

# City Council

July 25, 2023 Packet Addendum #1 From: Stephen Jones
To: City Council
Subject: Open Space Tax

**Date:** Tuesday, July 25, 2023 8:32:27 AM

25 July, 2023

Dear City Council and Mayor Maloney,

I was excited to hear of Louisville's plans to increase the amount of funds dedicated to acquisition and restoration of open space. Louisville already maintains more than a dozen open space areas that serve as critical habitat for Boulder County species of special concern, including the Coal Creek riparian corridor, native grasslands on Davidson Mesa and south of the Coal Creek corridor, and native shrub communities scattered throughout the city.

A limitation of the Louisville open space system has been that most of the open space parcels are not large enough to sustain native species of special concern, such as burrowing owl (Boulder County imperiled\*), northern leopard frog (Boulder County isolated and restricted\*), and white-tailed jackrabbit (Boulder County imperiled\*). Because the Coal Creek riparian corridor is bordered largely by subdivisions and other forms of urban development, its riparian habitat tends to be dominated by invasive habitat generalists, including American raccoon, fox squirrel, Eurasian collared-dove, American crow, and blue jay. These invasive species prey on native habitat specialists, further reducing their opportunity to thrive within the city planning area.

Passing this ordinance, and clearly specifying the monetary amounts that will be dedicated to open space acquisition, restoration, and maintenance, is a powerful step toward enlarging and improving protected habitats for native wildlife within the Louisville planning area.

Recently, there has been significant pressure on cities from groups wanting to dedicate our open space areas primarily to recreational uses, including mountain biking, ebiking, and dog walking. It's important that we continue to stipulate that the primary purpose of our open space properties (as opposed to urban parks) is to protect native habitat. To that end, I recommend the following changes in the wording of the ordinance:

- 1. In part C, Section F, change the wording as follows: Revenues from the 0.125% sales tax approved in the November 7, 2023 election shall be used exclusively for open space acquisition and maintenance, *including protection and expansion of habitat for native species*, as well as for mitigation of wildfires in open space areas.
- 2. In Section D, "wildlife habitats" should proceed "trails" as one of the priorities addressed by the enhanced tax. This would be more consistent with the City's long-term commitment to ensuring that native species continue to exist and thrive.
- 3. Throughout the ordinance, strike "improve" and replace with "restore."

One of the joys of living in Boulder County is experiencing the resurgence of native wildlife populations in our mountains and on the plains. During the past several decades, we've seen elk return to our protected grasslands; river otters and beavers begin to thrive in mountain lakes and prairie streams; and golden eagles and peregrine falcons rear their young on cliffs within sight of the Boulder County Courthouse. We can continue to facilitate the return of native species, but only if we protect and expand natural habitats within our dedicated open space areas.

This proposed ordinance is a positive step in that direction, and I'm deeply grateful to the leaders and citizens of Louisville for working toward its adoption.

Sincerely,

Stephen R. Jones, Boulder

Environmental Consultant and Boulder County Audubon teen naturalist program coordinator

Author/co-author: Peterson Field Guide to the North American Prairie, The Last Prairie, Butterflies of the Colorado Front Range, Owls of Boulder County, Boulder County Nature Almanac

\*Species of concern designations are from the Boulder County Comprehensive Plan. 2023, Environmental Resources Element.

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From: HM
To: City Council

**Subject:** Notes on 7/25/23 Version of OS & P Tax Ordinance and Ballot Language

**Date:** Tuesday, July 25, 2023 10:57:15 AM

# Dear City Council,

Hello! It is so great to read the latest version of the Open Space & Parks Tax Ordinance and Ballot Language, staff did a terrific job revising the language to clarify the purpose and management of the tax.

I understand that the language is in its final draft form but there are a few sections of the ordinance that would benefit from guidance from Council to establish financial policies, budget guidance and management direction in the areas of:

- 1. Establishing two open space accounts, one account for the .375% OS Operations and a seperate one account for the .125% OS Acquisitions & Operations/Fire Mitigation funds. Two accounts will create the appropriate transparency and accountability for the Open Space Acquisitions reserve and ensure that these funds will be available and accounted for to achieve these priorities.
- 2. After the tax is passed it will be necessary to create a financial policy that lays out the model for calculating and maintaining the Open Space Acquisition Reserve.
- 3. In the future, the Council must provide budget guidance so that there is a balanced approach to budgeting the operations portion of the new .125% tax to ensure a synergy between restoring and managing open space and mitigating wildfires.
- 4. If possible, change the ordinance language in the 4th bullet on Page 5 from: "The Land management best practices to assist with wildfire mitigation such as regenerative agriculture, mechanical controls, and invasive species."

