

**Three-Party Agreement Between
City of Chula Vista,
Otay Land Company, LLC and DUDEK
For Environmental and Planning Consulting Services for the
University and Innovation District Overlay Zone**

RECITALS

WHEREAS, the area of land that is the subject of this Agreement is commonly known as the Village 9, Village 10 and University Innovation District, and for the purpose of general description consists of three distinct properties totaling approximately 807 acres located south of the intersection of Eastlake Parkway and Hunte Parkway, north of the Otay River Valley, and east of SR-125 (Project Site); and

WHEREAS, the City Council previously approved the Sectional Planning Area Plan (SPA Plan) and certified the Environmental Impact Report (the “EIR”) 10-04_ (SCH No. 2010061090) for Village 9 on June 3, 2014; previously approved the SPA Plan and certified EIR 13-01 (SCH No. 2013071077) for Village 10 on December 2, 2014 (both together, “Applicant Property”); and approved the SPA Plan and certified EIR14-01 (SCH No. 2014121097) for the University and Innovation District (the “UID”) on November 18, 2020 (the “City Property”); and

WHEREAS, as part of the approval of the UID, the City Council established a flex overlay zone allowing development from one SPA Plan to be transferred to another property within the adjacent Village 9 and Village 10 SPA Plans to enhance development timing and improve the relationship of uses between SPA plans; and

WHEREAS, City Council desires to further expand the area available for establishment of academic and innovation users, currently limited to the UID SPA Plan area by the creation of a University Innovation Overlay Zone (the “UI Overlay Zone” and “Project”) over the Project Site to increase opportunities to attract educational users to the City of Chula Vista. The UI Overlay Zone would be applicable to the Project Site -- an area of approximately 560 developable acres across 807.5 gross acres; and

WHEREAS, City Council by resolution on February 25, 2020 directed staff to to amend the form based codes/Planned Community District Regulations of the SPA plans for Otay Ranch Village 9, Village 10, and the UID to create a UI Overlay Zone to promote the establishment of an educational user in Chula Vista; and

WHEREAS, the City and the applicant see mutual benefit to the creation and success of the UI Overlay Zone and have roughly equal development capacities in each of their respective approved SPA plans; and

WHEREAS, because of the mutual benefit of the UI Overlay Zone the City agrees to pay one half of the consultants cost \$206,950, including a contingency of \$31,372 of which the City’s portion shall not exceed \$103,475 (one hundred three thousand, four hundred seventy five dollars).

1. Parties.

This agreement (Agreement), effective this _____ day of _____, 20____, (the “Effective Date”), is between the City of Chula Vista (“City”), a chartered municipal corporation of the State of California, DUDEK (Consultant) whose business form and address are indicated on the attached Exhibit A, and Otay Land Company, LLC (Applicant) whose business form and address are indicated on the attached Exhibit A, and is made with reference to the following facts:

2. Warranties and Representations.

2.1. Applicant warrants that Applicant is the owner of the Applicant Property.

2.2. Applicant desires to collaborate with the City to create the UI Overlay Zone on City Property and Applicant Property. City desires to allow Applicant to manage the process, and share equally in paying Consultant, with City reviewing and approving the UI Overlay Zone and participating in the environmental document preparation process to the extent that the City considers appropriate to ensure that City planning principles, standards and approach to the long term success of the UI Overlay Zone are met.

2.3. The UI Overlay Zone will provide for an alternative to the existing, previously permitted transects/zoning districts as established by the adopted SPA plans to better accommodate university facilities should the property owners wish to exercise the provisions of the UI Overlay Zone. Underlying SPA Plan approvals, and tentative maps, will remain in place should the UI Overlay Zone not be utilized.

2.4. The UI Overlay Zone will enable a university user to have the flexibility to determine the appropriate location, size, and configuration for their needs within a development framework that creates an active, urban, innovation environment. This approach will increase the attractiveness of Chula Vista as a university location by allowing the City to be responsive to user needs and eliminating the regulatory hurdles of re-planning or re-entitlement. This regulatory approach will allow for and facilitate:

- Near-term phased installation of needed infrastructure
- Ability to rapidly develop/construct buildings that can be occupied by university/innovation users
- User-determined facility location and size
- Near-term completion of direct access to SR-125
- Ability for university users to more fully benefit from early southward extension of Bus Rapid Transit (BRT) services

3. Agreement.

NOW, THEREFORE, for valuable consideration it is mutually agreed to by and between the City, Consultant, and Applicant as follows:

3.1. Employment of Consultant by Applicant.

Consultant is engaged by Applicant, not by City, with equal cost and expense to be borne by the Applicant and City, to perform for the benefit of City and Applicant, and subject to City's review and approval, all of the services described on the attached Exhibit A, Paragraph 4, entitled General Nature of Consulting Services (General Services); all of the services described in Exhibit A, Paragraph 5, entitled Detailed Scope of Work (Detailed Services); and all services reasonably necessary to accomplish said General Services and Detailed Scope of Work. Consultant shall deliver such documents required (the "Deliverables") herein, all within the time frames herein set forth, and in particular as set forth in Exhibit A, Paragraph 7, and if none are set forth, within a reasonable period of time for the diligent execution of Consultant's duties hereunder. Consultant understands and agrees that time is of the essence for this Agreement.

Consultant does hereby agree to perform said General and Detailed Services to and for the benefit of the City and Applicant for the compensation herein fixed to be paid by Applicant and the City.

In delivering the General and Detailed Services hereunder, Consultant shall do so with the skill and care consistent with that level ordinarily exercised by members of the same profession currently practicing under similar conditions and in similar locations, at its own cost and expense except for the compensation and/or reimbursement, if any, herein promised, and shall furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, machinery, equipment, printing, vehicles, transportation, office space and facilities, calculations, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by the City or Applicant, necessary or proper to perform and complete the work and provide the Services required of the Consultant.

3.2. Compensation of Consultant.

Applicant shall compensate Consultant for all services rendered by Consultant pursuant to this Agreement. Applicant shall pay Consultant within thirty five (35) days of receiving a properly prepared invoice. City shall not make any payments of compensation or otherwise directly to Consultant but Consultant shall provide a duplicate invoice to the City to allow the City to confirm that the work to be paid for has been completed to the satisfaction of City and before the City reimburses the Applicant for one-half of each approved Consultant invoice. City shall have five (5) working days from receipt of each invoice to provide its objections to Applicant regarding payment of the invoice. City may suspend its review of the UI Overlay Zone and environmental documents should Applicant not pay Consultant.

3.2.1. Additional Work. If Applicant, with the concurrence of City, determines that additional services ("Additional Services") are needed from Consultant of the type Consultant is qualified to render and which are reasonably related to the General and Detailed Services Consultant is otherwise required to provide by this Agreement, Consultant agrees to provide such additional services on a time and materials basis paid for by Applicant at the rates set forth in the separate agreement between Applicant and Consultant. The City agrees to reimburse the Applicant for one-half of the approved Consultant Invoice for Additional Services.

3.2.2. In the event that City determines that additional work is required to be performed above and beyond the scope of work herein provided in order for the Deliverables to result in a functional UI Overlay Zone, City shall consult with Applicant regarding the additional work, and if thereupon the Applicant fails or refuses to arrange and pay for said Additional Services, City may, at its option, suspend its review of the UI Overlay Zone and/or further processing of any application of Applicant that is dependent on this Agreement until Applicant agrees to pay the costs of the additional work that City determines is or may be required.

