

CITY OF CAMARILLO

PROFESSIONAL SERVICES AGREEMENT

With

RRM Design Group, a California Corporation

for

Arneill Road Mixed-Use Development

Conceptual Design

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PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is effective as of March 7, 2018 ("Effective Date"), and is between the City of Camarillo, a California municipal corporation and general law city ("City") and RRM Design Group, a California corporation ("Consultant").

Section 1. Term of Agreement.

Subject to the provisions of Section 20 (Termination of Agreement), the term of this Agreement will be for a period commencing on the Effective Date and will terminate upon the completion of Consultant's services.

Section 2. Scope and Performance of Services.

- 2.1 Consultant agrees to perform the services set forth in Exhibit A (Scope of Services), which is made a part of this Agreement.
- 2.2 Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculations, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary to perform the services required of Consultant under this Agreement.
- 2.3 Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit B (Key Personnel & Compensation), which is made a part of this Agreement.
- 2.4 Consultant must make every reasonable effort to maintain the stability and continuity of Consultant's key personnel and subcontractors, if any, listed in Exhibit B to perform the services required under this Agreement. Consultant must notify City and obtain City's written approval with respect of any changes in key personnel prior to the performance of any services by replacement personnel.
- 2.5 Consultant must obtain City's prior written approval before utilizing any subcontractors to perform any services under this Agreement. This written approval must include the identity of the subcontractor and the terms of compensation.
- 2.6 Consultant represents that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant must employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.
- 2.7 City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. Acceptance of any of Consultant's work by City will not constitute a waiver of any of the provisions of this Agreement.
- 2.8 The Consultant must maintain any work site in the City in a safe condition, free of hazards to persons and property resulting from its operations.

Section 3. Additional Services and Changes in Services.

- 3.1 Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Scope of Services or otherwise required by this Agreement, unless such additional services are authorized in advance and in writing by City.
- 3.2 If Consultant believes that additional services are needed to complete the Scope of Services, Consultant will provide the City Manager with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3 City may order changes to the Scope of Services, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and City. The cost or credit to City resulting from changes in the services will be determined by the written agreement between the parties.

Section 4. Familiarity with Services and Site.

- 4.1 By executing this Agreement, Consultant represents that Consultant:
- (a) has thoroughly investigated and considered the Scope of Services to be performed;
 - (b) has carefully considered how the services should be performed;
 - (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by this Agreement, and will maintain all required licenses during the performance of this Agreement.
- 4.2 If services involve work upon any site, Consultant has or will investigate the site and is or will be fully acquainted with the visible conditions there existing, before commencing its services. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform City of such fact and will not proceed except at Consultant's own risk until written instructions are received from City.

Section 5. Compensation and Payment.

- 5.1 Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit B (Key Personnel & Compensation). The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit B, unless additional compensation is approved in writing by City.
- 5.2 The use of subconsultants will not be considered a reimbursable expense, and such costs must be applied towards the approved budgeted amount.
- 5.3 Each month during the term of this Agreement, Consultant must furnish City with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in Exhibit B. The invoice must detail charges by the following categories: labor (by subcategory), reimbursable costs,

subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services. If applicable, the invoice must also provide a budget summary including the total amounts previously invoiced and paid, the current invoice amount and the budget remaining.

- 5.4 City will review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by City, the invoice will be returned by City to Consultant for correction and resubmission.
- 5.5 Except as to any charges for work performed or expenses incurred by Consultant that are disputed by City, City will cause Consultant to be paid within 30 days of receipt of Consultant's invoice.
- 5.6 Payment to Consultant for services performed under this Agreement may not be deemed to waive any defects in the services performed by Consultant, even if such defects were known to City at the time of payment.
- 5.7 City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work is found substantially inadequate.

Section 6. Required Documentation Prior to Performance.

- 6.1 Consultant may not perform any services under this Agreement until:
 - (a) Consultant furnishes proof of insurance as required under Exhibit C;
 - (b) Consultant provides City with a Taxpayer Identification Number;
 - (c) Consultant obtains a City business tax certificate and license, if applicable, and provides proof of compliance; and
 - (d) City gives Consultant a written notice to proceed.
- 6.2 The City will have no obligation to pay for any services rendered by Consultant in advance of receiving written authorization to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.

Section 7. Time of Performance; Excusable Delays; Extensions.

- 7.1 Consultant must adhere to all schedules and deadlines set forth in this Agreement.
- 7.2 Consultant will not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of terrorism, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather.
- 7.3 If Consultant is delayed by any cause beyond Consultant's control, City may grant, but is not required to, a time extension for the completion of services. If delay occurs, Consultant must notify City within 48 hours, in writing, of the cause and the extent of the delay and how such delay interferes with Consultant's performance of services.

Section 8. Cooperation by City.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Scope of Services will be furnished to Consultant in every reasonable way to facilitate, without undue delay, the services to be performed under this Agreement.

