

**CONTRACT FOR SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the CITY OF MANTECA, a municipal corporation of the State of California (hereinafter referred to as "CITY"), and

Hunden Strategic Partners, Inc.  
\_\_\_\_\_  
Consultant

213 W. Institute Pl., STE 707	Chicago	IL	60610
MAILING ADDRESS	CITY	STATE	ZIP

\_\_\_\_\_  
CONSULTANT'S STATE LICENSE CLASSIFICATION & NUMBER (if required)  
hereinafter referred to as "Consultant".

WITNESSETH:

A. WHEREAS, CITY desires to enter into this Agreement for Phase 2 Master Developer Solicitation and Selection Process services identified in Exhibit A, attached herein.

B. WHEREAS, CITY desires to retain CONSULTANT to provide these services by reason of its qualifications, applicable license(s), and experience for performing such services, and CONSULTANT has offered to provide the required services on the terms and in the manner set forth herein.

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

**AGREEMENT**

**1. SCOPE OF SERVICES:**

A. Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in **Exhibit "A"**. This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract. To eliminate doubt, in the case of conflict between Consultant's proposal or Consultant's attachments and the City's Contract and

attachments, the City's Contract and attachments shall take precedence over Consultant's proposal and attachments.

B. Consultant enters into this Contract as an independent contractor and not as an employee of the City. The Consultant shall have no power or authority by this Contract to bind the City in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

## **2. TERM OF CONTRACT**

A. The services of Consultant are to commence upon execution of this Agreement and shall be completed and this Contract terminated on June 30, 2027, unless otherwise extended in writing by the mutual agreement of both parties.

B. The City Manager or his or her designee may, by written instrument signed by the Parties, extend the duration of this Contract in the manner provided in Section 5, provided that the extension does not require the payment of compensation in excess of the maximum compensation set forth in Section 3, Compensation.

## **3. COMPENSATION:**

A. The Consultant shall be paid in accordance to the attached Payment Schedule in **Exhibit "A"**. Consultant charges separately for certain costs incurred in the representation, as well as for any disbursements to third parties made on City's behalf. Such costs and disbursements include, for example, the following: mileage (at the IRS rate in effect at the time the travel occurs), overnight delivery and messenger services. Consultant shall be reimbursed for expenses related to travel, for example (flights, hotels, meals). However, Consultant shall not make travel arrangements or incur costs on behalf of City without prior written authorization to incur said expenses and in no event shall total compensation under this Contract exceed one-hundred fifty thousand dollars (\$150,000) without City's prior written approval.

B. Said amount shall be paid upon submittal of monthly billings showing completion of the tasks that month. Consultant shall furnish City with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the monthly billings.

C. If the work is halted at the request of the City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 4.

**4. TERMINATION:**

A. This Contract may be terminated by either party, provided that the other party is given not less than thirty (30) calendar days' written notice (delivered by registered mail) of intent to terminate.

B. The City may temporarily suspend this Contract, at no additional cost to City, provided that the Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract.

C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined.

D. In the event of termination, the Consultant shall be compensated as provided for in this Contract, except as provided in Section 4C. Upon termination, the City shall be entitled to all work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 7 hereof.

**5. AMENDMENTS, CHANGES OR MODIFICATIONS:**

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties hereto.

**6. EXTENSIONS OF TIME:**

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Contract in the manner provided in Section 5.

**7. PROPERTY OF CITY:**

A. It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the City, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Consultant shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information, along with all other property belonging exclusively to the City which is in the Consultant's possession.

B. Additionally, it is agreed that the parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the City.

**8. COMPLIANCE WITH ALL LAWS:**

A. Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. It shall be City's responsibility to obtain all rights of way and easements to enable Consultant to perform its services hereunder. Consultant shall assist City in providing the same.

B. Consultant warrants to the City that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the Work, and that it has, and will have, throughout the progress of the Work, the necessary experience, skill and financial resources to enable it to perform this Contract.

