

## **AGREEMENT FOR SERVICES**

This Agreement is made and entered into this 16<sup>th</sup> day of November, 2020, by and between **THE LA HABRA HOUSING AUTHORITY**, (hereinafter referred to as the “**AUTHORITY**”), and **AUGUSTA COMMUNITIES, LLC**, (hereinafter referred to as the “**CONSULTANT**”).

### **RECITALS**

WHEREAS, **AUTHORITY** requires professional services for asset management, property management, and manufactured housing consulting related to Park La Habra Mobile Homes and View Park Mobile Home Estates located at 1731 West Lambert Road and 1750 West Lambert Road (collectively, the “Project”); and

WHEREAS, the **CONSULTANT** represents that it is qualified and experienced to provide such services; and

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions herein contained, **AUTHORITY** and **CONSULTANT** hereby agree as follows:

### **ARTICLE I** **SCOPE OF SERVICES; TERM**

#### 1.1 General Scope of Services.

A. **AUTHORITY** hereby engages **CONSULTANT**, and **CONSULTANT** hereby accepts such engagement, to perform the various services set forth in Attachment “A” (the documents contained in Attachment “A” shall be hereinafter referred to as the “Scope of Work”).

B. All professional services to be provided by **CONSULTANT** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence, and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices.

C. Warranty: **CONSULTANT** warrants that it shall perform the professional services required by this Agreement in compliance with the federal and California laws related to minimum hours and wages, including but not limited to, 40 U.S.C.A. §§ 3141, et seq., California Labor Code, §§ 1171, et seq. and California Labor Code, §§ 6300, et seq.; fair employment practices, including but not limited to, 29 U.S.C. 651, et seq.; and fair employment, including but not limited to, 29 U.S.C. 201, et seq., The California Fair Employment and Housing Act California Government Code, §§ 12900, et seq., Title VI of the Civil Rights Act of 1964, as amended, 49 CFR 21 through appendix H and 23 CFR 710.405 (b); and

all other federal, state and local laws and ordinances applicable to the work required under this Agreement.

D. Non-exclusive Agreement. **CONSULTANT** acknowledges that **AUTHORITY** may enter into agreements similar to this Agreement with other consultants.

## 1.2 Term.

The term of this Agreement shall begin on the date of the Agreement and continue for 60 months or until such time as it is terminated pursuant to the provisions in Article V of this Agreement.

## **ARTICLE II** **RESPONSIBILITIES OF CONSULTANT**

### 2.1 Control and Payment of Subordinates.

**AUTHORITY** retains **CONSULTANT** as an independent contractor and not an employee of **AUTHORITY**. All personnel to be utilized by **CONSULTANT** in the performance of this Agreement shall at all times be under **CONSULTANT'S** exclusive direction and control. **CONSULTANT** shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. **CONSULTANT** shall be responsible for all reports and obligations with respect to such personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

### 2.2 Conformance to Applicable Requirements.

All services provided by **CONSULTANT** shall be in accordance with the Scope of Work set forth in Attachment A of this Agreement.

### 2.3 Standard of Care; Licenses.

All professional services to be provided by **CONSULTANT** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices. **CONSULTANT** represents and warrants to **AUTHORITY** that it has all licenses, permits, qualifications and approvals that are legally required to practice its profession and to provide the services hereunder. **CONSULTANT** further represents and warrants that it shall keep in effect all such licenses, permit, and other approvals during the term of this Agreement.

## 2.4 Project Representatives.

The Executive Director or his designee shall be the Project Representative of **AUTHORITY** for purposes of this Agreement and may issue all consents, approvals, directives and agreement on behalf of **AUTHORITY**, called for by this Agreement except as otherwise expressly provided in this Agreement. **CONSULTANT'S** Executive Director or her designee shall be the project representative for the **CONSULTANT**. **CONSULTANT'S** project representative shall coordinate all phases of this project and shall be available to **AUTHORITY** at all reasonable times.

## 2.5 Accounting Records.

**CONSULTANT** shall maintain complete and accurate records with respect to costs and expenses incurred in the performance of this Agreement. All such records shall be clearly identifiable as being associated with this Agreement. **CONSULTANT** shall allow an authorized representative of **AUTHORITY**, during normal business hours, to examine, audit, and make transcripts of copies of such records. **CONSULTANT** shall allow **AUTHORITY** to inspect all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment (or completion of work) under this Agreement.

## ARTICLE III COMPENSATION

### 3.1 Compensation.

**CONSULTANT** compensation for services detailed in Exhibit A – