

**AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
HOUSING ELEMENT UPDATE
WORK PROJECT # WC14B**

THIS AGREEMENT is made and entered into as of the date of execution by the City of Encinitas, a municipal corporation, hereinafter referred to as "CITY", and Veronica Tam and Associates, hereinafter referred to as "CONSULTANT."

RECITALS

The CITY requires outside assistance to provide the following services:

Ongoing technical assistance and consulting services to facilitate the development of a Housing Element meeting the requirements under state law, as well as State Department of Housing and Community Development (HCD) review and certification of the Housing Element.

CONSULTANT represents itself as possessing the necessary skills and qualifications to provide the services required by the CITY; and as being fully qualified to perform those services in accordance with the standard of quality ordinarily expected of competent professionals of CONSULTANT's field of expertise; and

Manjeet Ranu, Deputy Director of Planning and Building, shall serve as the CITY's "CONTRACTOR OFFICER" for this CONTRACT.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the CITY and CONSULTANT agree as follows:

1.0 TERM OF AGREEMENT

1.1 This AGREEMENT shall be effective on and from the day, month and year of the execution of this document by the CITY.

1.2 CONSULTANT shall commence the performance of the services in accordance with the Scope of Work section provided in Attachment "A" to this AGREEMENT. CONSULTANT shall continue such services until all tasks to be performed are completed, or this AGREEMENT is otherwise terminated. CONSULTANT shall complete the services and provide final data and reports no later than February 28, 2017; unless an extension of time is mutually agreed to by both parties.

2.0 CONSULTANT'S OBLIGATIONS (ATTACHMENT A)

2.1 CONSULTANT shall provide the CITY with the following services:

The specific manner in which the services are to be performed is described in Attachment "A" which is attached hereto, and incorporated herein as though fully set forth at length, collectively hereinafter referred to as "DESCRIBED SERVICES".

2.2 CONSULTANT shall perform all work required to accomplish the DESCRIBED SERVICES in conformity with applicable requirements of law: Federal, State and local.

2.3 CONSULTANT is hired to render the DESCRIBED SERVICES and any payments made to CONSULTANT are compensation fully for such services as described in Attachment "B" of this AGREEMENT. Any changes to this AGREEMENT will be based on mutual agreement of both parties, which may be recorded as an addendum to this agreement.

2.4 CONSULTANT shall maintain professional certifications as required in order to properly comply with all City, State, and Federal law.

2.5 Senior personnel identified as having key roles in the performance of this AGREEMENT may not be removed from the project without prior written consent of the CITY.

2.6 The CONSULTANT will participate as requested in consulting activities. Services will be provided on a time-and-material basis. This includes meetings, conducting document review, research and providing information requested by the CITY. Some tasks and/or deliverables may require the issuance of a Task Order solicitation by the CITY, in which CITY/CONSULTANT negotiations will follow on the terms of task and/or deliverable, specifically on the scope of work, schedule and estimated hours or costs associated with each work activity. Task Order solicitations will be recorded as a letter from one party to the other. When given notice to proceed by the CITY on a specific Task Order, all associated deliverables are to be completed and delivered to the CITY by the termination date, or by the milestone or completion date or dates provided in the performance schedule or mutually agreed to by the CONSULTANT and the CITY, unless an extension of time, based on good reasons and sound justification presented by CONSULTANT, is approved by the CITY.

2.7 The CONSULTANT shall perform its service under this AGREEMENT in accordance with the usual and customary professional care and with generally accepted practice in effect at the time the services are rendered. In the course of the performance of services and management of this AGREEMENT, if any work performed by the CONSULTANT does not conform to the usual and customary professional care, CITY may require CONSULTANT to re-perform the work until it conforms to said specifications and requirements, at no additional cost to the CITY. CONSULTANT shall provide corrective services without charge to the CITY for services which fail to meet the above standards and are reported to CONSULTANT in writing within sixty (60) days of discovery.

3.0 PAYMENT FOR SERVICES (ATTACHMENT B)

3.1 Payment to CONSULTANT to render the DESCRIBED SERVICES hereunder shall be as set forth in Attachment "B" which is attached hereto and incorporated herein as though fully set forth at length.

3.2 The level of effort for the DESCRIBED SERVICES is also identified in Attachment "B."

4.0 SUBCONTRACTING (ATTACHMENT C)

This section is not applicable.

5.0 EQUIVALENT ITEMS (ATTACHMENT D)

This section is not applicable.