3.2.3. Reductions in Scope of Work. Applicant may independently, or upon request from Consultant, from time to time reduce the General and/or Detailed Services to be performed by Consultant under this Agreement. Such reductions in the scope of work are subject to City review and approval prior to any reduction being made. City approval shall not be unreasonably withheld for any changes that are consistent with the approved SPA plans. If upon receipt of such a request by Consultant, or by Applicant of its own fruition, Applicant shall notify City in writing informing City of the requested reductions in the scope of work. Applicant and Consultant agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction in the compensation associated with said reduction. Upon failure to agree, Consultant's compensation may be unilaterally reduced by Applicant by the amount of time and materials budgeted by Consultant for the reduced General or Detailed Services.

4. Non-Service Related Duties of Consultant.

4.1 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 A, incorporated into the Agreement by this reference (the "Required Insurance"). The Required Insurance shall also comply with all other terms of this Section.

4.1.1 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.

4.1.2 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.

4.1.3 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.

4.1.4 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 A 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.

4.1.5 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.

4.1.6 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).

4.1.7 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.

4.1.8 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.

4.1.9 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 five (5) 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 five (5) 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.

4.1.10 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.

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

4.2. Public Statements.

All public statements and releases to the news media shall be the responsibility of City and Applicant. Consultant shall not publish or release news items, articles or present lectures on the Project, either during the course of the study or after its completion, except on written concurrence of City and Applicant.

4.3. Communication to City on Scope of Work.

Consultant shall communicate directly on all scope of work questions and clarifications to City in the presence of Applicant (presence meaning: physical presence, conference calls or meetings via electronic media), or by writing an exact copy of the communication which is simultaneously provided to Applicant, except with the express consent of Applicant. Consultant may request such meetings with City to ensure the adequacy of services performed by Consultant.

5. Non-Compensation Duties of the Applicant.

5.1. Documents Access.

Applicant shall provide to Consultant and City, for use by Consultant and City such documents, or copies of such documents requested by Consultant or City, within the possession of Applicant reasonably useful to Consultant and City in performing the services herein required of Consultant, including but not limited to those described in Exhibit A. City shall provide to Consultant, through Applicant, for the use by Consultant and Applicant, such documents, or copies of such documents requested by Consultant or Applicant, within the possession of City reasonably useful to Consultant and Applicant in performing the services herein required of Consultant, including but not limited to those described in Exhibit A, Paragraph 7.

5.2. Property Access.

Applicant hereby grants permission to City and Consultant to enter and access Applicant's Property, to take any borings, make any tests, conduct any surveys or reconnaissance necessary to perform the Services of Consultant, subject to the approval of Applicant which shall not be unreasonably withheld. Consultant shall promptly repair any property damage occasioned by such entry and shall indemnify, defend, and hold City and Applicant, and their agents, and employees

harmless from all loss, cost, damage, expenses, claims, liens, and liabilities in connection with or arising from any such entry and access.

5.3. Communication to Consultant.

City shall communicate directly to Consultant in the presence of Applicant (“presence” meaning: physical presence, conference calls or meetings via electronic media), or by writing an exact copy of the communication which is simultaneously provided to Applicant, except with the express consent of Applicant. City may request such meetings with Applicant and Consultant as it deems necessary to ensure adequacy of services performed by Consultant.

6. Administrative Representatives.

Each party designates the individuals (“Administrators”) indicated in Exhibit A, Paragraph 9, as said party’s contract administrator who is authorized by said party to represent it in the routine administration of this Agreement.

7. Conflicts of Interest.

7.1. Consultant is Designated as an FPPC Filer.

If Consultant is designated on Exhibit A, Paragraph 9, as an “FPPC Filer,” Consultant is deemed to be a “Consultant” for the purposes of the Political Reform Act conflict of interest and disclosure provisions, and shall report its economic interests to the City Clerk on the required Statement of Economic Interests in such reporting categories as are specified in Paragraph 9 of Exhibit A, or if none are specified, then as determined by the City Attorney.

7.2. Decline to Participate.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant shall not make, or participate in making or in any way attempt to use Consultant’s position to influence a governmental decision in which Consultant knows or has reason to know Consultant has a financial interest other than the compensation promised by this Agreement.

7.3. Search to Determine Economic Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant warrants and represents that Consultant has diligently conducted a search and inventory of Consultant’s economic interests, as the term is used in the regulations promulgated by the Fair Political Practices Commission, and has determined that Consultant does not, to the best of Consultant’s knowledge, have an economic interest which would conflict with Consultant’s duties under this Agreement.

7.4. Promise Not to Acquire Conflicting Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant further warrants and represents that Consultant will not acquire, obtain, or assume an economic interest

during the term of this Agreement which would constitute a conflict of interest as prohibited by the Fair Political Practices Act.

7.5. Duty to Advise of Conflicting Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant further warrants and represents that Consultant will immediately advise the City Attorney if Consultant learns of an economic interest of Consultant's which may result in a conflict of interest for the purpose of the Fair Political Practices Act, and regulations promulgated thereunder.

7.6. Specific Warranties Against Economic Interests.

Consultant warrants and represents that neither Consultant, nor Consultant's immediate family members, nor Consultant's employees or agents (Consultant Associates) presently have any interest, directly or indirectly, whatsoever in the Property (Prohibited Interest).

Consultant further warrants and represents that no promise of future employment, remuneration, consideration, gratuity or other reward or gain has been made to Consultant or Consultant Associates by Applicant or by any other party as a result of Consultant's performance of this Agreement. Consultant promises to advise City of any such promise that may be made during the term of this Agreement, or for 12 months thereafter.

Consultant agrees that Consultant Associates shall not acquire any such Prohibited Interest within the term of this Agreement, or for 12 months after the expiration of this Agreement.

Consultant may not conduct or solicit any business for any party to this Agreement, or for any third party which may be in conflict with Consultant's responsibilities under this Agreement.

8. Default of the Consultant for Breach.

This Agreement may be terminated by the City for default if Consultant or Applicant breach this Agreement or if Consultant refuses or fails to pursue the work under this Agreement or any phase of the work with such diligence which would assure its completion within a period of time as provided for in this Agreement. Termination of this Agreement because of a default of Consultant or Applicant shall not relieve Consultant or Applicant from liability of such default.

9. City's Right to Terminate Payment for Convenience, Documents.

9.1. Notwithstanding any other section or provision of this Agreement, City, with prior written notice to the Applicant shall have the absolute right at any time to terminate this Agreement or any work to be performed pursuant to this Agreement.

9.2. In the event of termination of this Agreement by City, in the absence of default of Consultant, Applicant shall pay Consultant for the reasonable value of the services actually performed by Consultant up to the date of such termination, less the aggregate of all sums previously paid to Consultant for services performed after execution of this Agreement and prior

to its termination. Upon City concurrence of the services performed, the City shall reimburse the Applicant for one half of the approved Consultant Invoice.

9.3. Consultant and Applicant hereby expressly waive any and all claims for damage or compensation arising under this Agreement, except as set forth herein, in the event of such termination.

9.4. In the event of termination of this Agreement, and upon demand of City or Applicant, Consultant shall, at Consultant's sole expense, deliver to the City and Applicant all field notes, surveys, studies, reports, plans, drawings and all other materials and documents prepared by Consultant in performance of this Agreement, and all such documents and materials shall be the property of the City and Applicant; provided however, that Consultant may retain copies for its own use

10. Administrative Claims Requirement and Procedures.

No suit 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, the provisions of which are incorporated by this reference as if set fully set forth herein.

