

Add. #29

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MEMORANDUM **Economic Development - Council Memo ED08-017**

DATE: NOVEMBER 7, 2007

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER

FROM: RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR

SUBJECT: AWARD OF DESIGN CONTRACT FOR SITES 4-5-6 TO MCLARAND
VASQUEZ EMSIEK AND PARTNERS, INC. (MV&E) ARCHITECTS
IN AN AMOUNT NOT TO EXCEED \$112,000

This memorandum is in response to several inquiries from Councilmember Sepulveda at the Council Study Session held on Monday, November 5.

- In regards to the selection process for MV&E, a public-private panel consisting of representatives from Desert Viking and the City's Economic Development Division and Planning Department interviewed five firms.
- City staff is in the process of interviewing museum consultants and anticipates retaining a museum expert to provide technical expertise within the next few weeks.

If you have any questions, or require further assistance, please don't hesitate to give me a call at (480) 782-3032.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 1st day of November, 2007.
CITY OF CHANDLER

CONSULTANT
McLarand Vasquez Emsiek &
Partners, Inc.

By: [Signature]
Title: PRESIDENT

Mayor Boyd Dunn Date

APPROVE AS TO FORM

City Attorney, *12/12*

ATTEST: If Corporation

[Signature]
~~Secretary~~ VICE PRESIDENT

ATTEST:

City Clerk

SEAL



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MEMORANDUM

Downtown Redevelopment - Memo DT08-013

DATE: OCTOBER 31, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *WMP*
RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR *RM*

FROM: TERI KILLGORE, DOWNTOWN REDEVELOPMENT MANAGER *TK*

SUBJECT: AWARD OF DESIGN CONTRACT FOR SITES 4, 5 AND 6 TO MCLARAND VASQUEZ EMSIEK AND PARTNERS, INC (MV&E) ARCHITECTS IN AN AMOUNT NOT TO EXCEED \$112,000

RECOMMENDATION: Staff recommends approving the award of a design contract to McLarand Vasquez Emsiek and Partners, Inc. (hereafter MV&E) for the purpose of developing a master plan for the area north of Frye and west of Arizona Avenue as well as more detailed conceptual designs for Sites 4, 5 and 6 in an amount not to exceed \$112,000.

BACKGROUND/DISCUSSION: In June 2007, Council awarded the Site 6 RFP to Desert Viking with the caveat that a new design was needed to better address circulation issues as well as the possibility of locating a conference center in this area. The unique element of the RFP award was that Desert Viking and the City agreed to partner in hiring a design firm to explore alternative layouts for Site 6 as well as the properties owned by Desert Viking as part of Sites 4 and 5. The MV&E contract is the first step in this partnership. The goal is to factor as much information into the initial design as possible so as to mitigate surprises and hopefully streamline later review processes. A letter of agreement is being crafted between the City and Desert Viking that outlines decision making processes, cost sharing and other practical considerations of this partnership.

After a lengthy selection process, Desert Viking and the City agreed upon MV&E for their significant experience with redevelopment projects and high-density mixed-use developments. MV&E will be providing two primary services: (1) Develop a Master Plan for the area north of Frye Road, south of Commonwealth, west of Arizona Avenue and east of Palm Lane, and (2)

develop more specific conceptual site plans and design concepts for Sites 4, 5 and 6. They will develop two final concepts with one showing how a conference center could be accommodated on the site and one with a mix of commercial and residential. Both scenarios will include a site for the Chandler Museum.

To this end, a museum expert will be selected and retained by the City to provide technical expertise to MV&E. The goal is to ensure that location of the Museum on the site is appropriate and the footprint and massing of the building are well integrated into the design of the area. While MV&E will create a general look and feel for the architecture of the entire area, a more detailed design of the Museum will still need to be undertaken once the location and footprint are determined.

