

**CITY OF FULLERTON**  
**PROFESSIONAL SERVICES AGREEMENT**  
**WITH**  
**Dudek**

THIS AGREEMENT is made and entered into this 18 day of August, 2020 ("Effective Date"), by and between the CITY OF FULLERTON, a California municipal corporation ("City"), and Dudek, a California corporation ("Consultant").

**W I T N E S S E T H :**

A. City proposes to utilize the services of Consultant as an independent contractor to provide certain **professional services for the development of a Housing Incentive Overlay Zone and applicable CEQA analysis**, as more fully described herein.

B. Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated.

C. City and Consultant desire to contract for the specific services described herein, and desire to set forth their rights, duties and liabilities in connection with the services to be performed.

D. No official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in the **Services & Fees Schedule attached hereto as Exhibit "A"** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the reasonable satisfaction of the City, in accordance with the applicable professional standard of care and City specifications and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable and non conflicting Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit A.

2.2. Additional Services. Consultant may perform the additional services described in Exhibit "B" attached hereto and incorporated herein by this reference if specifically engaged to do so by City. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibit A unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in

writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date of this Agreement until three (3) years after the termination date.

2.5. W-9. Consultant must provide City with a current W-9 form, to be attached hereto as Exhibit "D." It is the Consultant's responsibility to provide to the City any revised or updated W-9 form.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue through **July 31, 2022**, unless terminated as provided herein.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings,

and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

## **5.0. INSURANCE**

5.1. Insurance Required. Consultant shall procure and maintain throughout the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, employees or subcontractors. Consultant shall provide current evidence of the required insurance in a form acceptable to City and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration, or termination of this Agreement.

Nothing in this section shall be construed as limiting in any way, the Indemnification and Hold Harmless clause contained herein in Section 6.8 or the extent to which Consultant may be held responsible for payments of damages to persons or property.

### **5.2. Minimum Scope and Limits of Insurance.**

A. Commercial General Liability Insurance. Consultant shall maintain commercial general liability insurance coverage in a form at least as broad as ISO Form #CG 00 01, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit.

B. Business Automobile Liability Insurance. Consultant shall maintain business automobile liability insurance coverage in a form at least as broad as ISO Form # CA 00 01, with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.

C. Workers' Compensation and Employers' Liability Insurance. Consultant shall maintain workers' compensation insurance as required by the State of California and employers' liability insurance with limits of not less than \$1,000,000 each accident.

D. Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession with a limit of not less than \$2,000,000. Architects' and engineers' coverage shall be endorsed to include contractual liability. If policy is written as a "claims made" policy, the retro date of the policy shall be prior to the start of the contract work.

5.3. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by City.

5.4. Other Insurance Provisions. The required insurance policies shall contain or be endorsed to contain the following provisions:

A. Commercial General Liability. City, its elected or appointed officials, officers, employees and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant, including materials, parts or equipment furnished in connection with such work or operations. Such coverage as an additional insured

shall not be limited to the period of time during which Consultant is conducting ongoing operations for City but rather, shall continue after the completion of such operations. The coverage shall contain no special limitations on the scope of its protection afforded to City, its officers, employees and volunteers.

B. **Commercial General Liability.** This insurance shall be primary insurance as respects City, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by City, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it.

C. **Professional Liability.** If the Professional Liability policy is written on a "claims made" form, the Retroactive Date must be shown and must be before the date of the contract or beginning of contract work. The insurance must be maintained and evidence of insurance must be provided for at least (5) years after completion of the contract work. If the coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

D. **Workers' Compensation and Employers' Liability Insurance.** Insurer shall waive their right of subrogation against City, its officers, employees and volunteers for work done on behalf of City.

E. **All Coverages.** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

If Consultant maintains higher limits or has broader coverage than the minimums shown above, City requires and shall be entitled to all coverage, and to the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

F. **Subcontractors.** Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein and Consultant shall ensure that City is an additional insured on insurance required from subconsultants.

G. **Special Risks or Circumstances.** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

5.5 **Acceptability of Insurers.** All required insurance shall be placed with insurers acceptable to City with current BEST'S ratings of no less than A, Class VII. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of City, insurance provided by non-admitted or surplus carriers with a minimum BEST'S rating of no less than A- Class X may be accepted if Consultant evidences the requisite need to the sole satisfaction of City.

5.6 **Verification of Coverage.** Consultant shall furnish City with certificates of insurance which bear original signatures of authorized agents and which reflect insurers names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. Additionally, Consultant shall furnish copies of all policy endorsements required herein. All certificates and endorsements must be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. City reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

## **6.0. GENERAL PROVISIONS**

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

**IF TO CONSULTANT:**

Dudek  
605 Third Street  
Encinitas, CA 92024  
Attn: Joseph Monaco, President  
and CEO

**IF TO CITY:**

City of Fullerton  
303 W. Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Matt Foulkes, Community and  
Economic Development Department  
Director

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless. To the fullest extent of the law, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents, and employees, at Consultant's sole expense, from and against claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents, and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the professional services undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents, and employees based upon the work performed by Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints, or suits arising out of the sole or active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer

contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, CAD drawings, documents, information and data, including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files, audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.