11. Hold Harmless and Indemnification.

11.1. Consultant to Indemnify City re. Injuries.

To the maximum extent allowed by law, Consultant shall protect, 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.

With respect to losses arising from Consultant's professional errors and omissions or arising out of or in connection with the performance of the Required Services, Consultant shall indemnify, protect and hold harmless the City, its elected and appointed officers and employees from and against all claims for damages, liability, cost and expense to the extent caused by the negligence of Consultant (including without limitation reasonable attorneys fees) except those claims arising from the negligence or willful misconduct of City, its officers or employees. With respect to any professional liability claim or lawsuit, including professional errors and omissions or any claim or

lawsuit arising out of or in connection with the performance of the Required Services, although this indemnity does not include providing the primary defense of City, Consultant shall be responsible for City's defense costs to the extent such costs are incurred as a result of Consultant's negligence, recklessness or willful misconduct.

Consultant's indemnification shall include any and all costs, expenses, reasonable attorneys' fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not. Consultant's obligations under this Section shall not be limited by any prior or subsequent declaration by the Consultant. Consultant's obligations under this Section shall survive the termination of this Agreement.

11.2. Applicant to Indemnify City re. Compensation of Consultant.

Applicant agrees to defend, indemnify and hold City harmless against and from any and all claims, losses, damages, expenses or expenditures of City, including its elected officials, officers, employees, agents, or representatives of City (City Indemnitees), in any way resulting from or arising out of the refusal to pay compensation as demanded by Consultant for the performance of services required by this Agreement.

12. Business Licenses.

Applicant and Consultant agree to obtain business licenses from City and to otherwise comply with Chula Vista Municipal Code Title 5.

13. Miscellaneous.

13.1. Consultant not authorized to Represent City.

Unless specifically authorized in writing by City, neither Consultant nor Applicant shall have authority to act as City's agent to bind City to any contractual agreements whatsoever.

13.2. 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 for the parties in Exhibit A.

13.3. Entitlement to Subsequent Notices.

No notice to or demand on the parties for notice of an event not herein legally required to be given shall in itself create the right in the parties to any other or further notice or demand in the same, similar or other circumstances.

13.4. Integration.

This Agreement, together with any other written document referred to or contemplated herein, embody the entire Agreement and understanding between the parties relating to the role, rights and obligations of City concerning Consultant's preparation of the UI Overlay Zone, technical studies, and environmental document. Neither this Agreement nor any provision hereof may be amended, modified, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought. Nothing in this Agreement shall be deemed to conflict with the Consultants original proposal for services (Proposal for Services), attached as Exhibit B, including, but not limited to, Exhibit A Paragraph 4 "General Services," Paragraph 5 "Detailed Services," and Paragraph 7 "Schedule, Milestone, Time-Limitations within which to Perform Services." Consultant shall at all times comply with both this Agreement and the Proposal for Services. Nothing in this Agreement shall be deemed to constitute an amendment to any other agreement between City and Applicant.

13.5. Capacity of Parties.

Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement; that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.

13.6. 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 the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement and performance hereunder, shall be the City of Chula Vista.

13.7. Modification.

No modification or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the parties hereto, and then shall be valid only in the specific instance and for the purpose for which given.

13.8. Counterparts.

This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which, when taken together shall constitute but one instrument.

13.9. Severability.

In the event that any provision of this Agreement shall for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements to this Agreement or such other appropriate action as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein.

13.10. Headings.

The captions and headings in this Agreement are for convenience only and shall not define or limit the provisions hereof.

13.11. Waiver.

No course of dealing or failure or delay, nor the single failure or delay, or the partial exercise of any right, power or privilege, on the part of the parties shall operate as a waiver of any rights herein contained. The making or the acceptance of a payment by either party with knowledge of the existence of a breach shall not operate or be construed to operate as a waiver of any such breach.

13.12. Remedies.

The rights of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which the parties might otherwise have unless this Agreement provides to the contrary.

13.13. No Additional Beneficiaries.

Despite the fact that the required performance under this Agreement may have an effect upon persons not parties hereto, the parties specifically intend no benefit therefrom, and agree that no performance hereunder may be enforced by any person not a party to this Agreement. Notwithstanding the foregoing, this is a three party agreement and the City is an express third party beneficiary of the promises of Consultant to provide services paid for by Applicant.

14. Ownership, Publication, Reproduction and Use of Material.

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced under this Agreement, with the exception of signed copies of City approved documents, shall be the sole and exclusive property of Applicant. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyrights or patent rights by Consultant in the United States or in any other country without the express written consent of Applicant. Applicant shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement. Signed copies of City approved documents produced under this Agreement shall be the sole property of City.

15. Reserved.

16. Assignability.

The obligations of Applicant and Consultant are personal to the City, and Applicant and Consultant shall not assign any interest in this Agreement, and shall not transfer any interest in the

same (whether by assignment or notation), without prior written consent of City.

17. Entire Agreement.

This Agreement supersedes any and all other agreements, either oral or written with respect to the subject matter contained herein.

[Remainder of page intentionally left blank]

**Signature Page To
The Three-Party Agreement Between
City of Chula Vista,
Otay Land Company, LLC and DUDEK
For Environmental and Planning Consulting Services for the
University and Innovation District Overlay Zone
(Signature Page 1 of 2)**

NOW THEREFORE, the parties hereto, having read and understood the terms and conditions of this Agreement, do hereby express their consent to the terms hereof by setting their hand hereto as of the Effective Date of this Agreement.

City of Chula Vista

By: _____
Mary Casillas Salas, Mayor

Attest:

Kerry Bigelow, City Clerk

Approved as to Form:

Glen R. Googins, City Attorney

Consultant: DUDEK

By: _____

Name: Joe Monaco*

Title: President & CEO

* Consultant to provide signature authority for signatory.

[https://chulavistaca-my.sharepoint.com/personal/mshirey_chulavistaca_gov/Documents/Covid-19 Work From Home/Projects/UID/Agreements/UID-OverlayZone-Dudek&AECOM3PtyAgt-081221-1.11.22-RevFinal.docx](https://chulavistaca-my.sharepoint.com/personal/mshirey_chulavistaca_gov/Documents/Covid-19%20Work%20From%20Home/Projects/UID/Agreements/UID-OverlayZone-Dudek&AECOM3PtyAgt-081221-1.11.22-RevFinal.docx)

**Signature Page To
The Three-Party Agreement Between
City of Chula Vista,
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For Environmental Consulting Services for the
University and Innovation District Overlay Zone
(Signature Page 2 of 2)**

Applicant: Otay Land Company, LLC

By: _____ *

Name: _____

Title: _____

* Applicant to provide signature authority for signatory.

Exhibit A

Effective Date: The Agreement shall take effect upon full execution of the Agreement, as of the Effective Date stated in Section 1 of the Agreement.