Section 9. Project Documents.

- 9.1** All original computer programs, data, designs, drawings, files, maps, memoranda, models, notes, photographs, reports, studies, surveys and other documents (collectively, "**Project Documents**") prepared, developed or discovered by Consultant in the course of providing services under this Agreement will, subject to the terms and conditions outlined herein, become the sole property of City. Consultant will take such steps as are necessary to perfect or protect the ownership interest of City in such Project Documents. Upon completion, expiration or termination of this Agreement or upon request by City, Consultant must turn over to City all such original Project Documents in its possession; provided, however, that Consultant may retain copies of Project Documents. City acknowledges and agrees that use of Consultant's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at City's own risk. If necessary, Consultant agrees to execute all appropriate documents to assign to City the copyright or intellectual property rights to the Project Documents created pursuant to this Agreement.
- 9.2** Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Consultant to any other person or entity without City's prior written approval.

Section 10. Confidential Information; Release of Information.

- 10.1** All information gained or work product produced by Consultant in performance of this Agreement will be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant may not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.
- 10.2** Consultant, its officers, employees, or agents, may not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the services performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.
- 10.3** If Consultant, or any officer, employee, or agent of Consultant, provides any information or work product (including Project Documents) in violation of this Agreement, then City will have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.
- 10.4** Consultant must promptly notify City should Consultant, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. City retains the right, but has no obligation, to represent Consultant or be

present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

- 10.5** All media and press releases, including graphic display information, must be approved and distributed solely by City, unless otherwise agreed to in writing by City. All media interviews regarding the performance of services under this Agreement are prohibited unless expressly authorized by City.

Section 11. Consultant's Books and Records.

- 11.1** Consultant must maintain all documents and records demonstrating or relating to Consultant's performance of services under this Agreement, including ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City under this Agreement. All financial documents or records must be maintained in accordance with generally accepted accounting principles and all other documents must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. All such documents or records must be maintained for at least three years following the final payment under this Agreement.
- 11.2** Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during regular business hours, upon written request by City or its designated representative. Copies of such documents or records must be provided directly to City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Consultant's address indicated for receipt of notices in this Agreement.
- 11.3** Where City has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Consultant's expense. Access to such documents and records must be granted to City, as well as to its successors-in-interest and authorized representatives.

Section 12. Status of Consultant.

- 12.1** Consultant is and will at all times remain a wholly independent contractor and not an officer or employee of City. Consultant has no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.
- 12.2** The personnel performing the services under this Agreement on behalf of Consultant will at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, will have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as provided in this Agreement. Consultant agrees that it will not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, or employees of City.

- 12.3** Neither Consultant, nor any of Consultant's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim to any such rights or benefits.

Section 13. Compliance with Applicable Laws.

- 13.1 In General.** Consultant must use the standard of care in its profession to keep itself informed of and comply with all federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement that apply to the services performed by Consultant.
- 13.2 Professional Licenses and Approvals.** Consultant agrees that it will, at its sole cost and expense, obtain and maintain in effect at all times during the term of this Agreement any licenses, permits, insurance and approvals that are legally required for Consultant to practice its profession.
- 13.3 Employment Laws.** Consultant agrees to comply with all applicable federal and state employment laws including those that relate to minimum hours and wages, occupational health and safety, and workers compensation insurance. Consultant further represents that it is an equal opportunity employer and in performing services under this Agreement agrees to comply with all applicable federal and state laws governing equal opportunity employment, and further agrees that it will not discriminate in the employment of persons to perform services under this Agreement on the basis of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any such person, except as may be permitted by California Government Code section 12940.

Section 14. Unauthorized Aliens.

Consultant agrees to comply with all of the applicable provisions of the Federal Immigration and Nationality Act (8 U.S.C. § 1101 and following), as it may be amended, and further agrees not to employ unauthorized aliens as defined under the Act. Should Consultant employ any unauthorized aliens for the performance of any work or services covered by this Agreement, and should any liability or sanctions be imposed against City for the use of unauthorized aliens, Consultant agrees to reimburse City for the amount of all such liabilities or sanctions imposed, together with any and all related costs, including attorneys' fees, incurred by City.

Section 15. Conflicts of Interest.

- 15.1** Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City or that would in any way hinder Consultant's performance of services under this Agreement. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 and following) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 and following), and California Government Code section 1090.
- 15.2** Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Consultant to influence any decision of the City in which Consultant knows or has reason to know that Consultant, or any officer, principal or employee of Consultant has any of the financial interests listed in Government Code section 87103.

- 15.3 If Consultant discovers that it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant must promptly disclose the relationship to City and take such action as City may direct to remedy the conflict.
- 15.4 City understands and acknowledges that Consultant is, as of the Effective Date, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant represents that, except as otherwise disclosed to City, it is unaware of any stated position of City relative to these projects. Any future position of City on these projects will not be considered a conflict of interest for purposes of this section.