6.0 EXTRA WORK

6.1 In connection with the work covered by this AGREEMENT the CITY may, at any time during the process of developing the Draft and/or Final Housing Element, order other work or materials incidental thereto. If any such work and materials is not listed as a pay item with a contract unit price or if compensation is not included under the terms of the AGREEMENT, such work will be designated as Extra Work, and shall be performed by the CONSULTANT as directed. In the event the completion of specific tasks identified in the Scope of Work significantly exceeds the hours originally budgeted for under the Scope of Work, CONSULTANT, subject to prior written approval by the CITY, may bill for such additional time at the rate corresponding to the task(s) in question under the Rate Schedule.

6.2 CONSULTANT shall not perform work in excess of the DESCRIBED SERVICES without the prior, written approval of the CITY. Before any Extra Work is initiated, the CONSULTANT shall identify the kind and estimated quantities of the Extra Work to be done. Approval from funding partners may also be required. The CITY and CONSULTANT shall negotiate a change order price. If a price cannot be negotiated, then the work shall be accomplished in accordance with the unit prices established in the awarded contract. All requests for extra work shall be in a written Change Order submitted to the CITY prior to the commencement of such work.

6.3 The CITY may reject the request for Extra Work based on the role of the request relative to completing the overall work program. The City may also reject the request if work line items can be traded under the existing budget or if the request can be handled in-house with existing staff resources. If other conditions necessitate additional services or a change in services, any increase in compensation or contract amendment must be authorized and funded in advance by the City Manager if exceeding \$9,999; and City Council if exceeding \$99,999.

6.4 No compensation for Extra Work or any other change in the contract will be allowed unless the Extra Work or change has been authorized in writing by the CITY, and the compensation or method of determining such compensation is stated in such written authority.

7.0 VERBAL AGREEMENT OR CONVERSATION; AND DELIVERABLE CONSIDERATIONS

7.1 No verbal agreement or conversation with any officer, agent or employee of the CITY, either before, during or after the execution of this AGREEMENT, shall effect or modify any of the terms or obligations herein contained nor shall such verbal agreement or conversation entitle CONSULTANT to any additional payment whatsoever.

7.2 CITY is responsible for the development of collateral material and all printing or reproductions.

7.3 Any specialized items purchased for a task at the request of the CITY shall be charged to the CITY, and shall become the property of the CITY and delivered to the CITY upon request.

8.0 TERMINATION OF AGREEMENT

8.1 In the event of CONSULTANT'S failure to prosecute, deliver, or perform the DESCRIBED SERVICES, the CITY may terminate this AGREEMENT by notifying CONSULTANT by certified mail of said termination. Thereupon, CONSULTANT shall cease work and within five (5) working days: (1) assemble all documents owned by the CITY and in consultant's possession and deliver said documents to the CITY and (2) place all work in progress in a safe and protected condition. The City Manager of the CITY shall make a determination of the percentage of work which CONSULTANT has performed which is usable and of worth to the CITY. Based upon that finding, the CITY shall determine any final payment due to CONSULTANT.

8.2 This AGREEMENT may be terminated by either party, without cause, upon the giving of thirty (30) days written notice to the other party. Prior to the 30th day following the giving of the notice, the CONSULTANT shall: (1) assemble the completed work product to date, and put same in order for proper filing and closing, and deliver said product to the CITY and (2) place all work in progress in a safe and protected condition. The City Manager of the CITY shall make a determination of the percentage of work which CONSULTANT has performed which is usable and of worth to the CITY. Based upon that finding, the CITY shall determine any final payment due to CONSULTANT.

9.0 COVENANTS AGAINST CONTINGENT FEES

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working for CONSULTANT, to solicit or secure this AGREEMENT, and that CONSULTANT has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this AGREEMENT. For breach or violation of this warranty, the CITY shall have the right to terminate this AGREEMENT without liability or, at the CITY'S discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

10.0 OWNERSHIP OF DOCUMENTS

10.1 All work products including listed deliverables, plans, studies, sketches, drawings, reports and specifications as herein required and prepared and paid for by CITY under this AGREEMENT are the property of the CITY, whether or not the CITY proceeds with the project for which such documents are prepared.

10.2 If the CITY reuses such documents for any reason other than for the project for which they are prepared, without CONSULTANT'S prior written authorization which shall not be unreasonably withheld, the CITY waives any claim against CONSULTANT for such unauthorized use and will indemnify and hold CONSULTANT harmless from any claim or liability for injury or loss allegedly arising from the CITY'S unauthorized use of such documents.