City: City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

Consultant: DUDEK

Business Form of Consultant:
 Sole Proprietorship
 Partnership
 Corporation

Address: DUDEK
605 Third Street
Encinitas, California 92024
T +1-760-942-5147

Applicant: Otay Land Company, LLC

Business Form of Applicant:

Address: Otay Land Company, LLC
1903 Wright Place, Suite 202
Carlsbad, CA 92008

1. Property (Commonly known address or General Description): Village 9, Village 10 and University Innovation District

2. Project Description (Project): Environmental Consulting Services for the UI Overlay Zone

3. Entitlements applied for: N/A

4. General Nature of Consulting Services (General Services): Environmental Consulting Services.

4.1 **University Innovation Overlay Zone** - Provide professional Environmental Consulting Services as required to prepare, submit and obtain the Approval from the City Council of the UI Overlay Zone. Consultant services shall be performed to the satisfaction of the Director of Development Services. The Services shall consist of a draft and final necessary technical Studies, and Environmental Document with accompanying support documents as outlined in Section 5 - Detailed Scope of Work.

- 4.2 **Technical Studies** - Provide professional Consulting Services as required to prepare, submit and obtain the Approval from the Development Services Director of necessary engineering technical studies (traffic analysis, water, water conservation and sewer studies, basin and storm drain sizing, grading, backbone infrastructure mapping, water quality, title review, and encumbrance) to complete the Environmental Document
- 4.3 **Environmental Document** - Provide professional Environmental Consulting Services as required to prepare, submit and obtain the approval of an Addendum to EIR 13-01 (“Environmental Document”) screencheck and final that analyzes and discloses the environmental impacts resulting from the approval of the UI Overlay Zone.

5. Detailed Scope of Work

Consultant shall provide the following services all to the satisfaction of the Applicant and City (Director of Development Services):

5.1 **Pre-application Meeting with Staff**

Within 10 business days of City Council approval of the Three Party Agreement and approval to proceed from the Applicant, the Consultant shall schedule and attend a introductory meeting with the City’s Development Services Department and Applicant prior to beginning the scope of work. This meeting will be used to familiarize the Consultant with issues related to the development of the UI Overlay Zone, required technical studies, and environmental document.

5.2 **Preparation of Technical Studies**

In addition to the technical memorandums identified in 5.3, additional analyses will be conducted to ensure that traffic, water, sewer, basin sizing, mapping, and water quality are adequately covered for the UI Overlay Zone. These analyses are being completed by subconsultants, as identified in Exhibit B, per the scopes of work submitted to the Consultant.

5.3 **Preparation of Environmental Document**

5.3.1: EIR 13-01 Addendum

The environmental document needed for the proposed project will consist of an addendum to EIR 10-04 (SCH No. 2010061090), EIR 13-01 (SCH No. 2013071077), and EIR14-01 (SCH No. 2014121097) addressing the environmental effects of the proposed action.

5.3.2: Project Start-Up and Initiation

To establish lines of communication between all team members during this initial phase, Consultant project managers and key technical staff will meet with the project team upon receipt of a notice to proceed. The purpose of this meeting is to meet the key team members and clarify roles, establish data exchange procedures, verify project schedule, and collect any additional available data. Prior to the team meeting, Consultant will review materials submitted thus far to ensure a productive meeting.

5.3.3: Screencheck Draft EIR Addendum

Consultant will prepare an addendum to the Final Environmental Impact Report for the Otay Ranch University Villages Project EIR 10-04 (SCH No. 2010061090), EIR 13-01 (SCH No. 2013071077), and EIR14-01 (SCH No. 2014121097) pursuant to California Code of Regulation section 15164 in order to satisfy CEQA environmental review requirements. Section 15164 states that a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but where there are no substantial changes or new information of substantial importance (as described in Section 15162). The addendum will describe changes to the project description and environmental impacts described in the EIR.

It is assumed for the purposes of this scope and fee that the analyses contained within the technical studies, (other than those addressed in 5.2 above) prepared for the EIRs covering Village 9, 10, and the University site remain valid, and that the creation of the UI Overlay Zone only necessitates minor updates to several technical reports. As such, the technical reports listed below will be evaluated and technical memos will be prepared by Consultant to address the plan changes.

- Biological Technical Reports
- Air Quality and Global Climate Change Technical Reports
- Noise Assessment Technical Reports

Consultant will prepare a Screencheck Draft EIR Addendum for Applicant/City review. Consultant will incorporate all comments received from the Applicant/City into the subsequent screencheck and will be responsible for making all revisions requested by the Applicant/City. The screencheck will be delivered to the Applicant/City in accordance with the Applicant/City's policies regarding the number and format for submitting such copies. A total of two screenchecks will be prepared and provided to the Applicant/City for its review and approval before finalizing the EIR Addendum. The scope for the second screencheck EIR Addendum is provided under 5.4.4.

5.3.4: Second Screencheck Draft EIR Addendum

Consultant will prepare the Second Screencheck Draft EIR Addendum for Applicant/City review and approval. Consultant will incorporate all comments received from the Applicant/City into the final addendum and will be responsible for making all revisions requested by the Applicant/City.

5.3.5: Final EIR Addendum

Consultant will finalize the EIR Addendum and address any last minute comments that the Applicant/City might have regarding the document.

5.4. **Overlay Zone Document & Framework Land Planning**

Planning services to draft the University Innovation District Overlay Zone document shall be provided by Nicholle N. Wright consistent with Exhibit C, as an employee of the Applicant. The costs of services outlined in Exhibit C are not included in the consultants cost of this contract and will not be subject to reimbursement by the City.

Consultant shall not be responsible for deliverables associated with Exhibit C.

5.5. Project Management

Consultant will attend project meetings and hearings. This task includes project management and administration, regular progress reports and communication with the client, coordination of project team, quality control, etc. Additionally, Consultant will attend one Planning Commission hearing and one City Council hearing.

5.6. Deliverables

5.6.1. Technical Studies and Memorandums (Deliverable No. 1):

- a. Draft technical memorandums.
- b. Final technical memorandums.
- c. Draft engineering technical studies.
- d. Second Draft engineering technical studies.
- e. Final engineering technical studies.

5.6.2. Environmental Document (Deliverable No.2):

- a. Screencheck addendum document including text, tables, diagrams, and appendices.
- b. Second Screencheck
- c. Final addendum including text, tables, diagrams, and appendices.

5.6.3. Overlay Zone Document & Land Plan (Deliverable No.3):

- a. Screencheck addendum document including text, tables, diagrams, and appendices.
- b. Second Screencheck
- c. Final addendum including text, tables, diagrams, and appendices.
- d. First plan check, second plan check, and final document UI Overlay document, digital file
- e. Revised and final Framework Land Plan, digital file
- f. One (1) draft presentation slide deck for Planning Commission; the City shall be responsible for finalization of the presentation
- g. One (1) draft presentation slide deck for City Council; the City shall be responsible for finalization of the presentation
- h. Meetings and attendance at public hearings as identified in Exhibit C.

6. Documents to be provided by Applicant to Consultant

Applicant will provide to Consultant all maps, grading plans, drainage, soils and other relevant technical reports, improvement plans, landscape plans, aerial photographs, etc necessary for the Consultant to perform the services described in Sections 4 and 5 above.

7. Schedule, Milestone, Time-Limitations within which to Perform Services per approved Design Project Schedule

7.1 Date for Commencement of Consultant Services:

Same as Effective Date of Agreement

7.2 Format of Deliverables

The work for this phase will be in the form of word processing documents as necessary to communicate the UI Overlay Zone and corresponding SPA Plan amendments for recommendation by Planning Commission and approval by City Council.