Section 16. Indemnification.

- 16.1 Consultant agrees that it will, to the fullest extent permitted by law, defend, indemnify, and hold harmless City from all Services Claims and Operations Claims (each defined below) related to the performance by Consultant of this Agreement as provided in this section. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to defend, indemnify, and hold harmless City as set forth in this section.
- 16.2 For the purposes of this section, "City" includes City's officers, officials, employees, agents and volunteers, and "Consultant" includes Consultant's officers, officials, employees, agents and subcontractors and any other persons for whom Consultant is legally responsible.
- 16.3 With respect to the performance of professional services under this Agreement where the law establishes a professional standard of care for such services, Consultant agrees to indemnify, and hold harmless City from and against all liabilities, damages, losses, and costs, including but not limited to reimbursement of reasonable attorney's fees and all other costs of defense, to the extent caused by the negligence, recklessness, or willful misconduct of Consultant (collectively, "**Services Claims**").
- 16.4 With respect to the acts and operations of Consultant under this Agreement other than the performance of professional services, Consultant agrees to defend, indemnify, and hold harmless City from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to reasonable attorney's fees and all other costs of defense, to the extent caused, in whole or in part, by the negligence, recklessness, or willful misconduct of Consultant, and excepting only those claims, damages, liabilities, losses, and costs caused by City's sole negligence or willful misconduct (collectively, "**Operations Claims**").
- 16.5 Consultant must notify City within five days of receipt of notice of any Operations Claims or Services Claims made or legal action initiated that arises out of or pertains to Consultant's performance of services under this Agreement.
- 16.6 Consultant's duty to defend Operations Claims is a separate and distinct obligation from Consultant's duty to indemnify City for any Operations Claims. With respect to Operations Claims, Consultant is obligated to defend City in all legal, equitable, administrative, or special proceedings, with counsel reasonably approved by City, immediately upon tender to Consultant of an Operations Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Consultant are responsible for the Operations Claim does not relieve Consultant from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals.

- 16.7** Consultant agrees that settlement of any Operations or Services Claim against City requires the consent of City. City agrees that its consent will not be unreasonably withheld provided that Consultant is financially able (based on demonstrated assets including insurance) to fulfill its obligation to indemnify City for the costs of any such settlement as required under this Agreement.
- 16.8** The insurance required to be maintained by Consultant under this Agreement is intended to ensure Consultant's obligations under this section, but the limits of such insurance do not limit the liability of Consultant.
- 16.9** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others as required, Consultant will be fully responsible for all obligations under this section. City's failure to monitor compliance with this requirement imposes no additional obligations on City and will in no way act as a waiver of any rights under this Agreement.
- 16.10** The parties acknowledge and agree that design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code section 2782.8, which allows for claims only to the extent that they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional, and also places limitations on the costs of defense that may be charged to a design professional. The term "design professional," is defined in Section 2782.8, and includes licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors and the business entities that offer such services in accordance with the applicable provisions of the Business and Professions Code. The parties further acknowledge and agree that the provisions of this Section 16 are to be interpreted and applied to the fullest extent permitted by Civil Code section 2782.8.
- 16.11** The provisions of this section will survive the expiration or earlier termination of this Agreement in accordance with the applicable provisions of Exhibit C (Insurance).

Section 17. Insurance.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance coverages listed in Exhibit C (Insurance), which is made a part of this Agreement. All insurance policies are subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager or City Attorney.

Section 18. Assignment.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of City, which may be withheld in the City's sole discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

Section 19. Default; Limitations on Liability.

- 19.1** In the event that Consultant is in default under the terms of this Agreement, City will have

no obligation or duty to continue compensating Consultant for any services performed after City provides written notice to Consultant of such default.

- 19.2** Consultant agrees that no City official, officer, employee or agent will be personally liable to Consultant in the event of any default or breach of City, or for any amount which may become due to Consultant, or for any obligations directly or indirectly incurred under this Agreement.
- 19.3** City's liability under this Agreement is limited to payment of Consultant in accordance with the terms of this Agreement and excludes any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

Section 20. Termination of Agreement.

- 20.1** City may terminate this Agreement, with or without cause, at any time by written notice of termination to Consultant. In the event such notice is given, Consultant must cease immediately all work and services in progress.
- 20.2** Consultant may terminate this Agreement at any time upon 30 days' prior written notice of termination to City.
- 20.3** Upon termination of this Agreement by either Consultant or City, all property belonging to City that is in Consultant's possession must be returned to City. Consultant must promptly deliver to City a final invoice for all outstanding services performed and expenses incurred by Consultant as of the date of termination. Compensation for work in progress not based on an hourly rate will be prorated based on the percentage of work completed as of the date of termination.
- 20.4** Consultant acknowledges City's rights to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from City's termination of this Agreement.

