

**City of Garden Grove
INTER-DEPARTMENT MEMORANDUM**

Garden Grove Agency for Community Development

To: Matthew Fertal
Dept.: Director
Subject: AGREEMENT WITH PACIFIC
HOUSING MANAGEMENT FOR
PROPERTY MANAGEMENT
SERVICES

From: Chet Yoshizaki
Dept.: Economic Development
Date: May 12, 2009

OBJECTIVE

To request that the Garden Grove Agency for Community Development ("Agency") approve the Consultant Services Agreement ("Agreement") with Pacific Housing Management, Inc., d/b/a Municipal Management Services ("PHM") for property management services for the Travel Country RV Park ("RV Park").

BACKGROUND

On July 17, 2005, the Agency approved the acquisition of the RV Park for the purposes of redevelopment. At the time of acquisition, conditions at the RV Park were substandard and in need of immediate repair. On September 13, 2005, the Agency adopted Resolution No. 652, which authorized the emergency repair of restroom facilities. There were 113 occupied pad spaces at the close of escrow, many of which were in arrears.

Overland, Pacific, & Cutler, Inc. have performed property management duties of the RV Park since it was acquired in 2005. While they have maintained adequate management services, the lower RV Park occupancy and the current economic downturn has necessitated the need to explore for more reasonably priced services. Currently, there are 48 occupied pad spaces.

DISCUSSION

In January 2009, staff circulated a Request for Qualifications to eight (8) local property management companies with experience in managing mobile home and RV parks. Of the eight (8), only one (1) property management company submitted a proposal—Pacific Housing Management (PHM). All other companies that did not submit a proposal and cited the low occupancy as a factor in not responding. PHM also manages the City of Garden Grove's mobile home parks—the Bahia Village and the Emerald Isle.

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FOR PROPERTY MANAGEMENT SERVICES

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PHM proposes the collection of rents, bookkeeping, processing of eviction notices, monthly reports, maintenance of the RV Park and enforcement of the Rules and Regulations. PHM also proposes utilizing an onsite manager that will greatly reduce security expenses. Below is a list of the salient terms of the Agreement:

- Two (2) year term commencing on June 1, 2009 through May 31, 2011.
- Contract in the aggregate amount of One Hundred Fifty Six Thousand Dollars (\$156,000).
- Maintenance and payroll to be paid from RV Park revenues.

FINANCIAL IMPACT

Funds for the implementation of the Agreement are set aside from the RV Park budget.

COMMUNITY VISION IMPLEMENTATION

Improve the City's economic base through the development of tax-generating uses where appropriate.

RECOMMENDATION

It is recommended that the Agency:

- Approve the Agreement for property management services with Pacific Housing Management, Inc.;
- Authorize the Agency Director and Secretary to execute the Agreement on behalf of the Agency;


CHET YOSHIZAKI
Economic Development Director

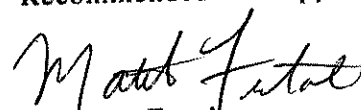
By: Carlos Marquez
Real Property Agent


By: Greg Brown
Redevelopment Manager

Attachment: Consultant Services Agreement

mm(h:Staff/Real Property/Pacific Hsg Mgmt sr 051209v2.doc)

Recommended for Approval


Matthew Fertal
Director

Consultant Services Agreement

THIS AGREEMENT is made this _____, 2009, by the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic, ("AGENCY") and **PACIFIC HOUSING MANAGEMENT, INC., D.B.A. MUNICIPAL MANAGEMENT SERVICES**, hereinafter referred to as "CONSULTANT".