6.15. Responsibility for Errors. Consultant shall be responsible for its work under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, without prejudice to any other remedy to which City may be entitled to at law or equity, Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction. In addition, Consultant shall reimburse City for any and all costs, expenses and/or damages, if any, that the City has incurred due to the aforementioned error or omission.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending

provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate 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 doing so the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF FULLERTON



Kenneth A. Damer, City Manager

Date: 9-1-2020

CONSULTANT

DocuSigned by:  

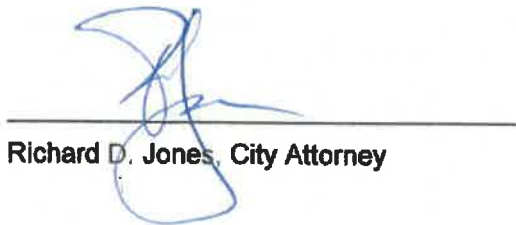

Joseph Monaco, President and CEO

95-3873865

Social Security or Taxpayer ID Number

Date: 7/16/2020 | 9:59:50 AM PDT

APPROVED AS TO FORM:



Richard D. Jones, City Attorney

**EXHIBIT A**  
**SERVICES & FEES**

## Scope of Services

### **TASK A - INITIATION OF THE PROJECT KICKOFF AND STUDY SESSION**

Dudek will conduct an in-person (or virtual) project kickoff meeting at the City's offices within five (5) working days of receiving a notice to proceed. The meeting will be structured as a "partnering session" with City staff and will have multiple purposes:

- To confirm project expectations and goals;
- To establish roles and responsibilities and chain of communication protocols;
- To discuss the scope of services, deliverables, project schedule, and milestones;
- To review and learn about related studies and plans;
- To discuss and request available client-supplied data, maps, documents, and related information;
- To discuss the engagement strategy and identify potential sites and stakeholders; and
- To serve as a study session with City staff to discuss issues and concerns with the existing zoning code and its ability to incentivize new housing development in the City.

This last topic of discussion is an opportunity to dive into the details of the code and other strategies the City has employed to highlight what has proven successful, what challenges remain for both City staff and applicants, and any feedback the City may have already received from prospective housing developers.

By gaining a clear understanding of the City's expectations at the project outset, Dudek will avoid rework and delays, delivering a plan that explicitly responds to the City's needs. Further, this initial partnering session provides the project team a forum to share aspirations and establish relationships that will last through the life of the project.

**Task A Deliverables:** Attendance at the project kickoff meeting; agenda; meeting notes; and refinements to the scope of services and/or schedule as needed.

### **TASK B. PHASE 1 – PREPARATION OF EXISTING CONDITIONS AND FEASIBILITY REPORT**

Task B1- Data Gathering and Site Confirmation

*Data Gathering and Literature Review*

Dudek will gather and review all relevant information and data pertinent to the project. To begin, our team will perform a literature review to thoroughly understand the City's current housing policies, inclusive of the zoning code, development standards, and housing element. We will research applicable laws, policies, and guidelines that have a direct impact on the production of housing in the City and which overlap the work of this effort, including Regional Housing Needs Assessment (RHNA), the California Density Bonus Law, and others. Our team's housing policy advisor, Veronica Tam, will provide guidance on state housing laws, connection between the Housing Incentive Overlay Zone and the housing element requirements and credits for RHNA.

## DUDEK HIOZ SCOPE

### *Site Confirmation*

Our team will compile any City-provided data (parcels, streets, zoning/land uses, building footprints, aerial photography, etc.) with data gathered by the team (market, property, demographic, etc.) to prepare a City-wide existing conditions base map in GIS and to confirm and analyze the usability of each of the 15 sites that have been pre-selected by the City (or expand to additional sites if needed). We understand that the City recognizes that some of the 15 sites will be determined to be infeasible. To that end, we are limiting our scope to 10 sites and proposing the following methodology to select the 10 most appropriate sites.

As a first step, our team will determine if the site and its context are suitable or opportune for new residential development by testing each site against the following preliminary criteria, as agreed upon with the City. Ranking and scoring hierarchies will be developed in partnership with staff.

