

ATTACHMENT A

Work Order #9

Project Number:
161019

Project Name: Alameda Unified School
District As-Needed Advisory Services

Contract Date:
April 26, 2016

Billing Task/Name: 4/Employee Housing
Analysis

Work Order Date:
June 15, 2018

Work Order Number: 9

Description: EPS and ADK&A will assist District staff with exploring opportunities related to employee housing. In June 2017, the Board authorized District staff and consultants to begin discussions with Education Housing Partners, an affiliate of Alameda Point Partners, the developer of Alameda Point. Work will include a financial analysis to illustrate the development and operating economics for the District to ensure the District's General Fund is not at risk, as well as negotiation support.

Task 1: Financial Analysis

EPS will continue to refine the financial model to test the development economics and the operations of an employee housing development at Alameda Point. To capitalize the development, the model assumes the District will issue Certificates of Participation, backed by revenue from the leases. The model will identify the level of rents needed to ensure the COP debt can be repaid and evaluate the discount to market rate pricing that is supported.

Task 2: Terms and Negotiation Support

EPS and ADK&A will support AUSD with the preparation of the Exclusive Negotiation Agreement (ENA) and Development and Disposition Agreement (DDA). District Counsel will have primary responsibility for drafting.

Task 3: Board Presentations

This task authorizes EPS and ADK&A to develop and deliver presentation materials for the closed session hearings and public hearings related to employee housing.

Unrelated and/or additional tasks may be authorized at a later date and will be controlled by (an) other Work Order(s).

The Economics of Land Use



Economic & Planning Systems, Inc.
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Oakland, CA 94612
510 841 9190 tel
510 740 2080 fax

Oakland
Sacramento
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Los Angeles

www.epsys.com

Terms: Time and materials billed at the currently applicable billing rates. CLIENT may terminate assignment of work under this Work Order with written notice. Expenses, such as travel, telephone, and printing, will be billed at cost. EPS's standard terms and conditions are attached as **Attachment B**.

Payment: Monthly invoices for consulting time, materials, and expenses for the prior month. Invoice payable on receipt.

Budget: EPS and ADK&A will perform the tasks described above, working and invoicing against a budget not-to-exceed \$25,000 without prior authorization.

2018 EPS Staffing and Billing Rates: (Rates are periodically adjusted)

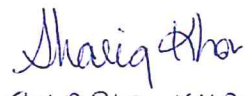
Managing Principal	\$275-\$315
Senior Principal	\$315
Principal	\$255
Executive/Senior Vice President	\$235
Vice President	\$215
Senior Technical Associate	\$215
Senior Associate	\$195
Associate	\$160
Research Analyst II	\$135
Research Analyst I	\$90
Production and Administrative Staff	\$90

2018 ADK&A Billing Rates: (Rates are periodically adjusted)

Allan Kotin, Principal	\$250
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Approved:

Alameda Unified School District


SHARIQ KHAN CBO
Name, Title

Name, Title

Economic & Planning Systems, Inc.
A California Corporation


JAMES R. MUSBACH
Name, Title

JAMES R. MUSBACH, MANAGING PRINCIPAL
Name, Title

ATTACHMENT B
Economic & Planning Systems, Inc.
Standard Terms and Conditions for Consulting Services

1. Authority

Each party has full power and authority to enter into and perform this contract, and the person signing this contract on behalf of each has been properly authorized and empowered to enter into this contract. Each party further acknowledges that it has read this agreement, understands it, and agrees to be bound by it.

2. Independent Contractor

It is specifically understood and agreed that in the creation and performance of this Agreement, CONSULTANT is an independent contractor, and is not and shall not be construed to be an employee or agent of the CLIENT.

3. Insurance

CONSULTANT shall maintain the following insurance:

- 3.1. Workers Compensation as required by law.
- 3.2. General Liability insurance policy of \$1,000,000, \$3,000,000 in aggregate, for personal injury and property damage.
- 3.3. Auto Liability insurance of \$1,000,000, combined single limit for bodily injury and property damage covering non-owned and hired vehicles.
- 3.4. Errors and Omissions/Professional Services Liability and Personal and Advertising Injury insurance in the amount of \$2,000,000.
- 3.5. Excess/Umbrella Liability insurance in the amount of \$1,000,000.

4. Personnel

The CONSULTANT represents that it is an equal opportunity employer and has, or will secure at its expense, all personnel required in performing the services under this Agreement. All personnel engaged in the work shall be authorized or permitted under State and Local law to perform such services.

5. Interest of CONSULTANT

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

6. Publication, Reproduction, and Use of Material

CLIENT may publish, distribute, or otherwise use any data, information, reports, or other materials prepared under this Agreement by CONSULTANT (EPS Work Product), in whole or in part, for purposes of this project. This authority does not apply to any computer models or software used or developed as a result of this contract, unless a separate agreement is signed concerning the disposition of such materials. CLIENT acknowledges that EPS Work Product was prepared by

CONSULTANT solely for contemporaneous use by CLIENT for this Project and that it is not intended for use at any other time, location, purpose or by any other party. Accordingly, CLIENT shall not, without the prior written consent of CONSULTANT (which CONSULTANT may withhold in its sole discretion), (i) use EPS Work Product for purposes unrelated to the Project, (ii) modify EPS Work Product, or (iii) disclose or distribute any EPS Work Product to any other person, firm, or entity. CONSULTANT shall be entitled to indemnification by CLIENT, pursuant to paragraph 13 hereof, if CLIENT breaches this provision, in addition to all other available remedies at law or in equity.

