

**CITY OF CHULA VISTA
CONSULTANT SERVICES AGREEMENT
WITH CBRE GROUP, INC.
TO PROVIDE DEVELOPMENT ADVISORY AND BROKERAGE SERVICES FOR THE
UNIVERSITY-INNOVATION DISTRICT**

This Agreement is entered into effective as of February 15 2022 (“Effective Date”) by and between the City of Chula Vista, a chartered municipal corporation (“City”) and CBRE Group, Inc., [A California Corporation] (“Consultant”) (collectively, the “Parties” and, individually, a “Party”) with reference to the following facts:

RECITALS

WHEREAS, City desires to attract and locate a multi-institutional, bi-national university in Eastern Chula Vista on 383.7 acres of City-owned land (“University and Innovation District”) which is located adjacent to 432.9 gross acres of land that comprise Villages 9 and 10 under the ownership of HomeFed Development Corporation—the uniquely qualified developer of which City is evaluating a development partnership with to facilitate the development of the University and Innovation District on a combined-ownership area of approximately 560 developable acres across 816.6 gross acres; and

WHEREAS, City requires the expertise of a professional services consultant to conduct Real Estate Consulting and Negotiation Services to evaluate and provide specialized expertise, advisement and negotiation services between City and HomeFed Development Corporation; and

WHEREAS, City requires the expertise of a professional services consultant to act as a landlord representative for the City and provide marketing services to leverage CBRE’s extensive network of occupiers, higher education, life sciences, and tech relationships, to ensure the Innovation District will be marketed to both local firms looking to relocate or add additional space, and national/international firms looking to enter the Chula Vista market or expand their current presence; and

WHEREAS, Consultant is the largest and most successful commercial real estate services firm in the world, with significant and varied resources, including a dedicated Public Institutions Education Solutions business group which has advised over 100 non-federal agencies and universities on complicated and high-profile projects, and consultant provides access to development, university, public-private partnership specialists and local market experts to execute a transaction in the best interests of the City; and

WHEREAS, based upon the above-described qualifications, performance capabilities and experience, and the substantial work that Consultant has already performed for City under a separate but related contract regarding the University and Innovation District project, City has determined that Consultant is uniquely qualified to perform the Required Services (as defined herein) and has waived the City’s competitive bidding requirements pursuant to Chula Vista Municipal Code Section 2.56.070(B)(3) (City’s interests are better served by an alternative procurement mechanism) and 2.56.070.B(4) (sole source exemption); and

WHEREAS, Consultant warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Consultant to City in accordance with the time frames and the terms and conditions of this Agreement.

[End of Recitals. Next Page Starts Obligatory Provisions.]

OBLIGATORY PROVISIONS

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and Consultant hereby agree as follows:

1. SERVICES

1.1 Required Services. Consultant agrees to perform the services and deliver to City the “Deliverables” (if any) described in the attached Exhibit A, incorporated into the Agreement by this reference, within the time frames set forth therein, time being of the essence for this Agreement. The services and/or Deliverables described in Exhibit A shall be referred to herein as the “Required Services.”

1.2 Reductions in Scope of Work. City may independently, or upon request from Consultant, from time to time, reduce the Required Services to be performed by the Consultant under this Agreement. Upon doing so, City and Consultant agree to meet and confer in good faith for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.

1.3 Additional Services. Subject to compliance with the City’s Charter, codes, policies, procedures and ordinances governing procurement and purchasing authority, City may request Consultant provide additional services related to the Required Services (“Additional Services”). If so, City and Consultant agree to meet and confer in good faith for the purpose of negotiating an amendment to Exhibit A, to add the Additional Services. Unless otherwise agreed, compensation for the Additional Services shall be charged and paid consistent with the rates and terms already provided therein. Once added to Exhibit A, “Additional Services” shall also become “Required Services” for purposes of this Agreement.

1.4 Standard of Care. Consultant expressly warrants and agrees that any and all Required Services hereunder shall be performed in accordance with the highest standard of care exercised by members of the profession currently practicing under similar conditions and in similar locations.

1.5 No Waiver of Standard of Care. Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Consultant of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Consultant or its subcontractors.

1.6 Security for Performance. In the event that Exhibit A Section 4 indicates the need for Consultant to provide additional security for performance of its duties under this Agreement, Consultant shall provide such additional security prior to commencement of its Required Services in the form and on the terms prescribed on Exhibit A, or as otherwise prescribed by the City Attorney.

1.7 Compliance with Laws. In its performance of the Required Services, Consultant shall comply with any and all applicable federal, state and local laws, including the Chula Vista Municipal Code.

1.8 Business License. Prior to commencement of work, Consultant shall obtain a business license from City.

1.9 Subcontractors. Prior to commencement of any work, Consultant shall submit for City’s information and approval a list of any and all subcontractors to be used by Consultant in the performance of the Required

Services. Consultant agrees to take appropriate measures necessary to ensure that all subcontractors and personnel utilized by the Consultant to complete its obligations under this Agreement comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local. In addition, if any subcontractor is expected to fulfill any responsibilities of the Consultant under this Agreement, Consultant shall ensure that each and every subcontractor carries out the Consultant's responsibilities as set forth in this Agreement.

1.10 Term. This Agreement shall commence on the earlier to occur of the Effective Date or Consultant's commencement of the Required Services hereunder and shall terminate when the Parties have complied with all their obligations hereunder; provided, however, provisions which expressly survive termination shall remain in effect.

2. COMPENSATION

2.1 General. For satisfactory performance of the Required Services, City agrees to compensate Consultant in the amount(s) and on the terms set forth in Exhibit A, Section 4. Standard terms for billing and payment are set forth in this Section 2.

2.2 Detailed Invoicing. Consultant agrees to provide City with a detailed invoice for services performed each month, within thirty (30) days of the end of the month in which the services were performed, unless otherwise specified in Exhibit A. Invoicing shall begin on the first of the month following the Effective Date of the Agreement. All charges must be presented in a line item format with each task separately explained in reasonable detail. Each invoice shall include the current monthly amount being billed, the amount invoiced to date, and the remaining amount available under any approved budget. Consultant must obtain prior written authorization from City for any fees or expenses that exceed the estimated budget.

2.3 Payment to Consultant. Upon receipt of a properly prepared invoice and confirmation that the Required Services detailed in the invoice have been satisfactorily performed, City shall pay Consultant for the invoice amount within thirty (30) days. Payment shall be made in accordance with the terms and conditions set forth in Exhibit A and section 2.4, below. At City's discretion, invoices not timely submitted may be subject to a penalty of up to five percent (5%) of the amount invoiced.

2.4 Retention Policy. City shall retain ten percent (10%) of the amount due for Required Services detailed on each invoice (the "holdback amount"). Upon City review and determination of Project Completion, the holdback amount will be issued to Consultant.

2.5 Reimbursement of Costs. City may reimburse Consultant's out-of-pocket costs incurred by Consultant in the performance of the Required Services if negotiated in advance and included in Exhibit A. Unless specifically provided in Exhibit A, Consultant shall be responsible for any and all out-of-pocket costs incurred by Consultant in the performance of the Required Services.

2.6 Exclusions. City shall not be responsible for payment to Consultant for any fees or costs in excess of any agreed upon budget, rate or other maximum amount(s) provided for in Exhibit A. City shall also not be responsible for any cost: (a) incurred prior to the Effective Date; or (b) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of Consultant, its agents, employees, or subcontractors.

2.7 Payment Not Final Approval. Consultant understands and agrees that payment to the Consultant or reimbursement for any Consultant costs related to the performance of Required Services does not constitute a City final decision regarding whether such payment or cost reimbursement is allowable and eligible for

payment under this Agreement, nor does it constitute a waiver of any violation by Consultant of the terms of this Agreement. If City determines that Consultant is not entitled to receive any amount of compensation already paid, City will notify Consultant in writing and Consultant shall promptly return such amount.

3. INSURANCE

3.1 Required Insurance. Consultant must procure and maintain, during the period of performance of Required Services under this Agreement, and for twelve months after completion of Required Services, the policies of insurance described on the attached Exhibit B, incorporated into the Agreement by this reference (the “Required Insurance”). The Required Insurance shall also comply with all other terms of this Section.

3.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions relating to the Required Insurance must be disclosed to and approved by City in advance of the commencement of work.

3.3 Standards for Insurers. Required Insurance must be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best’s rating of A V or better, or, if insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best’s rating of no less than A X. For Workers’ Compensation Insurance, insurance issued by the State Compensation Fund is also acceptable.

3.4 Subcontractors. Consultant must include all sub-consultants/sub-contractors as insureds under its policies and/or furnish separate certificates and endorsements demonstrating separate coverage for those not under its policies. Any separate coverage for sub-consultants must also comply with the terms of this Agreement.

3.5 Additional Insureds. City, its officers, officials, employees, agents, and volunteers must be named as additional insureds with respect to any policy of general liability, automobile, or pollution insurance specified as required in Exhibit B or as may otherwise be specified by City’s Risk Manager. The general liability additional insured coverage must be provided in the form of an endorsement to the Consultant’s insurance using ISO CG 2010 (11/85) or its equivalent; such endorsement must not exclude Products/Completed Operations coverage.

3.6 General Liability Coverage to be “Primary.” Consultant’s general liability coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance provided by Consultant and in no way relieves Consultant from its responsibility to provide insurance.

3.7 No Cancellation. No Required Insurance policy may be canceled by either Party during the required insured period under this Agreement, except after thirty days’ prior written notice to the City by certified mail, return receipt requested. Prior to the effective date of any such cancellation Consultant must procure and put into effect equivalent coverage(s).

3.8 Waiver of Subrogation. Consultant’s insurer(s) will provide a Waiver of Subrogation in favor of the City for each Required Insurance policy under this Agreement. In addition, Consultant waives any right it may have or may obtain to subrogation for a claim against City.