Section 21. Notices.

- 21.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other party at its respective address as follows:

To City: City of Camarillo
601 Carmen Drive
City of Camarillo, CA 93011
Attention: David Moe

(Tel.) (805) 388-~~5318~~
(Fax) (805) 388-5318
E-Mail dmoe@cityofcamarillo.org

To Consultant: RRM Design Group
3765 S. Higuera Street, Suite 102
San Luis Obispo, CA 93401
Attention: Debbie Rudd

(Tel.) (805) 543-1794
(Fax) (805) 543-4609
E-mail dlrudd@rrmdesign.com

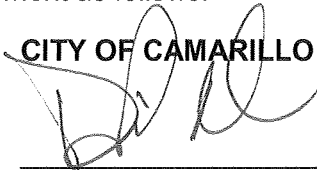
- 21.2** Notice will be deemed effective on the date personally delivered or electronically transmitted by facsimile. If the notice is mailed, notice will be deemed given three days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 21.3** Any party may change its notice information by giving notice to the other party in compliance with this section.

Section 22. General Provisions.

- 22.1 Authority to Execute; Counterparts.** Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder. This Agreement may be executed in several counterparts, each of which will constitute one and the same instrument and will become binding upon the parties when at least one copy has been signed by both parties.
- 22.2 Entire Agreement.** This Agreement, including the attached Exhibits A through C, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Consultant and City prior to the execution of this Agreement.
- 22.3 Binding Effect.** This Agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties.
- 22.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Consultant and by the City Council or City Manager, as applicable. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 22.5 Electronic Signatures; Counterparts.** This Agreement and any amendment will be considered executed when the signature page of a party is delivered by facsimile or other electronic transmission. Such electronic signatures will have the same effect as an original signature. This Agreement may be executed in multiple counterparts.
- 22.6 Waiver.** Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any services by Consultant will not constitute a waiver of any of the provisions of this Agreement.
- 22.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning. It will not be interpreted strictly for or against either party.
- 22.8 Severability.** If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will not be affected and the Agreement will be read and construed without the invalid, void or unenforceable provision.

22.9 Venue. In the event of litigation between the parties, venue in will be exclusively in a state court in the County of Ventura.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF the parties hereby execute this Agreement as follows:


CITY OF CAMARILLO


David J. Norman, City Manager

ATTEST:

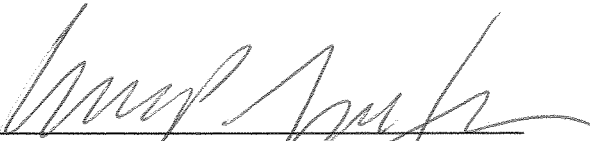



Jeffrie Madland, City Clerk

APPROVED AS TO FORM:


Brian A. Pierik, City Attorney

CONSULTANT:

RRM Design Group, a California Corporation

By 
Name: 
Title: 

By _____

Name:

Title:

Camarillo Business Tax Certificated No. 028596 / Expiration Date 01/31/2019

EXHIBIT A

SCOPE OF SERVICES

[Attached]



EXHIBIT A

Arneill Road Mixed-Use Development Scope of Services

PROJECT UNDERSTANDING

This project is to provide conceptual design for an affordable housing project on approximately 0.35 acres on the east side of Arneill Road, between Barry and Lomita Streets. As part of the conceptual design process, the Design Team will explore three different options: a 100% residential scheme; a mixed-use residential with commercial-office; and mixed-use residential with commercial-retail. The site is vacant land on five parcels that the City has acquired (APN 162-0-012-210, -280, -290, -300 and -310.) The City intends to seek a developer to convert the neglected vacant land into affordable housing for low to very-low income tenants. To allow for a mixed-use project, the City will process a General Plan Amendment for a zone change to Commercial Mixed-Use as well as a Conditional Use Permit.

SCOPE OF SERVICES

Task 1: Pre-Design and Program Development

Upon receipt of an executed contract, RRM will conduct research and data gathering in preparation of the project kickoff meeting with City staff. RRM will review the affordability objectives of the project in the context of Camarillo's Housing Element and the State Density Bonus provisions. The intent is to carry out research ahead of the first meeting so that questions or issues can be addressed at the kickoff meeting.

Subtask 1.1: Data Collection

Review Existing Site Conditions and Existing Maps/Data

Gather existing parcel maps, obtain data from City such as survey maps, title descriptions, soils reports, and City utility data. As much of this that can be facilitated ahead of the kickoff meeting allows for us to hit the ground with full steam.