- Parcels with minimum width and depth dimensions suitable for typical multi-family residential building types.
- Parcels that represent immediate opportunities for redevelopment, e.g., are currently vacant or occupied by surface parking lots.
- Parcels that are underutilized, such as properties with relatively low improvement values relative to their land values and therefore opportunities to increase the value of improvements. Using the preliminary screen of County Assessor data in GIS, the economic team will test the selected sites based on the following methodology.
  - First, we will identify all vacant sites or sites currently occupied by surface parking lots. Given these parcels lack of improvements, they could be appropriate for immediate redevelopment with a change to a residential land designation.
  - Second, we will identify all properties where the improvement value is 40 percent of the land value. While there is no set benchmark, typically the land value represents 30 percent of the total market value of a property. As such, improvements would roughly equal 70 percent of the total market value. A relatively low improvement value relative to the land value of a property suggests that the land is underutilized and that there are higher value improvements that can be developed on the land. It should be noted that this is not a perfect estimate of underutilized land, but it can be used as a benchmark to identify properties that may have potential for redevelopment.
  - Finally, we will identify low intensity sites where the floor-to-area ratio value is below 0.10 and more intensive redevelopment may be appropriate. "Institutional, Other, and Recreation" land use categories, which do not report building size, and specific multifamily condo parcels will not be accounted in the County Assessor database. As such, the team will work with the City to determine if such properties should be considered.
- Parcels that are transit-adjacent, e.g., lie within High-Quality Transit Areas (HQTAs), defined by the Southern California Association of Governments (SCAG) as being within one-half mile from major transit stops and high-quality transit corridors.

## DUDEK HIOZ SCOPE

- Parcels that lie outside of areas most vulnerable to air pollution (e.g., within 500 feet of freeways or 1,000 feet of distribution centers, etc.), as identified by the California Air Resources Board's Air Quality and Land Use Handbook.
- Parcels within a 10-minute walkshed of schools and parks.
- Parcels that lie within the Focus Areas identified in the City's General Plan planned for transition, market interest, and reinvestment in new housing and other uses.
- Parcels whose property owners have indicated willingness to develop residential uses.
- Parcels that are contiguous and operate under a single ownership.

It is important to note that each site, although identified generally as all non-residential, will vary in its ability/capacity and appropriateness to accommodate new housing depending on the site's context, which will be explored in Task B3. Our initial research suggests that approximately 17 percent of the City's area consists of nonresidential parcels that may be classified into four types and may require different approaches:

- Urban infill parcels specific to Downtown Fullerton
- Infill parcels along major commercial corridors (specifically along Commonwealth Avenue)
- Nodes or centers of activity at major street intersections
- Rail-adjacent clusters of large industrial properties

**Task B1 Deliverables:** *Site confirmation methodology and analysis; and a list of up to ten (10) sites as agreed upon with the City (including a discussion of why the other sites were excluded based on evaluation criteria).*

### Task B2- Stakeholder and Community Engagement and Visioning

Using our findings from Task B1 and Task B3, the Dudek team will, with assistance from City staff, conduct up to ten (10) stakeholder visioning meetings with business and property owners of the ten screened sites, as well as potential developers who may have already expressed interest in housing development in the City. Depending on the number and variety of stakeholders, meetings may be conducted individually to maintain confidentiality as needed or as focus groups to discuss topics of shared interest, such as transit-oriented development, in-fill redevelopment, mixed-use, affordable housing development, etc. These meetings will allow our team to listen to and learn about each stakeholder's issues, concerns, and appetite for redevelopment, with a focused discussion on the types of incentives or subsidies deemed most valuable by stakeholders to develop new housing on their sites, especially affordable housing (including understanding possible barriers that limit the supply of affordable housing).

In addition, the Dudek team will conduct five community workshops with the public at-large. These will be coordinated as part of a broader outreach effort that simultaneously covers concurrent planning efforts in the City that address housing policy. Led by Consensus, these workshops are meant to both inform and seek broad input on the City's goals, the need for additional housing, selected sites, and HIOZ. These meetings will be conducted in three rounds, corresponding to the first three phases of our work plan.

## DUDEK HIOZ SCOPE

### ROUND 1: INFORMATIONAL AND VISIONING WORKSHOPS

Two meetings will be held in this round – one in-person and one online. The purpose is to introduce the planning effort, outline the City's goals, and seek input on aspirations and needs with regards to housing affordability and types.

### ROUND 2: PRELIMINARY IDEAS

Two meetings will be held in this round – one in-person and one online. We will share preliminary design studies and principles for selected sites to gather feedback on proposed building types, scale, and density.

### ROUND 3: DRAFT HIOZ

One open house will be conducted in this round. We will share outcomes of the design studies along with elements of the draft HIOZ.

In conformance with COVID-19 guidelines from Center for Disease Control and Prevention, California State, County of Orange, and the City, we will adapt to using virtual tools (e.g., Zoom, webinar, and other online technologies) to supplement each event. If need be, we are prepared to conduct all events virtually, while still managing to effectively engage with the community in an online format. Our information and communications technology and outreach experts will work with City staff to efficiently and securely facilitate each meeting in real-time.

**Task B2 Deliverables:** *Facilitation of up to ten (10) stakeholder interviews or focus groups and five (5) community workshops; agenda; list of objectives/discussion topics for each event; preparation of presentation materials; and memo documenting feedback received.*

### Task B3- Existing Conditions and Development Feasibility Report

#### *Existing Conditions Report – Site Analysis*

Using data gathered from Task B1, our team will summarize our analysis of each of the sites into an Existing Conditions Report that will include our methodology for selecting the agreed upon number of sites (from Task B1) and a per-site inventory of the following:

- Parcel size and shape;
- Land use and zoning;
- Number and typologies of buildings on site;
- Value of land and improvements on site;
- Adjacencies and connections; and
- Opportunities and constraints affecting new housing development on site.