▪ Instruments of Service / Electronic Media:

Electronic documents are the deliverable instruments of service. In accepting and utilizing any documents or other data on any form of electronic media generated and provided by the Consultant, the City and Applicant covenants and agrees that all such drawings and data are instruments of service of the Consultant. The electronic files submitted by the Consultant to the City and Applicant are submitted for an acceptance period of five working days. Any defects the City and Applicant discovers during this period will be reported to the Consultant and will be corrected by the Consultant.

7.3 General Dates or Time Limits for Delivery of Deliverables

Consultant to update City on the Project Status on a regular bi-monthly basis related to Consultant/Applicant meeting schedule. Updates will be in writing in a format to be agreed to by all parties. City needs to be aware of all issues resolved and unresolved. Scheduled meetings may be substituted with formal written memoranda.

7.4 Project Meetings

7.4.1 Kick-off meeting with City per approved Project Schedule.

7.4.2 Deliverable No. 1.a and 1.b.: No Mandatory Meeting.

7.4.3 Deliverable No. 1.c. and 1.e.: Consultant meets with City per attached Project Schedule and presents work products.

7.4.4 Deliverable No. 1.d.: No Mandatory Meeting.

7.4.5 Deliverable No. 2.a. and 2.c.: Consultant meets with City per attached Project Schedule and presents work products.

7.4.6 Deliverable No. 2.b.: No Mandatory Meeting.

7.4.7 Deliverable No. 3 Meetings:

1. Presentation to Planning Commission at Final.
2. Presentation to the City Council following Planning Commission.
3. Meetings as identified in Exhibit C.

7.4.8 Deliverable: Project Status reporting to City Staff through out the Contract Administration phase will be made available via the Applicant and the Consultant. Meetings to be determined.

7.5 Date for completion of all Consultant services

Times for performance, as identified in the approved Project Schedule may be revised in the sole discretion of the Director of Development Services.

8. Documents to be provided by City to Consultant

1. University Innovation District
2. City Landscape Design Manual
3. Other engineering, planning and landscape architect standards, manuals, plans or other documents applicable to the work contemplated by this Agreement.

9. Contract Administrators

Applicant: Halé Richardson
Otay Land Company, LLC
1903 Wright Place, Suite 220
Carlsbad, CA 92008
760-918-8200

City: Project Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
(619) 409-5887

Consultant: Brian Grover, AICP
Principal
DUDEK
605 Third Street
Encinitas, California 92024
T +1-760-942-5147

10. Statement of Economic Interests, Consultant Reporting Categories, per Conflict of Interest Code

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

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

2 Chula Vista Municipal Code §§2.02.010-2.02.040.

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

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.

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 Brian Grover	Enter email address bgrover@dudek.com	<input checked="" type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (select one or more of the above categories under which the consultant shall file): <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 type="checkbox"/> C. Excluded from Disclosure
Enter Name	Enter email address	<input type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (select one or more of the above categories under which the consultant shall file): <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 type="checkbox"/> C. Excluded from Disclosure

Completed by: Enter Name
needed.)

(Add additional pages, as

3 Cal. Gov. Code §§53234, et seq.

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.

11. City 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 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 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 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 type="checkbox"/>	Professional Liability (Errors & Omissions)	\$1,000,000 each occurrence \$2,000,000 aggregate	

[End of Agreement]

November 4, 2020

Hale Richardson
HomeFed Corporation
1903 Wright Place, Suite 220
Carlsbad, CA 92008

Subject: Flex District Overlay Zone – CEQA Addendum

Dear Ms. Richardson:

Dudek is pleased to submit this proposal to provide environmental services for the Flex District Overlay Zone project (proposed project). This proposal includes our understanding of the proposed project and a task-by-task description of the work we envision necessary to complete an addendum to the *Final Environmental Impact Report for the Otay Ranch University Villages Project*, as well as a cost estimate for the proposed work. The addendum will be prepared in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City of Chula Vista (City) Environmental Review Guidelines. The City will act as the lead agency under CEQA.

PROJECT BACKGROUND/DESCRIPTION

The *Final Environmental Impact Report for the Otay Ranch University Villages Project* (EIR), which was certified by the Chula Vista City Council in December 2014, contains a comprehensive disclosure and analysis of potential environmental effects associated with the implementation of the University Village Project in the City of Chula Vista, of which Village 10 is a part. The proposed project includes the expansion of the University Innovation District - Flex District Overlay to include the University Innovation District, Village 9 and Village 10. This would expand the existing vision and framework established in the University Innovation District SPA Plan, including the approved “Flex District Overlay” designation, to a larger geography that allows for flexible redistribution of university, innovation, supportive commercial and market residential land uses.

The location of the existing UI District provides a vision, regulatory approach, and maximum capacities for attracting educational users. Village 9 and Village 10 were planned to provide university supportive uses and residential housing for the UI District. Village 9 separates the City-owned UI District land from SR-125 and Millenia urban center and provides limited

interface with planned Bus Rapid Transit (BRT) routes to a university user and major transportation routes. The limited applicability of the existing “Flex District Overlay” designation provides for some market-responsive flexibility; however, it does not provide the level of flexibility warranted to address the expressed interests of potential university and innovation users.

In discussions with a variety of universities, the above stated factors have been identified as challenges to locating an educational department or campus in the UI District. Relocation of the university innovation area closer to the intersection of Hunte Parkway and SR-125 has been noted as being better suited to contemporary university and innovation needs. The proposed UI Overlay Zone would support establishment of university and innovation uses by enabling development opportunities customized to the user’s needs and preferences.

The proposed UI Overlay Zone would expand the existing approved “Flex Overlay District” concept across Village 9, Village 10, and the UI District for increased responsiveness to university users while maintaining the existing entitled maximum capacities and meeting open space and preserve commitments.

The UI Overlay Zone will guide physical development within its boundaries. It is not an implementation plan, and adoption of the zone does not constitute a commitment to any specific project, construction schedule, or funding priority. Rather, the UI Overlay Zone would provide for an alternative to the existing, previously permitted transects as established by the adopted SPA plans to better accommodate university facilities should the property owners wish to exercise the provisions of the UI Overlay Zone. Underlying SPA Plan approvals will remain in place should the UI Overlay Zone not be utilized.

The UI Overlay Zone would enable a university user to have the flexibility to determine the appropriate location, size, and configuration for their needs within a development framework that creates an active, urban innovation environment. This approach would also increase the attractiveness of Chula Vista as a university location by allowing the City to be responsive to user needs and eliminating the regulatory hurdles of re-planning or re-entitlement. This regulatory approach would allow for and facilitate:

1. Near-term phased installation of needed infrastructure
2. Ability to rapidly develop buildings that can be occupied by university/innovation users
3. User-determined use location and size
4. Near-term completion of direct access to SR-125
5. Ability for university users to more fully benefit from early southward extension of BRT services

The UI Overlay Zone would specifically allow property transfers between existing ownerships (City of Chula Vista and HomeFed). As location(s) and acreage(s) are identified for development of a university or innovation user, a property and entitlement transfer would take place to respond to the user. This process would enable flexibility and change of transect without rezoning property; the property and entitlement transfer would identify the zoning transect(s) they were electing to use from the underlying three SPA Plans.

Development proposals under the UI Overlay Zone would be required to be consistent with the transect standards identified in the existing SPA Plans; however, the application of those transects would not be limited to the underlying SPA Plan boundaries. This process builds on the Flex Overlay Zone established by the existing UI SPA and applies the concept more broadly for better accommodation of university users.

