

**SERVICES AGREEMENT  
(Not Construction Related)**

**PROPERTY MANAGEMENT SERVICES  
(City of Glendale Solicitation No. RFP 21-43)**

This Services Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City") and MODE Real Estate Management Services, LLC, an Arizona limited liability company ("Vendor ") as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021. ("Effective Date").

**RECITALS**

- A. City owns a 271,400 sq. ft. 4-story parking garage with basement ("Parking Garage") and includes 11,325 sq. ft. of 1<sup>st</sup> floor "retail" suites at ("Promenade at Palmaire") at 5835 West Palmaire Drive, Glendale, AZ 85301, shown in **Exhibit A**, Project. ("Project"), also referred to as Property/ies.
- B. City desires to retain the professional services of Vendor to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope").
- C. Vendor desires to provide City with services ("Services") consistent with industry-best practices and the standards set forth in this Agreement, in order to manage the Project; and
- D. City and Vendor desire to memorialize their agreement with this document.

**AGREEMENT**

CITY and VENDOR, which my hereinafter be referred to as "PARTIES" hereby agree as follows:

**1. Key Personnel; Sub-Consultants and Sub-Contractors.**

1.1 Services. Vendor will provide all Services necessary to assure the Project is managed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City's designated employees, and working closely with others, including, but not limited to, tenants, service providers, utilities, contractors.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is managed timely and efficiently in accordance with the Project. This Agreement terminates one (1) year from the effective date and may be extended by City on an annual basis for up to four (4) successive years.

**3. Vendor's Work.**

3.1 Standard. Vendor must perform Services in accordance with the standards of due diligence, care, and quality prevailing among vendors having substantial experience with the successful furnishing of leasing, management maintenance and repair Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Vendor warrants that:

- a. Vendor currently holds all appropriate and required licenses, registrations, and other approvals necessary for the lawful furnishing of Services, including but not limited to real estate brokerage ("Approvals"); and
- b. Neither Vendor nor any Sub-Consultant or Sub-Contractor retained by Vendor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

- (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Vendor's contracting ability.

- (2) Vendor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Vendor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance.

- a. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria that may be designated by City.
- b. Vendor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Vendor will require any Sub-Consultant or Sub-Contractor to be bound to the same requirements as stated within this section. Vendor, and on behalf of any Sub-Consultants and Sub-Contractors, warrants compliance with this section.

4. Compensation for the Project.

4.1 Compensation. Vendor's compensation for the Project will be in accordance with Services and rates per specifically detailed in **Exhibit D** ("Compensation").

4.2 Commission due. Commissions are earned by Vendor and payable to Vendor following mutual lease execution and upon presentation of a statement by Vendor to City.

4.3 Commission Under Expiration/Termination. City will pay Commission to Vendor for any Lease entered into by City within ninety (90) calendar days after expiration of this Agreement or any extensions that Vendor was actively negotiating with for leasing and for which Vendor notified City of such negotiation with named potential Lessee in advance of expiration of this Agreement or any extensions.

4.4 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope of Project is significantly modified by mutual agreement between City and Vendor.

- a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Vendor without prior written authorization from the City.
- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. **Billings and Payment.**

5.1 Invoicing.

- a. Vendor will submit monthly invoice(s) as part of City required monthly financial reporting to City and City.
- b. The period covered by each invoice and respective payment will be one (1) calendar month ending on the last day of the month.

5.2 Payment.

- a. After receiving full and complete invoice(s) as part of City required monthly financial reporting by Vendor, City will process and remit payment(s) within 30 days.

- b. Payment(s) may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Vendor and its Sub-Consultants and Sub-Contractors; and
  - (2) Unconditional waivers and releases on final payment from all Sub-Consultants and Sub-Contractor as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City will timely review invoices submitted as part of City required monthly financial reporting.

