for a 400± acre area to east, south and west of the Antelope Valley Hospital (AVH); and

WHEREAS, CITY is desirous of retaining professional consultant services for the purpose of preparing and processing of such Urban Master Plan and an Environmental Impact Report; and

WHEREAS, CONSULTANT is experienced in providing such services, and is able to provide personnel with the proper experience and background to carry out the duties involved in such service.

NOW, THEREFORE, in consideration of the covenants, benefits, and premises stated above, CITY and CONSULTANT do hereby agree, each with the other, as follows:

**I. SCOPE OF SERVICES**

A. CONSULTANT shall provide professional services for the preparation and processing of Urban Master Plan and an Environmental Impact Report for a 400± acre area to east, south and west of the Antelope Valley Hospital (AVH) as provided for in the Scope of Services (the “Scope of Services”) of the Proposal for Professional Services submitted to the CITY by the CONSULTANT (“Proposal”) and dated April 11, 2016, which Scope of Services and Proposal are attached hereto as “Exhibit A” and made a part hereof by reference.

B. CONSULTANT shall submit all required materials as set forth in the Scope of Services.

C. CONSULTANT also agrees that it will meet with staff of the CITY and ANTELOPE VALLEY HEALTHCARE DISTRICT as required by the Scope of Services in order to coordinate CITY’S and CONSULTANT’S responsibilities under this Agreement.

**II. PERFORMANCE BY PERSONNEL**

CONSULTANT shall utilize key personnel set forth in the Proposal to accomplish the Scope of Services. However, CONSULTANT may also associate with or

employ other personnel in the performance of the Scope of Services under this Agreement, but at all times the City shall be notified in writing if there is a change in key personnel and the City will have the right to accept or recommend substitutions for key personnel in its sole and reasonable discretion.

### III. COMPENSATION

CONSULTANT hereby agrees to perform the Scope of Work in accordance with CITY direction for an amount not to exceed the total fee set forth in the CONSULTANT'S Proposal of \$675,940. Requests by the CITY for services not incorporated in the Scope of Work will be authorized in advance by the CITY on a time and materials basis. Out of said sum CITY shall release to CONSULTANT such sums that are actually due and owing for services rendered by CONSULTANT under this Agreement.

### IV. METHOD OF PAYMENT

CONSULTANT shall submit invoices to the CITY in arrears for services rendered during the preceding month. All invoices shall be approved and paid, or disapproved, within thirty (30) days of receipt by CITY.

### V. INTERESTS OF CONSULTANT

A. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work. No person having such interest shall be employed by or associated with the CONSULTANT.

B. CONSULTANT affirms that the personnel responsible in carrying out the Scope of Work have no interest and are not involved in the preparation of land use and development applications for the 400± acre area to east, south and west of the Antelope Valley Hospital (AVH).

### VI. COMPLIANCE WITH LOCAL LAWS

CONSULTANT shall comply with all applicable laws, ordinances, and codes of federal, state, and local governments in the performance of the Scope of Services.

### VII. LEGAL RESPONSIBILITIES

A. CONSULTANT shall keep fully informed of state and federal laws and municipal ordinances and regulations, which in any manner affect those employed by CONSULTANT pursuant to this Agreement. The CONSULTANT shall at all times observe and comply with all such laws, ordinances, and regulations.

B. CONSULTANT agrees that in the performance of the terms of this Agreement, no discrimination shall be made in the employment of persons because of sex, race, color, national origin, ancestry, or religion of such person. A violation of this provision will subject the CONSULTANT to all penalties imposed by law.

### VIII. OWNERSHIP OF REPORTS, INFORMATION, DATA, EXHIBITS, ETC.

All of the reports, information, data, exhibits, and other work or materials prepared or assembled by the CONSULTANT in connection with the performance of its services pursuant to this Agreement are confidential and the CONSULTANT agrees that they shall not be made available to any individual or organization without the prior consent of the CITY; provided, however, that this provision shall not apply to information which is in the public domain, or was previously known to the CONSULTANT, or was acquired by the CONSULTANT independently from third parties not under any obligation to CITY to keep said information confidential. All such reports, information, data, and exhibits shall be the property of the CITY and shall be delivered to the CITY upon demand, or at the completion of the project, without additional cost or expense to the CITY.

### IX. TERM

The executory provisions of this Agreement may be terminated by either party on ten (10) days written notice to the other party without further action. In the event of such termination by either party of this Agreement, the CITY shall pay the CONSULTANT for work completed to date of such termination.