The timeline for this design process, which will include any needed public meetings, is estimated at four months. This assumes that key players will be available for strategic sessions, even as we head in to the holiday season. Ideally, the team will return to Council in March 2008 with design concepts. These design concepts along with a decision on a Conference center will allow us to begin development agreement negotiations and zoning processes with the goal of beginning construction in late 2008.

FINANCIAL IMPLICATIONS: Total contract cost is \$112,000 with funding available in Downtown Redevelopment Account #101.1290.5219 – DT0803.201. Per the Letter of Agreement, these costs are to be shared with Desert Viking on a reimburseable basis.

PROPOSED MOTION: Motion to approve the award of a design contract to MV&E for the purpose of developing a master plan for the area north of Frye and west of Arizona Avenue as well as more detailed conceptual designs for Sites 4, 5 and 6 in an amount not to exceed \$112,000.

Attachments:

Exhibit "A" MV&E Professional Services Agreement

CITY OF CHANDLER
PROFESSIONAL SERVICES AGREEMENT

Project No. 5219-DT0803-201

Project Name: Sites 4-5-6 Planning Consultant

THIS AGREEMENT is made and entered into this 1st day of November, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and McLarand Vasquez Emsiek & Partners, Inc. hereinafter referred to as "CONSULTANT".

WHEREAS, the Mayor and City Council of the City of Chandler is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

WHEREAS, CONSULTANT represents that CONSULTANT has the experience and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR

1.1. To provide the professional services required by this Agreement CONSULTANT shall act under the authority and approval of the Downtown Redevelopment Manager or designee, (the Contract Administrator), who shall oversee the execution of this Agreement, assist the CONSULTANT with any necessary information, audit billings, and approve payments. The CONSULTANT shall channel reports and special requests through the Contract Administrator.

1.2. CITY reserves the right to review and approve any/all changes to CONSULTANT'S key staff assigned to the CITY project by the firm during the term of this Agreement.

2. SCOPE OF WORK: CONSULTANT shall provide those services described in Exhibit A attached hereto and made a part hereof by reference. The services that are the subject of this Agreement are for conceptual studies only. No construction will be commenced or completed as a result of these services.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by CITY to determine acceptable completion. All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Agreement, shall be and remain the property of CONSULTANT but shall become the joint property of CITY with both parties free to utilize on the Project for which they are prepared without prior consent from the other and shall be delivered to CITY before final payment is made to CONSULTANT.

4. FEE SCHEDULE: For the services described in paragraph 2 of this Agreement, CITY shall pay CONSULTANT a fee not to exceed the sum of One Hundred Twelve Thousand Dollars (\$112,000) in accordance with the fee schedule attached hereto as Exhibit B and incorporated herein by reference.

5. **TERM:** Following execution of this Agreement by CITY, CONSULTANT shall immediately commence work and shall complete all services described herein within four months from the date hereof subject to delays caused by CITY, third parties and/or force majeure and for which CONSULTANT shall have no liability.
6. **TERMINATION:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONSULTANT shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subconsultants to cease such work. As compensation in full for services performed to the date of such termination, the CONSULTANT shall receive a fee for the percentage of services actually completed. CONSULTANT may suspend its services and/or terminate this Agreement, with no liability for doing so, should CITY allow CONSULTANT's invoice to become delinquent. "Delinquent" as used herein shall mean a period of sixty (60) days from CITY's receipt of CONSULTANT's invoice unless CITY has notified CONSULTANT of outstanding issues with said invoice within thirty (30) days of CITY's receipt of the invoice.
7. **INDEMNIFICATION:** The Consultant agrees to indemnify and save harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively; from all losses, payments and judgments, expenses, attorney's fees, defense costs, resulting from personal injury to any person, including employees of the Consultant or of any Sub Consultant employed by the Consultant (including bodily injury and death) or damages to any property, arising out of the negligent performance of the Consultant for the work performed hereunder.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
8. **LIMITATION OF LIABILITY:** CITY agrees to limit CONSULTANT's liability to CITY and to all construction contractors and subcontractors on the Project due to CONSULTANT's negligent acts, errors, or omissions such that the total aggregate liability of CONSULTANT to all those named shall not exceed CONSULTANT's collected fee.
9. **INSURANCE REQUIREMENTS:** CONSULTANT shall provide and maintain the insurance as listed in Exhibit C attached hereto and made a part hereof by reference.
10. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
11. **ARIZONA LAW:** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
12. **ATTORNEYS' FEES:** In the event a lawsuit or legal proceeding is brought to enforce any of the terms and conditions of this Agreement, the prevailing party in such litigation shall recover its reasonable attorneys' fees, costs, and expenses.
13. **CONFLICTS:** CONSULTANT stipulates that its officers and employees do not now have a known conflict of interest and it further agrees for itself, its officers and its employees that it will not knowingly contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract.