- a. If the City required monthly financial report and/or invoice(s) is rejected, City will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

## 6. Termination.

6.1 For Convenience. Notwithstanding, the language of Section 4 of this Agreement, City and Vendor may each terminate this Agreement for convenience, without cause, upon thirty (30) calendar days prior notice to the other Party for any reasons other than for cause. Upon the effective date of the notice, this Agreement will terminate and neither City nor Vendor may exercise any further rights or obligations under this Agreement except for accrued rights and obligations as of the date of the termination and the obligation of City for payment to Vendor of all fees provided for in this Agreement which have accrued prior to the date of termination.

- a. Vendor will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Vendor will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 For Cause. Upon the occurrence of an act, event or omission that constitutes Cause (as hereinafter defined), City may terminate this Agreement. If City elects to terminate this Agreement, City shall deliver written notice (the "Election Notice") within thirty (30) calendar days after City is aware of the occurrence of the act, event or omission constituting Cause, including the lapse of any applicable notice and cure periods. The Election Notice must specify the date upon which this Agreement will terminate, which date is determined by City in its sole and absolute discretion. Upon termination, neither Party may exercise any further rights or obligations under this Agreement, except for accrued rights and obligations as of the date of termination, including, without limitation, the payment to Vendor of all fees provided for in this Agreement which have accrued prior to the date of such termination.

As used in this Agreement, the term "Cause" means (a) the assignment by Vendor, directly or indirectly, whether voluntarily, involuntarily or by operation of law, of any of its rights or obligations under this Agreement without the prior written consent of City, or (b) the occurrence of bankruptcy, insolvency, reorganization or other debtor-relief case or proceeding under any federal or state insolvency or debtor-relief law, whether now existing or later enacted or amended, with respect to Vendor, or (c) a theft, embezzlement, defalcation or other act or omission constituting willful misconduct or gross negligence of Vendor, or (d) any material breach or failure of performance by Vendor under any provision of this Agreement, which breach or failure of performance Vendor fails to cure to the reasonable satisfaction of City within thirty (30) calendar days after written notice from City or, if the breach or failure cannot reasonably be cured within thirty (30) calendar days, within ninety (90) calendar days after written notice, Vendor commences to cure the default within the initial thirty (30) calendar day period and thereafter diligently prosecutes the cure to completion.

- a. Vendor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Vendor for Services furnished, City will pay the amount due to Vendor, less City's damages, in accordance with the provisions of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Vendor, Vendor must pay the difference to City immediately upon demand; however, Vendor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Vendor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, Sub-Consultant or Sub-Contractor of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Vendor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Vendor its agent(s), representative(s), employee(s), and any Sub-Contractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. 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.
- b. Automobile Liability: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
- c. Claims Made Policies should be applicable only to professional liability, and the Retroactive Date must be shown, and must be before the date of this Agreement or the beginning of work pursuant to this Agreement.
- d. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of this Agreement for Services.
- e. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, the Vendor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- f. Worker's Compensation: Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$2,000,000 per accident for bodily injury or disease.

8.2 **Indemnification.**

- a. To the fullest extent permitted by law, Vendor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties") for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense" collectively "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Vendor) and that arises out of or results from the breach of this Agreement by the Vendor or the Vendor's negligent actions, errors, or omissions (including any Sub-Consultant or Sub-

Contractor or other person or firm employed by Vendor), whether sustained before or after completion of the Project.

- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Vendor will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Vendor or of any person or entity for whom Vendor is responsible.
- c. Vendor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8.3 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Vendor or on its behalf and for liability arising from automobiles owned, leased, hired, or borrowed on behalf of the Vendor. General liability coverage can be provided in the form of an endorsement to the Vendor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).
- b. For any claims related to this Agreement, the Vendor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, officials, employees.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Vendor has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City .

8.5 **Waiver of Subrogation.** Vendor hereby agrees to waive its rights of subrogation which any insurer may acquire from Vendor by virtue of the payment of any loss. Vendor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Vendor, its employees, agent(s), and Sub-Contractor(s).