#### **9. WARRANTIES AND RESPONSIBILITIES - CONSULTANT:**

A. Consultant agrees and represents that it is qualified to properly provide the services set forth in **Exhibit "A"** in a manner which is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law in accordance with Section 17A hereof.

C. Consultant shall designate a project manager who at all times shall represent the Consultant before the City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Consultant, or is replaced with the written approval of the City, which approval shall not be unreasonably withheld.

D. Consultant shall provide corrective services without charge to the City for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) days of discovery. Should Consultant fail or refuse to perform promptly its obligations, the City may render or undertake performance thereof and the Consultant shall be liable for any expenses thereby incurred.

#### **10. SUBCONTRACTING:**

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City, which will not be unreasonably withheld. Consultant shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

#### **11. ASSIGNABILITY:**

Consultant shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the City which will not be unreasonably withheld. However, claims for money due or to become due Consultant from the City under this Contract may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

**12. INTEREST IN CONTRACT:**

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant shall make all disclosures required by the City's conflict of interest code in accordance with the category designated by the City, unless the City Manager determines in writing that Consultant's duties are more limited in scope than is warranted by the category designated by the City code and that a narrower disclosure category should apply. Consultant also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this Contract, City determines and notifies Consultant in writing that Consultant's duties under this Contract warrant greater disclosure by Consultant than was originally contemplated. Consultant shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

**13. MATERIALS CONFIDENTIAL:**

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

**14. LIABILITY OF CONSULTANT-NEGLIGENCE:**

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

**15. INDEMNITY AND LITIGATION COSTS:**

To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees against all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising from Consultant's negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract except such loss or damage caused solely by the active negligence, sole negligence, or willful misconduct of the City. The provisions of this paragraph shall survive termination or suspension of this Contract.

**16. CONSULTANT TO PROVIDE INSURANCE:**

A. Consultant shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract, the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

B. Prior to execution of this Contract and prior to commencement of any work, the Consultant shall furnish the City with certificates of insurance and copies of endorsements

providing evidence of coverage for all policies required by the Contract. The Consultant and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Contract. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant.

1. Commercial General Liability Insurance.

a. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) minimum limit for general aggregate for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Consultant's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.

b. Any failure to comply with reporting provisions of the policies by Consultant shall not affect coverage provided the City.

c. Coverage shall state that Consultant insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

d. Coverage shall contain a waiver of subrogation in favor of the City.

2. *Automobile Liability.* If the vehicles are brought onto city facilities, covering any auto, or of Contractor has no owned autos, hired, and non-owned autos, the Contractor shall maintain automobile liability with limits no less than one million dollars (\$1,000,000) minimum limit per accident for bodily injury and property damage.

3. *Workers' Compensation and Employers' Liability.* Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Consultant shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

4. *Professional Liability.* Consultant shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement,

and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

5. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

b. All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.

c. Evidence of Insurance - Prior to commencement of work, the Consultant shall furnish the City with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Consultant must agree to provide complete, certified copies of all required insurance policies if requested by the City.

d. Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of A- VII or higher.

e. Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a "per subcontractor" or "per consultant" basis, considering the particular work to be done by the subcontractor or consultant and the interrelationship of that work to other work being conducted by the Consultant.

6. No other provision of this Agreement or any attachment thereto shall reduce the insurance or indemnity obligations imposed under this Section.

C. In addition to any other remedy the City may have, if Consultant fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due Consultant under this Contract.

D. No policy required by this Contract shall be suspended, cancelled, terminated by either party, or reduced in coverage or in limits unless Consultant has provided thirty (30) days prior written notice by certified mail, return receipt requested, to the City.

E. Any deductibles or self-insured retentions in excess of \$10,000 must be declared to, and approved by, the City.

F. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

**17. MISCELLANEOUS PROVISIONS:**

A. Compliance with Laws. Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or

under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

B. Unlawful Acts. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

C. Record Retention. Consultant shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant.

D. Notice. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City:

Barbara Harb  
Deputy Director, Economic Development  
City of Manteca  
1215 W. Center St., Suite 201  
Manteca, CA 95337

Consultant:

Rob Hunden  
Chief Executive Officer  
Hunden Strategic Partners, Inc.  
213 West Institute Place, Suite 707  
Chicago, IL 60610  
rob@hunden.com

E. Governing Law and Venue. This Contract shall be interpreted and governed by the laws of the State of California, and any legal action relating to this Contract shall take place in the Superior Court, County of San Joaquin.

F. Waiver. Waiver of any breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach or default of the same or any other provision under this Contract.

G. Severability. If any provision of this Contract is held to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall continue in full force and effect.

H. Mediation. In the event of any controversy or claim arising out of or relating to this Agreement or the Services provided by Consultant (each referred to as a "Dispute" and all collectively referred to as the "Disputes"), the Parties shall try to resolve all Disputes through good faith, direct discussions involving the representatives of each Party who possess the necessary authority to resolve such Dispute. If direct discussions are unsuccessful in resolving a Dispute, the Parties shall endeavor to resolve the matter by mediation through and administered by JAMS or its successor in interest. JAMS shall provide the parties with the name of five ( ) qualified mediators. Each party shall the option to strike two of the five mediators



selected by JAMS, and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.

I. Costs and Attorney' Fees. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

J. Entire Agreement. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

K. Execution. This Contract may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy has been signed by both parties.

L. Authority to Enter Agreement Consultant warrants that it has all requisite power and authority to conduct its business and to execute, deliver, and perform this Contract. Each party warrants to the other that the signature to this Contract have the legal power, right, and authority to enter into this Contract and to bind each party.

CITY OF MANTECA

By: \_\_\_\_\_  
Toni Lundgren, City Manager

ATTEST:

By: \_\_\_\_\_  
Cassandra Candini-Tilton, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
David Nefouse, City Attorney

CONSULTANT

By:  \_\_\_\_\_  
Title: Rob Hunden, Chief Executive Officer

EXHIBIT A

Consultant's Proposal - Scope of Work, Compensation, & Timeline

## FEZ Continued Advisory & Developer Solicitation Services

**To:** Barbara Harb, Economic Development Manager  
City of Manteca  
bharb@manteca.gov

**From:** Rob Hunden, CEO, Hunden Partners  
213 W Institute Place, Suite 707  
Chicago, IL 60610  
rob@hunden.com

**Date:** August 12, 2024

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The City of Manteca (Client) is engaging Hunden Partners (Hunden) to provide continued advisory services related to financial and development planning for the future destination development within the Family Entertainment Zone (FEZ or Project) in Manteca, California. Hunden will provide a phased scope of work that will guide the Client through the recommended next steps in the development planning and execution stages. Hunden will continue to work with Convergence Design (CD) to provide refinements to the development concept plan.

### Phase I: Case Study Trips and Development Advisory Services

**Case Study Trips.** Hunden will plan and facilitate up to three (3) case study trips to be attended by members of the Hunden team and Client team. These site visits will provide context for the FEZ and how it fits into the larger development landscape and provide valuable benchmarking metrics for the future development of the Project. Hunden will schedule a debrief meeting with the Client to summarize takeaways and implications for the FEZ once all site visits have been completed.

**Development Advisory Services.** As relevant and requested, Hunden will provide ongoing advisory services necessary to transition the project from research phase to development phase. These tasks will ensure a strong developer solicitation and selection process by providing the most up-to-date and accurate Project details.

Hunden's services may include:

- Participate in and lead virtual and in-person (as necessary) meetings and workshops with the Client and other Key Stakeholders,
- Provide guidance and input in creating a refined plan for the FEZ,
- Refine the development concept plan based upon discussions with Client following the Case Study Trips,
- Update financial projections as necessary,
- In collaboration with the Client's Financial Advisor/Finance Team, advise on funding options and finance plan for the Project,

- Advise on an implementation strategy and recommended next steps for the development of the Project,
- Advise on the most appropriate process for Client to engage a developer or other parties to provide for the design, construction, financing, and operation of the Project and its components. *This excludes the work related to the RFQ and RFP process necessary to select a master developer for the Project, which is provided in Hunden's Phase II scope of work, and*
- Assist with any other related economic development advisory work or analysis as requested by Client.