#### *Existing Conditions Report – Market Analysis*

In addition, the Existing Conditions Report will also include a City-wide market analysis. Pro Forma Advisors will lead the task to conduct a base economic assessment of the characteristics of the City and its place within the large context of the regional economy. Based on this assessment, our team will begin to estimate the potential demand for multifamily residential housing. We will review real estate market fundamentals to document recent and future competitive developments, recent sales and comparable transactions, asking rents, vacancy

## DUDEK HIOZ SCOPE

rents, and capitalization rates within the City and larger market area. Based upon the market assessment, we will forecast near- and long-term demand in the City. Specifically, we will forecast market potential for multifamily residential development, the timing of the demand, and the projected absorption rates.

### *Development Feasibility Report*

Our team will also compile a Development Feasibility Report that will include a residential development feasibility study for each site. Based on the market analysis, feedback received from stakeholders, and direction from the City, our team will develop and test the development feasibility and capacity for new housing on each of the identified sites. Depending on the context of each site, each feasibility study will explore variations in the following:

- New housing and/or a mix of uses (e.g., retail) on site;
- Scale and massing of building typologies;
- Capacity of the number and general type of new housing units;
- Parking facilities;
- Public realm and relationship to streetscape.

Each feasibility study will be represented as a conceptual level site plan and program matrix listing number of units, total building square footage, retail program, and open space. To ensure that each study is grounded in true market conditions, each study will be developed in conjunction with an illustrative pro forma, as part of Task B4, to illustrate a comprehensive picture of each site's development potential.

***Task B3 Deliverables:*** Existing conditions report consisting of site analysis and a city-wide market analysis; and development feasibility report.

### Task B4- Illustrative Pro Forma

Developed in conjunction with Task B3, an illustrative pro forma (in a format confirmed beforehand by staff) will be prepared for each of the development scenarios for each site. Led by Pro Forma Advisors, our team will conduct a financial feasibility of each development scenario. Revenue assumptions used in the financial model will be primarily collected in the market analysis developed from Task B3. Our team will provide hard and soft cost assumptions based on industry knowledge with input provided from a third-party independent cost estimator as needed. With the revenue and cost assumptions in hand, we will create a multi-year financial model that will assess the supportable developer investment and overall feasibility of each development scenario.

To assist with the evaluation of each site and the overall decision-making process, our team will present the "residual land value" of each development scenario. This will allow the City and Project Team to compare the development alternatives with one another with prevailing land values to better understand the financial feasibility of the proposed development prototypes in the marketplace. Furthermore, depending on if the land has existing improvements, it will allow for an apples-to-apples comparison of overall development feasibility (inclusive of developer



## DUDEK HIOZ SCOPE

profit) among various land uses as well as a land value “hurdle” rater that can be used to immediately validate or reject site locations.

Finally, key development sensitivities specific to the selected sites will be examined. While we anticipate that these will be minor given that all the development opportunities are in a similar market area, any adjacencies issues (positive or negative) will be considered. Various levels of affordable housing units, based on percentage of total units, will also be tested to determine their level of inclusion into the site-specific development opportunities.

While each site will be considered based on its unique conditions, the broader market and financial feasibility evaluation will provide a framework to analyze and rank site opportunities for the City.

**Task B4 Deliverables:** *Illustrative pro forma per site.*

## TASK C. PHASE 2 – CREATION OF FORM-BASED DEVELOPMENT STANDARDS AND HIOZ REGULATIONS

### Task C1- Form-based development standards

Our team will create form-based development standards that will apply to new residential developments triggered by the regulations set forth in the new HIOZ. We understand that the City currently provides form-based development standards in its Municipal Code (Zoning Code) to regulate residential development on residentially zoned land, and that this effort may be used to update portions of the existing code to ensure quality design of the built environment while also meeting housing development and affordability goals.

As a starting point, our team will review Chapters 15.10 Building Types and 15.12 Frontage Types of the Fullerton Zoning Code to test and identify the standards that most clearly support the preferred development scenarios identified in Phase 1. Our team of code experts will bring a “fresh set of eyes” by drafting new or modified standards to address the following:

**Frontage types:** the interface between the building face and the roadway that shape the public realm based on neighborhood context and building use;

**Building types:** the variations in height, massing, setbacks, step-backs, lot coverage, off-street parking, and other architectural features of building typologies;

**Street/Streetscape types:** the interface between the built form and public-right-of-way; and

**Open Space types:** the amount and nature of open space provided within each parcel.

Based on our understanding of neighborhood context and constraints to housing identified in Task B, we may recommend a context-based approach to tailor standards and ensure compatible integration of housing within the appropriate context (i.e., urban infill specific to Downtown, infill parcels along major commercial corridors, industrial areas, etc.).

