



ADOPTION OF RESOLUTION APPROVING AN AGREEMENT WITH OVERLAND,  
PACIFIC & CUTLER, INC. FOR ACQUISITION AND RELOCATION SERVICES RELATED  
TO THE BROOKHURST TRIANGLE PROJECT

April 9, 2014

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In order to effectuate the provisions of the DDA, the Former Agency entered into a Professional Services Agreement with the Consultant for relocation services in 2009, and two subsequent amendments in 2010 and 2011. The most recent amendment has expired and a new contract with the Consultant is needed to complete the relocation of the businesses from the Site. The Consultant has submitted an updated proposal to complete the relocation of the tenants. In order to continue the foregoing services in a professional and on a timely basis, a new Professional Services Agreement ("New Agreement") has been prepared for Successor Agency consideration (Attachment 1). The New Agreement is for a one-year term in the aggregate amount of \$27,500.

FINANCIAL IMPACT

The cost for the contractual services will be paid from Successor Agency funds in an amount not to exceed \$27,500.

RECOMMENDATION

Staff recommends that the Oversight Board:


- Adopt the Resolution approving the Professional Services Agreement with Overland, Pacific, and Cutler, Inc., for acquisition and relocation services for one year, in an amount not to exceed \$27,500; and
- Authorize the Successor Agency Director to execute the Professional Services Agreement with Overland, Pacific, and Cutler, Inc.; and
- Direct staff to transmit the Professional Services Agreement to the State of California Department of Finance.

  
WILLIAM E. MURRAY, P.E.  
Public Works Director

By: Carlos Marquez  
Sr. Real Property Agent

Attachment 1: Resolution  
Attachment 2: Professional Services Agreement

Recommended for Approval

  
Matthew Fertal  
Director

OVERSIGHT BOARD

RESOLUTION NO.

A RESOLUTION OF OVERSIGHT BOARD OF THE CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH OVERLAND, PACIFIC, & CUTLER, INC., FOR ACQUISITION AND RELOCATON SERVICES FOR THE BROOKHURST TRIANGLE PROJECT AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Garden Grove Agency for Community Development, ("Former Agency") a redevelopment agency formerly existing under Chapter 2 of the Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*), acquired certain real property located at 10151 Garden Grove Boulevard, 10111 Garden Grove Boulevard, 10071 Garden Grove Boulevard, 10081 Garden Grove Boulevard, 12861 Brookhurst Street, and 12791 Brookhurst Street and also known by Assessor Parcel Numbers: 089-071-25, 089-071-11, 089-071-12, 089-071-13, 089-71-14, 089-071-08, 089-071-07, 089-071-06, 089-071-05, 089-071-24, 089-661-02, 089-661-04, and 089-661-03, located in the City of Garden Grove, (the "Property") for redevelopment purposes;

WHEREAS, the Former Agency and New Age Brookhurst, LLC ("Developer"), entered into a Disposition and Development Agreement ("DDA") on November 23, 2010, establishing the terms and conditions for the disposition of the Property to the Developer and the development of a mixed use retail, commercial, and residential development ("Project") on the Property;

WHEREAS, pursuant to ABX1-26 and the State of California Supreme Court decision in *California Redevelopment Association vs. Matosantos*, redevelopment agencies in California, including the Former Agency, were dissolved as of February 1, 2012; and

WHEREAS, pursuant to the provisions of ABX1-26, including but not limited to Health and Safety Code Section 34173, the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") is the successor entity to the Agency;

WHEREAS, on May 17, 2013, the State of California Department of Finance ("DOF") provided written confirmation to the Successor Agency that the DDA is an enforceable obligation pursuant to Health and Safety Code Section 34171(d)(1)(E);

WHEREAS, pursuant Section 205.1(g) of the DDA, the Successor Agency is to relocate all current tenants from the Property;

WHEREAS, on that written confirmation dated May 17, 2013 provided to the Successor Agency by the DOF approving the DDA as an enforceable obligation, the DOF acknowledged the Successor Agency's obligation to relocate current tenants before conveying the Property to the Developer;

WHEREAS, the Successor Agency desires to utilize the services of Overland, Pacific, & Cutler, Inc., ("Consultant") to relocate current tenants from the Property pursuant to the DDA; and

WHEREAS, the Successor Agency is authorized to enter into this Agreement pursuant to ABX1-26 and Successor Agency Board Resolution No. 1-12, adopted February 14, 2012.

NOW, THEREFORE, BE IT RESOLVED BY OVERSIGHT BOARD OF THE CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT:

Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. The Oversight Board hereby approves the Professional Services Agreement with Overland, Pacific, & Cutler, Inc., for acquisition and relocation services as part of the Brookhurst Triangle Project in furtherance of Section 205.1(g) of the DDA, together with such augmentation, modification, additions or revisions as the Director and/or the Finance Director or their authorized designees may find necessary to effectuate the services of the Consultant.

Section 3. The Director or his authorized designee on behalf of the Successor Agency shall cause this Resolution and Professional Services Agreement with Overland, Pacific, & Cutler, Inc., to be transmitted to the DOF.

Section 4. This Resolution shall be effective immediately upon adoption.