Instead, this version would better clarify: The Land management best practices to assist with wildfire mitigation and invasive species control such as regenerative agriculture and mechanical controls.

If it is not possible to change the language, asking staff to prioritize and follow invasive species controls is critical.

5. There is one more change to the ordinance language on page 4 C. Section 3.20.6000 that would make the ordinance language consistent with the final language in the ballot language. If possible, change the language from "improve" to "restore, preserve and protect" like we did in the ballot language:

Current Text (new proposed changes in strike through and yellow):

C. Section 3.20.600 of the Louisville Municipal Code is hereby amended by the addition of a new subsection F to read as follows:

Sec. 3.20.600. Sales tax—Capital improvement fund.

F. Revenues from the 0.125 percent sales tax approved at the

November 7, 2023 election shall be used exclusively for open space acquisition, improvement, **restoration**, **preservation**, **protection** and maintenance, and mitigation of wildfires in open space areas.

Thank you so much for your advocacy for Open Space and Parks.

On a personal note, my mother passed away this week and my family is in town so I will not be attending the Council meeting in person. While I won't be able to say it in person, please know that I am proud of and fully support the work that you and staff have done to develop and refine this ordinance and ballot language, collaborate with the Open Space and Parks Advisory Boards, partner with the Sales Tax Task Force and listen to and advocate for the citizens of Louisville. Together we will pass this tax and create a sustainable Open Space legacy and future in Louisville!

Cheers, Helen Moshak Louisville Resident

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From: April Kroner
To: City Council

Cc: Rob Zuccaro; Meredyth Muth; Kathleen Kelly; Nick Cotton-Baez

Subject: Meeting this evening - Consent Agenda Item D.

**Date:** Tuesday, July 25, 2023 11:13:09 AM

Attachments:

Hello members of City Council,

I wanted to provide an update relative to one of the consent agenda items on the agenda for this evening's meeting, *Item D. APPROVAL OF AN AGREEMENT WITH ECONOMIC & PLANNING SYSTEMS, INC., FOR 3RD PARTY FINANCIAL REVIEW CONSULTING SERVICES.* 

The agreement has been revised to replace the City with the LRC as the contracting party. I have attached a redline of the agreement for your review which replaces the 'City' with the 'LRC' throughout the agreement, along with a clean version. As stated in the staff report, the LRC will be covering the 50% cost share for this agreement, not the City. I just wanted to make you aware of this so your approval tonight is for the agreement between the LRC and EPS, not the City.

Please feel free to reach out to me with any questions.

Take care,

# April Kroner, AICP

Economic Vitality Manager
Mobile: 720.355.5724
717 Main Street, Louisville, CO 80027
Economic Vitality @ Louisville, CO



# AN AGREEMENT BY AND BETWEEN THE CITY OF LOUISVILLE REVITALIZATION COMMISSION AND ECONOMIC & PLANNING SYSTEMS, INC.

# AND ECONOMIC & PLANNING SYSTEMS, INC., FOR CONSULTING SERVICES

#### 1.0 PARTIES

This AGREEMENT FOR CONSULTING SERVICES (this "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_, 20\_\_ (the "Effective Date"), by and between the City of Louisville Revitalization Commission, a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Lawa Colorado home rule municipal corporation, hereinafter referred to as the "CityLRC", and Economic & Planning Systems, Inc., a California Corporation, hereinafter referred to as the "Consultant".

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#### 2.0 RECITALS AND PURPOSE

- 2.1 The <u>CityLRC</u> desires to engage the Consultant for the purpose of <u>providing services to</u> conducting a third-party review of financial information submitted for a tax increment financing rebate assistance application as further set forth in the Consultant's Scope of Services (which services are hereinafter referred to as the "Services").
- 2.2 The Consultant represents that it has the special expertise, qualifications and background necessary to complete the Services.

# 3.0 SCOPE OF SERVICES

The Consultant agrees to provide the <a href="CityLRC">CityLRC</a> with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference.

#### 4.0 COMPENSATION

4.1 The CityLRC shall pay the Consultant for services under this agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The CityLRC shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services ("Pre-Approved Expenses"). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No LRC or City employee has the

- authority to bind the City-LRC with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.
- 4.2 The Consultant shall submit monthly an invoice to the <a href="CityLRC">CityLRC</a> for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the <a href="CityLRC">CityLRC</a>. The Consultant shall provide such additional backup documentation as may be required by the <a href="CityLRC">CityLRC</a>. The <a href="CityLRC">CityLRC</a> shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

# 5.0 PROJECT REPRESENTATION

- 5.1 The <u>CityLRC</u> designates April Kroner as the responsible <u>CityLRC</u> staff to provide direction to the Consultant during the conduct of the Services. The Consultant shall comply with the directions given by April Kroner and such person's designees.
- 5.2 The Consultant designates Daniel R. Guimond as its project manager and as the principal in charge who shall be providing the Services under this Agreement. The Services shall not be provided by persons other than Daniel Guimond, Principal; Andrew Knudtsen, Managing Principal; and Tim Morzel, Vice President. Should any of the representatives be replaced and such replacement require the <a href="CityLRC">CityLRC</a> or the Consultant to undertake additional reevaluations, coordination, orientations, etc., the Consultant shall be fully responsible for all such additional costs and services.

#### 6.0 TERM

- 6.1 The term of this Agreement shall be from the Effective Date to December 31, 2023, unless sooner terminated pursuant to Section 13, below. The Consultant's Services under this Agreement shall commence on the Effective Date and Consultant shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the <a href="CityLRC">CityLRC</a>'s requirements.
- 6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the <a href="CityLRC">CityLRC</a> within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the <a href="CityLRC">CityLRC</a> under this Agreement are subject to annual budgeting and appropriation by the Louisville <a href="CityLRC">CityLRC</a> Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

# 7.0 INSURANCE

- 7.1 The Consultant agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the <a href="CityLRC">CityLRC</a>. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:
  - 7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.
  - 7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall include the CityLRC of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the CityLRC of Louisville, its officers and its employees, and shall contain a severability of interests provision.
  - 7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FOUR HUNDRED THOUSAND DOLLARS (\$400,000) per person in any one occurrence and ONE MILLION DOLLARS (\$1,000,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per occurrence, with respect to each of Consultant's owned, hired or nonowned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Consultant providing services to the CityLRC of Louisville under this Agreement.
  - 7.1.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate.
- 7.2 The Consultant's general liability insurance, automobile liability and physical damage insurance, and professional liability insurance shall be endorsed to include the <a href="CityLRC">CityLRC</a>, and its elected and appointed officers and employees, as additional insureds, unless the <a href="CityLRC">CityLRC</a> in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the <a href="CityLRC">CityLRC</a>, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Consultant. Such policies shall contain a severability of interests provision. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.

- 7.3 Certificates of insurance shall be provided by the Consultant as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the <a href="CityLRC">CityLRC</a>. No required coverage shall be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the <a href="CityLRC">CityLRC</a>. The <a href="CityLRC">CityLRC</a> reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- 7.4 Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the <a href="CityLRC">CityLRC</a> may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the <a href="CityLRC">CityLRC</a> may offset the cost of the premiums against any monies due to Consultant from the <a href="CityLRC">CityLRC</a>.
- 7.5 The parties understand and agree that the <a href="CityLRC">CityLRC</a> is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 <a href="extractions-rights-to-the-extractions-rights-rights-rights-rights-to-the-extractions-rights-to-the-extractions-rights-righ

#### 8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the CityLRC, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if and to the extent such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Consultant or any subcontractor of the Consultant, or any officer, employee, or agent of the Consultant or any subcontractor, or any other person for whom Consultant is responsible. The Consultant shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Consultant shall further bear all other costs and expenses incurred by the CityLRC or Consultant and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Consultant. The CityLRC shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Consultant's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the CityLRC.

#### 9.0 QUALITY OF WORK

Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area.