3.9 Verification of Coverage. Prior to commencement of any work, Consultant shall furnish City with original certificates of insurance and any amendatory endorsements necessary to demonstrate to City that

Consultant has obtained the Required Insurance in compliance with the terms of this Agreement. The words “will endeavor” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives” or any similar language must be deleted from all certificates. The required certificates and endorsements should otherwise be on industry standard forms. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

3.10 Claims Made Policy Requirements. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are required and are provided on a claims-made form, the following requirements also apply:

a. The “Retro Date” must be shown and must be before the date of this Agreement or the beginning of the work required by this Agreement.

b. Insurance must be maintained, and evidence of insurance must be provided, for at least three (3) years after completion of the work required by this Agreement.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a “Retro Date” prior to the effective date of this Agreement, the Consultant must purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work required by this Agreement.

d. A copy of the claims reporting requirements must be submitted to the City for review.

3.11 Not a Limitation of Other Obligations. Insurance provisions under this section shall not be construed to limit the Consultant’s obligations under this Agreement, including Indemnity.

3.12 Additional Coverage. To the extent that insurance coverage provided by Consultant maintains higher limits than the minimums appearing in Exhibit B, City requires and shall be entitled to coverage for higher limits maintained.

4. INDEMNIFICATION

4.1. General. To the maximum extent allowed by law, Consultant shall protect, defend, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, “Indemnified Parties”), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys’ fees and court costs), liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Consultant, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of the Required Services, the results of such performance, or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising from the sole negligence or willful misconduct of the Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the Indemnified Parties which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party.

4.2. Modified Indemnity Where Agreement Involves Design Professional Services. Notwithstanding the forgoing, if the services provided under this Agreement are design professional services, as defined by California Civil Code section 2782.8, as may be amended from time to time, the defense and indemnity

obligation under Section 1, above, shall be limited to the extent required by California Civil Code section 2782.8.

4.3 Costs of Defense and Award. Included in Consultant's obligations under this Section 4 is Consultant's obligation to defend, at Consultant's own cost, expense and risk, any and all suits, actions or other legal proceedings that may be brought or instituted against one or more of the Indemnified Parties. Subject to the limitations in this Section 4, Consultant shall pay and satisfy any judgment, award or decree that may be rendered against one or more of the Indemnified Parties for any and all related legal expenses and costs incurred by any of them.

4.4. Consultant's Obligations Not Limited or Modified. Consultant's obligations under this Section 4 shall not be limited to insurance proceeds, if any, received by the Indemnified Parties, or by any prior or subsequent declaration by the Consultant. Furthermore, Consultant's obligations under this Section 4 shall in no way limit, modify or excuse any of Consultant's other obligations or duties under this Agreement.

4.5. Enforcement Costs. Consultant agrees to pay any and all costs City incurs in enforcing Consultant's obligations under this Section 4.

4.6 Survival. Consultant's obligations under this Section 4 shall survive the termination of this Agreement.

5. FINANCIAL INTERESTS OF CONSULTANT.

5.1 Form 700 Filing. The California Political Reform Act and the Chula Vista Conflict of Interest Code require certain government officials and consultants performing work for government agencies to publicly disclose certain of their personal assets and income using a Statement of Economic Interests form (Form 700). In order to assure compliance with these requirements, Consultant shall comply with the disclosure requirements identified in the attached Exhibit C, incorporated into the Agreement by this reference.

5.2 Disclosures; Prohibited Interests. Independent of whether Consultant is required to file a Form 700, Consultant warrants and represents that it has disclosed to City any economic interests held by Consultant, or its employees or subcontractors who will be performing the Required Services, in any real property or project which is the subject of this Agreement. Consultant warrants and represents that it has not employed or retained any company or person, other than a bona fide employee or approved subcontractor working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants and represents that it has not paid or agreed to pay any company or person, other than a bona fide employee or approved subcontractor working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further warrants and represents that no officer or employee of City, has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds hereof, or in the business of Consultant or Consultant's subcontractors. Consultant further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement. For breach or violation of any of these warranties, City shall have the right to rescind this Agreement without liability.

6. REMEDIES

6.1 Termination for Cause. If for any reason whatsoever Consultant shall fail to perform the Required Services under this Agreement, in a proper or timely manner, or if Consultant shall violate any of the other covenants, agreements or conditions of this Agreement (each a "Default"), in addition to any and all other rights and remedies City may have under this Agreement, at law or in equity, City shall have the right to

terminate this Agreement by giving five (5) days written notice to Consultant. Such notice shall identify the Default and the Agreement termination date. If Consultant notifies City of its intent to cure such Default prior to City's specified termination date, and City agrees that the specified Default is capable of being cured, City may grant Consultant up to ten (10) additional days after the designated termination date to effectuate such cure. In the event of a termination under this Section 6.1, Consultant shall immediately provide City any and all "Work Product" (defined in Section 7 below) prepared by Consultant as part of the Required Services. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Consultant may be entitled to compensation for work satisfactorily performed prior to Consultant's receipt of the Default notice; provided, however, in no event shall such compensation exceed the amount that would have been payable under this Agreement for such work, and any such compensation shall be reduced by any costs incurred or projected to be incurred by City as a result of the Default.