The UI Overlay Zone will maintain the maximum development potential in the existing three underlying SPA Plans. Flexible redistribution of uses within the UI Overlay Zone would be required to identify the square footage, number of units, and use type consistent with the existing entitlements.

The primary review process for making future UI Overlay Zone land use exchanges will be via a new substantial conformance review process. University, innovation, and market rate development that are consistent with the development parameters of the overlay zone, including modification to tentative maps, will be approved by a staff level decision. The overlay zone will define the provisions of the individual SPA plan regulations that will apply, and development that is consistent with those regulations can be permitted through a predictable review and approval process.

SCOPE OF WORK AND DELIVERABLES

Task 1: CEQA Addendum

The environmental document needed for the proposed project will consist of an addendum addressing the environmental effects of the proposed action.

Task 1.1: Project Start-Up and Initiation

To establish lines of communication between all team members during this initial phase, Dudek project managers and key technical staff will meet with the project team upon receipt of a notice to proceed. The purpose of this meeting is to meet the key team members and clarify roles,

establish data exchange procedures, verify project schedule, and collect any additional available data. Prior to the team meeting, Dudek would review materials submitted thus far to ensure a productive meeting.

Task 1.2: Screencheck Draft Addendum

Dudek will prepare an addendum to the *Final Environmental Impact Report for the Otay Ranch University Villages Project* pursuant to California Government Code section 15164 in order to satisfy CEQA environmental review requirements. Section 15164 states that a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but where there are no substantial changes or new information of substantial importance (as described in Section 15162). The addendum would describe changes to the project description and environmental impacts described in the EIR.

It is assumed for the purposes of this scope and fee that the analyses contained within the technical studies prepared for the prior EIRs remain valid, and that the proposed project (overlay zone) would not require any updates to those reports. As such, this scope of work does not include any revisions to technical studies or associated update memorandums.

Dudek will prepare a Screencheck Draft of the addendum for client/City review. Dudek will incorporate all comments received from the client/City into the subsequent screencheck and will be responsible for making all revisions requested by the client/City. The screencheck will be delivered to the client/City in accordance with the client/City’s policies regarding the number and format for submitting such copies. A total of two screenchecks will be prepared and provided to the client/City for its review and approval before finalizing the addendum. The scope for the second screencheck addendum is provided under Task 1.3.

Task 1.3: Second Screencheck Draft Addendum

Dudek will prepare the Second Screencheck Draft for the client/City’s review and approval. Dudek will incorporate all comments received from the client/City into the final addendum and will be responsible for making all revisions requested by the client/City.

Task 1.4: Final Addendum

Dudek will finalize the addendum and address any last minute comments that they client/City might have regarding the document.

Task 1 Cost.....\$24,500

Task 2: Technical Studies – Dudek Memorandums

It is assumed for the purposes of this scope and fee that the analyses contained within the technical studies prepared for the EIRs covering Village 9, 10, and the University site remain valid, and that the creation of the Flex District Overlay Zone only necessitates minor updates to some of those reports. As such, the technical reports listed below will be evaluated and technical memos will be prepared by Dudek to address the plan changes.

- Biological Technical Reports
- Air Quality and Global Climate Change Technical Reports
- Noise Assessment Technical Reports

Task 2 Cost.....\$15,000

Task 3: Technical Studies – Other

In addition to the technical memorandums identified in Task 2, additional analyses will be conducted to ensure that traffic, water, sewer, basin sizing, mapping, and water quality are adequately covered for the Flex District Overlay Zone. These analyses are being completed by subconsultants (Chen Ryan, Dexter Wilson, and Hunsaker) per the scopes of work attached to this proposal. The below costs include a 10% markup for Dudek to manage these subconsultants.

- Chen Ryan (traffic analysis) – \$16,500
- Dexter Wilson (water and sewer studies) - \$17,600
- Hunsaker (basin sizing, mapping, water quality) - \$89,980

Task 3 Cost.....\$124,080

Task 4: Project Management

Dudek will attend project meetings and hearings. This task includes project management and administration, regular progress reports and communication with the client, coordination of project team, quality control, etc. Additionally, Dudek will attend one Planning Commission hearing and one City Council hearing.

Task 4 Cost.....\$12,000

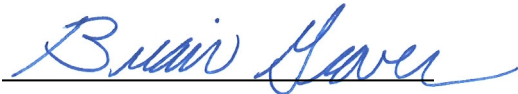
Hale Richardson

Subject: Flex District Overlay Zone – CEQA Addendum

COST SUMMARY

Tasks 1 through 4 will be billed on a time-and-material basis in accordance with the Dudek 2020 Standard Schedule of Charges, not to exceed **\$175,580**. Thank you for the opportunity to continue providing services for Otay Ranch projects, and we hope that Dudek will serve your needs for this effort. If you have any questions regarding this proposal, please feel free to contact me at 760.479.4248, or bgrover@dudek.com.

Sincerely,



Brian Grover, AICP

Principal

Att: Chen Ryan Proposal (Traffic)
Dexter Wilson Proposal (Water and Sewer)
Hunsaker Proposal (Engineering)



October 15, 2020

Mr. Brian P. Grover, AICP
DUDEK
605 Third Street
Encinitas, CA 92024

Re: Flex District Overlay Zone – As-Needed Traffic Engineering Services

Dear Brian,

Chen Ryan Associates, Inc. (CRA) is pleased to submit this letter proposal to Dudek (the “Client”) to provide traffic engineering services for the proposed Flex District Overlay Zone (“Proposed Project”). This project would expand the University Innovation District - Flex District Overlay to include the University Innovation District, Village 9 and Village 10.

SCOPE OF SERVICES

CRA will provide the following services for the Proposed Project (the “Services”):

1. Compile previously approved traffic studies (V2, University Villages, V8W, V9 and the Innovation District SPA Plan project, etc.) in the Proposed Project study area and consolidate impacts and mitigation triggers. This information will be reported in a comprehensive mitigation trigger matrix, including respective land use assumptions and ADT/EDU allowances.
2. Review approved land uses within the Proposed Project study area and compare this information with what was studied in previous impact analyses. It is assumed that AECOM will prepare and provide a complete list of approved land uses including quantities.
3. Compile and reconcile roadway and intersection geometric assumptions among previously studies within the study area. It is estimated that up to seven main (7) intersections are located in the study area.
4. Recalculate mitigation triggers based on the latest land uses and consolidated roadway and intersection geometrics.
5. Conduct a roadway capacity analysis to determine if the currently adopted Circulation Element roadway classifications are sufficient to accommodate the anticipated traffic associated with the collective land uses within the Overlay Zone and the surrounding areas.
6. Coordinate with the City and the project team to fill out a Project Information Form (PIF), as required by the City of Chula Vista Transportation Study Guidelines. The PIF will include a determination of whether the Proposed Project is required to conduct a Vehicles Miles Traveled (VMT) analysis. Based on our current understanding and direction from City’s staff, it is assumed that the Proposed Project is not required to conduct a VMT based analysis.

7. Document the findings in a technical memorandum.
8. Attend up to eight (8) meetings in person or via conference call (up to one hour each).

COMPENSATION

Chen Ryan Associates, Inc. will perform the tasks outlined above for a time-and-material not-to-exceed cost of Fifteen Thousand Dollars (\$15,000.00), including expenses such as reproduction and mileages. Note that any SANDAG modeling costs, if determined necessary, is not included in this estimate.

PROJECT SCHEDULE

A draft technical memorandum will be submitted to the Client within five (5) weeks following a written authorization to proceed or a signed contract.