RECITALS

The following recitals are a substantive part of this Agreement:

1. AGENCY desires to utilize the services of CONSULTANT to provide management services for the AGENCY owned Travel Country RV Park.
2. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish the management services.
3. AGENCY desires to close the Travel Country RV Park for redevelopment purposes, thus AGENCY will not admit new tenants upon said Park.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement cover services rendered between May 1, 2009 and April 30, 2011, with the option to extend said agreement for two (2) additional years total. Option years shall be exercised one (1) year at a time upon mutual consent of both parties. All service shall be provided in accordance with Attachment "A" which is incorporated herein by reference. This agreement may be terminated by the AGENCY without cause. In such event, the AGENCY will compensate CONSULTANT for work performed to date in accordance with (Attachment "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 Attachment "A". Attachment "A" and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONSULTANT shall be compensated as follows:
 - 3.1 **AMOUNT.** Except as otherwise specifically provided in this Agreement, the total compensation under this agreement shall be the Not to Exceed (NTE) amount of One Hundred Fifty Six Thousand Dollars (\$156,000.00) payable in arrears in accordance with Exhibit "A". Pricing shall remain firm for the first two-year performance period.
 - 3.2 **Payment.** For work under this Agreement, payment shall be made in the basic lump sum of \$6,500 (Six Thousand Five Hundred Dollars) for the immediately preceding month. This fee consists of Park management and administrative services. For extra work not a part of this Agreement, a written authorization by AGENCY will be required, and payment shall be based on schedule included in Attachment "A".

3.3 Records of Expenses. CONSULTANT shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to AGENCY.

3.4 Termination. AGENCY and CONSULTANT shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by AGENCY, then the provisions of Paragraph 3 would apply to that portion of the work completed.

4. **Insurance requirements; Bond.**

4.1 Commencement of work. CONSULTANT shall not commence work under this Agreement until all insurance and bond required has been obtained and this insurance and bond has been approved by AGENCY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify all parties of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 Workers' Compensation Insurance. During the duration of this Agreement, CONSULTANT and all subconsultants shall maintain Workers Compensation Insurance.

4.3 Insurance Amounts. The parties shall maintain the following insurance for the duration of this Agreement:

(a) AGENCY is and will continue to be legally self-insured for its liabilities. CONSULTANT shall maintain commercial general liability in an amount of \$1,000,000 per occurrence. Insurance companies must be acceptable to AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the AGENCY. CONSULTANT shall disclose to AGENCY all exclusions to the policy, which shall be acceptable to the AGENCY.

(b) CONSULTANT shall maintain automobile liability in an amount of \$1,000,000 per occurrence. Insurance companies must be acceptable to AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the AGENCY.

(c) CONSULTANT shall maintain a commercial crime policy in an amount of \$1,000,000 per occurrence, including employee dishonesty, forgery, alteration, and theft.

Endorsements for the policies under section 4.3(a), (b), & (c) shall designate the AGENCY, its officers, officials, employees, agents, and volunteers as additional insured. CONSULTANT shall provide to AGENCY proof in the form of both certificates of insurance and endorsement forms that conform to AGENCY's requirements, as approved by the AGENCY.

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

- 5. **Non-Liability of Officials and Employees of the Agency.** No official or employee of AGENCY shall be personally liable to CONSULTANT in the event of any default or breach by 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 the AGENCY, and shall obtain no rights to any benefits which accrue to 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. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
 - a. CONSULTANT (with a copy to):
 Pacific Housing Management Charles, Kane & Dye, LLP
 17541 17th Street 1920 Main Street, Suite 1070
 Tustin, CA 92780 Irvine, CA 92614
 - b. (Address of Agency) (with a copy to):
 Garden Grove Agency Agency Counsel
 For Community Development 11222 Acacia Parkway
 11222 Acacia Parkway Garden Grove, CA 92840
 Garden Grove, CA 92840
 Attention: Carlos Marquez
- 10. **CONSULTANT'S PROPOSAL.** This Agreement shall include CONSULTANT'S proposal or bid in Attachment "A". In the event of any inconsistency between the terms of Attachment "A" and this Agreement, this Agreement shall govern.
- 11. **Licenses, Permits, and Fees.** At its sole expense, CONSULTANT shall obtain a Garden Grove Business License, all permits, and licenses as may be required for CONSULTANT to provide the services described in Section 2 of this Agreement.
- 12. **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; 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 AGENCY, it shall immediately inform AGENCY of this and except in the event of emergencies, shall not proceed, except at CONSULTANT'S risk, until written instructions are received from AGENCY.
- 13. **Time of Essence.** Time is of the essence in the performance of this Agreement.