8.6 **Verification of Coverage.** Vendor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive Vendor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8.7 **Sub-Contractors.** Vendor shall require and shall verify that all Sub-Consultants and Sub-Contractors maintain insurance meeting all requirements of this Agreement.

8.8 **Special Risk or Circumstances.** The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances unique to the Vendor, the Project, or the insurer.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Vendor warrants its compliance and that of its Sub-Consultants and Sub-Contractors with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Vendor or Sub-Consultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Vendor and its Sub-Consultants and Sub-Contractors warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The Vendor and its Sub-Consultants and Sub-Contractors shall cooperate with the City's random inspections, including granting the City entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.
10. **No Boycott of Israel.** To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
11. **Attestation of PCI Compliance.** When applicable, the Vendor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Vendor with oversight responsibility.
12. **Notices.**
- 12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
  - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
  - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
    - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
    - (2) As of the next business day after receipt, if received after 5:00 p.m.
  - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
  - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.
- 12.2 Representatives.
- a. Vendor. Vendor's representative (the "Vendor's Representative") authorized to act on Vendor's behalf with respect to the Project, and his or her address for Notice delivery is:
  - b. MODE Real Estate Management Services, LLC  
c/o Patricia L. Hartley, President  
4414 N Civic Center Plaza, #100  
Scottsdale, AZ 85251  
Tel: 480-294-6009  
Email: [phartley@modecommercial.com](mailto:phartley@modecommercial.com)

- c. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
c/o Lisa Amos, Real Estate Program Manager  
5850 West Avenue, Suite 315  
Glendale, Arizona 85301

With required copy to:

City Manager  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

City Attorney  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

- d. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Vendor identifying the designee(s) and their respective addresses for notices.

**13. Entire Agreement; Survival; Counterparts; Signatures.**

13.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Vendor ("Parties") and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts, if any, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

13.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

13.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

- 13.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 13.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.
- 13.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
- 14. Term.**
- 14.1 The term of this Agreement commences upon the effective date and continues for a one (1) year period. The City may, at its option and with the approval of Vendor, extend the term of this Agreement for an additional year, up to four (4) additional years.
- 14.2 Extension for Procurement Processes. Upon the expiration of the Term of this Agreement, The City will notify the Vendor in writing of its intent to extend the Agreement for one (1) additional year at least thirty (30) calendar days prior to the expiration of the Term. Any extension provided under this subsection will continue under the same terms and conditions as in effect immediately prior to the expiration of the then-current term.
- 14.3 Price adjustments will only be considered at annual extension period and will be a factor in determining any extension.
- 15. Dispute Resolution.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- 16. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.
- |           |               |
|-----------|---------------|
| Exhibit A | Project       |
| Exhibit B | Scope of Work |
| Exhibit C | Schedule      |
| Exhibit D | Compensation  |

(Signatures on the following page)

The parties enter into this Agreement effective as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

\_\_\_\_\_  
By: Kevin R. Phelps  
Its: City Manager

ATTEST:

\_\_\_\_\_  
Julie K. Bower  
City Clerk (SEAL)

APPROVED AS TO FORM:

