

ADOPTION OF A RESOLUTION APPROVING A CONSULTANT SERVICES AGREEMENT WITH HDL COREN AND CONE FOR FISCAL CONSULTANT SERVICES IN RELATION TO THE IMPLEMENTATION OF THE WATERPARK HOTEL DDA ENFORCEABLE OBLIGATION

June 26, 2013

Page 2

A large part of those requirements is the preparation of financing arrangements for the project. The work product, a Fiscal Consultant Report, represented by this contract with Consultant is required in order to issue bonds and will be part of those documents, the details of which are in the Scope of Services of the attached Consultant Services Agreement (Attachment 2).

FINANCIAL IMPACT

The cost to provide the financial consultant services as outlined in the Scope of Services (\$21,500 for the scope of services, with a not to exceed provision of \$25,000 if any additional services are required) will be paid through the Recognized Obligation Payment Schedule process.

RECOMMENDATION

Staff recommends the Oversight Board:

- Adopt the attached Resolution approving the attached Consultant Services Agreement between The City of Garden Grove as Successor Agency for the Garden Grove Agency for Community Development and HdL Coren & Cone, in the amount not to exceed \$25,000; and
- Direct staff to forward the agreement to the Department of Finance.


KINGSLEY OKEREKE
Finance Director

By: 
Jim DellaLonga
Senior Project Manager

Approved for Agenda Listing


Matthew Fertal
Director

Attachment 1: Resolution
Attachment 2: Consultant Services Agreement

OVERSIGHT BOARD

RESOLUTION NO.

A RESOLUTION OF THE OVERSIGHT BOARD TO THE CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING A CONSULTANT SERVICES AGREEMENT WITH HDL COREN & CONE FOR FISCAL CONSULTANT SERVICES

WHEREAS, prior to February 1, 2012, the Garden Grove Agency for Community Development (herein referred to as the "Former Agency") was a community redevelopment agency duly organized and existing under the California Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*), and was authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Garden Grove ("City");

WHEREAS, Assembly Bill 1x 26, chaptered and effective on June 27, 2011, added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484, chaptered and effective on June 27, 2012 (together, the "Dissolution Act");

WHEREAS, as of February 1, 2012 the Former Agency was dissolved pursuant to the Dissolution Act and as a separate legal entity the City serves as the Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency");

WHEREAS, the Successor Agency administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency's affairs, all subject to the review and approval by a seven-member Oversight Board ("Oversight Board");

WHEREAS, pursuant to Section 408 of that certain First Amended and Restated Disposition and Development Agreement (the "DDA"), dated as of April 13, 2010, by and between the Former Agency and Garden Grove MXD, LLC (the "Developer"): (i) the Developer is obligated to construct a hotel and water park at certain real property owned by the Successor Agency, which will be conveyed to the Developer pursuant to the DDA and (ii) the Successor Agency is required to pay Forty-Two Million Dollars (\$42,000,000) (the "DDA Payment") to the Developer 30 days following the later to occur of (i) the date the Hotel Opens for business or (ii) the Certificate of Occupancy for the Hotel is issued (as those terms are defined in the DDA) (the "DDA Payment Deadline"), all in accordance with the terms of the DDA (collectively, the "Project");

WHEREAS, the Successor Agency desires to issue bonds ("2013 Bonds") to fund the DDA Payment on or before the DDA Payment Deadline as required by the DDA;

WHEREAS, on February 6, 2013, the Successor Agency received a Final and Conclusive Determination from the California Department of Finance with respect to the DDA;

WHEREAS, to effectuate the implementation of the Project pursuant to the DDA, including issuance of the 2013 Bonds, the Successor Agency must engage the services of a fiscal consultant;

WHEREAS, on June 25, 2013, the Successor Agency approved a Consultant Services Agreement with HdL Coren & Cone for fiscal consultant services related to the 2013 Bonds and the Project, in substantially the form attached hereto as Attachment 1 and incorporated herein ("HdL Agreement"); and

WHEREAS, the DDA is an enforceable obligation pursuant to Section 34171(d)(1)(E) of the Dissolution Act and as evidenced by the Final and Conclusive Determination the HdL Agreement is necessary to accomplish the Successor Agency's obligations under the DDA, the HdL Agreement is an enforceable obligation pursuant to Sections 34173(g) and 34177(c) of the Dissolution Act; and

WHEREAS, by this Resolution the Oversight Board desires to approve the HdL Agreement pursuant to Sections 34177(c) and 34180 of the Dissolution Act and authorizes the Successor Agency to transmit this Resolution and the HdL Agreement to the State Department of Finance pursuant to Section 34179(h) of the Dissolution Act.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO 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 HdL Agreement in substantially the form attached to this Resolution. The Successor Agency is directed to transmit the HdL Agreement to the State Department of Finance for review pursuant to Section 34179(h) of the Dissolution Act.

Section 3. This Resolution shall be effective immediately upon adoption.

Section 4. The Secretary to the Oversight Board shall certify to the adoption of this Resolution.

CONSULTANT SERVICES AGREEMENT
HdL Coren & Cone

This **CONSULTANT SERVICES AGREEMENT** ("Agreement") is made and entered into as of _____, by and between the **CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a municipal corporation ("AGENCY"), and **HdL COREN & CONE**, a California corporation ("CONSULTANT").

NOW, THEREFORE, in consideration of the covenants and promises contained herein, the AGENCY and CONSULTANT agree as follows:

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the CONSULTANT shall provide fiscal consultant services and analysis for a proposed issuance of tax allocation bonds pursuant to the Waterpark Hotel DDA as specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference (the "services" or "work"). CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish the services. 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.

1.2 Consultant's Proposal. The Scope of Services includes the CONSULTANT's proposal or bid, if any, which is incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern; provided, however, the more comprehensive description of the services in the Scope of Services shall prevail over the brief description set forth in this Agreement.

1.3 Compliance with Law. All services rendered hereunder shall be provided in accordance with all applicable ordinances, resolutions, statutes, rules, regulations and laws of the City of Garden Grove and any Federal, State or local governmental agency of competent jurisdiction.

1.4 Licenses, Permits, Fees and Assessments. CONSULTANT shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. CONSULTANT shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or which may be necessary for the performance of the services required by this Agreement.

1.5 Familiarity with Work. By executing this Agreement, CONSULTANT warrants that (a) it has thoroughly investigated and considered the work to be performed, (b) it has carefully considered how the work should be performed, and (c) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement. Should the CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by the

AGENCY, it shall immediately inform CITY of such fact and shall not proceed except at CONSULTANT's risk until written instructions are received from the Contract Officer (as defined in Section 4.2 hereof).

1.6 Care of Work. The CONSULTANT shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers and other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by AGENCY, except such losses or damages as may be caused by AGENCY's own negligence. The performance of services by CONSULTANT shall not relieve CONSULTANT from any obligation to correct any incomplete, inaccurate or defective work at no further cost to the AGENCY, when such inaccuracies are due to the negligence of CONSULTANT.

1.7 Additional Services. In accordance with the terms and conditions of this Agreement and the Scope of Services, the CONSULTANT may perform services in addition to those specified in the Scope of Services (Exhibit "A") when directed to do so by the Contract Officer, provided that CONSULTANT shall not be required to perform any additional services without compensation.

2. COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the CONSULTANT shall be compensated in accordance with and in no event in an amount in excess of the maximum fees described in this Section:

(a) Amount. The cost for the services rendered pursuant to this Agreement shall be the amount of Twenty One Thousand Five Hundred Dollars (\$21,500) and shall not exceed Twenty Five Thousand Dollars (\$25,000). Additional Services costs shall not exceed \$1,000 without authorization of the AGENCY.

(b) Payment. For work under this Agreement, payment shall be made per the Scope of Services attached hereto as Exhibit "A" and incorporated herein. For extra work not part of this Agreement, such as additional work described in the Scope of Services, a written authorization by the City Manager will be required.

(c) Records of Expense. The method of compensation set forth in the Schedule of Compensation may include a lump sum payment upon completion, payment in accordance with the percentage of completion of the services, or payment for time and materials based upon the Consultant's rates as specified in Exhibit "A." Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, transportation expense, telephone expense, and similar costs and expenses when and if specified in the Scope of Services (Exhibit "A").

2.2 Method of Payment. All fees will be billed and payable the sooner of the close of the bond sale, one year from authorization to proceed or upon the AGENCY's determination not to proceed with a bond issue. In the event that the AGENCY determines not to proceed with the issuance of the bonds, the fee, less \$5,000, will be prorated based upon the percentage of completion of the scope of work at the time of the AGENCY's

determination. If the scope of work has been completed prior to the AGENCY's determination not to proceed with the issuance of the bonds, the fee, less \$5,000, will be due and payable to CONSULTANT.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of each party's obligations under this Agreement, including without limitation the CONSULTANT's performance of the services required hereunder and the AGENCY's payment of all sums due to CONSULTANT.

3.2 Schedule of Performance. All services rendered pursuant to this Agreement shall be performed in a timely and diligent manner.

3.3 Force Majeure. The time period for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the CONSULTANT, including, but not restricted to, acts of God or of the public enemy, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, acts of any governmental agency other than AGENCY, and unusually severe weather, if the CONSULTANT shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the forced delay when and if in his judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

3.4 Term. Unless earlier terminated in accordance with Section 7.4 of this Agreement, the term of this Agreement shall be one year from the date of this Agreement, and may be annually renewed for additional one-year terms upon the mutual written agreement of the Director and the CONSULTANT prior to the end of each one-year term.

4. COORDINATION OF WORK

4.1 Representatives of Consultant. David Schey of HdL Coren & Cone shall perform the services required by CONSULTANT hereunder. The AGENCY's express written approval shall be required prior to any change in the foregoing.

4.2 Contract Officer. The Contract Officer shall be the Director or such other person as may be designated by the Director. ~~It shall be the CONSULTANT's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the CONSULTANT shall refer any decisions, which must be made by AGENCY to the Contract Officer.~~ Unless otherwise specified herein, any approval of AGENCY required hereunder shall mean the approval of the Contract Officer.

4.3 Transfer or Assignment; Successors and Assigns. Except as herein specifically permitted, neither party shall assign or transfer this Agreement, nor any of the rights or obligations hereunder, without the prior written consent of the other. All of the

terms, conditions and provisions of this Agreement shall be binding on and inure to the benefit of the parties to this Agreement and any permitted successors and assigns.

4.4 Independent Consultant. Neither the AGENCY nor any of its employees shall have any control over the manner, mode or means by which CONSULTANT, its agents or employees, perform the services required herein, except as otherwise set forth. CONSULTANT shall perform all services required herein as an independent contractor of AGENCY and shall remain at all times as to AGENCY a wholly independent contractor with only such obligations as are consistent with that role. CONSULTANT shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of CITY.

4.5 AGENCY Cooperation. The AGENCY shall provide CONSULTANT with any documents, records or other data or information pertinent to services to be performed by CONSULTANT hereunder which are reasonably available to the AGENCY. The AGENCY shall additionally provide CONSULTANT staff assistance and shall take prompt and appropriate action when doing so will assist in ensuring timely performance by CONSULTANT hereunder.

5. INSURANCE REQUIREMENTS, INDEMNIFICATION AND BONDS

5.1 Commencement of Work. CONSULTANT shall not commence work under this Agreement until all insurance certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.

5.2 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. If workers compensation is applicable, a waiver of subrogation endorsement in favor of City of Garden Grove, and its officers, officials, employees, agents, attorneys, and volunteers shall be obtained.

5.3 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).

(b) Automobile liability in the amount of \$1,000,000 combined single limit.

(c) Professional liability in the amount of \$1,000,000 per occurrence (claims made and modified occurrence policies are not acceptable).

5.4 Additional Insurance Requirements.

(a) Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.

(b) An Additional Insured Endorsement for ongoing and completed operations for the policy under Sections 5.3(a) and (b) shall designate City of Garden Grove, and its officers, officials, employees, agents, attorneys, 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 CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

(c) An Additional Insured Endorsement for the policy under Section 5.3(b) shall designate City of Garden Grove, and its officers, officials, employees, agents and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

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

5.5 Indemnification. The CONSULTANT shall defend, indemnify and hold harmless the City of Garden Grove and its officers, employees, representatives and agents, from and against any and all actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and attorneys' fees, for injury to or death of person(s), for damage to property (including property owned by the City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development) and for errors and omissions committed by CONSULTANT, its officers, anyone directly or indirectly employed by CONSULTANT, any contractor or subcontractor, and agents or anyone for whose acts any of them may be liable, arising directly or indirectly out of or related to CONSULTANT's negligence in the performance of this Agreement, except to the extent of such loss as may be caused by AGENCY's own active negligence, sole negligence or willful misconduct, or that of its officers or employees.

5.6 Remedies Relating to Insurance. In addition to any other remedies the AGENCY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, the AGENCY may, at its sole option:

(a) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement.

(b) Order the CONSULTANT to stop work under this Agreement and/or withhold any payment(s), which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof.

(c) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to any other remedies the CITY may have and are not the exclusive remedies for

CONSULTANT's failure to maintain or secure appropriate policies or endorsements. Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payment of damages to persons or property resulting from CONSULTANT's or its subcontractors' performance of work under this Agreement.

6. RECORDS AND REPORTS.

6.1 Reports. CONSULTANT shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require, including records indicating source and amounts of repayments, and interest thereon.

6.2 Records. CONSULTANT shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the cost and the performance of such services. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. These records will be retained for three (3) years after the expiration of this Agreement, except for the following: if any litigation, claim, negotiation, audit or other action has been commenced before the expiration of such three (3) year period, the records shall be retained until completion of such action and resolution of all issues which arise from it, or until the end of three (3) years, whichever is later.

6.3 Ownership of Documents. Originals of all drawings, specifications, reports, records, documents and other materials, whether in hard copy or electronic form, which are prepared by CONSULTANT, its employees, subcontractors and agents in the performance of this Agreement, shall be the property of AGENCY and shall be delivered to AGENCY upon the termination of this Agreement or upon the earlier request of the Contract Officer, and CONSULTANT shall have no claim for further employment or additional compensation as a result of the exercise by AGENCY of its full rights of ownership of the documents and materials hereunder. CONSULTANT may retain copies of such documents for its own use. CONSULTANT shall have an unrestricted right to use the concepts embodied herein. CONSULTANT shall cause all subcontractors to assign to AGENCY any documents or materials prepared by them, and in the event CONSULTANT fails to secure such assignment, CONSULTANT shall indemnify AGENCY for all damages suffered thereby.

6.4 Release of Documents. The drawings, specifications, reports, records, documents and other materials prepared by CONSULTANT in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer or as required by law. CONSULTANT shall not disclose to any other private entity or person any information regarding the activities of the AGENCY, except as required by law or as authorized by the AGENCY.

7. ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and CONSULTANT covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Waiver. No delay or omission in the exercise of any right or remedy of a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. AGENCY's consent or approval of any act by CONSULTANT requiring AGENCY's consent or approval shall not be deemed to waive or render unnecessary AGENCY's consent to or approval of any subsequent act of CONSULTANT. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.3 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior To Expiration Of Term. Either party may terminate this Agreement at any time, (i) without cause, upon thirty (30) days' written notice to the other party, or (ii) upon the default of the other party, upon ten (10) days' written notice to the party alleged to be in default hereunder. Upon receipt or delivery of any notice of termination, CONSULTANT shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. CONSULTANT shall be entitled to compensation for all services rendered prior to the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Scope of Services (Exhibit "A").

7.5 Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing party.

8. OFFICERS AND EMPLOYEES; NON DISCRIMINATION

8.1 Non liability of Officers and Employees. No officer or employee of the AGENCY shall be personally liable to the CONSULTANT, or any successor in interest, in the event of any default or breach by the AGENCY or for any amount which may become due to the CONSULTANT or to its successor, or for breach of any obligation under the terms of this Agreement. No officer or employee of the CONSULTANT shall be personally liable to the AGENCY, or any successor in interest, in the event of any default or breach by the CONSULTANT or for any amount which may become due to the AGENCY or to its successor, or for breach of any obligation under the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the AGENCY shall have any personal interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The CONSULTANT warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination. CONSULTANT covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the performance of this Agreement. To the extent required by law, CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

9. MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, consent, approval, communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated by the third business day following mailing, or if notice is given in another manner, when received.