Pursuant to A.R.S. Section 38-511, the City may cancel this contract within three (3) years after its execution without penalty or further obligation by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City of Chandler is, at any time while the contract is in effect, an employee of the other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

- 14. NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of City:
City of Chandler
Purchasing Division
P.O. Box 4008, Mail Stop 901
Chandler, AZ 85244-4008
480.782. 2400

In the case of CONSULTANT:
McLarand Vasquez Emsiek & Partners, Inc.
Attn: Richard F. Emsiek, AIA
1900 Main Street, 8th Floor
Irvine, CA 92614
949.809.3388

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 1st day of November, 2007.
CITY OF CHANDLER

CONSULTANT
McLarand Vasquez Emsiek &
Partners, Inc.

Mayor Boyd Dunn Date

By: _____
Title: _____

APPROVE AS TO FORM

ATTEST: If Corporation

City Attorney *[Signature]*

Secretary

ATTEST:

City Clerk

SEAL

**EXHIBIT A
SCOPE OF WORK**

I. SCOPE OF WORK. CONSULTANT's scope of work shall include the following:

A. Site Analysis

CONSULTANT will review relevant project information provided by the CITY. Such information shall include, without limitation, accurate boundary information, topography, available infrastructure, easements and other such encumbrances. CONSULTANT shall analyze adjacencies, proposed land uses, traffic and circulation patterns and other such information provided by CITY that may have potential influence on development proposals for the subject property.

No site survey will be provided to CONSULTANT prior to its performance of the work hereunder. CONSULTANT will work off existing data including, but not limited to: aerials, Maricopa County plats and other available information. CITY understands that the feasibility and implementation of CITY's preferred plan depends on accurate site information. Because no site survey exists at the time CITY has requested CONSULTANT's services, CITY understands that the CONSULTANT's work cannot be verified or validated as to horizontal or vertical control and feasibility of the preferred plan. Accordingly, CITY shall not hold CONSULTANT responsible for the inability of the preferred scheme to be implemented if such inability is due to the failure of CITY to provide official and/or accurate site information.

In addition, CITY understands that variances from the City of Chandler zoning and building codes may be necessary in order to implement the CITY's requested program.

The site analysis study will be presented to CITY for review and consideration and formatted into one exhibit and presented to CITY.

B. Conceptual Site Plan Alternatives

Based on the development program as envisioned by CITY, CONSULTANT will prepare two alternative site planning schemes for each of two development scenarios on the subject property: Scenario "A" is envisioned to consist of residential, mixed-use commercial/institutional uses and a museum; Scenario "B" is envisioned to consist of residential, commercial/institutional mixed use, a significant conference center component and a museum. This effort is intended to assist the CITY in determining preferred conceptual master plan alternatives. Preliminary development summaries, including approximate square footages and densities, will be provided for the alternatives. The schemes will be presented to the CITY for review and consideration.