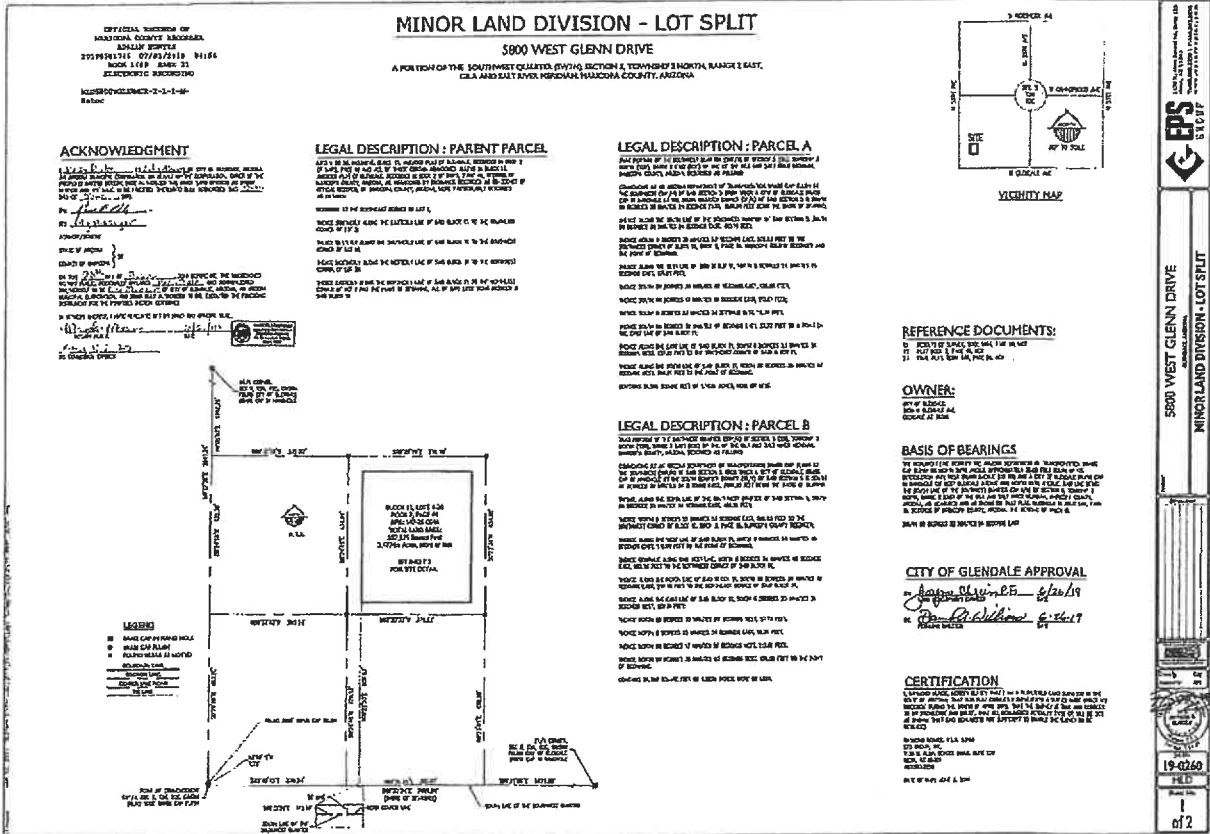
\_\_\_\_\_  
Michael D. Bailey  
City Attorney

MODE Real Estate Management Services, LLC,  
an Arizona limited liability company

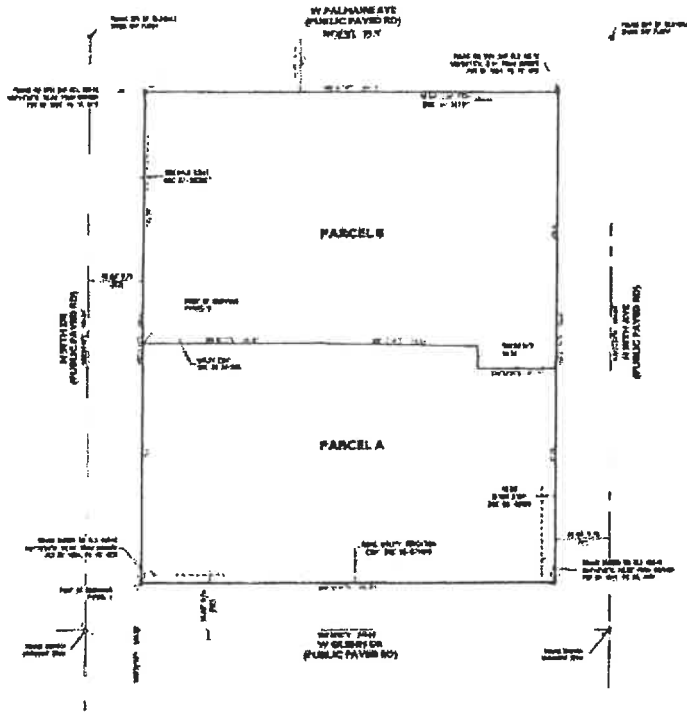
*P. Hartley 5/28/2021*  
\_\_\_\_\_  
By: Patricia L. Hartley  
Its: President