To AGENCY: CITY OF GARDEN GROVE
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Jim DellaLonga

To CONSULTANT: HdL COREN & CONE
1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765
Attention: Paula Cone

9.2 Integrated Agreement. This Agreement contains all of the agreements of the parties and all previous understandings, negotiations and agreements are integrated into and superseded by this Agreement.

9.3 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing signed by both parties.

9.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder.

9.5 Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

9.6 Captions and Titles. Captions and titles are inserted solely for convenience and do not affect the construction or interpretation of any provision.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

AGENCY:

**THE CITY OF GARDEN GROVE AS
SUCCESSOR AGENCY TO THE
GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT, a
municipal corporation**

By: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Woodruff Spradlin & Smart
City Attorney

CONSULTANT:

**HdL COREN & CONE, a California
corporation**

By: _____

Title: _____

Date: _____

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

ATTACHMENT 1
SCOPE OF SERVICES

The services under this proposal include the following:

1. A historical review of the Project Area and component area's assessed values and an explanation, if required, of any anomalies or discrepancies revealed by the historical review of Project Areas assessed values;
2. A ten-year tax increment projection based upon the 2012-13 assessed values, property tax growth trends, and committed new development as identified by the Agency and City Planning and Building Departments. This projection of revenues may need to be updated to use assessed values for 2013-14 if the issuance of debt is not completed prior to July, 2013;
3. As an extension of the tax increment projections described above, an analysis of statutory tax sharing obligations, development and disposition and owner participation agreements to determine the tax increment revenues available to pledge to debt service;
4. An examination of the fiscal impact of the statutory and Redevelopment Plan limitations of the Project Area and its component project areas. This examination will include an assessment of the methods being used by the Orange County Auditor-Controller to make these calculations;
5. A listing of the top ten taxpayers in the Project Area and a determination of their tax payment status (i.e. delinquencies);
6. A review of the tax allocation and disbursement procedures of Orange County in the aftermath of redevelopment dissolution under ABx 1 26 and AB 1484;
7. A review of outstanding property tax assessment appeals within the Project Area;

8. A review of recent and pending legislation that may impact the Agency's receipt of tax increment revenues;
9. A review of the recently adopted legislation and its impact on the pledge of the tax increment revenues of the Project Area;
10. Preparation of the Fiscal Consultant's Report describing our assumptions and presenting our projections of Project Area revenues for inclusion with the offering documents of the proposed bond issuance and review of the bond issuance offering documents as they relate to the tax increment revenues and issues discussed in the Fiscal Consultant's Report;
11. Attendance at one meeting authorized by the Agency;
12. Additional Services are services not described above which are authorized in writing by the Agency. Additional Services include, but are not limited to, additional meetings and presentations to rating agencies and insurance companies when they involve out of office travel. Additional Services are provided on a time and materials basis.

Hourly Fees for services authorized as Additional Services are as follows:

| | |
|----------------|-------------------|
| Partner | \$225.00 per hour |
| Principal | \$195.00 per hour |
| Associate | \$150.00 per hour |
| Senior Analyst | \$100.00 per hour |
| Analyst | \$ 65.00 per hour |

Hourly rates are exclusive of expenses that are billed at 1.15 times actual incurred costs.

Reasonable travel and lodging fees, if any, will be billed at actual cost.

Base Fixed Fee Services

Consultant's base fixed fee for the work is \$21,500 plus 1.15 times actual incurred expenses. Additional Services are billed at the hourly rates listed plus 1.15 times actual incurred expenses. Additional Services costs shall not exceed \$1,000 without authorization of the Agency. All fees will be billed and payable the sooner of the close of the bond sale, one year from authorization to proceed or upon the Agency's determination not to proceed with a bond issue. In the event that the Agency determines not to proceed with the issuance of the bonds, the fee, less \$5,000, will be prorated based upon the percentage of completion of the scope of work at the time of the Agency's determination. If the scope of work has been completed prior to the Agency's determination not to proceed with the issuance of the bonds the fee, less \$5,000, will be due and payable.