C. Preferred Site Plan Alternatives

Based on the CITY's review of the alternatives prepared during the conceptual site plan alternatives phase of work, and upon selection of the preferred alternatives by CITY, CONSULTANT will prepare refined conceptual site plans and preliminary development yields for the preferred alternatives. This plan will depict conceptual building plans, footprints and parking layouts. For the purposes of these studies, the building design is envisioned to be diagrammatic in nature and will depict preliminary floor plan components, circulation, and exiting. General space allocations and configurations for the commercial and hospitality components will be depicted. Prototypical residential unit plans will be depicted. However, detailed development programming and schematic design of specific building plans and floor plans is not a part of this scope of services.

CONSULTANT will collaborate with the CITY in preparing conceptual phasing plans for the proposed alternatives.

It is understood that the CITY will retain the services of a museum consultant to assist in evaluating the location and potential square footage of a museum component.

It is understood that the CITY has retained the services of CSL International to assist in evaluating the location, square footage and general configuration of the conference center component.

The conceptual site plans will be formatted and colored for presentation purposes.

D. Conceptual Streetscapes and Character Elevations

CONSULTANT will prepare conceptual typical front and side character elevations of selected buildings within the proposed Project at a scale of 1/8"=1'-0". The intent of this effort is to provide a general depiction of the character, scale and magnitude of the proposed development. Conceptual landscape materials will be depicted for illustration purposes only. General design concepts will be described including approach to project-wide massing, setbacks, and preliminary materials and colors.

The elevations will be formatted and colored for presentation purposes.

E. Master Land Use Planning

At a diagrammatic level, CONSULTANT will prepare a conceptual master plan study for the sites south of the subject property, west of Arizona Avenue and north of Frye Road. These studies are only intended to depict general land use, density, circulation and connectivity considerations.

F. Project Meetings

For the purpose of completing the work described above, CONSULTANT will attend four, day-long meetings within four months from the date hereof, unless mutually agreed by the parties. CONSULTANT is entering into this Agreement with the understanding that CITY review time and direction to CONSULTANT will be provided within one week after work prepared by CONSULTANT has been presented or submitted.

H. Deliverables

CITY shall be provided electronic (PDF) copies of exhibits prepared in conjunction with CONSULTANT's scope of services. If CITY is to render decisions or provide further direction to CONSULTANT subsequent to its review of the exhibits, CITY shall provide CONSULTANT with such direction within five business days of its receipt thereof, unless mutually agreed upon by the parties.

II. SERVICES OF SUBCONSULTANTS

CITY shall select and retain the services of a qualified museum consultant to provide guidance on site selection needs for this project. CONSULTANT will work proactively with the City's museum consultant and include their information and recommendations in the overall deliverables for this project. CITY will be responsible for the management of this museum consultant; however, if issues arise, CONSULTANT will notify CITY so that problems may be resolved quickly.

CONSULTANT shall not retain any engineering or other consultants within the scope of this Agreement, unless agreed to by all parties.

It is clearly understood by all parties that while CONSULTANT may coordinate its work with that of consultants whose services are within and outside the scope of this Agreement, these consultants are licensed professionals and CONSULTANT assumes no liability for the quality of said consultants' work nor for their errors or omissions. Further, CONSULTANT assumes no responsibility for the errors or omissions which may be the result of the coordination of consultants outside the scope of this Agreement.

Utilization of the CONSULTANT's title block by any subconsultant, whether retained by CONSULTANT or by CITY, or the inclusion of any information generated by any subconsultant on the CONSULTANT's drawings for the purpose of reference or coordination shall not be considered an assumption of responsibility by the CONSULTANT for its contents by all parties.

III. ADDITIONAL SERVICES

All services not expressly set forth herein are excluded from CONSULTANT's work. If CITY requests any services not expressly set forth herein, all such services shall be compensated by CITY on an hourly basis at the rates set forth in Exhibit B.

**EXHIBIT B
FEE SCHEDULE**

I. COMPENSATION

CONSULTANT will prepare this work on a time and materials basis in accordance with the fee allocated below. CONSULTANT shall not exceed this fee without written authorization from CITY.