6.2 Termination or Suspension for Convenience of City. City may suspend or terminate this Agreement, or any portion of the Required Services, at any time and for any reason, with or without cause, by giving specific written notice to Consultant of such termination or suspension at least fifteen (15) days prior to the effective date thereof. Upon receipt of such notice, Consultant shall immediately cease all work under the Agreement and promptly deliver all "Work Product" (defined in Section 7 below) to City. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Consultant shall be entitled to receive just and equitable compensation for this Work Product in an amount equal to the amount due and payable under this Agreement for work satisfactorily performed as of the date of the termination/suspension notice plus any additional remaining Required Services requested or approved by City in advance that would maximize City's value under the Agreement.

6.3 Waiver of Claims. In the event City terminates the Agreement in accordance with the terms of this Section, Consultant hereby expressly waives any and all claims for damages or compensation as a result of such termination except as expressly provided in this Section 6.

6.4 Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Consultant shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

6.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in San Diego County, State of California.

6.6 Service of Process. Consultant agrees that it is subject to personal jurisdiction in California. If Consultant is a foreign corporation, limited liability company, or partnership that is not registered with the California Secretary of State, Consultant irrevocably consents to service of process on Consultant by first class mail directed to the individual and address listed under "For Legal Notice," in section 1.B. of Exhibit A to this Agreement, and that such service shall be effective five days after mailing.

7. OWNERSHIP AND USE OF WORK PRODUCT

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced in whole or in part under this Agreement in connection with the performance of the Required Services, with the exception of Consultant's proprietary computer models (collectively "Work Product") shall be the sole and exclusive property of City. No such Work Product shall be subject to private use, copyrights or patent rights by Consultant in the United States or in any other country without the express, prior written consent of City. City shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such Work Product, without requiring any permission of Consultant, except as may be limited by the provisions of the Public Records Act or expressly prohibited by other applicable laws.

8. GENERAL PROVISIONS

8.1 Amendment. This Agreement may be amended, but only in writing signed by both Parties.

8.2 Assignment. City would not have entered into this Agreement but for Consultant's unique qualifications and traits. Consultant shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without City's prior written consent, which City may grant, condition or deny in its sole discretion.

8.3 Authority. The person(s) executing this Agreement for Consultant warrants and represents that they have the authority to execute same on behalf of Consultant and to bind Consultant to its obligations hereunder without any further action or direction from Consultant or any board, principle or officer thereof.

8.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement after each Party has signed such a counterpart.

8.5 Entire Agreement. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

8.6 Record Retention. During the course of the Agreement and for three (3) years following completion of the Required Services, Consultant agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the performance of the Agreement, including accounting for costs and expenses charged to City, including such records in the possession of sub-contractors/sub-consultants.

8.7 Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties.

8.8 Independent Contractor. Consultant is and shall at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents ("Consultant Related Individuals"), except as set forth in this Agreement. No Consultant Related Individuals shall be deemed employees of City, and none of them shall be entitled to any benefits to which City employees are entitled,

including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Furthermore, City will not withhold state or federal income tax, social security tax or any other payroll tax with respect to any Consultant Related Individuals; instead, Consultant shall be solely responsible for the payment of same and shall hold the City harmless with respect to same. Consultant shall not at any time or in any manner represent that it or any of its Consultant Related Individuals are employees or agents of City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

8.9 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any Party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such Party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement at the places of business for each of the designated Parties as indicated in Exhibit A, or otherwise provided in writing.

9. CONSULTANT DISCLAIMERS

9.1 In accepting this Agreement, the City represents, acknowledges and agrees that:

- a. Consultant is not advising or recommending any action be taken by the City with respect to any prospective, new, or existing municipal financial products or issuance of municipal securities (including with respect to the structure, timing, terms and other similar matters concerning such financial products or issues).
- b. Consultant is not acting as a Municipal Advisor to the City and does not assume any fiduciary duty hereunder, including, without limitation, a fiduciary duty to the City pursuant to Section 15B of the Exchange Act with respect to the services provided hereunder and any information and material contained in Consultant's work product.
- c. The City shall discuss any such information and material contained in Consultant's work product with any and all internal and/or external advisors and experts, including its own Municipal Advisors, that it deems appropriate before acting on the information and material.

The City further represents, acknowledges and agrees that:

- d. The City uses the services of one or more Municipal Advisors registered with the U.S. Securities and Exchange Commission ("SEC") to advise it in connection with municipal financial products and the issuance of municipal securities.
- e. The City is not looking to Consultant to provide, and the City shall not otherwise request or require Consultant to provide, any advice or recommendations with respect to municipal financial products or the issuance of municipal securities (including any advice or recommendations with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues).
- f. The provisions of this Agreement and the services to be provided hereunder are not intended (and shall not be construed) to constitute or include any municipal advisory services within the meaning of

Section 15B of the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the rules and regulations adopted thereunder.