## DUDEK HIOZ SCOPE

Dudek's in-house Development Services group will work hand-in-hand with our planning team, bridging the gap between long-range planning goals and actual redevelopment potential to ensure that rezoned sites have a realistic and demonstrated ability (and owner interest) to redevelop within the short-term planning horizon.

The neighborhood contexts may be distinguished from one another by their physical and functional characteristics, such as:

- Street, alley, and block patterns;
- Building placement and height;
- Diversity, distribution, and intensity of land uses; and
- Diversity of mobility options.

**Task C1 Deliverables:** *Draft version of form-based development standards.*

### Task C2- HIOZ regulations

In partnership with City staff, we will introduce a range of form-based code regulations and incentives that may aid in the promotion of all types of housing desired by the community, as well as affordable housing needs. Recognizing existing constraints is the first step in removing housing barriers. Some of the major zoning barriers include limitations on density, housing types, setbacks, parking requirements, and unit size.

Our team will explore the feasibility and practicality in application of various incentive types (while noting overlap with the California Density Bonus Law and the City's Density Bonus Ordinance), such as:

- Density bonuses;
- Increased allowable building heights;
- Lowered parking requirements;
- Waivers or modifications to architectural design requirements, if any;
- Waivers to impact fees, etc.;
- Waivers to minimum unit sizes; and
- Waivers to private open space requirements in exchange for enhanced common amenities.

**Task C2 Deliverables:** *Draft version of the HIOZ regulations.*

### Task C3- Draft standards and regulations for incorporation into the Fullerton Municipal Code

Based on tasks accomplished under C1 and C2, and in partnership with City staff, we will draft and package standards and HIOZ to incorporate into the Fullerton Municipal Code. This will include all necessary code language and associated graphics as per direction and guidance provided by City staff.

**Task C3 Deliverables:** *Draft Standards and Regulations.*

## **TASK D. PHASE 3 – PREPARATION OF ENVIRONMENTAL EVALUATION AND DOCUMENT**

### **Summary of CEQA Approach**

Based on the City's responses to prospective consultant's questions on the RFP, it is Dudek's understanding that 10 of the 15 sites identified as opportunity sites have been previously analyzed in the Environmental Impact Report (EIR) as "Focus Areas" prepared for the City's General Plan (i.e., the Fullerton Plan). For this reason, the City believes the Fullerton Plan EIR provides a good baseline for the analysis for the HIOZ Project and much of the environmental impact evaluation and mitigation measures from the Fullerton Plan EIR can carry-over to the EIR prepared for the HIOZ Project.

The EIR prepared for the HIOZ is likely to be a Program EIR that analyzes buildout of the feasible opportunity sites on a programmatic level. It is Dudek's intent that the EIR will include sufficient level of detail, analysis, and mitigation options to allow the City and residential developers to efficiently tier-off the EIR as redevelopment of each particular site is proposed. The EIR will be drafted with the mindset that the EIR should be tool available to the City and project applicants to streamline future environmental clearance processes as development is proposed for the opportunity sites.

### **Task D1- Initial Study and Notice of Preparation**

Consistent with the City's adopted CEQA Environmental Checklist (Initial Study [IS]) and local CEQA implementation guidelines, Dudek will prepare one (1) administrative draft IS for review and comment by the City. The administrative draft IS will identify potentially significant environmental impacts associated with buildout of the HIOZ Project. Environmental setting, impact analyses, and substantiating documentation will be provided to support all responses and conclusions in the IS, including concise tables and high-quality, full-color figures. All environmental impact areas outlined in County's adopted CEQA Environmental Checklist will be discussed and analyzed. The intent of the Administrative Draft IS is to scope-out as many environmental resource topics from the EIR as feasible/defensible.

Following one round of review of and comment on the administrative draft IS by the City, we will make one round of revisions, as required. It is our intent that these revisions will satisfactorily address all prior comments on the administrative draft IS, and no substantial review efforts beyond a final "page-turn" review will be required. This revised version of the IS will serve as the final version of the document.

Consistent with CEQA Guidelines, Section 15082, Dudek will work with the City to prepare a Notice of Preparation (NOP) of a draft EIR. The NOP will provide the responsible and trustee agencies and the California Office of Planning and Research/State Clearinghouse (SCH) with sufficient information describing the Project and the potential environmental effects to enable the outside agencies to make a meaningful response. At a minimum, the information will include a description of the Project, location of the Project, and probable environmental impacts of the Project.

## DUDEK HIOZ SCOPE

Following one round of review of and comment on the draft version of the NOP, Dudek will make one round of revisions, as required. Following revisions to the NOP, Dudek will coordinate circulation with the City for the combined IS/NOP.