#### 10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Consultant is an independent contractor and not the agent, employee or servant of the CityLRC, and that:

- 10.1. Consultant shall satisfy all tax and other governmentally imposed responsibilities including but not limited to, payment of state, federal, and social security taxes, unemployment taxes, worker's compensation and self-employment taxes. No state, federal or local taxes of any kind shall be withheld or paid by the <a href="CityLRC">CityLRC</a>.
- 10.2. Consultant is not entitled to worker's compensation benefits except as may be provided by the Consultant nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the Consultant or some entity other than the CityLRC.
- 10.3. Consultant does not have the authority to act for the <u>CityLRC</u>, or to bind the <u>CityLRC</u> in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the <u>CityLRC</u>.
- 10.4. Consultant has and retains control of and supervision over the performance of Consultant's obligations hereunder and control over any persons employed by Consultant for performing the Services hereunder.
- 10.5. The <u>CityLRC</u> will not provide training or instruction to Consultant or any of its employees regarding the performance of the Services hereunder.
- 10.6. Neither the Consultant nor any of its officers or employees will receive benefits of any type from the <u>CityLRC</u>.
- 10.7. Consultant represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the <a href="CityLRC">CityLRC</a>.
- 10.8. All Services are to be performed solely at the risk of Consultant and Consultant shall take all precautions necessary for the proper and sole performance thereof.
- 10.9. Consultant will not combine its business operations in any way with the <u>CityLRC</u>'s business operations and each party shall maintain their operations as separate and distinct.

#### 11.0 ASSIGNMENT

Except as provided in section 22.0 hereof, Consultant shall not assign or delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the <a href="CityLRC">CityLRC</a>'s prior written consent.

#### 12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

# 13.0 TERMINATION

- 13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2 In addition to the foregoing, this Agreement may be terminated by the CityLRC for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Consultant will be paid for the reasonable value of the services rendered to the date of termination, not to exceed a pro-rated daily rate, for the services rendered to the date of termination, and upon such payment, all obligations of the CityLRC to the Consultant under this Agreement will cease. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

#### 14.0 INSPECTION AND AUDIT

The <u>CityLRC</u> and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

#### 15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the <a href="CityLRC">CityLRC</a> in performance of the Services are and shall remain the sole and exclusive property of the <a href="CityLRC">CityLRC</a>. All such materials shall be promptly provided to the <a href="CityLRC">CityLRC</a> upon request therefor and at the time of termination of this Agreement, without further charge or expense to the <a href="CityLRC">CityLRC</a>. Consultant shall not provide copies of any such material to any other party without the prior written consent of the <a href="CityLRC">CityLRC</a>.

#### 16.0 ENFORCEMENT

- 16.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.
- 16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Boulder County of the State of Colorado, and in no other court. Consultant hereby waives its right to challenge the personal jurisdiction of the District Court of Boulder County of the State of Colorado over it.

# 17.0 COMPLIANCE WITH LAWS

- 17.1 Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the <a href="CityLRC">CityLRC</a>; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.
- 17.2 Consultant acknowledges that the <u>CityLRC</u> of Louisville Code of Ethics provides that independent contractors who perform official actions on behalf of the <u>CityLRC</u> which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions on behalf of the <u>CityLRC</u>, and that <u>CityLRC</u> officers and employees similarly shall not receive such gifts. Consultant agrees to abide by the gift restrictions of the <u>CityLRC</u>'s Code of Ethics.

#### 18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

# 19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by facsimile transmission, addressed to the party for whom it is intended at the following address:

If to the CityLRC:

City of Louisville Attn: City Manager 749 Main Street Louisville, Colorado 80027 Telephone: (303) 335-4533 Fax: (303) 335-4550

If to the Consultant:

Economic & Planning Systems, Inc. Attn. Daniel R. Guimond 730 17th Street Suite 630 Denver, Colorado 80202 Telephone: (303) 623-3557

Fax: (303) 623-9049

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on facsimile transmission receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

#### 20.0 EQUAL OPPORTUNITY EMPLOYER

- 20.1 Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.
- 20.2 Consultant shall be in compliance with the applicable provisions of the <u>American with Disabilities Act of 1990</u> as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the <u>Americans with Disabilities Act</u> may be requested at any time during the life of this Agreement or any renewal thereof.

# 21.0 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to <a href="CityLRC">CityLRC</a> and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than <a href="CityLRC">CityLRC</a> or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

#### 22.0 SUBCONTRACTORS

Consultant may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Consultant will submit any proposed subcontractor and the description of its services to the <a href="CityLRC">CityLRC</a> for approval. The <a href="CityLRC">CityLRC</a> will not work directly with subcontractors.