**EXHIBIT A**  
**Page 1 of 2**  
**Services Agreement**  
**PROJECT**

MODE Real Estate Management Services, LLC shall lease, manage, repair, and maintain the Property/ies known as  
 1) Parking Garage and 2) Promenade at Palmaire, 5835 West Palmaire Avenue, Glendale, AZ 85301 which is legally described as Parcel B of that Minor Land Division recorded at 2019-0501746, MCR



**EXHIBIT A**  
**Page 2 of 2**  
**Services Agreement**  
**PROJECT**



OFFICIAL RECORDS OF  
 MARICOPA COUNTY RECORDS  
 MARICOPA COUNTY  
 303 N. CENTRAL AVENUE, SUITE 200  
 PHOENIX, ARIZONA 85004  
 PHONE: 602.995.4000  
 FAX: 602.995.4001  
 WWW.MARICOPA.AZ.GOV

PARCEL AREA TABLE			
PARCEL #	AREA (SQ FT)	AREA (SQ YD)	PERCENT
PARCEL A	10,000	115.74	100%
PARCEL B	10,000	115.74	100%
TOTAL	20,000	231.48	100%

- LEGEND
- 1. BOUNDARY OF PUBLIC PAVED ROAD
  - 2. BOUNDARY OF PUBLIC PAVED ROAD
  - 3. BOUNDARY OF PUBLIC PAVED ROAD
  - 4. BOUNDARY OF PUBLIC PAVED ROAD



**EXHIBIT B**  
**Services Agreement**  
**SCOPE OF WORK**

Unless otherwise directed by City, Vendor shall provide the following Required Services, separately for the Properties

- 1) Parking Garage and
- 2) Promenade at Palmaire.

Record Keeping – The Vendor shall maintain at its Arizona office accurate books of account and records of transactions relating to the Property as are customarily maintained by managers of similar properties, using generally accepted accounting principles as defined by the Governmental Accounting Standards Board, and as may be reasonably required by the City.

Records shall include originals or copies of invoices, receipts, warranties, and all correspondence and other related informational materials. Vendor shall make records available to City, its accountants and other agents for inspection at Vendor's place of business at any time during reasonable business hours. The Vendor or its accountants or other agents shall duplicate and forward to the City any materials requested by the City and applicable to this Agreement.

Collection and Deposit of Funds – Vendor shall take all action reasonably required to collect rents, utility payments, reimbursements of operating expense as appropriate, and other funds payable under tenant leases on their respective due dates. Monthly collections and other monies received or collected by Vendor with respect to this Agreement, including tenants' security deposits, must be deposited within three (3) business days into an interest-bearing checking account ("Operating Account") with a federally-insured banking institution, licensed in Arizona, under the name of the Vendor but "for City of Glendale."

Expenditures that Vendor is authorized to make by terms of this Agreements, or by other written authorization of City, will be paid from the Operating Account. The interest accrued in the Operating Account belongs to the City, although the Operating Account is owned by the Vendor and will be opened using Vendor's tax identification number. Vendor is not authorized to accept third party checks or cash.

Reports – The Vendor shall, in a timely manner, provide monthly reports, and other records and documents relating to the Property as the City may request from time to time. Such reports shall be presented in detail sufficient to identify clearly to which portion(s) of the Property the revenues and expenses are attributed.