Note that the implementation strategy may include more than securing a master developer for the Project as outlined in Phase II. Hunden will prepare a separate proposal to assist Client with other work that may be necessary to deliver the entire Project.

## Phase II: Master Developer Solicitation and Selection Process

- Task 1 - Process Kickoff and Orientation
- Task 2 - Promotion of Mixed-Use Development Opportunity
- Task 3 - Creation of RFQ Document
- Task 4 - Management of Solicitation Process
- Task 5 - Review of the RFQ Submittals
- Task 6 - Creation of RFP
- Task 7 - Evaluations, In-Person Interviews and Rankings
- Task 8 - Term Sheet, Negotiations and Ongoing Advisory (billed hourly)

### Task 1: Process Kickoff and Orientation

Hunden Partners professionals will meet with the Client to confirm the goals of the process and other contextual issues related to the Project. Hunden will perform the following orientation and due-diligence-oriented tasks:

- Obtain information and data from the Client and the City of Manteca, as well as any other appropriate governmental agencies and stakeholders.
- Review the previously completed feasibility study and master plan update, and determine which elements of previous reports (or other materials) should be utilized (and updated as necessary) in the RFQ document, as appropriate.
- Review Hunden's similar efforts, discuss their attributes, implementation, and approach to determine lessons learned and implications.
- Discuss the marketing approach to the RFQ/P effort. Media/press releases can be very beneficial in aiding the promotion of the bidding process, if managed appropriately.
- Review Client-specific criteria that will need to be addressed in the RFQ/P process.

Hunden will also begin compiling a database of potential developers for marketing the Project opportunity in addition to our existing database of developers and development partner firms (architects, engineers, etc.) as appropriate.

## **Task 2: Promotion of Mixed-Use Development Opportunity**

Hunden will informally contact and create interest from top developers by promoting the project plan and opportunity, which will include meeting (virtually or in person) with interested parties to further educate, market, and encourage participation in the Request for Qualifications and Proposals process to attract the most qualified mixed-use development teams. The goal is to build national interest for the Project and advertise the upcoming bid solicitation process. Information gathered in these discussions may shape the nature of the specific development opportunity to be included in the solicitations to be issued later.

## **Task 3: Creation of RFQ Document**

Hunden will draft an RFQ document, to be reviewed and accepted by Client representatives. The RFQ document will include the following components:

- An overview of the development opportunity,
- Client Objectives, Project Scope, and Timeline,
- RFQ/P Process overview,
- Submission Requirements,
- Evaluation Criteria,
- Market information,
- Selected excerpts of Hunden's feasibility study
- Other conditions and disclosures as applicable.

Hunden will create a concise, sharp, professional RFQ document that will present the development opportunity in the best possible light. The RFQ is intended to promote the Project and to generate interest from a wide audience.

## **Task 4: Management of Solicitation Process**

Building upon the informal promotion of the opportunity in Task 2, Hunden will target relevant contacts in the development industry from our developer database that will be important for the RFQ distribution. Hunden will research the local/regional/national marketplace to identify additional developers who have worked on this type of project previously that should be made aware of the opportunity.

Hunden will then execute the following tasks to publish the opportunity:

- Post the RFQ document package for download on Hunden's website at [www.hunden.com/downloads](http://www.hunden.com/downloads). This process includes creation of a registration form that enables Hunden to track downloads and create a record of interested parties.

- Send the RFQ document package to the list of appropriate developer contacts in Hunden's database via email/PDF attachment.
- Promote the opportunity, including issuing a press release announcing the opportunity to maximize exposure regionally and nationally. Hunden will develop a targeted media list that identifies leading industry-specific websites for distribution, as well as issue via PR Newswire. Hunden will send *individual* emails to our database of dozens of developers and hundreds of related entities.