As always, thank you for the opportunity to submit this proposal and we look forward to assisting you on this Project!

Sincerely,



Monique Chen, PE
Principal

DEXTER WILSON ENGINEERING, INC.

DEXTER S. WILSON, P.E.
ANDREW M. OVEN, P.E.
STEPHEN M. NIELSEN, P.E.
NATALIE J. FRASCHETTI, P.E.
STEVEN J. HENDERSON, P.E.

September 23, 2020

000-204

Otay Land Company, LLC
1903 Wright Place, Suite 220
Carlsbad, CA 92008

Attention: Hale Richardson, Vice President

Subject: Proposal for Engineering Services to Prepare Technical Memorandums for the
Otay Ranch University Overlay Zone

We are pleased to provide Otay Land Company, LLC with the following proposal for engineering services. The work, as further described in the Scope of Services below, consists of preparing technical memorandums to assess the impact of proposed land use changes on the water and sewer studies previously prepared for the University Villages Project.

We propose to do the work on an hourly rate basis with a cost ceiling for the tasks described of \$16,000.

SCOPE OF SERVICES

Dexter Wilson Engineering, Inc. will perform the following tasks:

- Task 1 - Prepare technical memorandum to summarize proposed land use changes, identify changes to projected water demands, and update water report findings as necessary. This memorandum will address both potable and recycled water.

Engineering Fee: \$5,000

Task 2 - Prepare technical memorandum to summarize proposed land use changes, identify changes to projected sewer flows, and update sewer report findings as necessary.

Engineering Fee: \$5,000

Task 3 - Prepare technical memorandum to summarize proposed land use changes to identify impact on water conservation plan.

Engineering Fee: \$3,000

Task 4 - Revise memorandums as necessary based on comments from others.

Engineering Fee: \$3,000

COMPENSATION

Work completed under this contract will be billed on a monthly basis. Fees will be calculated on an hourly rate basis by multiplying the actual hours worked on the job in each classification by the rates in the schedule attached as Exhibit "A." These rates are subject to change in January of each year.

All direct costs will be billed outside the proposed cost ceiling at cost plus 10 percent. Subconsultant invoices will be billed inside the cost ceiling at cost plus 5 percent.

TIME OF PERFORMANCE

The time for completion of Tasks 1, 2, and 3 outlined above is approximately four weeks from the date of authorization to proceed.

COST ESTIMATES

Since the Design Professional has no control over the cost of labor, materials, or equipment, or over the Contractor's method of determining prices, or over competitive bidding or market

Hale Richardson
September 23, 2020
Page 3

conditions, his opinions of probable construction cost provided for herein are to be made on the basis of his experience and qualifications. These opinions represent his best judgment as a Design Professional familiar with the construction industry. However, the Design Professional cannot and does not guarantee that proposals, bids, or the construction costs will not vary from opinions of probable cost prepared by him. If the Owner wishes greater assurance as to the construction cost, he shall employ an independent cost estimator.

OWNERSHIP OF ORIGINALS

The Owner acknowledges the Design Professional's plans and specifications as instruments of professional service. Nevertheless, the plans and specifications prepared under this agreement shall become the property of the Owner upon completion of the work. The Owner agrees to hold harmless and indemnify the Design Professional against all damages, claims, and losses, including defense costs, arising out of any reuse of the plans and specifications without the written authorization of the Design Professional.

QUALIFICATIONS

Stephen M. Nielsen will supervise the services described above. Mr. Nielsen is a Registered Civil Engineer in California and graduated from the University of California, Davis with a Bachelor of Science in Civil Engineering.

Thank you for the opportunity to provide a proposal on this project. If this proposal meets your approval, please execute and return an electronic copy for our files or prepare a contract in your format for our signature.

Hale Richardson
September 23, 2020
Page 4

Respectfully submitted,

Dexter Wilson Engineering, Inc.



Stephen M. Nielsen, P.E.

SN:ah

Attachment

I accept the above proposal and authorize the work described above to be performed.

Otay Land Company, LLC

Date

Exhibit "A"

DEXTER WILSON ENGINEERING, INC.

**Rate Schedule
Effective January 1, 2020**

CLASSIFICATION	HOURLY RATE
Office Personnel:	
Planning/Design	
Principal Engineer (RCE)	\$225.00
Managing Engineer (RCE)	\$215.00
Project Engineer (RCE)	\$195.00
Senior Engineer (RCE)	\$170.00
Design Engineer (RCE)	\$130.00
Associate Engineer II	\$120.00
Associate Engineer I	\$110.00
Engineering Aide II	\$110.00
Engineering Aide I	\$ 95.00
Drafting/Design	
Senior Designer	\$120.00
Senior Drafter	\$105.00
Drafter II	\$ 90.00
Drafter I	\$ 80.00
Clerical	\$ 65.00



HUNSAKER & ASSOCIATES
S A N D I E G O , I N C .

PLANNING
ENGINEERING
SURVEYING

October 12, 2020

IRVINE
SAN DIEGO
RIVERSIDE
PALM DESERT
LOS ANGELES

Brian Grover
Dudek & Associates, Inc.
605 Third Street
Encinitas, CA 92024

RE: Proposal for Planning and Preliminary Engineering Services for
University Overlay Flex Zone

Dear Brian:

Hunsaker & Associates San Diego, Inc. is pleased to offer the following fee estimate for furnishing the planning and preliminary engineering services required for the development of the University Overlay Flex Zone (Village 9, Village 10 and University Site) in the City of Chula Vista, California.

This fee estimate is based upon information provided by RH Consulting Group and on existing studies and mapping by Hunsaker & Associates.

We propose to provide the planning and preliminary engineering services as detailed in Exhibit "A" for an estimated fee of \$81,800. Please note that this figure should be used for budgeting purposes only. As defined in the Scope of Services, Part I will be performed on a fixed fee basis based on our ability to accurately determine and control the scope and limits of the work to be performed and Part II will be performed in a time and materials basis as indicated in Exhibit "A". Invoicing would be monthly, based upon either the hours or percentage of work completed for each item shown in Exhibit "A". The scope of work in Exhibit "A" is subject to the General Understandings and Assumptions set forth in Exhibit "B" to this proposal. Payment is due within 30 days upon your receipt of our invoice. This proposal is based on the Billing Rate Table included herein. These rates will remain in effect until August 1, 2021.

Should this fee estimate meet with your approval, please sign the standard form of agreement and return it to our office.

If you should have any questions, please do not hesitate to contact me. Thank you for the opportunity to be of service.

DAVE HAMMAR
ALISA VIALPANDO
RAY MARTIN
CHUCK CATER
DOUG STROUP

Sincerely,

Hunsaker & Associates
San Diego, Inc.


Doug Stroup, PLS
Vice President

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EXHIBIT "A"
SCOPE OF SERVICES

To accompany fee estimate to Dudek & Associates, Inc. for furnishing planning and preliminary engineering services required for the development of University Overlay Flex Zone located at SR-125, Main Street and Otay Valley Road in the City of Chula Vista, California.