Additional reports, records and documents may include an inventory of equipment, furniture and other personal property of City located on the Property/ies, rent schedules, forms, service contracts, leasing status reports, tenant improvement work-in-progress reports, and other reports that may time to time be requested.

Property/ies Budget(s). Vendor shall prepare and have approved by the City a proposed annual budget in December of each year under this Agreement, no later than December 15, for the upcoming fiscal year (July 1 – June 30). The Property/ies Budget(s) will be in form and content as City may require and detail all costs, fees and expenses Vendor expects to incur in the performance of this Agreement for the upcoming fiscal year.

Approval of Property/ies Budget(s). City may approve or disapprove Vendor submitted Property/ies Budget(s), through City's annual budgeting process. If City disapproves Vendor submitted Property/ies Budget(s), Vendor will continue to perform its obligations under this Agreement, and City and Vendor agree to use their best efforts to adapt City approved Property/ies Budget(s) to ensure that Property/ies Budget(s) do not exceed the total Approved Budget.

Compliance with Approved Property/ies Budget(s). All activities of Vendor performed under this Agreement will be performed in substantial compliance with the Approved Property/ies Budget(s), unless otherwise authorized by City in writing.

Accounting and Audit – Vendor shall prepare monthly, annual and all required accounting reports in form and content satisfactory to the City and cooperate with annual audits by an independent certified public accountant, as well as provide any other information as City may from time to time reasonably require. Within ten (10) business days following receipt of Vendor's monthly itemized accounting, City will notify Vendor of any questions and request correction or clarification. Vendor will respond in a timely manner and Parties will cooperatively work towards resolution.

**EXHIBIT B**  
**Services Agreement**  
**SCOPE OF WORK**

Operating Account.

Advanced Funds. The City will formally advance to Vendor an amount estimated to fund two (2) months of normal operations and maintenance, to be held and used by Vendor in the Property/ies Operating Account(s) until its final billing to the City for services.

Unusual Expenses. The Parties understand that from time to time unusual business expenses may be incurred. Vendor may request additional funding from City, in advance of expenditure for non-emergency request(s), accompanied by submittal of detailed documentation explaining the request. City will review and approve all reasonable requests and ensure that appropriate funds are advanced to Vendor.

Monthly Reports. On or before the twentieth (20th) business day of each calendar month during the term of this Agreement, Vendor shall deliver to City the following, in form satisfactory to City, subject to changes as the City may from time to time request.

Income and Expense Report, including, but not limited to

- (a) all new leases executed during the preceding calendar month, their terms, monthly rental, separately itemizing any preceding month's prepaid rentals and security deposit(s) paid;
- (b) gross rentals collected during the preceding calendar month;
- (c) status of security deposits of record;
- (d) all expenses paid during the preceding month;

Only expenditures actually incurred and paid out, along with that month's property management fee, will be included in the accounting.

Categorized by Vendor's check number or if by electronic payment, bank's assigned transaction number, within the same categories as used in the Approved Property/ies Budget(s).

Supporting detail should include copies of paid invoices, expense allocations, and reconciled bank statements.

(e) all leases under which the tenant is more than thirty (30) calendar days in arrears in the payment of rent or any other payment or under which the tenant is otherwise in default, specifying the amount of a monetary default and the nature of any non-monetary default; and

Budget Report

Fiscal year-to-date to budget vs. actual including dollar and percentage variance, with written explanation of material deviations from Approved Property/ies Budget(s)

Periodic Accounting and Reports.

Annual Accounting. On or before August 31st of each year, Vendor will prepare and deliver to the City an accounting of security deposits and all revenue from all sources, separately categorized, and all costs, fees and expenses paid or incurred by Vendor under this Agreement for the preceding fiscal year, in form satisfactory to City, subject to changes as the City may from time to time request.