Reliable and **consistent communication** is important to ensure interested parties remain interested and follow through with RFQ submissions. As these requests are time-consuming, it is easy for many potential developers to not respond and focus on other less time-consuming opportunities. Hunden will act as the communication lead on behalf of the Client to ensure a strong response to the RFQ. Hunden will discuss the proposal process with potential respondents and represent the Client's best interests when doing so. In consultation with the Client, Hunden will set a deadline for submitting written questions or requests for clarification and will assist in responding to these written inquiries.

A **tour of the site** and surrounding area in Manteca will be conducted by Hunden and Client representatives for the benefit of the proposers. This will give the proposers a chance to ask questions, understand current and future conditions, and generally involve themselves more deeply in the process. Hunden will record all questions and answers during the tour and any related meetings. After the tour and the **Question & Answer Period**, Hunden will send an RFQ Amendment to the interested groups with answers to all questions posed to date.

## Task 5: Review of the RFQ Submittals

Hunden will review the RFQ submittals and compare them in a matrix memo summarizing the qualifications of the groups for each opportunity. Amongst other requested items, Hunden will assess:

- Firm/Team experience and qualifications,
- Firm/Team financial capability, stability, and resources,
- References for similar projects, and
- Others as appropriate.

Hunden will conduct reference checks and undertake procedures to verify information contained in the submittals.

Hunden suggests conducting Zoom interviews with certain proposers that are under consideration for the shortlist to meet and engage with those proposers prior to shortlisting for the RFP process. These interviews will allow for an informal and informational discussion about the proposer's perspective on the RFQ submittal and opportunity, which will help lead to the establishment of a more informed shortlist.

## Task 6: Creation of RFP

Hunden will create the RFP document based on the criteria determined with the Client.

Hunden will have been working on the RFP document during the prior tasks. The RFP should be ready prior to establishing the shortlist, which means the shortlisted groups would receive the RFP upon notification that they have been shortlisted. Hunden recommends that the shortlisted developers have approximately eight weeks to respond with their full proposals. Hunden will be available to communicate with the shortlisted groups to ensure complete proposals in response to the RFP.

## Task 7: Evaluations, In-Person Interviews and Rankings

Hunden will then collect the responses to the RFP and develop a summary document that puts the proposals and responses in a side-by-side comparison matrix. Each category of response will be evaluated, and conclusions drawn. Proposal contents may include the following elements:

- Complete development team,
- Physical development proposal,
- Proposed concept,
- Operations and management team,
- Project budget and financing plan and requested incentives, and
- Other information as may be requested.

Hunden will formulate a list of clarifications that may be requested for all or some of the proposers to clarify their RFP responses.

Based on the evaluations, Hunden and the Client may elect to interview all or some of the proposers based on a variety of factors. Hunden will advise the Client on best practices.

**Interviews.** Prior to determination of a final ranking, interviews and presentations should be conducted with the top-ranked respondents. While much knowledge can be gained from responses on paper, the Client will make its most well-informed decision after combining response information with presentation and question-and-answer clarifications with the top-ranked respondents via interviews of approximately 90 minutes each.

Hunden will plan and coordinate the finalist interviews with the Client and will communicate with teams about the expectations, logistics and other factors to prepare all parties for a thorough and efficient process.

After the interviews, Hunden suggests ranking the proposals with the objective of beginning negotiation with the highest-ranked proposer. In order for the Client to retain flexibility in negotiations, the respondents must know that if discussions with the first group are not successful, then the Client has the option to proceed to the second-ranked Developer. There may also be follow-up questions that Hunden asks the Developers after the interviews if a determination about a top-ranked group cannot be made.



## Task 8: Term Sheet, Negotiations and Ongoing Advisory (Billed Hourly)

Hunden will provide advice and consultation to the Client during negotiations with the selected company on a Term Sheet, followed by a definitive Development Agreement(s). This will be completed on an hourly basis.

Hunden will be your constant resource during this task and make recommendations regarding the negotiations. In addition, as requested, Hunden will serve as the Client's representative in meetings and discussions with the proposer, Client, attorneys, and other parties.