11.0 STATUS OF CONSULTANT

CONSULTANT shall perform the services provided for herein in a manner of CONSULTANT'S own choice, as an independent contractor and in pursuit of CONSULTANT'S independent calling, and not as an employee of the CITY. CONSULTANT shall be under control of the CITY only as to the result to be accomplished and the personnel assigned to the project. However, CONSULTANT shall confer with the CITY.

12.0 HOLD HARMLESS

12.1 CONSULTANT agrees to indemnify and hold the CITY and CITY'S officers, officials, employees and agents harmless from, and against any and all liabilities, claims, demands, causes of action, losses, damages and costs, including all costs of defense thereof, arising out of, or in any manner connected directly or indirectly with, any negligent acts or omissions of CONSULTANT or CONSULTANT'S agents, employees, subcontractors, officials, officers or representatives. Except as otherwise provided in this Section, upon demand, CONSULTANT shall, at its own expense, defend CITY and CITY'S officers, officials, employees and agents, from and against any and all such liabilities, claims, demands, causes of action, losses, damages and costs.

12.2 CONSULTANT'S obligation herein does not extend to liabilities, claims, demands, and causes of action, losses, damages or costs that arise out of the CITY'S intentional wrongful acts, CITY'S violations of law, or the CITY'S sole active negligence.

13.0 ASSIGNMENT OF CONTRACT

CONSULTANT is without right to and shall not assign this AGREEMENT or any part thereof or any monies due hereunder without the prior written consent of the CITY which shall not be unreasonably withheld.

14.0 INSURANCE

14.1 PROVIDER shall obtain, and during the term of this CONTRACT shall maintain, policies of automobile liability, general liability and property damage insurance from an insurance company authorized to be in business in the State of California. Each such policy shall be in an amount of not less than one million dollars (\$1,000,000) for each occurrence, and shall be endorsed with the following language:

A. The CITY and CITY'S officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to liability arising out of the acts and omissions by or on behalf of PROVIDER.

B. The policy shall be considered primary insurance as respects the CITY and CITY'S officers, officials, employees, agents, and volunteers. Any insurance maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with it.

C. The insurer shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

D. The insured waives all rights of subrogation against the CITY and CITY's officers, officials, employees, agents and volunteers.

E. Provide that the policy shall remain in full force during the full term of this CONTRACT and shall not be canceled, voided, terminated, reduced, or allowed to expire without thirty (30) days prior written notice from the issuance company.

14.2 PROVIDER shall obtain, and during the term of this CONTACT shall maintain, a policy of professional liability insurance that shall:

A. Be from an insurance company authorized to be in business in the State of California;

B. Be in an insurable amount of not less than \$1,000,000 for each occurrence; and

C. Provide that the policy shall remain in full force during the full term of this CONTRACT and shall not be canceled, terminated, or allowed to expire without thirty (30) days prior written notice to the CITY from the insurance company.

14.3 Before PROVIDER shall employ any person or persons in the performance of the CONTRACT, PROVIDER shall procure a policy of Worker's Compensation Insurance as required by the Labor Code of the State of California.

14.4 Prior to commencement of work under this CONTRACT, PROVIDER shall furnish to the CONTRACT OFFICER proof of the insurance required in this Section.

14.5 Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY's option, PROVIDER shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

14.6 PROVIDER shall provide certificates of insurance with original endorsements to CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this CONTRACT. Current certification of insurance shall be kept on file with the CITY at all times during the term of this CONTRACT.

15.0 DISPUTES

15.1 If a dispute should arise regarding the performance of this AGREEMENT, the following procedures shall be used to address any question of fact or interpretation not otherwise settled by agreement between the parties. Such questions, if they become identified as part of a dispute between persons operating under the provisions of the AGREEMENT, shall be reduced to writing by the complaining party. A copy of such documented dispute shall be forwarded to the other party involved along with recommended methods of resolution. The party receiving the letter shall reply to the letter along with a recommended method of resolution within ten (10) days of receipt of the letter.

15.2 If the dispute is not resolved, the aggrieved party shall send to the CITY'S Manager a letter outlining the dispute for Manager's resolution.

15.3 If the dispute remains unresolved and the parties have exhausted the procedures of this section, the parties may then seek remedies available to them at law.