14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT, its principals and employees were a substantial inducement for AGENCY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the AGENCY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of AGENCY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to AGENCY for the acts and omissions of its subconsultant as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subconsultant and AGENCY. All persons engaged in the work will be considered employees of CONSULTANT. AGENCY will deal directly with and will make all payments to CONSULTANT.

15. **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.

16. **Indemnification.** CONSULTANT agrees to protect, defend, and hold harmless AGENCY and its 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 damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONSULTANT, CONSULTANT'S agents, officers, employees, subconsultants, or independent contractors hired by CONSULTANT. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless AGENCY, is due to the negligence or intentional acts of AGENCY, or any of its elective or appointive boards, officers, agents, or employees.

AGENCY agrees to protect, defend, and hold harmless CONSULTANT and its 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 damage to property, or interference with use of property, arising out of, or in any way connected with latent defects of the Premises or the performance of the Agreement by AGENCY, AGENCY's agents, officers, employees, subcontractors, or independent contractors hired by AGENCY. The only exception to AGENCY's responsibility to protect, defend, and hold harmless CONSULTANT, is due to the negligence or intentional acts of CONSULTANT, or any of its officers, agents, or employees.

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(Agreement Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

"AGENCY"
GARDEN GROVE AGENCY FOR COMMUNITY
DEVELOPMENT, a public body, corporate and
politic

ATTESTED:

Secretary

By: _____
Agency Director

Date: _____

Date: _____

APPROVED AS TO FORM:

Agency Counsel

"CONSULTANT"

By: *Richard Hall* for Pacific Housing
Management

Name: RICHARD HALL

Title: PRESIDENT OF PACIFIC HOUSING MANAGEMENT

Date: 5/7/09

Tax ID No. 33-0591169

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

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

"AGENCY"
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

ATTESTED:

Secretary

By: _____
Agency Director

Date: _____

Date: _____

APPROVED AS TO FORM:



Agency Counsel

"CONSULTANT"

By: _____

Name: _____

Title: _____

Date: _____

Tax ID No. _____

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

ATTACHMENT "A"

MUNICIPAL MANAGEMENT SERVICES

Property Management Agreement

PACIFIC HOUSING MANAGEMENT, doing business as MUNICIPAL MANAGEMENT SERVICES (hereinafter "Consultant"), agrees to provide its services to rent, lease, operate, manage and maintain, at the direction of the Garden Grove Agency for Community Development (hereinafter "Agency"), the property described below, hereinafter referred to as the "Premises", upon the terms hereinafter set forth. Consultant accepts the appointment as an independent contractor.

A. PREMISES. The Premises are the properties described as follows ("Premises"):

Travel Country RV Park
12721 Harbor Boulevard
Garden Grove, CA

B. COMPENSATION TO CONSULTANT.

1. Agency agrees to pay Consultant, as compensation for its services hereunder, on or before the tenth (10th) day of each month, a sum equal to Four Thousand Five Hundred Dollars for the immediately preceding month.

2. In the event that Agency shall request Consultant to undertake work exceeding what is usual and customary to management of mobilehome parks, such as major rehabilitation (excluding street repairs and rehabilitation), preparing and participating in rent regulation hearings, procedures, appeals, or other related requirements, obtaining tax advise, presenting petitions to planning and zoning committees, advising on proposed new construction or other counseling, installing and/or negotiating Long-Term Leases, or involvement in extensive litigation proceedings, a fee shall be charged, at Consultant's then current hourly rate, for each man hour of management services allocated thereto exceeding five man hours per month, calculated on a monthly basis. Consultant shall keep and submit time records which document such charges. The Consultant's hourly rate is \$75.00 per hour.