## Compensation

**Phase I: Case Study Trips and Development Advisory Services.** Hunden will plan, facilitate, and participate in the case study trips and provide ongoing development advisory services on an hourly basis for an amount not to exceed ~~\$75,000~~ <sup>↑ \$95,000</sup>. If, upon reaching the not-to-exceed fee, Hunden and the Client identify a need for further advisory services, Hunden will request an amendment. Hunden will bill the Client monthly for services provided until the not-to-exceed fee is reached, or until the agreement is amended or the services are superseded by another agreement.

CD will provide design refinements to the development concept plan which work will be provided on either a lump sum or hourly rate basis in an amount not to exceed \$10,000. Hunden will bill for this work as a reimbursable expense without markup.

Hunden will bill at our hourly rates for all time associated with the work. *Any travel or related research expenses will be billed at cost without markup and are outside the not-to-exceed fee set forth above.*

Hunden has established an allowance for travel expense in the amount of **\$10,000**. If the actual cost of travel exceeds \$10,000, Hunden may reduce its not-to-exceed fee cap to allow for reimbursement within the overall not-to-exceed fee and reimbursable expense total of **95,000**.

Expenses will be billed separately on a monthly basis.

For any Phase I services provided, Hunden will bill the Client according to the following hourly rates:

▪ Rob Hunden, President & CEO:	\$475
▪ Executive Vice President   Project Executive:	\$425
▪ Senior Project Manager:	\$395
▪ Project Manager   Analytics Manager:	\$375
▪ Research Director:	\$350
▪ Senior Analyst   Quality Control:	\$325
▪ Analyst:	\$275
▪ Administrative Staff:	\$150



Hourly rates are fixed through December 31, 2024, and subject to a three percent (3%) annual increase thereafter.

To authorize Phase I, sign here: \_\_\_\_\_

**Phase II: Master Developer Solicitation and Selection Process, Tasks 1-7.** Hunden proposes to complete Tasks 1-7 in the Phase II scope of work for a lump sum fee of **\$150,000**, inclusive of Hunden's research expenses and its time for services for two trips to Manteca for the developer site tour, the developer interviews and developer award discussions. The fees for additional trips will be billed at the hourly rates set forth above. **Any travel expenses will be billed at cost without markup and are in addition to the lump sum fee set forth above.** Expenses will be billed separately on a monthly basis.

For the Phase II services provided, Hunden will bill the Client according to the following payment schedule, broken out by milestone deliverables:

▪ Kickoff to Initiate Process:	\$37,500
▪ RFQ Document Issued:	\$37,500
▪ RFP Document Issued:	\$37,500
▪ Completion of Task 7:	\$37,500

**Task 8.** Any work completed during the Phase II negotiations task will be billed at the hourly rates identified above.

To authorize Phase II, sign here: \_\_\_\_\_

## Contractual Conditions

The following conditions apply to this engagement with you.

### CLIENT ACKNOWLEDGEMENTS.

1. The Client acknowledges their critical role in providing Hunden with project background and other requested and necessary/pertinent data items that only the Client has the capability of sharing in order to start the formal study timeline. Any delay in providing critical project or site data will delay Hunden's process/deliverable.

Client Initial: \_\_\_\_\_

2. The Client acknowledges that these project types are often not commercially viable and typically require public funding upfront and/or annually to be sustained.

Client Initial: \_\_\_\_\_

**SCOPE LIMITATIONS.** Hunden's services do not include the following: any assistance with a bond marketing strategy; any assistance with the preparation or distribution of any official statement; or any advice on the municipal bond market. Hunden does not provide advice with respect to municipal financial

products or the issuance of municipal securities, including services with respect to the structure, timing, terms and other similar matters concerning such financial products or issues.

Hunden is not a municipal advisor and Hunden is not subject to the fiduciary duty set forth in section 15B(c)(1) of the Registration and Regulation of Brokers and Dealers Act (15 U.S.C. 78o-4(c)(1)) with respect to the municipal financing product or issuance of municipal securities. The Client is advised that any actual issuance of debt must be done under the advice of its bond counsel and financial advisors. Your financial advisor should provide any advice concerning the specific structure, timing, expected interest cost, and risk associated with any government loan or bond issue. Potential advisors should not rely on representations made in this report with respect to the issuance of municipal debt.