Subtask 1.2: Preliminary Research

Codes, Applicable Standards and Requirements

RRM will conduct a preliminary site capacity analysis and fit test. We will identify constraints and opportunities for building placement, parking areas, vehicle and pedestrian circulation, service access, outdoor common spaces and other site improvements. RRM will apply City standards and service provider requirements including:

3765 S. Higuera St., Ste. 102 • San Luis Obispo, CA 93401
p: (805) 543-1794 • f: (805) 543-4609

www.rrmdesign.com

a California corporation • Lenny Grant, Architect C26973 • Jerry Michael, PE 36895, LS 6276 • Jeff Ferber, LA 2844



- Parking requirements based on project type and mix
- Lot coverage, open space, setbacks, and height limits, etc.
- Application process requirements for General Plan Amendment, to Commercial-Mixed Use and CUP for the mixed-use project
- Review opportunities to incorporate objectives of the Camarillo Commons Strategic Plan and Heritage Zone into the Arneill Road properties project.
- Trash and emergency vehicle access

Subtask 1.3: Kickoff Meeting, Programming Work Session and Site Visit

The RRM team will visit the site with City staff followed by the kickoff meeting. The site visit is an opportunity to determine existing site conditions, take photos, and discuss potential opportunities and constraints with staff. The kickoff meeting will focus on the project space needs and program requirements. RRM will provide some prototype unit plans for commercial and residential to facilitate discussion of:

- The preferred unit mix, common area requirements, amenities, and site features
- Development process – developer model – project financing
- Sustainability objectives for the project

Subtask 1.4: Space Needs Outline and Program Requirements

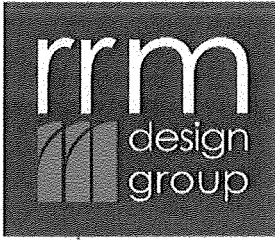
Based on the kickoff meeting discussions, RRM will prepare a space needs outline that includes unit sizes, common spaces, and a proposed mix of unit types for the three project schemes (all residential, mixed-use residential with office and mixed-use with retail). The space needs and program requirements will:

Identify sustainable strategies and opportunities for:

- Water savings
- Renewable energy
- Energy efficiency, including potential passive energy strategies and creation of a simple box-model for preliminary energy analysis
- Be provided as a draft to obtain City staff approval to proceed to Conceptual Design in Task 3.0

Task 1 Deliverables:

- *Draft space needs outline and program requirements*
- *Draft sustainable strategies outline*
- *Site analysis map*
- *Meeting minutes*



Task 2: Study Sessions with City (concurrent/coordinated under Task 3)

Task 3: Conceptual Design

Subtask 3.1: Alternative Site Scenarios

Upon confirmation of the space needs and program requirements for a completely residential project and the two options for mixed-use office and mixed-use retail scheme, RRM will develop alternative site plan scenarios for City consideration as follows:

- Three (3) preliminary site plan design concepts, one for each of the three project schemes (all residential, mixed-use residential with commercial/office and mixed-use residential with retail). Scenarios are to include circulation and parking and one is to depict underground parking.

Subtask 3.2: Unit and Floor Plans

Based on the approved space needs of units and common spaces, RRM will prepare:

- Up to three (3) unit plans, floor plans, or building massing scenarios

Subtask 3.3: Energy and Environmental Strategies

RRM and our sustainability consultant, Jennifer Rennick, will:

- Update a summary of sustainable strategies and opportunities for:
- Water savings
- Renewable energy
- Update the summary energy efficiency measures, including potential passive energy strategies, and update the simple box-model for preliminary energy analysis, as needed

Subtask 3.4: Conceptual Civil Requirements

RRM's in-house civil engineers will conduct a preliminary review of project requirements for grading, drainage, utility connections, storm water control and existing site conditions. The civil engineer will be involved in formulating the alternative site plan scenarios to identify pros and cons with various options.

Subtask 3.5: Work Session #1 with City Staff

The focus of the work session with City staff will be to review the preliminary design scenarios initiated in Task 2. Staff will have time to review and vet these schemes before any are made



public. We recommend soliciting feedback from Planning, Public Works, Fire, Building and Safety, etc.

Working session #1 with City staff will be followed approximately two weeks later with the first City Council study session.

Subtask 3.6: Study Session #1 with City Council

The objective of study session #1 with the City Council will be to introduce the project, the space needs and program requirements, site analysis map, and sustainability strategies formulated in Task 1. This is an opportunity for RRM to hear from Council. We recommend not showing possible design alternatives at this time.

Subtask 3.7: Refine Site and Building Design

Following the review of preliminary scenarios with City staff during work session #1, and direction from Council or the public at the first study session, RRM will take the City's preferred scenario and refine it.

- Prepare elevations, sections, and roof plan based on preferred building massing and design scenario

In collaboration with City staff, RRM will:

- Prepare full size drawings in color, to include one (1) rendering, one (1) site plan, and one (1) floor plan for the preferred scheme.