### **Task D1 Deliverables:**

- *IS/NOP (electronic copy, five [5] hard copies with appendices on CD, 20 CDs/flashdrives with IS/NOP)*
- *SCH Summary Form (electronic copy, 15 hard copies) plus CDs with IS/NOP*
- *Notice of Completion (NOC) Form (electronic copy, one [1] hard copy)*

### Task D2- Public Scoping Meeting

Dudek will coordinate with the City on a public scoping meeting. At the meeting, Dudek will present a PowerPoint presentation, monitor comments received, answer questions pertaining to CEQA and preparation of the draft EIR as directed by the City, and provide a summary of public comments with regard to any environmental concerns raised. This input will be used to focus the environmental issues to be addressed in the draft EIR. A summary of comments received will be included in the draft EIR.

**Task D2 Deliverables:** *PowerPoint meeting presentation, scoping comment cards, and meeting notes/comment summary*

### Task D3- Program-Level Technical Analysis

Dudek will conduct program-level technical analyses to support the evaluation and determinations in the HIOZ as follows:

- Program-level air quality, greenhouse gas emissions, and energy assessment;
- Program-level cultural resources inventory;
- Program-level noise and vibration assessment; and
- Program-level traffic/vehicle miles traveled assessment.

This programmatic analysis will be memorialized in individual technical memorandums or directly in the applicable EIR sections. Prior to commencing work on these technical analyses, Dudek will coordinate with the City to tailor the scopes of the analysis to meet the City's expectations while being mindful of the budgetary constraints for the analyses.

**Task D3 Deliverables:** *Technical analyses included directly in individual technical memorandums or directly in the applicable EIR sections (electronic copies)*

### Task D4- Administrative Draft EIR

Consistent with CEQA Guidelines, Article 9, Dudek will prepare one administrative draft EIR for review and comment by the City. As required by CEQA and the CEQA Guidelines, the administrative draft EIR will include the following chapters: Introduction, Executive Summary, Environmental Setting, Project Description, Environmental Analysis, Cumulative Impacts, Other CEQA Considerations, and Alternatives to the Project. Each of the EIR's Environmental Analysis sections will include a discussion of each environmental topic within four main sections: (1)

## DUDEK HIOZ SCOPE

Existing Conditions, (2) Regulatory Framework, (3) Impacts and Mitigation, and (4) References. The discussion of impacts and mitigation will be divided into subsections based on the recent update to CEQA Guidelines, Appendix G, Environmental Checklist, questions. Each of these subsections will enable clarity, ease of use, and organization, and each subsection will be headed by a summary box or table.

Based on our understanding of the HIOZ Project and the City, we assume that up to thirteen (13) environmental analysis draft EIR sections will need to be prepared, including but not limited to, the following potential environmental issues that may need to be comprehensively addressed in their own sections (as opposed to being "focused out" in the IS/NOP):

1. Aesthetics
2. Air Quality
3. Biological Resources
4. Cultural Resources and Tribal Cultural Resources
5. Energy
6. Greenhouse Gas Emissions
7. Hazards and Hazardous Materials
8. Land Use and Planning
9. Noise
10. Population and Housing
11. Public Services
12. Transportation
13. Utilities and Service Systems

In addition to the Environmental Analysis sections, the administrative draft EIR will also include the following chapters: Cumulative Impacts (included within each environmental analysis section listed previously), Other CEQA Considerations, and Alternatives to the Project (note that this scope of work and budget assumes up to three [3] Project alternatives, including the "No Project" alternative, would be analyzed).

**Task D4 Deliverables:** *Administrative draft EIR (electronic copy)*

### Task D5- Screencheck Draft EIR

Following receipt of comments from the City on the administrative draft EIR, Dudek will update the document and re-submit the screencheck draft EIR. The purpose of this screencheck submittal is to allow the City to review the revisions made to the administrative draft EIR. Once the City performs the final review and comment on the screencheck draft EIR, Dudek will respond to these final comments, review the proposed edits, and prepare a proofcheck draft EIR in anticipation of finalizing the document for public review.

**Task D5 Deliverables:**

- *Screencheck draft EIR (electronic copy)*
- *Proofcheck draft EIR (electronic copy)*

## DUDEK HIOZ SCOPE

### Task D6- Public Review Draft EIR

Following the final "page-turn" review of the Proofcheck draft EIR, Dudek will prepare and publicly distribute the public review draft EIR to the County Clerk, SCH, responsible and trustee agencies, surrounding jurisdictions, and other interested parties pursuant to the distribution list prepared by the City. Technical appendices will be provided on a CD/flashdrive affixed to the back cover of all hard copies of the draft EIR. Dudek will distribute the deliverables via certified mail and/or overnight service and will include the Notice of Availability (NOA) of a draft EIR prepared by Dudek. An optimized, online-ready electronic version of the draft EIR will also be provided to the City.