Section 5. The Secretary on behalf of the Oversight Board shall certify to the adoption of this Resolution.

**PROFESSIONAL SERVICES AGREEMENT**  
**OVERLAND, PACIFIC, AND CUTLER, INC.**

THIS AGREEMENT is made this        day of        2014, by the CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, (“SUCCESSOR AGENCY”), and OVERLAND, PACIFIC, AND CUTLER, Inc., a California Corporation (“CONSULTANT”).

**RECITALS**

The following recitals are a substantive part of this Agreement:

1. SUCCESSOR AGENCY desires to utilize the services of CONSULTANT to provide relocation services and related professional services as they pertain to real property in accordance with the following as they apply: California Government Code Section 7260-7277; California Code of Regulations Title 25, Division 1, Chapter 6. Services are further delineated in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference (the “services” or “work”). Consultant warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry for such services.
2. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

**AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement:** The term of the agreement shall be for period of **one (1) year from full execution** of the agreement. This Agreement may be terminated by SUCCESSOR AGENCY without cause as provided in Section 3.4 below. In such event, SUCCESSOR AGENCY will compensate CONSULTANT for work performed to date in accordance with the Proposal incorporated herein by reference as Exhibit “A”. CONSULTANT is required to present evidence to support performed work completion.
2. **Services to be Provided:** The services to be performed by CONSULTANT shall consist of tasks as set forth in the Proposal incorporated herein by reference as Exhibit “A.” The Proposal and this Agreement do not guarantee any specific amount of work. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
3. **Compensation.** CONSULTANT shall be compensated as follows:
  - 3.1 **Amount.** Compensation under this agreement shall be the Not To Exceed (NTE) amount of **Twenty Seven Thousand Five Hundred Dollars (\$27,500.00)**, payable in arrears.
  - 3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by SUCCESSOR AGENCY will be required, and payment shall be based on a schedule approved in conjunction with such written authorization.

- 3.3 Records of Expenses. CONSULTANT shall keep complete and accurate records of payroll costs, travel and incidental expenses. These records will be made available at reasonable times to SUCCESSOR AGENCY.
- 3.4 Termination. SUCCESSOR AGENCY and CONSULTANT shall each have the right to terminate this Agreement, without cause, by giving thirty-(30) days written notice of termination to the other party. If the Agreement is terminated by SUCCESSOR AGENCY, then the provisions of Section 3.2 would apply to that portion of the work completed.

4. **Insurance Requirements**

- 4.1 Commencement of Work CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the SUCCESSOR AGENCY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the SUCCESSOR AGENCY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 Workers Compensation Insurance For the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable. The insurer shall waive its rights of subrogation against the SUCCESSOR AGENCY, its officers, officials, agents, employees, and volunteers.
- 4.3 Insurance Amounts CONSULTANT shall maintain the following insurance for the duration of this Agreement:
- a) Commercial general liability in the amount of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-, Class VII or better, as approved by the SUCCESSOR AGENCY;
  - b) Automobile liability in the amount of \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable) Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-, Class VII or better, as approved by the SUCCESSOR AGENCY.
  - c) Professional liability in the amount of \$1,000,000 per occurrence; Insurance companies must be acceptable to SUCCESSOR AGENCY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the SUCCESSOR AGENCY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate SUCCESSOR AGENCY, the City of Garden Grove, their officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to SUCCESSOR AGENCY proof of insurance and endorsement forms that conform to SUCCESSOR AGENCY's requirements, as approved by the SUCCESSOR AGENCY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate SUCCESSOR AGENCY, City of Garden Grove, their officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, lease, hired, or borrowed by CONSULTANT. CONSULTANT shall provide to SUCCESSOR AGENCY proof of insurance and endorsement forms that conform to SUCCESSOR AGENCY's requirements, as approved by the SUCCESSOR AGENCY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects to SUCCESSOR AGENCY, City of Garden Grove, their officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the SUCCESSOR AGENCY, its officers, officials, employees, agents, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

*If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.*

5. **Non-Liability of Officials and Employees of the SUCCESSOR AGENCY.** No official or employee of SUCCESSOR AGENCY shall be personally liable to CONSULTANT in the event of any default or breach by SUCCESSOR AGENCY, or for any amount, which may become due to CONSULTANT.
6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of SUCCESSOR AGENCY, and shall obtain no rights to any benefits which accrue to SUCCESSOR AGENCY'S employees.
8. **Compliance With Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.
9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by SUCCESSOR AGENCY, unless disclosure is required by law.
10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of SUCCESSOR AGENCY. CONSULTANT shall provide SUCCESSOR AGENCY with copies of these items upon demand or upon termination of this Agreement.

11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
  
12. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
  - (a) Address of CONSULTANT is as follows:
 

Overland, Pacific, and Cutler, Inc.,  
 Attention: Michele Folk  
 3750 Schaufele Ave #150,  
 Long Beach, CA 90808
  
  - (b) Address of SUCCESSOR AGENCY is as follows (with a copy to):
 

Public Works/Engineering: Attention: Carlos Marquez City of Garden Grove As Successor Agency to the Garden Grove Agency for Community Development P.O. Box 3070 Garden Grove, CA 92840	City Attorney City of Garden Grove P.O. Box 3070 Garden Grove, CA 92840
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13. **Licenses, Permits and Fees.** At its sole expense, CONSULTANT shall obtain a **Garden Grove Business License**, all permits and licenses as may be required by this Agreement.
  