Subtask 3.8: Preliminary Civil Plans

RRM's civil engineer will prepare preliminary plans for the preferred scheme that includes the following to comply with the CUP application requirements as well as presentation needs:

- Preliminary grading and drainage plan
- Preliminary utility design
- Preliminary Storm Water control plan
- Post-Construction Storm Water Management Plan
- Drainage report

Subtask 3.9: Landscape Plan

RRM's in-house landscape architect will prepare a landscape plan for the preferred site scheme that addresses plant types, size, and locations. The landscape plan is to be incorporated into presentation materials and the CUP application package.



Subtask 3.10: Work Session #2 with City Staff

The focus of work session #2 with City staff will be to review the developed design scenarios initiated in Task 2 and refined in Task 3.7. Staff will have time to review and vet these options before any are made public. We recommend soliciting feedback from Planning, Public Works, Fire, Building and Safety, etc.

Working session #2 with City staff will be followed approximately two weeks later with the second City Council study session.

Subtask 3.11: Study Session #2 with City Council

Returning to City Council with refined plans and updated renderings allows Council Members to see how they have helped to shape the design and become vested stakeholders in the entitlement process. Keeping Council informed on the design and involved in the process avoids any surprises in the entitlement process.

Subtask 3.12: Refine Plans – Prepare Application Package

Prepare Application Packages for General Plan Amendment and Conditional Use Permit

Under the leadership of Debbie Rudd, RRM will prepare a summary to justify the proposed General Plan Amendment and Conditional Use Permit application. RRM's architecture division will fine tune the architectural plans and site plan prepared in Task 3.7 based on comments received by City staff.

- Prepare final conceptual designs for architecture, civil, and landscape plans

Subtask 3.12a: Conceptual Cost Estimate

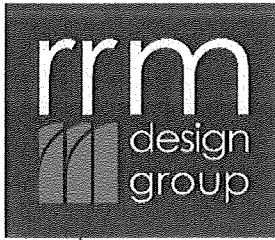
Based on the final conceptual design scheme, RRM's Cost Consultant, Precision Estimating, will prepare a conceptual cost estimate.

Subtask 3.13: Present at Public Hearing #1

As part of the GPA and CUP entitlement process, RRM will assist staff with any required public hearings for project approval.

Subtask 3.14: Present at Public Hearing #2

RRM is prepared to present the project at a second public hearing utilizing an updated PowerPoint presentation for hearing #2. RRM assumes this second hearing may be related to the General Plan Amendment and CUP process and may make minor modifications to the previous PowerPoint presentation as appropriate.



Task 3 Deliverables:

- Package of alternative design scenarios (10 full size copies, 30 booklet format copies in 11" x 17", and one CD/DVD)
- Package of final design plans (site plan, floor plan, elevations, roof plan and building sections (10 full size copies, 30 booklet format copies in 11" x 17" and one CD/DVD)
- Summary description of energy and environmental strategies (in program requirements)
- Conceptual Cost Estimate
- Full size color architectural rendering of exterior one (1) final site plan, and one (1) floor plan that are provided on CD/DVD
- Final design concept to be incorporated into CUP application package that includes:
 - Conceptual site plan, unit plan, building layout, elevations, sections, and roof plan
 - Project statistics
 - Site plan that indicates environmental features including existing topography, vegetation, wind currents and shade/sun patterns) and potential phasing
 - Conceptual landscape plan indicating types and sizes of plant materials
 - Preliminary grading and drainage, utility, storm water control plans and drainage report
- Materials and color board with physical samples (maximum board size of 9" x 15") in accordance with CUP application checklist.

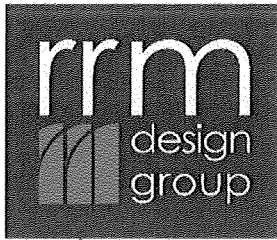
Task 4: Meetings (as noted in Task 3)

Reimbursable Expenses

Incidental expenses incurred by RRM Design Group, or any subconsultant it may hire to perform services for this project, are reimbursed by the client at actual cost plus 10% to cover its overhead and/or administrative expenses. Reimbursable expenses include, but are not limited to, reproduction costs, postage, shipping and handling of drawings and documents, long-distance communications, fees paid to authorities having jurisdiction over the project, the expense of any additional insurance requested by client in excess of that normally carried by RRM Design Group or its subconsultants, travel expenses (transportation/automobile/lodging/meals), renderings and models. Reimbursable automobile travel mileage will be billed at the current IRS business standard mileage rate.