7. Confidentiality

Any reports, information, or data given to or prepared or assembled by the CONSULTANT under this Agreement shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the CLIENT. CONSULTANT is entitled to retain copies of all data, working papers, interim documents, memoranda, and reports produced under this Agreement. However, nothing contained herein shall prevent the disclosure of such information if compelled by legal process, and in the event thereof, only after notice to CLIENT.

8. Amendments to the Contract

No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

9. Disputed Invoices

In the event that CLIENT disputes any item on an invoice, CLIENT shall notify the CONSULTANT of this disputed item within five working days of receipt of the invoice. CLIENT will approve payment of items on an invoice that are not in dispute and CLIENT and CONSULTANT will proceed to negotiate or arbitrate the disputed items as specified elsewhere in this Agreement.

10. Audits and Inspections

On reasonable notice, CLIENT may inspect any books, records, or other materials that pertain directly to this Agreement.

11. Compensation for Testimony and Preparation Thereof

If any legal action is brought in connection with the Agreement, other than an action that is solely the result of the incompetence or malfeasance by CONSULTANT, by or against a third party, and CLIENT requests that CONSULTANT or a SUBCONSULTANT, (or if CONSULTANT or a SUBCONSULTANT is otherwise required) to testify, provide information, produce materials, or otherwise spend time on such action, then CLIENT shall pay CONSULTANT or SUBCONSULTANT for time expended at their standard rates then in effect, plus advance all related expenses and costs, including, but not limited to, reasonable attorneys' fees. Such compensation shall be in addition to the maximum charge for services defined in the Agreement.

12. Termination of Agreement

The CLIENT may, at its option, elect to cancel the contract at any time, by notice to CONSULTANT, on completion of any task described in the scope of services. In such event the CLIENT will pay to the CONSULTANT the amount due by virtue of completion of the products therefore delivered. If such cancellation is not based on any claim of CONSULTANT default, such payment shall include

any sums withheld pursuant to this Agreement. In addition, the CONSULTANT shall be reimbursed (in addition to the payment) for that portion of the actual out-of-pocket costs not otherwise reimbursed under this Agreement previously incurred by the CONSULTANT during the period of the Agreement, which are directly attributable to the incomplete portion of the services covered by this Agreement.

13. Indemnification/Limitation of Liability

- 13.1. CLIENT agrees to release, indemnify, hold harmless, and defend CONSULTANT and all of its partners, employees, agents, and representatives of all types from and against all claims, liability, loss, cost, damage, expense, or obligation, including, but not limited to reasonable attorneys' and experts' fees and costs, which any of them may hereafter incur, suffer, or be required to pay by reason of any actions in connection with this Agreement or the performance thereof except as to claims which are finally adjudicated or arbitrated to have resulted from the sole negligence or willful misconduct of CONSULTANT.
- 13.2. CLIENT agrees that CONSULTANT is not responsible for the identification of hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents, and is not liable for any conditions that stem from contamination from hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents.

14. Nondiscrimination and Equal Opportunity

CONSULTANT and its SUBCONSULTANTS shall not unlawfully discriminate against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by CONSULTANT under this Agreement because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40), gender, or gender orientation. CONSULTANT shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of CONSULTANT thereby.

15. Standard of Performance

All work performed by CONSULTANT for CLIENT pursuant to this Agreement shall be performed by qualified persons, and shall be performed in accordance with standards of performance generally applicable to the work in the community in which the work is performed.

As in all projects of this type, the estimated results are based on the continued competent and efficient management by CLIENT. In addition, the conclusions reached by CONSULTANT are based on the assumption that no significant changes in project conditions will occur beyond those expressly discussed in EPS Work Product. CONSULTANT shall be able to rely on information provided to it by the CLIENT, and CONSULTANT shall have no responsibility to audit or otherwise verify such information.

16. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, or other disasters.

17. Arbitration and Attorneys' Fees

In the event of a dispute in any manner relating to or arising out of this Agreement, the parties shall meet, confer, and negotiate in good faith in an attempt to resolve the dispute. In the event the parties are unable to resolve the dispute themselves, the dispute shall be resolved through binding arbitration in Sacramento County, State of California, under the Construction Industry Arbitration Rules of the Judicial Arbitration and Mediation Services, Inc., (JAMS). In arbitrating any issue arising under this Agreement, the power and authority of the arbitrator shall include the power and authority to grant such equitable relief (including injunctive relief) as may be appropriate under the circumstances, in accordance with applicable law. The decision award of the arbitrator shall be binding on the parties and shall be enforceable by judgment entered in a court having jurisdiction. In the event the arbitrator determines there is a prevailing party in the arbitration, the prevailing party shall recover from the losing party all costs of arbitration, including all fees of the arbitrator and all attorneys' fees reasonably incurred by the prevailing party. The arbitrator shall have authority to order such limited discovery as the arbitrator shall deem relevant and appropriate.

18. Governing Law

This contract will be governed by and construed in accordance with the laws of the State of California.

19. Notice

Notice given under the terms of this Agreement shall be in writing and shall be effective the day it is mailed, properly addressed, to the party to receive such notice. Notice delivered other than by mail shall be effective when received. Any change of address of either of the parties shall be effective on receipt of notice of such change by the opposite party.