# 23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

In witness whereof, the parties have executed this Agreement to be effective on the date first

| above written.   |                     |
|--|---------------------|
| CITY OF LOUISVILLE REVITALIZATION COMMISSION; a Colorado Municipal Corporation |                     |
| By:  |                     |
| Attest: Meredyth Muth, City Clerk Corrie Williams, Secretary                   |                     |
| CONSULTANT:  | (T                  |
| ECONOMIC & PLANNING SYSTEMS, INC.  | Formatted: All caps |
| By:  |                     |

#### **EXHIBIT A – SCOPE OF SERVICES**

# 916 Main Street TIF Review

The City of Louisville Revitalization Commission ("LRC") has requested that Economic & Planning Systems (EPS) submit a scope of work and budget for a review of a request for tax increment financing (TIF) revenues submitted by Schlageter Properties LLC (Owner/Developer). The Developer is requesting TIF in order to assist with façade and building improvements to 916 Main Street, which is proposed to be occupied by Radiance MedSpa. The Developer has indicated that the project is not financially viable without assistance from the CityLRC due to the fact that rental rates in the City of Louisville do not support current construction costs.

# Scope of Work

#### Task 1: Project Initiation

EPS will complete a project kickoff meeting with Louisville Revitalization Commission (LRC)LRC staff to discuss key objectives, issues, and deliverables and to confirm the project schedule. Following this kickoff, EPS will also contact the applicant to better understand their TIF request and to address any outstanding questions.

#### **Task 2: Downtown Market Conditions**

The Developer has provided an overview of their project as well as data on construction costs, land and building values, and lease rates. EPS will conduct a high-level assessment of downtown Louisville market conditions including data on land values, construction costs, and operating expenses to verify the financial analysis inputs.

#### Task 3: "But-For" Analysis

The Developer has provided a static pro forma of the project. EPS will request the Developer to provide a 10 year cash flow model in Excel format with development and construction costs, annual operating revenues and costs, and project returns (YOC and IRR) with and without the requested TIF revenues. This analysis will provide the basis for beginning to define a project gap and a reasonable level of public investment. In other words, this analysis will answer the questions: 1) "but for" the public investment the project is financially infeasible; and 2) what level of public investment is appropriate to provide the Developer with a reasonable rate of return given current financial conditions and the LRC TIF policy guidelines.

This analysis will evaluate the performance of the project under alternative scenarios that assess project feasibility with and without TIF revenues. At a minimum, EPS will run two versions of the model that will include the following:

- **Baseline Scenario** EPS will construct a baseline pro forma using the inputs provided by the Developer to verify the cost, revenues, and return estimates and to confirm that there is a financial gap and need for the requested TIF investment.
- TIF Investment Analysis EPS will develop one to two alternative scenarios that
  reflect any potential revisions to key model inputs. The results of this model will be
  used to determine project sensitivities to various model inputs, lease rates, vacancy

rates, operating costs, and other key variables. This analysis will help the <u>LRC and the</u> City determine if the level of TIF allowable by LRC policy is appropriate or if there are excess returns generated in the project, potentially justifying a lower amount of public investment.

#### Task 4: Financial Model and Memo Report

The analysis outlined in this scope of work will be detailed in a concise summary memo report including key project components, TIF revenue estimates, and project feasibility with and without TIF revenues. A draft report will be submitted with a final report completed within one-week's receipt of comments and edits.

#### Task 5: LRC Presentations

EPS will make a presentation to the LRC summarizing our analysis and findings. These presentations will provide an overview of the methodology used to estimate the need for public financing, a summary of the initial assumptions used by the Developer, any changes that are recommended by EPS, and the final estimated public financing that the project requires in order to move forward.

# **Budget and Agreement**

EPS agrees to complete the above work program on a time and charges basis up to a maximum of \$15,250. Additional meetings and presentations not included in the above work program will be billed on a time and materials basis. The approximate breakdown of level of effort by task and staff level is shown in **Table 1** below.