14. **Familiarity With Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there, if applicable; and (3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by SUCCESSOR AGENCY, it shall immediately inform SUCCESSOR AGENCY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from SUCCESSOR AGENCY.
  
15. **Time of Essence.** Time is of the essence in the performance of this Agreement.
  
16. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of CONSULTANT, its principals and employees were a substantial inducement for SUCCESSOR AGENCY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the SUCCESSOR AGENCY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of SUCCESSOR AGENCY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to SUCCESSOR AGENCY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and SUCCESSOR AGENCY. All persons engaged in the work will be considered employees of CONSULTANT. SUCCESSOR AGENCY will deal directly with and will make all payments to CONSULTANT.



17. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
18. **Indemnification.** To the fullest extent permitted by law, CONSULTANT agrees to protect, defend, and hold harmless SUCCESSOR AGENCY, the City of Garden Grove, and their elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless SUCCESSOR AGENCY and the City of Garden Grove, is due to the negligence, recklessness and/or wrongful conduct of SUCCESSOR AGENCY, the City of Garden Grove, or any of their elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT, and shall survive the termination of this Agreement.

19. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by SUCCESSOR AGENCY and CONSULTANT.
20. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the SUCCESSOR AGENCY and CONSULTANT.
21. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
22. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
23. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
24. **Agreement Limitations.** CONSULTANT understands and agrees that the implementation and effectiveness of this Agreement shall be subject to approval by the SUCCESSOR AGENCY Oversight Board and all provisions of ABX1-26 and AB 1484. CONSULTANT further understands and agrees that any and all liability under this Agreement shall be solely that of the SUCCESSOR AGENCY, and not that of the City of Garden Grove, and, in accordance with Health and Safety Code Section 34173(e), shall be limited in scope and amount to the actual property tax revenues received by, and the value of assets transferred to, the SUCCESSOR AGENCY pursuant ABX1-26 and AB 1484.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, these parties hereto have caused this Agreement to be executed as of the date set forth opposite the respective signatures.

**“SUCCESSOR AGENCY”  
CITY OF GARDEN GROVE AS  
SUCCESSOR AGENCY TO THE GARDEN  
GROVE AGENCY FOR COMMUNITY  
DEVELOPMENT, a public body**

Dated: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
Agency Director

**ATTEST**

**"CONSULTANT"  
OVERLAND, PACIFIC, AND CUTLER,  
INC.**

\_\_\_\_\_  
Secretary

By:   
Title: Michele Folk, Vice President

Dated: \_\_\_\_\_, 2014

Dated: February 28<sup>th</sup>, 2014

**APPROVED AS TO FORM:**

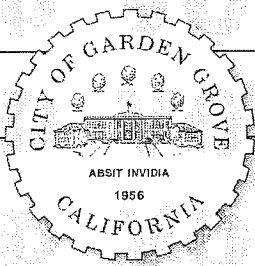
If CONSULTANT/CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY

\_\_\_\_\_  
Agency Counsel

Dated: \_\_\_\_\_, 2014

OVERLAND PACIFIC & CUTLER INC  
3750 SCHAUFLE AVE 150  
LONG BEACH, CA 90808

CITY OF GARDEN GROVE - BUSINESS TAX CERTIFICATE



BUSINESS NAME

OVERLAND PACIFIC & CUTLER INC

BUSINESS OWNER/PRINCIPAL

MCDANIEL, BARRY

TYPE OF BUSINESS

RELOCATION CONSULTING

BUSINESS ADDRESS

3750 SCHAUFLE AVE 150  
LONG BEACH, CA 90808

CONDITIONS

CERTIFICATE NO.

235515

VALIDATION DATE

05/30/2013

EXPIRATION DATE

05/31/2014

THE PERSON OR BUSINESS ENTITY NAMED ABOVE IS GRANTED THIS BUSINESS TAX CERTIFICATE PURSUANT TO THE PROVISIONS OF THE CITY BUSINESS TAX ORDINANCE TO ENGAGE IN, CARRY ON, OR CONDUCT THE BUSINESS, TRADE, CALLING, PROFESSION, EXHIBITION, OR OCCUPATION DESCRIBED BELOW. ISSUANCE OF THIS CERTIFICATE IS NOT AN ENDORSEMENT NOR CERTIFICATION OF COMPLIANCE WITH OTHER ORDINANCES OR LAWS INCLUDING LAND USE OR ZONING LAWS. THIS CERTIFICATE IS ISSUED WITHOUT VERIFICATION THAT THE APPLICANT IS SUBJECT TO OR EXEMPT FROM LICENSING BY THE STATE OF CALIFORNIA.

POST IN A CONSPICUOUS PLACE - NOT TRANSFERABLE

TAX PAID IN ACCORDANCE WITH THE MUNICIPAL CODE