C. DUTIES OF CONSULTANT. Consultant will provide the following services:

1. To manage and operate the Premises for the period and upon the terms herein provided according to generally accepted procedures and practices usual and customary to management of mobilehome parks and in compliance with the California Mobilehome Residency Law (Civil Code 798 et seq.), Title 25 of the California Administrative Code and other applicable law, including but not limited to, any rent control ordinance now in effect or hereinafter enacted, and to maintain records necessary to show compliance therewith.

2. To secure and/or retain tenants/residents for spaces within the Premises and for any mobilehomes situated at the Premises which are owned by Agency ("park owned homes"). Consultant shall have the right to rent spaces and park owned homes pursuant to a rental schedule, a form of rental/lease agreement, a form of rules and regulations, and general guidelines approved and/or provided by Agency.

3. To collect rents, security deposits, or other charges and expenses due and to give receipts therefor.

4. To make timely deposits of funds collected on behalf of Agency in an account of Consultant maintained for that specific purpose at a bank of Consultant's choice unless otherwise directed in writing by Agency. All such funds deposited in such bank account shall be held in trust for Agency.

5. To institute and prosecute actions to evict residents of the Premises and to recover possession; to sue for, in the name of Agency and with the consent of Agency, and recover rents and other sums due, and when expedient, to settle, compromise and release such actions or suits or reinstate such tenancies.

6. To sign and serve in the name of Agency such notices as are appropriate.

7. To buy and/or sell mobilehomes, as directed by Agency, located on the Premises, or to be located on the Premises.

8. To assist Agency, as directed by Agency, in litigation related to the operation of the Premises.

9. To make timely and appropriate disbursements from funds collected, including, but not limited to, payments for the following:

- (a) Consultant's compensation hereunder;
- (b) expenses incurred in the operation and maintenance of the Premises, such as:
 - 1) advertising and promotion;
 - 2) computer and Internet access costs;
 - 3) general office costs such as copying, printing, postage, office furniture and fixtures, etc.;
 - 4) legal costs;
 - 5) payroll costs for onsite employees of Consultant, including but not limited to employee benefits, temporary help, and workers compensation insurance;
 - 6) services and related costs as Consultant shall deem advisable or as required by the rental/lease agreements with the residents of the Premises, such as gardening, general maintenance, landscaping, patrol or alarm service, resident relations and swimming pool expenses;
 - 7) supplies for maintenance purposes, general office needs, and other activities relating to Consultant's services;
 - 8) utilities and related costs such as electricity, natural gas, fuel, water, telephone/fax, cable TV, trash or rubbish hauling.
- (c) real and personal property taxes (if instructed to do so in writing by Agency);
- (d) insurance premiums for the Premises (if instructed to do so in writing by Agency); and
- (e) mortgage payments for the Premises (if instructed to do so in writing by Agency);

All payments made by Consultant which are reimbursable hereunder may be reimbursed by Consultant from the gross monthly income from the Premises, but the lack of sufficient funds in said account shall not relieve Agency of Agency's liability for reimbursement of such expenses at any time Consultant demands reimbursement in writing. Anything in this Agreement to the contrary notwithstanding, Consultant shall not be required to make any advance to or for the account of Agency, or to pay any sums, except out of the gross monthly income from the Premises and which are in excess of those funds necessary to pay the compensation of and any other amounts due Consultant under this Agreement. Moreover, Consultant shall not be required to incur any liability or obligation for the account of Agency unless the necessary funds for the discharge thereof have been provided or assurance satisfactory to Consultant has been given that such funds will be provided.

10. To cause the Premises and any park owned homes to be maintained, at the expense of the Agency, in accordance with the general policies and guidelines and in good condition and repair.