Estimated Fee:

- \$3,839



TASK AND FEE SUMMARY

TASK	DESCRIPTION	FIXED FEE (see footnote)
Task 1	Pre-Design and Program Development	
1.1	Data Collection	\$ 1,373
1.2	Preliminary Research	\$ 2,358
1.3	Kickoff Meeting, Programming Work Session and Site Visit	\$ 7,016
1.4	Space Needs Outline and Program Requirements	\$ 1,964
	Task 1 Subtotal	\$ 12,711
Task 2	Study Sessions with City – concurrent under Task 3	
Task 3	Conceptual Design	
3.1	Alternative Site Scenarios	\$ 8,586
3.2	Unit and Floor Plans	\$ 4,496
3.3	Energy and Environmental Strategies	\$ 1,945
3.4	Conceptual Civil Requirements	\$ 2,220
3.5	Work Session #1 with City Staff	\$ 1,920
3.6	Study Session #1 with City Council	\$ 1,920
3.7	Refine Site and Building Design - Prepare Preferred Design	\$ 8,468
3.8	Preliminary Civil Plans-Post Construction Stormwater Mgmt. Plan	\$ 9,645
3.9	Landscape Plan	\$ 1,395
3.10	Work Session #2 with City Staff	\$ 2,620
3.11	Study Session #2 with City Council	\$ 2,620
3.12	Refine Plans - Prepare Application Packages	\$ 6,658
3.12a	Conceptual Cost Estimate	\$ 3,900
3.13	Present at Public Hearing	\$ 3,840
3.14	Present at Public Hearing #2	\$ 3,840
	Task C Subtotal	\$ 64,073
	SUMMARY OF FEES:	\$ 76,784
	Estimated Reimbursable Expenses:	\$3,839
	ESTIMATED PROJECT TOTAL:	\$80,623



Fee Footnote

Fixed fee tasks will be billed as the work progresses until the task is completed and the total amount stated in the contract for the task is invoiced.

Adjustment to Hourly Billing Rates

RRM reserves the right to adjust hourly rates on an annual basis.

SERVICES AND/OR INFORMATION TO BE PROVIDED BY CLIENT

- Soils report
- Preliminary title report
- Topographic and boundary survey
- Application and agency fees

LIMITATIONS OF SCOPE AND EXCLUSIONS

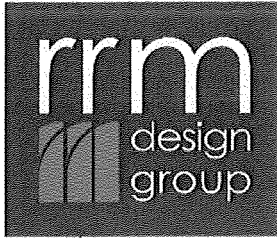
Please note that the tasks to be performed by the RRM team are limited purely to those outlined above. Substantive changes requested by the client or changes in the client's program or direction that are inconsistent with prior approvals are subject to additional services fees. Any additional services that RRM Design Group is asked to perform over and beyond those described above will be billed on a negotiated and client-approved, fixed-fee or hourly basis.

The following services or tasks are specifically excluded from the scope:

- Additional meetings required by City other than those listed
- Hazardous materials assessments, removal, or abatement
- Traffic engineering studies
- Environmental permitting or environmental site survey
- 3D renderings
- Marketing graphics
- Cost estimating

Note: RRM can provide fee estimates for the following, if requested by the city:

- *If a TCAC project: TCAC Energy Analysis, HERS verification, and the Sustainability Workbook are all required*
- *Green Point Rated (GPR) (Can be used in lieu of the Sustainability Workbook above)*
- *Detailed PV Basis of Design and Financial ROI*
- *CalGreen Tier 1 or 2, LEED Homes, or GPR checklist as tool for showing intent for sustainability*



**Arneill Road Mixed-Use Development
Proposed Scope of Services**

December 20, 2017

Page 9 of 9

If you have any questions or require clarification of the scope of services or fees outlined above, please do not hesitate to call us. Thank you again for this opportunity.

Sincerely,

RRM DESIGN GROUP

A handwritten signature in black ink, appearing to read 'Darin Cabral', written over a horizontal line.

Darin Cabral
Project Manager
CA License No. C36308

A handwritten signature in black ink, appearing to read 'Debbie Rudd', written over a horizontal line.

Debbie Rudd, LEED AP
Principal

Enclosure: Project Schedule

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EXHIBIT B

KEY PERSONNEL & COMPENSATION

1. Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are: Debbie Rudd.

2. Total compensation under this Agreement, including reimbursement for actual expenses, may not exceed: \$80,623.

FEE SCHEDULE

(Complete or attached Separate Schedule)

KEY PERSONNEL:

Name	Title/Position	Rate (Per Hour)
Debbie Rudd	Principal-in-Charge	\$195
Darin Cabral	Project Manager	\$135
Scott Martin	Design Director	\$150
Detty Peikert	Consulting Principal	\$215
Staff	Designer	\$97
Staff	Intern	\$55
Chris Dufour	Landscape Architect	\$140
Robert Camacho	Civil Engineer	\$150

SUBCONSULTANTS:

Name	Title/Position	Rate (Per Hour)
Precision Estimating		Lump sum \$3900

EXHIBIT C

INSURANCE

1. **Required Insurance.** Before commencing any services, Consultant must procure and maintain in full force and effect during the term of this Agreement the following types of insurance with at least the minimum coverage listed and subject to the applicable additional requirements set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability	\$1,000,000 / \$2,000,000 aggregate*
Business Automobile Liability	\$1,000,000
Workers' Compensation	Statutory
Professional Liability**	\$1,000,000