| Description                             | Principal | Associate             | Research/<br>Production | Total    |
|---|-----------|-----------------------|-------------------------|----------|
| Billing Rate                            | \$260     | \$145                 | \$115                   |          |
| Labor Costs                             |           |                       |                         |          |
| Task 1: Project Initiation              | 2         | 2                     | 0                       | \$810    |
| Task 2: Downtown Market Conditions      | 2         | 12                    | 4                       | \$2,720  |
| Task 3: "But-For" Analysis              | 4         | 24                    | 2                       | \$4,750  |
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| Total Hours                             | 18        | 62                    | 12                      | \$15,050 |
| Dollars by Person                       | \$4,680   | \$8,990               | \$1,380                 |          |
| Direct Costs                            |           |                       |                         |          |
| Travel & Miscellaneous                  |           |                       |                         | \$200    |
| Subtotal                                |           |                       |                         | \$200    |
| Total Project Cost                      |           |                       |                         | \$15,250 |
| Source: Economic & Planning Systems     |           |                       | <u>'</u>                |          |

# AN AGREEMENT BY AND BETWEEN THE LOUISVILLE REVITALIZATION COMMISSION AND ECONOMIC & PLANNING SYSTEMS, INC., FOR CONSULTING SERVICES

# 1.0 PARTIES

| This AGREEME       | NT FOR CONSULTIN            | IG SERVICES (this "Agreement") is made and entered        |
|--------------------|-----------------------------|---|
| into this da       | ıy of, 20                   | (the "Effective Date"), by and between the Louisville     |
| Revitalization C   | ommission, a public bo      | ody corporate and politic authorized to transact business |
| and exercise its p | owers as an urban renev     | wal authority under and pursuant to the Colorado Urban    |
| Renewal Law, he    | reinafter referred to as t  | the "LRC", and Economic & Planning Systems, Inc., a       |
| California Corpor  | ration, hereinafter referre | ed to as the "Consultant".                                |

# 2.0 RECITALS AND PURPOSE

- 2.1 The LRC desires to engage the Consultant for the purpose of conducting a third-party review of financial information submitted for a tax increment financing rebate assistance application as further set forth in the Consultant's Scope of Services (which services are hereinafter referred to as the "Services").
- 2.2 The Consultant represents that it has the special expertise, qualifications and background necessary to complete the Services.

# 3.0 SCOPE OF SERVICES

The Consultant agrees to provide the LRC with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference.

#### 4.0 COMPENSATION

4.1 The LRC shall pay the Consultant for services under this agreement a total not to exceed the amounts set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The LRC shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services ("Pre-Approved Expenses"). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No LRC or City employee has the authority to bind the LRC with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.

4.2 The Consultant shall submit monthly an invoice to the LRC for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the LRC. The Consultant shall provide such additional backup documentation as may be required by the LRC. The LRC shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

# 5.0 PROJECT REPRESENTATION

- 5.1 The LRC designates April Kroner as the responsible LRC staff to provide direction to the Consultant during the conduct of the Services. The Consultant shall comply with the directions given by April Kroner and such person's designees.
- 5.2 The Consultant designates Daniel R. Guimond as its project manager and as the principal in charge who shall be providing the Services under this Agreement. The Services shall not be provided by persons other than Daniel Guimond, Principal; Andrew Knudtsen, Managing Principal; and Tim Morzel, Vice President. Should any of the representatives be replaced and such replacement require the LRC or the Consultant to undertake additional reevaluations, coordination, orientations, etc., the Consultant shall be fully responsible for all such additional costs and services.

# 6.0 TERM

- 6.1 The term of this Agreement shall be from the Effective Date to December 31, 2023, unless sooner terminated pursuant to Section 13, below. The Consultant's Services under this Agreement shall commence on the Effective Date and Consultant shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the LRC's requirements.
- 6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the LRC within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the LRC under this Agreement are subject to annual budgeting and appropriation by the Louisville LRC Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

# 7.0 INSURANCE

- 7.1 The Consultant agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the LRC. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:
  - 7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.
  - 7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall include the LRC, its officers and its employees, as additional insureds, with primary coverage as respects the LRC, its officers and its employees, and shall contain a severability of interests provision.
  - 7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FOUR HUNDRED THOUSAND DOLLARS (\$400,000) per person in any one occurrence and ONE MILLION DOLLARS (\$1,000,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per occurrence, with respect to each of Consultant's owned, hired or nonowned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Consultant providing services to the LRC of Louisville under this Agreement.
  - 7.1.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate.
- 7.2 The Consultant's general liability insurance, automobile liability and physical damage insurance, and professional liability insurance shall be endorsed to include the LRC, and its elected and appointed officers and employees, as additional insureds, unless the LRC in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the LRC, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Consultant. Such policies shall contain a severability of interests provision. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.
- 7.3 Certificates of insurance shall be provided by the Consultant as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the LRC. No required coverage shall

be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the LRC. The LRC reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

- 7.4 Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the LRC may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the LRC shall be repaid by Consultant to the LRC upon demand, or the LRC may offset the cost of the premiums against any monies due to Consultant from the LRC.
- 7.5 The parties understand and agree that the LRC is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the LRC, its officers, or its employees.