<u>Service</u>	<u>Fee</u>
Site Analysis	\$ 7,500
Conceptual Site Plan Alternatives	\$12,500
Preferred Site Plan Alternatives	\$35,000
Conceptual Streetscapes and Architectural Character	\$25,000
Land Use Master Planning	\$10,000
Project Meetings and Travel/Expenses	\$20,000
Reimbursable Expenses	\$2,000
Total	\$112,000

II. HOURLY RATES

CITY agrees to pay CONSULTANT monthly for the Work pursuant to this Agreement on an hourly basis at the following rates:

- Chairman at the fixed rate of Three Hundred Fifty Dollars (\$350) per hour
- Partners at the fixed rate of Two Hundred Ninety-five Dollars (\$295) per hour
- Principals at the fixed rate of Two Hundred Seventy-five Dollars (\$275) per hour
- Senior Associate Partners at the fixed rate of Two Hundred Fifty Dollars (\$250) per hour
- Associate Partners at the fixed rate of Two Hundred Twenty-five Dollars (\$225) per hour
- Employees' time at three (3) times their direct personnel expense (direct personnel expense shall be defined as 1.35 times direct hourly wage)

III. RENDERINGS

Three dimensional renderings, if requested by CITY, will be provided at a cost of Four Thousand Dollars (\$4,000) per rendering. All coordination time spent by CONSULTANT on the renderings will be billed on an hourly basis.

IV. SPECIALTY GRAPHICS

For the preparation of two or three dimensional graphics presentations or exhibits required, if requested by CITY, the utilization of specialty hardware and/or software beyond the normal scope of capabilities of AutoCAD R2002 software systems, CONSULTANT shall be reimbursed for this time as an additional service at normal billing rates plus an additional Sixty-five Dollars (\$65) per hour for the utilization of this specialty equipment for the actual time spent utilizing this equipment.

V. EXPENSES

CONSULTANT shall be reimbursed by CITY for all reasonable and necessary expenditures made by CONSULTANT in performing the Work on behalf of CITY including, without limitation, computer plots, blueprinting and reproduction, photo work, overnight delivery and messenger services. For budgetary purposes, an allotment of Two Thousand Dollars (\$2,000) shall be established to compensate CONSULTANT for such reimbursable expenses. CONSULTANT shall not exceed this allotment without written authorization from CITY.

VI INVOICING

A statement for services shall be rendered monthly and shall include charges for professional fees as well as reimbursable expenses paid by CONSULTANT on CITY's behalf. All payments shall be due within thirty (30) days of CITY's receipt of the statement. A monthly service charge of one and one-half percent (1.5%), compounded monthly, will be charged for accounts unpaid or overdue beyond forty-five (45) days of the billing date.

In light of the obvious advantage of quickly resolving questions and disputes regarding CONSULTANT's billing and while recollections are fresh, CITY will notify CONSULTANT in writing of any questions or dissatisfaction which it may have regarding any particular invoice within thirty (30) days of the invoice date. If CITY fails to give CONSULTANT such written notice, CITY will have waived its right to dispute the accuracy and appropriateness of the invoice and the invoice will be binding upon CITY.

**EXHIBIT C
INSURANCE REQUIREMENTS**

1. CONSULTANT, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
2. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
3. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is completed. Failure to do so may, at the discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
4. All insurance policies, except Workers' Compensation and Professional Liability required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
5. CONSULTANT's insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
6. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONSULTANT's acts, errors, mistakes, omissions, work or service.
7. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONSULTANT. CONSULTANT shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CONSULTANT to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$150,000 will only be accepted with the permission of the Management Services Director/designee.
8. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be canceled until at least thirty (30) days prior written notice has been given to CITY or ten (10) days if for non-payment of premium.