Final Accounting. Within sixty (60) calendar days after the expiration of or earlier termination of this Agreement, Vendor will prepare and deliver to City an accounting of security deposits and all revenue from all sources, separately categorized, if known to Vendor, and all costs, fees and expenses paid or incurred by Vendor under this Agreement for the account of the City during the term of this Agreement. The final accounting will include detail as City may reasonably require.

**EXHIBIT B**  
**Services Agreement**  
**SCOPE OF WORK**

The annual and final accounting required shall be certified by an authorized officer of Vendor, and, if requested by City, be audited by an independent certified public accountant approved by City. The costs, fees and expenses of any independent audit required pursuant to this Section constitute an operating expense under this Agreement.

Leasing –The City grants Vendor an Exclusive Authorization to Lease for the term of this Agreement, including any extensions, giving Vendor the exclusive right to negotiate leases of the Property/ies at rental prices and upon terms and conditions acceptable to the City. Vendor has exclusive right to place its sign(s) on the Property/ies. City will refer all inquiries to Vendor. Vendor will receive commissions for leases in accordance with Exhibit D.

Vendor shall use diligent efforts to secure new tenants and renew, relocate, and expand the existing tenants as vacancies arise. However, the form and substance of all leases shall not vary from the Master Lease, as approved by City Council. City must approve leases prior to execution, renewal or expansion.

Vendor will promptly notify City of tenant delinquencies, and with City's written approval, terminate tenancies by signing and serving required notices and taking such actions as are deemed appropriate and necessary.

Variations of the City created Master Lease, and any amendment or expansion to an existing lease, may require formal action of the Glendale City Council at a regularly scheduled City Council meeting, and Vendor shall inform prospective and existing tenants of City requirements and timing during negotiation.

Customary Services – Unless City makes other arrangements, Vendor shall contract for all customary services including, but not limited to, janitorial services, landscaping services, security services, warehousing and storage, and air conditioning maintenance.

Repairs and Maintenance- Vendor shall arrange for and supervise all repairs, replacements, alterations, additions, improvements, and maintenance of the Property that are included in the approved budget, with ongoing input from City.

Construction Management –Vendor shall procure and oversee routine or capital improvements to the Property/ies, and shall also act, at the City's request, as construction manager for tenant improvements. Construction management, for the purposes of this Agreement, means planning, coordinating and overseeing construction projects, in whole or in part, as a representative of the City. Construction management includes, but is not limited to, scheduling and coordinating design of the Project; selecting, hiring, and overseeing specialty trade contractors; ensuring the safety of employees and the general public; and overseeing the quality and timeliness of the construction.

In connection with authorized construction work, Vendor may:

- (a) Provide prospective or renewing tenants with space planning services, including, without limitation, by preparing working drawings, to the extent Vendor reasonably believes those types of services would attract or retain tenants and the expenses are included in the City's budget for the operation and maintenance of the Property ("Approved Budget"); and
- (b) Arrange for routine or minor capital improvements for the Property in accordance with the Approved Budget; and
- (c) Upon the written request or with the written approval of Property Manager, arrange for major capital improvements for the Property.

Competitive Bids – Except for vendors with a current service contract with Vendor and/or City, Vendor shall obtain at least three quotations from qualified contractors and vendors for services up to \$50,000.00. Any services exceeding \$50,000.00 will be made in compliance with the Glendale City Code, Chapter 2, Article V. City may request documentation from Vendor that contractors under current service contracts were obtained in compliance with the City's Purchasing Ordinance.

**EXHIBIT B**  
**Services Agreement**  
**SCOPE OF WORK**

Parking Management-A component of Parking Garage management includes parking space allotments for 1) City's tenants at Promenade at Paltaire and 2) parking allotment for adjacent 5800 West Glenn Drive property per parking agreement, including an annual operating expense reimbursement from 5800 West Glenn Drive.

Governmental Requirements -Vendor shall notify the City of any notices from governmental agencies within 24 hours of receipt. At request of City, Vendor will take any actions necessary to ensure compliance with governmental requirements.