- g. For the avoidance of doubt and without limiting the foregoing, in connection with any projections, studies and analyses Consultant may provide the City with respect to financial, economic, or other matters relating to a prospective, new, or existing issuance of municipal securities of the City, (A) any such projections, studies, and analyses shall be based upon assumptions, opinions, or views (including, without limitation, any assumptions related to revenue growth) established by the City, in conjunction with such of its municipal, financial, legal and other advisers as it deems appropriate; and (B) under no circumstances shall Consultant be asked to provide, nor shall it provide, any advice or recommendations or subjective assumptions, opinions, or views with respect to revenue projections or the actual or proposed structure, terms, timing, pricing, or other similar matters with respect to any municipal financial products or municipal securities issuances, including any revisions or amendments thereto.
- h. Notwithstanding all of the foregoing, the City recognizes that interpretive guidance regarding municipal advisory activities is currently quite limited and is likely to evolve and develop during the term of the Agreement and, to that end, the City will work with Consultant throughout the term of the Agreement to ensure that the Agreement and the services to be provided by Consultant hereunder is interpreted by the parties and, if necessary, amended in a manner intended to ensure that the City is not asking Consultant to provide, and Consultant is not in fact providing or required to provide, any municipal advisory services.

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**SIGNATURE PAGE
CONSULTANT SERVICES AGREEMENT**

IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and Consultant agree that they have read and understood all terms and conditions of the Agreement, that they fully agree and consent to bound by same, and that they are freely entering into this Agreement as of the Effective Date.

CBRE GROUP, INC.

CITY OF CHULA VISTA

BY: _____
NATALIE DAHL
MANAGING DIRECTOR |

BY: _____
MARIA V. KACHADOORIAN
CITY MANAGER |

APPROVED AS TO FORM

BY: _____
Glen R. Googins
City Attorney

EXHIBIT A
SCOPE OF WORK AND PAYMENT TERMS

1. Contact People for Contract Administration, Legal Notice, and Payments

A. City Contract Administration:

Eric Crockett
276 Fourth Avenue
Chula Vista, CA 91910
(619) 476-5341
ecrockett@chulavistaca.gov

For Legal Notice Copy to:
City of Chula Vista
City Attorney
276 Fourth Avenue, Chula Vista, CA 91910
619-691-5037
CityAttorney@chulavistaca.gov

B. Consultant Contract Administration:

CBRE GROUP, INC.
Tom Turner
3821 Overpark Road
San Diego, CA 92130
C +1 619 840 0477
Tom.Turner2@cbre.com

For Legal Notice Copy to:

Sean Treglia
CBRE, Inc.
Legal Services
400 S Hope St.
25th Floor
Los Angeles, CA 90071

Consultant Payment Address:

Tom Turner
CBRE, Inc.
3821 Overpark Road
San Diego, CA 92130

2. Required Services

A. General Description of Services:

[Consultant will provide professional real estate advisory and consulting services to negotiate terms and conditions with HomeFed Corporation for development of the University and Innovation District (“UID”). Consultant will also provide landlord representation and full marketing materials and services.]

B. Detailed Description of Services:

(1) Background Information:

Since the adoption of the Otay Ranch General Development Plan in 1993, the City of Chula Vista has maintained a vision of locating a university within eastern Chula Vista. This vision is also reflected in the Otay Ranch General Development Plan and Sectional Planning Area Plan for a new University-Innovation District (UID). Under the adopted planning documents that govern the development of the site, the UID planning provides the ability to accommodate up to 20,000 students with an innovation district capable of building approximately 2 million square feet of commercial space for private industry partners with 3.6 million square feet available for development of market rate and student/faculty housing. The City's goals for the UID are as follows:

- Develop a university campus offering four-year degrees consistent with the City's binational and multi-institutional university vision;
- Establish a business environment within the Innovation District that embraces the technology and/or higher education sectors to serve as a talent pipeline for the University(ies);
- Create an on-going income stream and/or one-time capital event;
- Support increases in tax revenue;
- Support equitable access to higher education;
- Foster additional economic development and education opportunities for the community at large; and
- Develop a financial model that allows development to occur with as little out-of-pocket cost to the City as possible.

The City has assembled, and currently owns, a total of 383 acres of land intended for the UID. In November 2018, the planning effort culminated in the adoption of the University Innovation District Sectional Planning Area (SPA) Plan, Environmental Impact Report and related technical documents. The UID SPA Plan defines: the vision, land use character and mix, design criteria, pedestrian, bike and vehicular circulation systems, and the infrastructure requirements for an approximately 10 million square-foot University and Innovation District that will ultimately serve 20,000 students with supporting uses including office, retail, residential and research space.

Additionally, the City of Chula Vista acquired one of three United States Olympic Training Centers, now named the Chula Vista Elite Athlete Training Center. The Chula Vista Elite Athlete Training Center occupies 155 acres in eastern Chula Vista, approximately 2 miles from the University site. This unique and valuable City asset is potentially available to the institution(s) that develop a presence on the UID site for athletic, innovation and research uses, on terms to be negotiated with the then facility operator and/or the City.

HomeFed Corporation, the master developer for neighboring Villages 8 West and East, 9 and 10, is positioned to serve as the Master Developer of the University & innovation District including 2,000 market rate student housing units (assume all university housing is rental). HomeFed's land holdings across Villages 8 west, 8 east, 9 and 10 includes approximately 1,562 gross acres (636 gross acres for adjacent Villages 9 and 10) and 11,245 housing units (5,635 units in adjacent villages 9 and 10). HomeFed's land holdings, combined with the 383-acre University site and 155-acre Chula Vista Elite Athlete Training Facility offer approximately 1,200-acres of opportunity for a higher education institution(s) to create a 21st century world-class campus community in eastern Chula Vista that is well-supported by surrounding industry and housing.