#### **Task D6 Deliverables:**

- *Draft EIR (electronic copy, 20 hard copies with appendices on CD, and 40 CDs/flashdrives with draft EIR plus appendices)*
- *SCH Summary Form (electronic copy, 15 hard copies) plus CDs with draft EIR and appendices*
- *Notice of Completion (NOC) Form (electronic copy, one [1] hard copy)*

### Task D7- Final EIR, Response to Comments, and Mitigation Monitoring and Reporting Program

Dudek will provide responses to comments from all agency and public comments that raise substantive environmental issues associated with the public review draft EIR. The responses will be thoughtful and thorough and will be provided in a separate draft Response to Comments (RTC) memorandum. Based on the nature of the Project and the proximity to potential stakeholders, it is anticipated that no more 50 comments will be received by the City in relation to the Project (note that a single comment letter may include several comments). No letters from any potential Project opponent's attorneys are assumed. If an extraordinary number of comment letters, letters from Project opponent's attorneys (which are often lengthy and/or overly technical), or comment letters requiring new analysis are received, Dudek will discuss the budgetary implications with the City, and an augment may be required if any of these circumstances occurs.

Dudek will prepare a mitigation monitoring and reporting program (MMRP) pursuant to CEQA Guidelines, Section 15097. The MMRP will contain all mitigation measures recommended in the final EIR. The MMRP will provide the City with a single source of reference to the mitigation measures included in the final EIR. For each measure or group of similar measures, the party responsible for ensuring proper implementation will be identified, along with the timing and method of verification.

Dudek will coordinate with the City to determine if any revisions of the draft EIR will be required as a result of public review and comments on the document. All revisions will be shown as changes to the original draft EIR text in strikeout/underline format. In addition to these changes, the final EIR will also be composed of the RTC memorandum and MMRP. Upon finalizing the final EIR, Dudek will coordinate distribution to all parties who requested a copy from the City.

## DUDEK HIOZ SCOPE

### **Task D7 Deliverables:**

- *Draft and final versions of the RTC memorandum (electronic copies)*
- *Draft and final versions of the MMRP (electronic copies)*
- *Administrative, Screencheck, and final versions of the final EIR (electronic copy, 20 hard copies with appendices on CD, and 40 CDs/flashdrives with final EIR plus appendices)*

### **Task D8- Findings of Fact and Statement of Overriding Consideration**

Dudek will prepare a draft Findings of Fact for each significant effect identified in the Final EIR and prepare a Statement of Overriding Considerations if unavoidable significant impacts are identified. As required by CEQA Guidelines, one of three findings must be made for each significant effect and must be supported by substantial evidence in the record. The Statement of Overriding Considerations will rely on input from the project team regarding the benefits of the project. Dudek will consult with the project team to review and finalize the Findings and Statement of Overriding Considerations for the City's ultimate adoption.

### **Task D8 Deliverables:**

*Draft and final versions of the Findings of Fact and Statement of Overriding Considerations (electronic copies)*

## **TASK E. PHASE 4 – ADOPTION AND IMPLEMENTATION**

It is our goal to ultimately produce form-based development standards and HIOZ regulations that are clear, concise, and user-friendly to be able to incentivize, streamline, and accelerate the production of housing in the City. Dudek will prepare nearly final versions of the form-based development standards, HIOZ regulations, and associated CEQA analysis with City staff prior to presenting for adoption.

Dudek will prepare presentation materials that are graphically-engaging in order to share key recommendations and findings with the Planning Commission, City Council, and members of the public; will provide oral presentations; and will be available to address any questions that arise at public hearings. Public hearing comments will be incorporated into the documents prior to final production. Once Planning Commission, City Council, City staff, and public comments have been incorporated, Dudek will produce the final documents for adoption and present them at adoption hearings.

### **Task E. Deliverables:**

*Final versions of the form-based development standards and HIOZ regulations; attendance at one (1) Planning Commission meeting and one (1) City Council meeting; and preparation of presentation materials.*

## **TASK F – ATTENDANCE AT MEETINGS**

### **Task F1- Attendance at monthly coordination meetings**

As a means to work closely with City staff, the Dudek project manager will schedule and facilitate conference call meetings every month with City staff to review work conducted, plan for upcoming tasks and milestones, and ensure that the project remains on time and within budget. Dudek team task leaders will be invited as needed per the agenda of individual calls.

## DUDEK HIOZ SCOPE

Dudek will provide an agenda in advance of each meeting and will host calls as virtual meetings, which allow for audio and video conferencing and computer screen sharing as needed. Dudek will provide meeting notes as needed.

**Task F1 Deliverables:** *Facilitation and attendance at monthly meetings; agendas; and meeting notes as needed.*

### Task F2– Attendance at public meetings

To engage the public and City leaders effectively at project milestones, Dudek plans to attend and help facilitate the following public meetings:

- One (1) project kickoff meeting and study session with City staff (per Task 1);
- Up to ten (10) stakeholder meetings with site property owners (per Task B2);
- Up to five (5) community engagement workshops (per Task B2);
- One (1) EIR scoping meeting (per Task D4);
- One (1) Planning Commission public hearing (per Task F1); and
- One (1) City Council public hearing (per task F1).