Employees -Vendor shall employ or cause an entity under its control to employ such staff as necessary to fulfill its duties under this Agreement. Employee expenses not reflected in the Approved Budget are not authorized without prior written approval by the City. All persons engaged by Vendor pursuant to this Agreement are considered employees of Vendor and not of City. Vendor shall: (a) pay all wages and other benefits payable to its employees; (b) maintain adequate payroll records for all of its employees; (c) remit to the proper governmental authorities all required income and social security withholding taxes, unemployment insurance payments, workers' compensation payments and any other amounts with respect to wages and other benefits payable to such employees as may be required under applicable laws, together in each case with all required reports or other filings, and (d) obtain, maintain and administer all medical, disability and other insurance and other fringe benefits as may be required by law. Vendor shall ensure that all employees who handle funds are bonded by a fidelity bond in an amount sufficient to cover all loss or theft of funds.

Office -Vendor shall maintain an office within the State of Arizona, preferably within the Phoenix Metropolitan area.

Advertising and Public Relations-Vendor shall be responsible for any advertisements relating to the leasing of the Property. All advertising and promotional contracts will adhere strictly to the Approved Property/ies Budget(s) unless the City specifically directs otherwise in writing. Upon request of City, Vendor shall provide copies or other proof of the advertising efforts employed by Vendor relative to the Property. At City request, Vendor shall cooperate with the City for events and promotional activities in the downtown area that may affect tenants or the building.

**EXHIBIT C**  
**Services Agreement**  
**SCHEDULE**

Unless otherwise directed by City, Vendor shall provide the following, separately for the Properties

- 1) Parking Garage; and
- 2) Promenade at Palmyra.

Monthly reports per Scope of Work

Operating Income and Expense  
Budget Status

Annual reports per Scope of Work

Budget Proposal  
Year End

Periodic reports

Sales tax reports  
Final Accounting  
City and/or External Audits  
As requested by City from time to time

**EXHIBIT D**  
**Services Agreement**  
**COMPENSATION**

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$138,000.

**DETAILED PROJECT COMPENSATION**

See Contractor's Pricing Schedule in response to RFP 21-43.

**PRICE SCHEDULE**

<b>PROPERTY MANAGEMENT SERVICES</b>	
Description	Fees
Property Management Fee as per Scope of Work  Promenade at Palmaire Retail 5835 W. Palmaire Ave., Glendale, AZ 85301	<u>\$900.00</u> Flat Fee Per Month  OR  3% of Gross Monthly Rents Collected, whichever is greater
Property Management Fee as per Scope of Work  Parking Garage 5835 W. Palmaire Ave., Glendale, AZ 85301	<u>\$500.00</u> Flat Fee Per Month
<b>LEASING SERVICES</b>	
Leasing Fee for <b>NEW LEASES</b> as per Scope of Work  Promenade at Palmaire Retail 5835 W. Palmaire Ave, Glendale, AZ 85301	6% of Gross Income of the Lease Agreement
Leasing Fee for <b>LEASE RENEWALS</b> as per Scope of Work  Promenade at Palmaire Retail 5835 W. Palmaire Ave, Glendale, AZ 85301	3% of Gross Income of the Lease Agreement

CONSTRUCTION MANAGEMENT SERVICES	
Description	Fees
Construction Management Services Fee as per Specifications Promenade at Palmaire Retail 5835 W. Palmaire Ave., Glendale, AZ	3% of the Total Cost of the Construction Contract
Construction Management Services Fee as per Specifications Parking Garage 5835 W. Palmaire Ave., Glendale, AZ	3% of the Total Cost of the Construction Contract

**DISCOUNT/PAYMENT TERMS:** The City standard is 2% 20 days

Comply: YES  NO

If your answer is NO, please state terms offered: N/A

**PAYMENT** Vendor shall provide monthly statements of itemized services. Payment will be reviewed and approved by the Contract Administrator or designee. The itemized statement shall not exceed the proposal fee in this Section.