11. To fairly and uniformly enforce the rules and regulations of the Premises.

12. To receive complaints of residents of the Premises and, using its discretion, to address such complaints, subject to the limitations imposed by or pursuant to this Agreement. Consultant agrees to maintain copies of complaints received, as well as correspondence from Consultant on behalf of Agency, and make them available for Agency's inspection.

13. To keep adequate books and records and in a form reasonably acceptable to Agency, in connection with matters arising under the terms of this Agreement. In addition, Consultant shall allow Agency, or Agency's authorized representative, during normal business hours, access to the records and correspondence of Consultant pertaining to any transaction arising out of this Agreement. At the close of each fiscal year of Agency, Consultant shall allow the books of the operating account to be examined and audited by a certified public accountant selected by Agency.

14. To provide monthly accounting reports pertaining to the operation of the Premises, within twenty days of the close of each month. Consultant shall, in addition, upon the written and reasonable request of Agency, furnish other customary information concerning the operation of the premises.

15. To make, or cause to be made, and supervise repairs, corrections and alterations to the Premises; to purchase supplies and pay all bills therefor. Consultant agrees to secure the prior approval of Agency on any single expenditure in excess of ten thousand dollars (\$10,000), for any one (1) item, except monthly or recurring charges and/or emergency repairs in excess of the maximum, if, in the opinion of Consultant, such repairs are necessary to protect the Premises from damage or prevent damage or injury to life or to the property of others or to avoid penalties or fines or to maintain service to the residents as called for in the rental/lease agreements. Consultant agrees to obtain a minimum of three (3) estimates for any such single repair in excess of five thousand dollars (\$5,000), except for emergency repairs, as set forth herein. Furthermore, for repair items in excess of one thousand dollars (\$1,000), Consultant will require the payment of prevailing wages pursuant to Labor Code §§ 1720 & 1771.

16. To make contracts, in the capacity of agent for Agency and in Agency's name, for electricity, natural gas, fuel, water, telephone, cable TV, trash or rubbish hauling, gardening services, pool services and other services or such of them as Consultant shall deem advisable and as required by the rental/lease agreements with the residents of the Premises.

17. To hire, discharge and supervise all labor required for the operation of the Premises. All onsite employees shall be the employees of Consultant and shall be adequately bonded, if required by Agency and in an amount satisfactory to Agency.

D. AGENCY'S DOCUMENTS AND ESCROW DEPOSITS.

Agency shall at all times promptly furnish Consultant with all documents and records in Agency's possession or control necessary for the proper management of the Premises, including but not limited to rental agreements, leases (including amendments and pertinent correspondence relating thereto), mortgages, security agreements, status of rental payments and security deposits, and copies of existing service contracts. In addition, if not already provided to Consultant, Agency shall deliver to Consultant cash in an amount equal to all deposits which are then being held, or which should be held, by Agency to secure performance of tenant leases.

E. ADVANCEMENT OF EXPENSES.

Agency agrees to provide sufficient working capital funds to Consultant so that all amounts due and owing with respect to this Agreement may be promptly paid by Consultant. If at any time there is not sufficient cash in the account with which to promptly pay the bills due and owing, including the compensation of Consultant and reimbursement of Consultant's expenses, the Consultant will request that the Agency cause the necessary additional funds to be deposited and Agency will deposit the additional funds requested by the Consultant within three (3) days. Consultant shall have no responsibility or obligation to advance funds or otherwise incur any liability to cover such shortfalls, which shall be Agency's sole responsibility.

F. RECORDS AND DEPOSITS RETURNED UPON TERMINATION.

In the event of the termination of this Agreement by Agency or Consultant, Consultant specifically agrees to turn over to Agency, or its authorized representative, all contract records and documents pertaining to the Premises and such records and correspondence as may be reasonably necessary to assist Agency to complete any transaction which may have been negotiated or undertaken by Consultant on behalf of Agency.

[END OF MANAGEMENT SERVICES PROPOSAL]