Any extension of time or request for additional compensation shall be submitted in writing to the CITY prior to the scheduling of any additional work not set forth in this Agreement. The CITY will evaluate said request and advise the CONSULTANT to proceed if and when appropriate. Costs incurred by the CONSULTANT for additional work not approved by the CITY shall be the sole responsibility of the CONSULTANT.

### X. INDEMNITY, INSURANCE, AND HOLD HARMLESS

A. CONSULTANT is employed hereunder to render a professional service within the scope of its training and experience and CONSULTANT only bears a legal relationship of independent contractor to the CITY with respect to the services performed. As such, the CITY shall not be called upon to assume any liability for the direct payment of any salary, wage, or other compensation to any person employed by CONSULTANT to perform the services hereunder, and CONSULTANT shall indemnify, defend and hold harmless CITY from any such claims.

B. Further, the CITY shall not be liable or responsible to any officer, employee, agent, or subcontractor (or any of such subcontractor's officers, employees, or agents) of CONSULTANT for any claims under contract, tort, or other legal principles, other than as may be expressly set forth herein, and CONSULTANT shall indemnify, defend and hold harmless CITY from any such claims.

C. CONSULTANT agrees to indemnify and hold harmless the CITY, the Lancaster Successor Agency, the Lancaster Financing Authority, the Lancaster Housing Authority, the Lancaster Power Authority, the Lancaster Boulevard Corporation, the Lancaster Community Services Foundation, and the Lancaster Museum and Public Art Foundation, as well as each of their officers, agents, servants and employees (collectively referred to as "City

Entities”), against all claims, damages, losses and expenses, including attorney’s fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the CITY.

D. CONSULTANT agrees to indemnify and hold harmless the City Entities from and against any and all claims, losses, obligations, or liabilities whatsoever incurred in or in any manner arising out of or related to CONSULTANT’s negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. CONSULTANT agrees to defend the City Entities from and against any and all claims arising from any alleged negligent or wrongful acts, errors, or omissions on the part of the CONSULTANT or on the part of its employees. This obligation to defend shall arise whether or not it is ultimately determined that CONSULTANT was engaged in any negligent or others wrongful acts, errors or emissions.

E. The CONSULTANT, at its expense, shall maintain in effect at all times during the performance of work under this Agreement not less than the following coverage and limits of insurance:

1) CONSULTANT shall maintain limits no less than:

- General Liability: Commercial General Liability Insurance or other form with a general aggregate limit of \$2,000,000 Aggregate, and \$1,000,000 per Occurrence.
- Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- Workers Compensation: Limits as required by the Labor Code of the State of California.
- Employers Liability: Minimum limits of \$1,000,000 Occupational Disease, \$1,000,000 per Accident, \$1,000,000 per Employee.
- Professional Liability: \$1,000,000 each claim, \$1,000,000 general aggregate.
- Certificate holder MUST be named as additional insured on the General Liability and Auto Liability coverage AND a copy of the endorsement(s) MUST accompany the certificate. Additional Insured Language must appear exactly as indicated below.
- A Waiver of Subrogation MUST be provided on behalf of the Certificate Holder for the Workers Compensation/Employers Liability policies AND a copy of the endorsement MUST accompany the certificate.
- Copy of Declaration Page or List of Endorsements.
- All certificates must bear an authorized signature and provide for at least 30 days notice of cancellation.
- All of the above policies must be written by a carrier with a minimum A.M. Best rating of A- or better AND a financial size classification of VIII or higher.

- All Deductibles, Self-Insured Retentions and Retroactive dates must be evidenced on the certificate.
  - Certificate Holder: (must be **EXACTLY** as shown below)  
**The City of Lancaster, the Lancaster Successor Agency, the Lancaster Financing Authority, the Lancaster Housing Authority, the Lancaster Boulevard Corporation, the Lancaster Community Services Foundation, and the Lancaster Museum and Public Art Foundation, as well as each of their Officers, Agents, Servants, and Employees.**
- 2) Insurance shall be at least as broad as ISO Form CG 20 10 11 85 or CG 20 10 10 01 and CG 20 37 10 01 covering Commercial General Liability. Commercial Automobile Coverage shall be at least as broad as ISO Form CA 00 01.