2. **Insurance Rating.** All insurance required to be maintained by Consultant must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A- or better and Financial Size Category Class VII or better by the latest edition of A.M. Best's Key Rating Guide, unless otherwise approved by City's legal counsel.
3. **Commercial General Liability Insurance.** The commercial general liability insurance must meet or exceed the requirements of Insurance Services Office (ISO) form CG 00 01, and must be provided on a per occurrence basis for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. The insurance must be on an "occurrence" not a "claims made" basis. Defense costs must be paid in addition to limits. There must be no cross-liability exclusion for claims or suits by one insured against another. The insurance must include a waiver of subrogation applicable to the insurance or self-insurance, a primary and non-contributory endorsement, and an additional insured endorsement, all in favor of the City, its officers, employees and agents, and volunteers. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
4. **Business Automobile Insurance.** The business automobile insurance coverage must be at least as broad as ISO Business Auto Coverage form CA 00 01, covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount stated above per combined single limit for each accident. Such insurance must include both a waiver of subrogation applicable to the insurance or self-insurance, and a primary and non-contributory endorsement, both in favor of the City, its officers, employees, agents, and volunteers.
5. **Workers' Compensation.** If Consultant has any employees, Consultant must maintain workers' compensation insurance (statutory limits) and employer's liability insurance (with limits of at least \$1,000,000). Such insurance must include a waiver of subrogation endorsement in favor of City, its officers, employees, agents, and volunteers.
6. **Professional Liability (Errors & Omissions) Insurance.** The professional liability insurance must cover the services to be performed under this Agreement. The coverage and must be provided on a "claims made" basis. Consultant must maintain continuous coverage through a period not less than three years after the completion of the services required under this Agreement.
7. **Umbrella or Excess Liability Insurance.** If an excess or umbrella liability policy is used to meet minimum limit requirements, the insurance must provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella or excess liability policy must include a "drop-down provision" requiring the policy to respond in the event that any primary insurance that would otherwise have applied proves to be uncollectable in whole or in part for any reason. Coverage must be provided on a "pay-on-behalf" basis, with defense costs payable in

addition to policy limits. There may be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. The policy must "follow form" to the underlying primary policy. Coverage must be applicable to all insureds under the primary policies. The insurance must contain or be endorsed to contain a waiver of subrogation applicable to the insurance or self-insurance, and a primary and non-contributory endorsement for the benefit of City. The scope of coverage provided is subject to approval of City following receipt of the required proof of insurance. Limits are subject to review, but in no event may be less than \$4,000,000 per occurrence and aggregate.

8. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by City. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$75,000 without prior written approval by City in its sole discretion. At the option of City, either the insurer will reduce or eliminate such deductibles or self-insured retentions with respect to the City's additional insureds or Consultant will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.
9. **Certificates of Insurance and Endorsements; Notice of Termination or Changes to Policies.** Prior to commencing any services under this Agreement, Consultant must file with the City certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or certified copies of policies as may reasonably be required by City. These certificates of insurance and endorsements must be in a form approved by the City's legal counsel. Consultant must maintain current certificates and endorsements on file with City during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination or cancellation of the required coverage, will be effective except upon 30 days' prior written notice to City by certified mail, return receipt requested (except for nonpayment for which a 10-day notice is required). The delivery to City of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the City's right to require compliance. In the event that Consultant's policies are materially changed, Consultant must provide the City with at least 30 days' prior written notice of the applicable changes. City reserves the right to require complete, certified copies of all required insurance policies at any time.
10. **Failure to Maintain Required Insurance.** If Consultant, for any reason, fails to have in place at all times during the term of this Agreement all of the required insurance coverage, the City may, but is not obligated to, obtain such coverage at Consultant's expense and deduct the cost from the sums due Consultant. Alternatively, City may terminate the Agreement.
11. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement will not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Should any coverage carried by the Consultant or any subcontractor of any tier have limits of liability that exceed the limits or have broader coverage than required in this Agreement, those higher limits and that broader coverage are deemed to apply for the benefit of any person or organization included as an additional insured and those limits and broader coverage will become the required minimum limits and insurance coverage in all sections of this Agreement. Any insurance proceeds available to City in excess of the limits and coverages required by this Agreement, and which is applicable to a given loss, must be made available to City to compensate it for such losses.
12. **Required Insurance for Subconsultants/Subcontractors.** Consultant agrees to ensure that any subconsultants/subcontractors providing services under this Agreement provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to review and monitor all such coverage and assumes responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement.

13. **Right to Revise Insurance Specifications.** City reserves the right to change the amounts and types of insurance required by giving Consultant at least 90 days advance written notice of such change. If such change results in substantial additional cost to Consultant, the parties may renegotiate Consultant's compensation.
14. **Timely Notice of Claims.** Consultant must give City prompt notice of claims made of lawsuits initiated that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability insurance policies.