# 8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the LRC, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if and to the extent such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Consultant or any subcontractor of the Consultant, or any officer, employee, or agent of the Consultant or any subcontractor, or any other person for whom Consultant is responsible. The Consultant shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Consultant shall further bear all other costs and expenses incurred by the LRC or Consultant and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Consultant. The LRC shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Consultant's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the LRC.

# 9.0 QUALITY OF WORK

Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area.

# 10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Consultant is an independent contractor and not the agent, employee or servant of the LRC, and that:

- 10.1. Consultant shall satisfy all tax and other governmentally imposed responsibilities including but not limited to, payment of state, federal, and social security taxes, unemployment taxes, worker's compensation and self-employment taxes. No state, federal or local taxes of any kind shall be withheld or paid by the LRC.
- 10.2. Consultant is not entitled to worker's compensation benefits except as may be provided by the Consultant nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the Consultant or some entity other than the LRC.
- 10.3. Consultant does not have the authority to act for the LRC, or to bind the LRC in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the LRC.
- 10.4. Consultant has and retains control of and supervision over the performance of Consultant's obligations hereunder and control over any persons employed by Consultant for performing the Services hereunder.
- 10.5. The LRC will not provide training or instruction to Consultant or any of its employees regarding the performance of the Services hereunder.
- 10.6. Neither the Consultant nor any of its officers or employees will receive benefits of any type from the LRC.
- 10.7. Consultant represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the LRC.
- 10.8. All Services are to be performed solely at the risk of Consultant and Consultant shall take all precautions necessary for the proper and sole performance thereof.
- 10.9. Consultant will not combine its business operations in any way with the LRC's business operations and each party shall maintain their operations as separate and distinct.

# 11.0 ASSIGNMENT

Except as provided in section 22.0 hereof, Consultant shall not assign or delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the LRC's prior written consent.

# 12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

# 13.0 TERMINATION

- 13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2 In addition to the foregoing, this Agreement may be terminated by the LRC for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Consultant will be paid for the reasonable value of the services rendered to the date of termination, not to exceed a pro-rated daily rate, for the services rendered to the date of termination, and upon such payment, all obligations of the LRC to the Consultant under this Agreement will cease. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

# 14.0 INSPECTION AND AUDIT

The LRC and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

# 15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the LRC in performance of the Services are and shall remain the sole and exclusive property of the LRC. All such materials shall be promptly provided to the LRC upon request therefor and at the time of termination of this Agreement, without further charge or expense to the LRC. Consultant shall not provide copies of any such material to any other party without the prior written consent of the LRC.

# 16.0 ENFORCEMENT

- 16.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.
- 16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Boulder County of the State of Colorado, and in no other court. Consultant hereby waives its right to challenge the personal jurisdiction of the District Court of Boulder County of the State of Colorado over it.

# 17.0 COMPLIANCE WITH LAWS

- 17.1 Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the LRC; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.
- 17.2 Consultant acknowledges that the LRC of Louisville Code of Ethics provides that independent contractors who perform official actions on behalf of the LRC which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions on behalf of the LRC, and that LRC officers and employees similarly shall not receive such gifts. Consultant agrees to abide by the gift restrictions of the LRC's Code of Ethics.

### 18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

# 19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by facsimile transmission, addressed to the party for whom it is intended at the following address:

# If to the LRC:

City of Louisville Attn: City Manager 749 Main Street Louisville, Colorado 80027 Telephone: (303) 335-4533 Fax: (303) 335-4550

If to the Consultant:

Economic & Planning Systems, Inc. Attn. Daniel R. Guimond 730 17th Street Suite 630 Denver, Colorado 80202 Telephone: (303) 623-3557

Fax: (303) 623-9049

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on facsimile transmission receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

# 20.0 EQUAL OPPORTUNITY EMPLOYER

- 20.1 Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.
- 20.2 Consultant shall be in compliance with the applicable provisions of the <u>American with Disabilities Act of 1990</u> as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the <u>Americans with Disabilities Act</u> may be requested at any time during the life of this Agreement or any renewal thereof.