F. The CONSULTANT shall comply with the following general provisions:

- 1) Any deductibles or self-insurance retentions must be declared to and approved by the CITY. At the option of the CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respect to the City insured entities or, the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expense.
- 2) All insurance shall be primary and non-contributory as respect to the City insured entities. Any insurance or self-insurance maintained by the City insured entities shall be in excess of the CONSULTANT's insurance and shall not contribute with it.
- 3) The coverage provided under this contract shall not contain any special limitations on the scope of protection afforded to the City insured entities.
- 4) Insurance written on a "claims made" basis must be renewed for a period of five (5) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract, and will cover CONSULTANT for all claims made by City insured entities arising out of any acts or omissions of CONSULTANT or its officers, employees or agents during the time this Agreement was in effect.
- 5) CONSULTANT shall furnish the CITY with Certificates of Insurance and with original endorsements effecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the CITY before work commences. The

CITY reserves the right to require complete, certified copies of all require insurance policies at any time.

6) Certificates of Insurance must be deposited with the CITY for all covered required by this contract. Certificates shall meet the following requirements:

a) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 days prior written notice (10 days written notice for non-payment) by certified mail, return receipt requested to the CITY.

b) List in the “Descriptions of Operations, etc.” section:

The Certificate Holders, as well as their officers, agents, servants and employees are included as additional insured as respect to liability arising out of activities performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT. (This does not apply to Professional Liability policies).

c) List in the “Certificate Holder” section:

The City of Lancaster, the Lancaster Successor Agency, the Lancaster Financing Authority, the Lancaster Housing Authority, the Lancaster Power Authority, the Lancaster Boulevard Corporation, the Lancaster Community Services Foundation, and the Lancaster Museum and Public Art Foundation, as well as each of their officers, agents, servants and employees. 44933 Fern Avenue, Lancaster, California 93534.

d) List in the “Cancellation” section:

Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail 30 days written notice (10 days written notice for non-payment) to the Certificate Holders named to the left.

7) CONSULTANT shall include all subcontractors as an insured under its policies, or shall furnish separate certificates and endorsements for each subcontractor. Subcontractors are subject to the same insurance requirements as the CONSULTANT.

8) Policies providing for bodily injury and property damage coverage shall contain the following:

- a) An endorsement extending coverage to the City Entities as an additional insured, in the same manner as the named insured, as respects liability arising out of performance of any work under the Agreement.
- b) “Severability of Interest” clause.
- c) Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by CONSULTANT under the Agreement.

XI. NOTICES

All written notices required by this Agreement to be sent by either party shall be sent by certified mail, return receipt requested, postage prepaid, and addressed to the other party as listed below. No party to this Agreement shall refuse to accept such mail. Each party to this Agreement shall promptly inform the other party of any change of address. All notices required by this Agreement, unless otherwise indicated herein, are effective on the date of receipt. The mailing address of each party to this Agreement is as follows:

“CITY”

CITY OF LANCASTER  
 Development Services Department  
 Attn: Brian S. Ludicke, Planning Director  
 44933 North Fern Avenue  
 Lancaster, California 93534

Stradling Yocca Carlson & Rauth  
 Attn: Allison Burns  
 660 Newport Center Drive, Suite 1600  
 Newport Beach, California 92660

“CONSULTANT”

Sargent Town Planning  
 Attn: David Sargent, Principal-in-Charge / Project Director  
 706 South Hill Street 12<sup>th</sup> Floor  
 Los Angeles, CA 90014

XII. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the CITY and CONSULTANT and on their respective successors, executors, administrators, and assigns. Neither the CITY nor CONSULTANT may assign or transfer their respective rights, interests, or obligations under this Agreement without written consent of the other party. However, any accounts and monies earned and accrued to CONSULTANT hereunder may be assigned by CONSULTANT.

XIII. ATTORNEY'S FEES AND COSTS

The parties hereby agree that should any action be brought by either party to this Agreement to enforce any provision contained herein, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

**XIV. UNDERSTANDING OF THE PARTIES**

This Agreement represents the complete understanding between the parties with respect to the matters set forth herein. No amendment or modification of the Agreement shall be valid unless evidenced in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their representative officers thereunto duly authorized.

**CITY OF LANCASTER**

Approved by:

\_\_\_\_\_  
Brian S. Ludicke, Planning Director

By: \_\_\_\_\_  
Mark V. Bozigian, City Manager

\_\_\_\_\_  
Dated

**“CONSULTANT”**

Sargent Town Planning

By: \_\_\_\_\_  
David Sargent  
Principal-in-Charge/Project Director

\_\_\_\_\_  
Dated

ATTEST:

\_\_\_\_\_  
Britt Avrit, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ALLISON E. BURNS, ESQ.  
City Attorney