In first quarter 2020, staff began the planning process for the creation of a University Innovation Overlay Zone (UI Overlay Zone) to increase opportunity to attract educational users to the City of Chula Vista. The UI Overlay Zone would be applicable to the SPA Plan areas of Otay Ranch Village 9, Village 10, and the

University Innovation District -- an area of approximately 560 developable acres across 1019.4 gross acres. It would expand the area available for establishment of academic and innovation users, currently limited to the UI District SPA Plan area. This new regulatory tool would enable flexible redistribution of currently approved land uses based on existing entitled development capacities, while meeting all open space and off-site preservation commitments and mitigations. The increased area available for establishment of educational and innovation uses would incentivize establishment of educational user(s) in the area by allowing development based on user-identified preferred location and space needs anywhere within the three SPA Plan areas. The UI Overlay Zone would promote rapid response to potential users through a partnership between the City and HomeFed Corporation and it would include a built-in review process to enable streamlined approvals to get university uses established efficiently. Development would be consistent with the adopted vision, land use character and mix, transects, and open space and mitigation requirements of the underlying three SPA plans.

The City now seeks professional real estate expertise and advisement to assist in the negotiations between City and HomeFed Development Corporation, to provide assistance in the drafting of a term sheet and to evaluate, advise and advocate for the City's best interests to be represented within the term sheet and Exclusive Negotiating Agreement (ENA; Phase I). Once a term sheet is completed to both parties' satisfaction, City desires consultant's services to then create a Master Development Agreement by and between the City and HomeFed (MDA; Phase II). The MDA must assume the creation of the Overlay Zone and take into consideration both parties' land holdings. Desired consultant services also include brokerage and marketing services to ensure the UID is marketed to reputable institutions and companies (Phase 3).

(2) Scope of Defined Services:

To achieve the aforementioned objectives, Consultant will perform the following services:

Phase I – ENA and Term Sheet Negotiation and Completion

Commencement: February 2022

CBRE will assist the City in negotiating a Term Sheet setting forth the key business terms of a Master Development Agreement with HomeFed as the Master Developer of the UID. This Phase may also include the negotiation of an Exclusive Negotiating Agreement between the parties based on the Term Sheet.. Terms and conditions of the Term Sheet/ENA shall include but are not limited to:

- The creation of a Master Plan for the phased development of City land into the UID
- Land Development Work for each phase to be financed or caused to be financed by HomeFed
- Accounting for the respective values of infrastructure installed by HomeFed on City owner land
- Provision for a master overlay zone that would allow for the transfer of additional development rights to HomeFed (including residential, commercial, and educational uses.)
- Requirements for assuring City-preferred development
- During the term of the ENA and beyond, due diligence/performance milestones
- Cost allocation/sharing
- Reimbursement of Land Development Work costs and the payment of a Developer Fee out of land sale proceeds.
- City reservation of legally required discretion and rights

Phase II – Master Development Agreement Negotiation and Completion

Anticipated Completion: November 2022

Pursuant to the terms of the ENA and the Term Sheet, CBRE will assist the City in negotiating with HomeFed terms of a final Master Development Agreement, and related documentation. CBRE assistance shall include:

- Recommend key business terms for the proposed agreements
- Participation as needed in negotiation sessions with the City and HomeFed
- Review and comment on iterations of key drafts and proposed final agreements

Throughout this process CBRE will cooperate and collaborate with City internal staff and any and all other consultants City may engage in connection with the project.

Phase III – Marketing

Timeframe: Commencing concurrently with Phase I and II

CBRE will assist the City to market the University and Innovation District to recruit eligible university institutions and industry partners to implement the UID. CBRE will also leverage their network of occupiers, along with higher education, life sciences and tech relationships to ensure the Innovation District will be marketed to both local firms looking to relocate or add additional space, and national/international firms looking to enter the Chula Vista market or expand their current presence.

CBRE will help identify and engage all relevant industry markets with high quality employment and university tie-in opportunities including, without limitation:

- Aerospace
- Cleantech
- Cybersecurity
- Defense
- Engineering
- Life Sciences
- Medical Device
- Media and Entertainment
- Software
- Telecommunications

CBRE will take the following additional steps to marketing, recruitment and leasing success:

- Broker outreach and events
- Marketing materials catering to specific targeted users
- Offer commute, talent/employment and demographic studies to potential relocating firms
- Press/social media coverage
- Engage brokers to fill possible smaller start-up/collaborative spaces
- Utilize drone footage to highlight area advantages
- Target tenants being priced out of other submarkets
- Support the development of a marketing center
- Develop “Why Chula Vista?” marketing materials for potential new-to-market large firms
- Advertise with industry-specific websites
- Signage at site to highlight superior visibility from access roads
- Work with economic development groups, chambers of commerce, and county to promote the Innovation District as an ideal headquarters location

The parties will agree upon an appropriate marketing platform scope of work and budget, which may be modified from time to time, with CBRE to provide ½ of the necessary funds and the City and/or HomeFed the other ½.