16.0 NOTICES

16.1 Any notices to be given under this AGREEMENT, or otherwise, shall be served by certified mail.

16.2 For the purposes hereof, unless otherwise provided in writing by the parties hereto, the address of the CITY and the proper person to receive any notice on the CITY'S behalf is:

Manjeet Ranu, AICP
Deputy Director of Planning and Building
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024
(760) 633-2712

16.3 For the purposes hereof, unless otherwise provided in writing by the parties hereto, the address of CONSULTANT and the proper person to receive any notice on the CONSULTANT'S behalf is:

Veronica Tam
Principal
Veronica Tam and Associates
107 S. Fair Oaks Avenue, Ste. 212
Pasadena, CA 91105
(626) 304-0440

17.0 ATTORNEYS' FEES

In the event that one party incurs expenses, including attorneys' fees and costs, in enforcing the provisions of this AGREEMENT, such prevailing party shall be entitled to recover from the other party reimbursement for those costs including reasonable attorneys' fees.

18.0 CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986

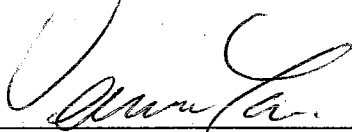
CONSULTANT certifies that CONSULTANT is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including but not limited to verifying the eligibility for employment of all agents, employees, subcontractors and consultants that are included in this AGREEMENT.

19.0 CONSULTANT'S AWARENESS AND COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

CONSULTANT certifies that CONSULTANT is aware of the requirements of the Americans with Disabilities Act of 1990 (42 USC §§ 12101) and has complied with and will comply with these requirements, included but not limited to verifying compliance of their contractors, consultants, agents, and employees.

CONSULTANT

Veronica Tam and Associates

by  8/27/14
Veronica Tam Date
Principal

CITY

City of Encinitas

by  27/11/14
Jeff Murphy Date
Director of Planning and Building

ATTACHMENT "A"
HOUSING ELEMENT UPDATE
WORK PROJECT # WC14B
(Manner of Performing the Services)

CONSULTANT shall perform the services in the following manner. All deliverables/documents may be submitted in electronic format unless specified below.

[Scope of Work attached]

ATTACHMENT "B"
HOUSING ELEMENT UPDATE
WORK PROJECT # WC14B
(Payment For Services)

The CITY shall pay CONSULTANT for the DESCRIBED SERVICES as follows:

The CITY hereby agrees to pay the CONSULTANT, as full compensation for the CONSULTANT'S services upon this project, a basic fee not to exceed \$9,900. Services will be provided on a time-and-material basis to provide the required planning and technical support in connection with the Project as outlined herein this AGREEMENT.

Additional fees for Extra Work, if any, are to be computed and paid as provided in Section 6.0 of this AGREEMENT.

Compensation for services provided under this Contract shall be provided on a Cost Reimbursement – Hourly Billing Rate basis, at the sole discretion of the CITY. The Hourly Billing Rate shall include all other business expenses incurred by CONSULTANT. CONSULTANT is compensated on an hourly basis pursuant to the following established billing rate:

- Principal VTA staff: \$140 per hour
- Reimbursement for mileage and other travel-related expenses: a basic fixed fee of \$100 per business trip.

Any adjustments to the CONSULTANT billing rates for time directly chargeable to their performance of the project work shall be reviewed and approved by the DIRECTOR prior to invoicing.

Reimbursable expenses for tasks will be paid on a monthly basis as the expenses are incurred by the CONSULTANT. Payment shall be made by the CITY to the CONSULTANT upon the receipt of an invoice itemizing the number of hours worked by task and work elements performed for the period covered by the invoice and/or incurred expenses. Direct costs associated with this project are included in the basis of compensation.

The total amount for each task as specified in the Estimated Project Fee and Budget Schedule (attached) shall not be exceeded except as provided in Section 6.0 of this AGREEMENT. Monthly progress payments will be made as follows: After commencement of work under this AGREEMENT and at expiration of each month of work thereafter, CONSULTANT will verify all work performed on a form acceptable to the City Manager. CITY and CONSULTANT will work together to ensure monthly invoicing is accompanied by satisfactory documentation of expenses.

All services shall be performed to the satisfaction of the City Manager and CITY shall not be liable for any payment under this AGREEMENT for services which are unsatisfactory and which have not been approved by the City Manager.