The findings and recommendations of Hunden's research will reflect an analysis of primary and secondary sources of information. Estimates and analyses presented in our work product will be based on data that are subject to variation. Hunden will use sources that it deems reliable, but will not guarantee their accuracy. Recommendations will be made from information provided by the analyses, internal databases, and from information provided by external sources.

The Client is entitled to receive the work product(s) prepared by Hunden pursuant to this Agreement. The Client has no right to access or deliverance of any underlying statistics, models, or any other information developed by Hunden in preparing the Report to which this Agreement pertains.

**REVISIONS.** Hunden will complete a maximum of two drafts of the report. The Client is expected to provide comments and edits on the draft report and those will be addressed by Hunden. Hunden's results may not always agree with the desires of the Client. Hunden will use its independent perspective and research to drive our results. Any revisions, questions, conversations, zooms or travel requested after two drafts (initial draft report, then final draft), will be billed at Hunden's hourly rates as outlined in this document. Payment on the final milestone will be required and an advance of \$2,500 on the hourly work that would be required by the Client or its designees, such as lenders and others.

**UPDATES.** Hunden has no responsibility to update its work product(s) for events and circumstances occurring after the date presented to the Client. Delayed invoice payments will result in the delay of deliverables for the next portion of work. If edits and comments are not received from the Client related to any prior deliverable within thirty (30) days of the delivery of the deliverable, the work product will be considered final, and the current billing will be sent and become due.

**TIMING OF DELIVERABLES.** The timeline for the study begins when the following have occurred: 1) receipt of first payment, 2) signing of this contract and 3) receipt of any Client materials related to the Project requested by Hunden.

**VIRTUAL PRESENTATIONS.** This contract is limited to up to three (3) virtual presentations of findings at the conclusion of the study. Fees for additional virtual presentations will be negotiated separately.

**BILLING.** Any past invoices must be paid prior to the delivery of the next Milestone Deliverable. If an invoice remains unpaid 30 days after it was emailed to the client, Hunden may without further obligation, cease the assignment and terminate the Agreement. All previous invoices will remain due. Any invoice unpaid after 30 days will accrue a 3% per month late fee. Any invoice unpaid after 90 days will result in legal action by Hunden to collect such invoice(s).

Failure by Hunden to assess late fees does not preclude Hunden from assessing late fees in the future.

**TRAVEL.** In the event that the Client chooses to alter, adjust or change dates/times of any Client-related trip after Hunden has booked and purchased travel arrangements, it shall be the responsibility of the Client to reimburse Hunden for any fees and fare/price differences associated with cancellation/change of travel arrangements.

**USE OF DELIVERABLE.** The Work Product is copyrighted and cannot be manipulated in any way beyond the format that it was provided to the Client.

**TERMINATION.** Notwithstanding the Billing language above, Hunden reserves the right to terminate this Agreement on fifteen (15) days written notice to Client should Client fail to satisfactorily perform its obligations under this Agreement. In the event Hunden terminates this Agreement, Client is obligated to pay Hunden for all services rendered under this Agreement prior to termination, including work through the next unbilled milestone. Nothing contained herein shall constitute a waiver of Hunden's right to bring suit for damages or to enforce specific performance of this Agreement. In the event of termination of this Agreement by the Client, Client is obligated to pay Hunden for all services rendered under this Agreement prior to termination, including work through the next unbilled milestone. Hunden further reserves the right to take any legal action necessary to enforce its rights under this Agreement. In the event Hunden is required to commence suit to collect any unpaid amounts due to it from Client, Client agrees to reimburse Hunden for its costs and attorneys' fees in bringing such suit.

It is agreed that the liability of Hunden to the Client is limited to the amount of the fees paid by client to Hunden.