C. Schedule:

Terms of Engagement

- (1) February 2022 – November 2022: Ten (10) month engagement to reach agreement on an Exclusive Negotiation Agreement, Term Sheet and Master Development Agreement between the City and HomeFed, subject to mutual agreement of month-to-month extensions.
- (2) Ongoing engagement to provide marketing and recruitment services for University and Innovation District tenants with timing to be determined based on need and conversations with industry partners. This can commence concurrently with Phase I and/or II.
- (3) Attend meetings on an as-needed basis with City staff, legal counsel, city hired consultants, City’s University Subcommittee and City Council.

3. Term: In accordance with Section 1.10 of this Agreement, the term of this Agreement shall begin February 15, 2022 and end after completion of all Required Services per the Schedule, described above, as may be extended by mutual agreement of the parties. The initial day that commences the accrual of CBRE’s monthly retainer fee shall commence upon City delivery to CBRE of a written notice to proceed.

4. Compensation:

A. Form of Compensation

A fixed fee for Phases I and II as follows:

<i>Phase</i>	<i>Cost</i>	<i>Schedule</i>
Phases I and II – Term Sheet Negotiation and Completion of ENA, Term Sheet and MDA	Monthly retainer of \$19,500, payable in arrears “Success Fee” of \$300,000 payable within thirty (30) days after City Council approval of full execution of an MDA*	February 2022 – November 2022 subject to month-to-month extensions, if mutually agreed
Phase III-Marketing	Brokerage fees are on a sliding scale per table outlined below and are to be paid following City Council approval of a disposition agreement (lease).	TBD based on need and conversations with industry partners; can run concurrently with Phase I and II

No success fee will be due and payable hereunder unless and until the City Council approves and both the City and HomeFed execute an MDA. City reserves the right to approve or disapprove any proposed MDA in its sole discretion. City may elect to seek all or a portion of fees paid to HomeFed under the terms of this Agreement; provided, however, HomeFed’s decision not to contribute to amounts due CBRE hereunder will not affect City’s obligations to pay such fees.

Brokerage Fees

The parties will negotiate in good faith a mutually agreeable Exclusive Listing Agreement (“ELA”) subject to the review and approval of the City Attorney, consistent with the terms of this Agreement. The ELA shall have an initial term of 24 months, subject to earlier termination by the City with ninety (90) days written notice, and extensions beyond the initial term by mutual agreement of the parties.

Marketing costs are absorbed into the brokerage fee per the below table. Seller/Landlord brokerage fees are based on the following:

Brokerage Fee Rate	TOTAL PROJECT VALUE TRANCHE
3.00%*	\$0 M - \$10 M
2.50%	\$10 M - \$20 M
2.00%	\$20 M - \$30 M
1.50%	\$30 M - \$50 M
1.25%	\$50 M - \$100 M
1.00%	\$100 M or greater

*Commissions are calculated on a cumulative basis. By way of example, the following illustration would be applicable assuming a \$50,000,000 Total Transaction Value.

(Note: the following is for example purposes only and should not be construed as a suggestion or indication of the values that might be achieved).

- a percentage of three half percent (3%) of the Total Transaction Value up to \$10,000,000, PLUS
- two and one-half percent (2.5%) of the portion of the Total Transaction Value greater than \$10,000,000 up to \$20,000,000, PLUS
- two percent (2.0%) of the portion of the Total Transaction Value greater than \$20,000,000 up to \$30,000,000, PLUS
- one and one-half percent (1.5%) of the portion of the Total Transaction Value up to \$50,000,000 a) \$300,000 plus b) \$250,000 plus c) \$200,000 plus d) \$300,000 Total = \$1,050,000

The above rate structure applies where there is no co-broker representing the buyer/tenant. Where a co-broker is the procuring cause (including another CBRE broker not in the City team), each rate in the structure shall be increased by one percent (1%), and the total fee shall be split evenly between CBRE and the co-broker.

In the event of ground lease, the transaction value will be the gross rent to be paid by the tenant, including escalations over the entire term of the lease, discounted to a net present value using an interest rate of three and one-half percent (3.5%). Commission will be paid to CBRE by the City within thirty (30) days of execution of the ground lease by all parties.

If a fee simple transfer of the property, CBRE will be paid on the higher of i) sale price to be paid by the buyer or ii) the fair market appraised value of the property. Commission will be paid by the City from proceeds of the sale at settlement.

To the extent a transaction is completed at less than market compensation, the buyer/tenant thereunder shall be responsible for the payment of all brokerage fees. To the extent such buyer/tenant is unable to pay such fees, the City shall be responsible therefor.

In the case of a lease, where there are no fund available for immediate payment of brokerage fees, such fees shall be paid from the first payments made pursuant to the lease.

In the case of the leasing of a building, CBRE shall negotiate market rate fees with the developer of the building, to be paid by said developer.

CBRE will be recognized and protected as to its commission hereunder for a period of twelve (12) months after the termination of this contract with respect to any parties with whom CBRE has been involved in ongoing discussions/negotiation prior to termination.”