# 21.0 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to LRC and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than LRC or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

# 22.0 SUBCONTRACTORS

Consultant may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Consultant will submit any proposed subcontractor and the description of its services to the LRC for approval. The LRC will not work directly with subcontractors.

# 23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

In witness whereof, the parties have executed this Agreement to be effective on the date first above written.

# LOUISVILLE REVITALIZATION COMMISSION

| By:                               |
|-----------------------------------|
| Alexis Adler, Chair               |
| Attest:Corrie Williams, Secretary |
| CONSULTANT:                       |
| ECONOMIC & PLANNING SYSTEMS, INC. |
| By:                               |
| Title                             |

### EXHIBIT A – SCOPE OF SERVICES

# 916 Main Street TIF Review

The Louisville Revitalization Commission ("LRC") has requested that Economic & Planning Systems (EPS) submit a scope of work and budget for a review of a request for tax increment financing (TIF) revenues submitted by Schlageter Properties LLC (Owner/Developer). The Developer is requesting TIF in order to assist with façade and building improvements to 916 Main Street, which is proposed to be occupied by Radiance MedSpa. The Developer has indicated that the project is not financially viable without assistance from the LRC due to the fact that rental rates in the City of Louisville do not support current construction costs.

# Scope of Work

# **Task 1: Project Initiation**

EPS will complete a project kickoff meeting with LRC staff to discuss key objectives, issues, and deliverables and to confirm the project schedule. Following this kickoff, EPS will also contact the applicant to better understand their TIF request and to address any outstanding questions.

#### **Task 2: Downtown Market Conditions**

The Developer has provided an overview of their project as well as data on construction costs, land and building values, and lease rates. EPS will conduct a high-level assessment of downtown Louisville market conditions including data on land values, construction costs, and operating expenses to verify the financial analysis inputs.

# Task 3: "But-For" Analysis

The Developer has provided a static pro forma of the project. EPS will request the Developer to provide a 10 year cash flow model in Excel format with development and construction costs, annual operating revenues and costs, and project returns (YOC and IRR) with and without the requested TIF revenues. This analysis will provide the basis for beginning to define a project gap and a reasonable level of public investment. In other words, this analysis will answer the questions: 1) "but for" the public investment the project is financially infeasible; and 2) what level of public investment is appropriate to provide the Developer with a reasonable rate of return given current financial conditions and the LRC TIF policy guidelines.

This analysis will evaluate the performance of the project under alternative scenarios that assess project feasibility with and without TIF revenues. At a minimum, EPS will run two versions of the model that will include the following:

- **Baseline Scenario** EPS will construct a baseline pro forma using the inputs provided by the Developer to verify the cost, revenues, and return estimates and to confirm that there is a financial gap and need for the requested TIF investment.
- **TIF Investment Analysis** EPS will develop one to two alternative scenarios that reflect any potential revisions to key model inputs. The results of this model will be used to determine project sensitivities to various model inputs, lease rates, vacancy

rates, operating costs, and other key variables. This analysis will help the LRC and the City determine if the level of TIF allowable by LRC policy is appropriate or if there are excess returns generated in the project, potentially justifying a lower amount of public investment.

# **Task 4: Financial Model and Memo Report**

The analysis outlined in this scope of work will be detailed in a concise summary memo report including key project components, TIF revenue estimates, and project feasibility with and without TIF revenues. A draft report will be submitted with a final report completed within one-week's receipt of comments and edits.

### **Task 5: LRC Presentations**

EPS will make a presentation to the LRC summarizing our analysis and findings. These presentations will provide an overview of the methodology used to estimate the need for public financing, a summary of the initial assumptions used by the Developer, any changes that are recommended by EPS, and the final estimated public financing that the project requires in order to move forward.

# **Budget and Agreement**

EPS agrees to complete the above work program on a time and charges basis up to a maximum of \$15,250. Additional meetings and presentations not included in the above work program will be billed on a time and materials basis. The approximate breakdown of level of effort by task and staff level is shown in **Table 1** below.

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| Subtotal                                |           |                       |                         | \$200    |
| Total Project Cost                      |           |                       |                         | \$15,250 |
| Source: Economic & Planning Systems     |           |                       |                         |          |