VERONICA TAM AND ASSOCIATES

August 14, 2014

Manjeet Ranu, AICP, Deputy Director
Planning and Building Department
City of Encinitas

Subject: City of Encinitas Housing Element Assistance

Dear Mr. Ranu:

Veronica Tam and Associates, Inc. is pleased to submit this proposal to provide technical assistance to the City of Encinitas regarding the Housing Element update.

We understand the City is seeking assistance to perform a peer review of the Draft Housing Element, provide ongoing technical assistance to staff, help facilitate HCD review of the Draft Housing Element, and potentially attend public meetings to address technical questions from the appointed/elected officials and the community.

Services will be provided on a time-and-materials basis at the following rates:

Veronica Tam, Principal	\$140/hour
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We estimate a budget of up to \$9,900 (estimated at 70 hours at \$140/hour, with \$100 for mileage should in-person meetings be required). This budget is only an estimate, with a not-to-exceed amount of \$9,900. Reproduction work will be performed by the City. Invoices to the City will include a brief description of services rendered under each of the categories outlined in paragraph 2 of this letter.

My resume is attached for your review. Please let me know if you have questions or require additional information. We look forward to working with the City again.

Sincerely,

Veronica Tam, AICP
Principal

**EDUCATION**

MA, Urban Planning, University of California, Los Angeles

BES, Urban and Regional Planning (Economics Minor), University of Waterloo, Canada

PROFESSIONAL AFFILIATIONS

American Institute of Certified Planners
American Planning Association

AWARDS

2014 APACA
Award of Merit – Hard Won Victories:
2013-2021 El Cajon Housing Element

2014 San Diego Section, APACA
Comprehensive Planning, Small
Jurisdiction: 2013-2021 El Cajon
Housing Element

2009 APACA
Award of Merit - Comprehensive
Planning, Large Jurisdiction: 2008-2014
Los Angeles County Housing Element

2009 Los Angeles Section, APACA
Comprehensive Planning, Large
Jurisdiction: 2008-2014 Los Angeles
County Housing Element

2002 Northern Section, APACA
Focused Issues: Contra Costa County
Analysis of Impediments to Fair Housing

2001 Northern Section, APACA
Advocacy Planning: East Palo Alto
Housing Element

2000 APACA
Outstanding Planning: El Cajon
Integrated Housing Element and
Consolidated Plan

2000 San Diego Section, APACA
Outstanding Planning: El Cajon
Integrated Housing Element and
Consolidated Plan

**VERONICA TAM, AICP
PRINCIPAL**

Ms. Tam has expertise in the areas of housing policy development and community development planning. She has over 20 years of experience preparing a range of housing and community development plans and studies for jurisdictions throughout California.

RELATED PROJECT EXPERIENCE**Housing Elements**

Alhambra	Escondido	Rocklin
Arcadia	Glendora	San Bernardino
Avalon	Hawthorne	San Fernando
Bell Gardens	Hayward	San Marcos
Buena Park	Hercules	San Marino
Burbank	Hesperia	San Ramon
Camarillo	Imperial Beach	Santa Clara
Carlsbad	Irvine	Santee
Chino	La Canada Flintridge	South Gate
Corona	Lake Forest	Seaside
Coronado	La Mesa	Simi Valley
Costa Mesa	Lawndale	Tracy
Cupertino	Lomita	Vista
Del Mar	Modesto	Walnut
Dublin	Porterville	West Hollywood
El Cajon	Port Hueneme	Los Angeles County
El Centro	Rancho Santa Margarita	Monterey County
El Segundo	Redondo Beach	San Diego County

Consolidated Plans

Apple Valley/Victorville	La Mesa	Santa Clarita
El Cajon	Long Beach	Simi Valley
Glendora	San Bernardino	Orange County
Huntington Beach	Santee	Ventura County

Fair Housing Studies

Apple Valley/Victorville	Los Angeles	Santa Clarita
Chino	Palm Springs	Simi Valley
Glendale	Pasadena	San Diego County
Lake Forest	Perris	Ventura County
Long Beach	San Bernardino	

Special Studies

- Regional Housing Needs Allocation Assistance for the cities of Arcadia, Lawndale, and Indian Wells
- Marina Affordable Housing Ordinance
- Zoning revisions to comply with SB2, AB 2634, and SB 520 for the cities of Port Hueneme, South Gate, and San Fernando
- San Jose Just Cause for Eviction

Veronica Tam and Associates

107 S. Fair Oaks Avenue, Suite 212, Pasadena, CA 91105
P (626) 304-0440 F (626) 304-0005