Notwithstanding the foregoing, the possible transaction with San Diego State University (“SDSU”) currently being negotiated between City and SDSU (the “SDSU Transaction”) shall not be subject to the terms of the ELA. CBRE shall not be entitled to any brokerage fee for the SDSU Transaction unless separately negotiated pursuant to the terms of a separate agreement subject to City’s approval in its sole discretion.

5. Special Provisions: []

Permitted Sub-Consultants: [None]

Security for Performance: [None]

Notwithstanding the completion date set forth in Section 3 above, City has option, in its sole discretion, to extend this Agreement for such additional period of time as deemed necessary or desirable for Consultant to complete the Desired Services. If City exercises such option, Consultant shall not be entitled to any additional compensation unless otherwise agreed to by the parties and duly approved by the City.

[Standard CBRE Dual Agency Disclosure to be attached.]

[

EXHIBIT B
INSURANCE REQUIREMENTS

Consultant shall adhere to all terms and conditions of Section 3 of the Agreement and agrees to provide the following types and minimum amounts of insurance, as indicated by checking the applicable boxes (x).

	Type of Insurance	Minimum Amount	Form
<input checked="" type="checkbox"/>	General Liability: Including products and completed operations, personal and advertising injury	\$2,000,000 per occurrence for bodily injury, personal injury (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Agreement or the general aggregate limit must be twice the required occurrence limit Additional Insured Endorsement or Blanket AI Endorsement for City* Waiver of Recovery Endorsement	Insurance Services Office Form CG 00 01 <i>*Must be primary and must not exclude Products/Completed Operations</i>
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000 per accident for bodily injury, including death, and property damage	Insurance Services Office Form CA 00 01 Code 1-Any Auto Code 8-Hired Code 9-Non Owned
<input checked="" type="checkbox"/>	Workers' Compensation Employer's Liability	\$1,000,000 each accident \$1,000,000 disease policy limit \$1,000,000 disease each employee Waiver of Recovery Endorsement	
<input checked="" type="checkbox"/>	Professional Liability (Errors & Omissions)	\$1,000,000 each occurrence \$2,000,000 aggregate	

Other Negotiated Insurance Terms: None

EXHIBIT C
CONSULTANT CONFLICT OF INTEREST DESIGNATION

The Political Reform Act¹ and the Chula Vista Conflict of Interest Code² (“Code”) require designated state and local government officials, including some consultants, to make certain public disclosures using a Statement of Economic Interests form (Form 700). Once filed, a Form 700 is a public document, accessible to any member of the public. In addition, consultants designated to file the Form 700 are also required to comply with certain ethics training requirements.³

A. Consultant IS a corporation or limited liability company and is therefore EXCLUDED⁴ from disclosure.

B. Consultant NOT a corporation or limited liability company and disclosure designation is as follows:

APPLICABLE DESIGNATIONS FOR INDIVIDUAL(S) ASSIGNED TO PROVIDE SERVICES

(Category descriptions available at www.chulavistaca.gov/departments/city-clerk/conflict-of-interest-code.)

Name	Email Address	Applicable Designation
Enter Name of Each Individual Who Will Be Providing Service Under the Contract – <i>If individuals have different disclosure requirements, duplicate this row and complete separately for each individual</i>	Enter email address(es)	<input type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (<i>select one or more of the categories under which the consultant shall file</i>): <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. Justification: <input checked="" type="checkbox"/> C. Excluded from Disclosure

1. Required Filers

Each individual who will be performing services for the City pursuant to the Agreement and who meets the definition of “Consultant,” pursuant to FPPC Regulation 18700.3, must file a Form 700.

2. Required Filing Deadlines

Each initial Form 700 required under this Agreement shall be filed with the Office of the City Clerk via the City's online filing system, NetFile, within 30 days of the approval of the Agreement. Additional Form 700 filings will be required annually on April 1 during the term of the Agreement, and within 30 days of the termination of the Agreement.

3. Filing Designation

The City Department Director will designate each individual who will be providing services to the City pursuant to the Agreement as *full disclosure*, *limited disclosure*, or *excluded from disclosure*, based on an analysis of the services the Consultant will provide. Notwithstanding this designation or anything in the Agreement, the Consultant is ultimately responsible for complying with FPPC regulations and filing requirements. If you have any questions regarding filing requirements, please do not hesitate to contact the City Clerk at (619)691-5041, or the FPPC at 1-866-ASK-FPPC, or (866) 275-3772 *2.

Pursuant to the duly adopted City of Chula Vista Conflict of Interest Code, this document shall serve as the written determination of the consultant’s requirement to comply with the disclosure requirements set forth in the Code.

Completed by: *Miranda Evans, Special Projects Manager*

1 Cal. Gov. Code §§81000 *et seq.*; FPPC Regs. 18700.3 and 18704.

2 Chula Vista Municipal Code §§2.02.010-2.02.040.

3 Cal. Gov. Code §§53234, *et seq.*

4 CA FPPC Adv. A-15-147 (*Chadwick*) (2015); *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261; FPPC Reg. 18700.3 (Consultant defined as an “individual” who participates in making a governmental decision; “individual” does not include corporation or limited liability company).