**Task F2 Deliverables:** *Facilitation and attendance at public meetings and agendas and meeting notes as needed.*



# CITY OF FULLERTON

## DUDEK - SUMMARY COST PROPOSAL - DEVELOPMENT OF A HOUSING INCENTIVE OVERLAY ZONE AND APPLICABLE CEQA ANALYSIS

	DUDEK	VERONICA TATE ASSOCIATES	PROFORMA ADVISORS	CONSENSUS	REIMBURSABLES	TASK TOTAL
<b>TASK A - INITIATION OF THE PROJECT/KICK-OFF</b>						<b>\$4,150</b>
Task A: Initiation of the project/kick-off and study session	\$2,300	\$400	\$600	\$650	\$200	\$4,150
<b>TASK B - EXISTING CONDITIONS AND FEASIBILITY REPORT</b>						<b>\$105,080</b>
Task B1: Data Gathering and Site Confirmation	\$9,320	\$0	\$0	\$0	\$400	\$9,720
Task B2: Stakeholder and Community Engagement and Visioning	\$9,080	\$1,200	\$1,400	\$24,350	\$2,400	\$38,430
Task B3: Existing Conditions and Development Feasibility Report	\$17,090	\$2,400	\$12,000	\$0	\$400	\$31,890
Task B4: Illustrative Pro Forma	\$15,640	\$0	\$9,000	\$0	\$400	\$25,040
<b>TASK C - FORM-BASED DEVELOPMENT STANDARDS AND HIOZ REGULATIONS</b>						<b>\$27,100</b>
Task C1: Form-based development standards	\$19,600	\$0	\$0	\$0	\$100	\$19,700
Task C2: HIOZ regulations	\$13,200	\$2,400	\$0	\$0	\$100	\$15,700
Task C3: Draft standards and regulations for incorporation into Code	\$11,600	\$0	\$0	\$0	\$100	\$11,700
<b>TASK D - PREPARATION OF ENVIRONMENTAL EVALUATION AND DOCUMENT</b>						<b>\$154,705</b>
Task D: Preparation of environmental evaluation and document	\$154,105	\$0	\$0	\$0	\$600	\$154,705
<b>TASK E - ADOPTION &amp; IMPLEMENTATION</b>						<b>\$3,320</b>
Task E: Adoption & Implementation	\$3,220	\$0	\$0	\$0	\$100	\$3,320
<b>TASK F - ATTENDANCE AT MEETINGS</b>						<b>\$20,515</b>
Task F1: Attendance at bi-weekly coordination meetings	\$11,160	\$0	\$0	\$0	\$160	\$11,320
Task F2: Attendance at public meetings	\$9,095	\$0	\$0	\$0	\$100	\$9,195
<b>TOTAL</b>	<b>\$275,410</b>	<b>\$6,400</b>	<b>\$23,000</b>	<b>\$25,000</b>	<b>\$5,060</b>	<b>\$334,870</b>

**CITY OF FULLERTON**

**DETAIL HOURLY BREAKDOWN OF OVERALL COSTS**

Employee	Gaurav Srivastava	Shannon C Wages	Catherine T Saez	Planning Support	Labor Hours	Labor @ Billing Rates	DUDEK EIR (DETAIL BELOW)	VERONICA TAM	PROFORMA ADVISORS	CONSENSUS	Reimbursables BILLING	Total
Billing Category	Senior Specialist IV	Senior Specialist II	Specialist II	Analyst III								
% Used on Job	13%	13%	28%	45%								
Phase	230.00	200.00	145.00	100.00								
Task A: Initiation of the project/kick-off and study session	4	4	4		12	2,300	-	400	600	650	200	4,150.00
Task B1: Data Gathering and Site Confirmation	8	8	24	24	64	9,320	-	-	-	-	400	9,720.00
Task B2: Stakeholder and Community Engagement and Visioning	12	8	16	24	60	9,080	-	1,200	1,400	24,350	2,400	38,430.00
Task B3: Existing Conditions and Development Feasibility Report	8		50	80	138	17,090	-	2,400	12,000	-	400	31,890.00
Task B4: Illustrative Pro Forma	8		40	80	128	15,640	-	-	9,000	-	400	25,040.00
Task C1: Form-based development standards	4	36	24	80	144	19,600	-	-	-	-	100	19,700.00
Task C2: HIOZ regulations	4	24	24	40	92	13,200	-	2,400	-	-	100	15,700.00
Task C3: Draft standards and regulations for incorporation into Code	4	16	24	40	84	11,600	-	-	-	-	100	11,700.00
Task D: Preparation of environmental evaluation and document					-	-	149,305	-	-	-	5,400	154,705.00
Task E: Adoption & Implementation	8	4	4		16	3,220	-	-	-	-	100	3,320.00
Task F1: Attendance at bi-weekly coordination meetings	40	4	8		52	11,160	-	-	-	-	160	11,320.00
Task F2: Attendance at public meetings	8	4	4		16	3,220	5,875	-	-	-	100	9,195.00
					-	-	-	-	-	-	-	-
Total Hours	108	108	222	368	806	115,430						334,870.00
Total Billing	24,840	21,600	32,190	36,800		115,430	155,180	6,400	23,000	25,000	9,860	\$ 334,870.00

**EXHIBIT B**  
**ADDITIONAL SERVICES & FEES**