Hunden limits its responsibility to the Client and any use of the study produced pursuant to this Agreement by third parties shall be at the risk of the Client and/or said third parties. By the execution of this Agreement, Client acknowledges that he/she/it has read and agrees to the terms and conditions of this Agreement and agrees to the inclusion of a standard set of General Assumptions and Limiting Conditions in the report. Additional conditions prompted by the discovery of extraordinary or unusual circumstances uncovered during the course of investigation may be added to the study assignment, if necessary.

**DISPUTES.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, other than non-payment of amounts due hereunder, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial [or other applicable] Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

If this document meets with Client's approval, Client may accept this letter and authorize Hunden to proceed by signing below.

## Authorization

Accepted By:

Signature

A handwritten signature in blue ink, appearing to read "Joni Hodgson", is written over a horizontal line.

## Exhibit A



Printed Name

Toni Lundgren

Title

City Manager

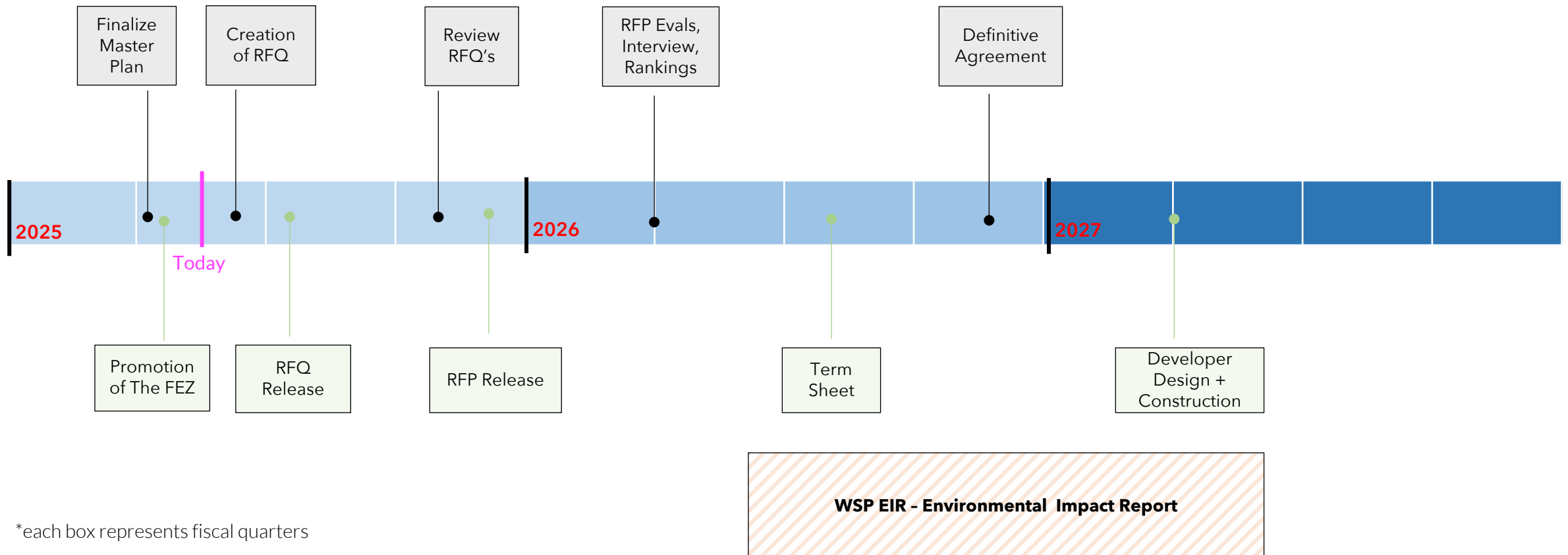
Company

City of Manteca

Date:

8/26/2024

# Phase II Timeline – RFQ/RFP



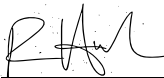
\*each box represents fiscal quarters

EXHIBIT B

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700  
[Labor Code § 1861]

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONSULTANTS

By:   
\_\_\_\_\_  
Rob Hunden, Chief Executive Officer