PART I – PRELIMINARY DESIGN STUDY

H&A Line No.	Description	Fixed Fee
5140	1. Title Review & Encumbrance Mapping – Provide title review and encumbrance mapping based on a consolidated Preliminary Report to be provided by the client. The subject property is to include Village 9, Village 10 and the University Site (644-070-10, 18; 644-080-15, 18, 21, 22, 23, 25). Scope Includes a review of title and calculation of the location of property lines, right of way and easements from maps, surveys, deeds and easements of record, and production of a base map depicting plotted easements on the site.. Scope does not include a boundary survey.	\$ 22,500
1040	2. Base Mapping – Prepare a design base map for project site at a scale of 1"=300'. Includes a compilation of pertinent design data including boundary and encumbrance mapping from above, topographic mapping from in-house record sources, and a plot of all available record improvements and utilities.	\$ 3,300
1280	3. Design Study – Prepare one (1) preliminary mass grading design study at a scale of 1"=300'. Study to include backbone infrastructure including major roadways, utilities and storm drains. Plan will include basin locations and preliminary design.	\$ 16,000
6545	4. Preliminary Basin Sizing – Prepare a preliminary Water Quality analysis for the University Overlay Zone study to size regional biofiltration basins for the various outlet points. Assumes no peak flow detention or hydromodification. Budget estimate only.	\$ 10,000
6545	5. Water Quality – Prepare a preliminary Water Quality analysis for the University Overlay Zone study to size regional detention/MWS facilities for the various outlet points. This assumes above analysis is complete. Budget estimate only.	\$ 4,000
6540	6. Storm Drain Sizing – Provide sizes for backbone storm drain system.	<u>\$ 6,000</u>
PART I SUBTOTAL		<u>\$ 61,800</u>



PART II – PROJECT PROCESSING

H&A Line No.	Description	Time & Materials
1455	1. Project Coordination – Manage and process tentative map application package. coordinate with client, consultant team, and agency staff as required for the design and processing of the map and application. (T&M, assumes 50 hours for budgeting purposes.).	\$ 10,000
8670	2. Meeting Attendance – Includes meetings with client, agency staff, special district staff, public hearings and presentations. Assumes one City Council Planning Commission and one City Council hearing. (T&M, assumes 50 hours for budgeting purposes.)	\$ 10,000
PART II SUBTOTAL		<u>\$ 20,000</u>

FIXED FEE TOTAL	\$ 61,800
TIME & MATERIALS BUDGET TOTAL	<u>\$ 20,000</u>
PRELIMINARY ENGINEERING TOTAL	<u>\$ 81,800</u>

Exhibit C

UI District Overlay Zone

Planning Services to be provided by Applicant

Nicholle N. Wright, AICP (Nicholle Wright), as an employee of the Applicant, shall provide professional planning services to develop the UI District Overlay Zone for flexible regulation of Village 9, Village 10, and the University Innovation District. The following scope of work is designed to support a mutually beneficial Overlay Zone document through to adoption.

All Tasks will be conducted in coordination with Dudek (the consultant) and the City of Chula Vista (City). Nicholle Wright will follow procedures to maintain appropriate communication with the City regarding the Overlay.

The costs of services outlined herein are not included in the consultants cost defined in the *Three Party Agreement Between City of Chula Vista, Otay Land Company, LLC and DUDEK* and will not be subject to reimbursement by the City.

Task 1: Project Management

Nicholle Wright shall attend project meetings with the City of Chula Vista, and the Dudek team (Dudek and subconsultants). This assumes two (2) meeting per month for approximately 10 months during the Project Schedule; this assumes 20 meetings to be attended by Nicholle Wright to enable effective coordination and communication to complete Tasks 2 and 3 below.

Task 2: UI District Overlay Zone Document

Nicholle Wright shall serve as the lead author of the University Innovation District Overlay Zone (UI Overlay). All work in this task will be based on the draft started in the summer of 2020 and rely on notes from the previous work effort, and coordination meetings completed in Task 1.B.

The UI Overlay will respect all existing entitlements and include coordinated standards that amend by reference the University Innovation District SPA Plan, Village 9 SPA Plan, and Village 10 SPA plan as adopted. Amendments are anticipated to include the following:

- Site utilization
- Street types / cross sections (in collaboration with Chen Ryan as needed)
- Amend all 'Permitted Land Use' tables to be consistent with each other and existing state law
- Building configurations
- Transect / zone standards for a consolidated approach and objective standards
- Height exemptions and encroachments
- Parking configuration and parking lot standards

This Task is scoped to allow for SPA Plan standards to be harmonized to work together within the UI Overlay. Initial Draft UI Overlay Zone will include text, tables, diagrams. The Overlay will amend by reference the Otay Ranch Village 9, Village 10, and the University and Innovation District SPA Plans, including an amendment to be attached to each SPA Plan. This task

may include strikeout/underline amendments to the individual SPA Plans; this does not include amendment of any SPA Plan appendices or other City documents.

In collaboration with the Applicant, City of Chula Vista, and the Dudek team, Nicholle Wright will produce one (1) first plan check draft, one (1) second plan check draft, and one (1) final document.

All versions of the UI Overlay document will be provided digitally to the Applicant and City; the scope assumes no costs for physical reproduction or distribution.

The Applicant and the City of Chula Vista will have a concurrent four (4) week review period for each of the draft documents.

Task 3: Framework Land Planning

Based on work completed in the previous phase Nicholle Wright will provide land planning services to refine the framework land plan to establish:

- location of primary backbone roads
- connective open space consistent with SPA Plan vision/entitlements
- transit line location
- connections to revised SR-125 interchanges/frontage road

The framework land plan will respect, and not alter, the 'Preserve Edge' area of any of the three SPA Plans or any O-1 Open Space area of the UI District SPA Plan. This Task includes:

- one (1) coordination/review meeting with Dudek team to evaluate and comment on the draft land plan from the previous drafting
- one (1) revised framework land plan based on previous work (PDF graphic file)
- one (1) follow up meeting with the Applicant, City, and Dudek team to review/confirm revised framework plan
- provide digital files to the Dudek team for land plan / infrastructure finalization

Nicholle Wright shall not be responsible for changes in land improvement costs to City land or Applicant land that may result from the updated framework land plan. This Task does not include any tentative mapping, AutoCAD files, grading or technical land engineering.

Task 4: Public Hearing Support

Nicholle Wright shall support the City in preparation of staff report and presentation materials for up to two (2) public hearings. This Task includes:

- provision of technical or summary materials to support the staff report(s) or presentations
- review of, and suggested revisions for, the Planning Commission staff report
- one (1) draft presentation slide deck for Planning Commission; the City shall be responsible for finalization of the presentation
- one (1) draft presentation slide deck for the City Council; the City shall be responsible for finalization of the presentation
- Attendance at two (2) public hearing at the request of the City

Anticipated Deliverables:

The following deliverables are anticipated under this scope of work.

1. Up to 20 project meetings; assumes two (2) in-person meetings in Chula Vista, all other meetings assumed to be digital format.
2. One (1) first plan check draft UI Overlay document, digital file
3. One (1) second plan check draft UI Overlay document, digital file
4. One (1) final document UI Overlay document, digital file
5. One (1) revised Framework Land Plan based on previous work
6. Framework Land Plan digital files provided to Dudek team
7. One (1) draft presentation slide deck for Planning Commission; the City shall be responsible for finalization of the presentation
8. One (1) draft presentation slide deck for City Council; the City shall be responsible for finalization of the presentation
9. Attendance at two (2) public hearings by Nicholle Wright at the request of the City

Notes:

1. All meetings discussed herein shall be held via digital meeting platform or conference call until such time as the Center for Disease Control and Prevention (CDC) guidance ends social distancing requirements.