C.1 PROOF OF INSURANCE - CERTIFICATES OF INSURANCE

1. Prior to commencing work or services under this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance, issued by CONSULTANT's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.

2. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler in a timely manner.
3. All Certificates of Insurance shall identify the policies in effect on behalf of CONSULTANT, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
4. CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CONSULTANT of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONSULTANT from, or be deemed a waiver of CITY's right to insist on, strict fulfillment of CONSULTANT's obligations under this Agreement.

C.2 REQUIRED COVERAGE

1. Such insurance shall protect CONSULTANT from claims set forth below which may arise out of or result from the operations of CONSULTANT under this Contract and for which CONSULTANT may be legally liable, whether such operations be by the CONSULTANT or by a Sub-consultant or subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
2. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
3. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
4. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
5. Claims for damages insured by usual personal injury liability coverage;
6. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
7. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "1" "any auto" policy form CA00011293 or equivalent thereof.
8. Claims for bodily injury or property damage arising out of completed operations;
9. Claims involving contractual liability insurance applicable to the Contractor's obligations under the Indemnification Agreement;
10. Claims for injury or damages in connection with one's professional services;

C.2.1 Commercial General Liability - Minimum Coverage Limits

The Commercial General Liability insurance required herein shall be written for not less than \$1,000,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CONSULTANT's operations and products, and completed operations.

C.2.2 General Liability - Minimum Coverage Limits

The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent Contractors, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$2,000,000 aggregate.

C.2.3 Automobile Liability

CONSULTANT shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CONSULTANT's work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

C.2.4 Worker's Compensation and Employer's Liability

CONSULTANT shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONSULTANT's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, CONSULTANT will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONSULTANT.

C.2.5 Professional Liability

CONSULTANT shall maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by DESIGN CONSULTANT, or any person employed by CONSULTANT, with a claims made policy limit of not less than \$1,000,000.

November 1, 2007

Desert Viking Properties, LLC
Niels Kreipke
Michael W. Hogarty
101 W Commonwealth Ave
Chandler, AZ 85225

RE: Planning Contract with MVE

Dear Mr. Kreipke and Mr. Hogarty:

This letter agreement and the signatures below will constitute the agreement of the City of Chandler, a municipal corporation of the State of Arizona ("City") and Desert Viking Properties, L.L.C., an Arizona limited liability company ("DV"), in relation to the planning services to be provided by MVE at Sites 4-5-6 in Downtown Chandler (the "Project").

It is the intent of both parties that the following terms apply:

1. City and DV have jointly selected planning services from MVE with the intent to enhance negotiations with DV for the development of Sites 4-5-6. City has agreed to contribute 50% of the cost of these services both in recognition of DV having previously provided a plan to develop Sites 6 as part of their RFP response as well as the interest to create a comprehensive plan that both parties could support.
2. City and DV shall share equally the cost of planning services to be provided by MVE under the terms of the Agreement with MVE. DV shall reimburse the City for 50% of such amounts following payment of invoices from MVE by the City.
3. City will receive all notices under the terms of the Agreement with MVE and will send copies to: Desert Viking Properties, L.L.C., Attn: Niels E. Kreipke, 101 W. Commonwealth Avenue, Chandler, AZ 85225, phone 480.659.3840, fax 480.659.3842.

4. Contract Administrator as defined in Section 1.1 of the Agreement with MVE shall mean the Downtown Redevelopment Manager in collaboration with the Manager of DV. City and DV are committed to providing consistently clear direction to MVE throughout this process and working towards timely resolutions.
5. All documents and work product as described in Section 3 of the Agreement with MVE shall equally be the property of City and DV.
6. A copy of this letter agreement shall be provided to MVE to ensure open communication amongst the parties.
7. This letter agreement is subject to the Conflict of Interest provisions set forth in A.R.S. § 38-511.

W. Mark Pentz
City Manager

DATE: _____

Michael W. Hogarty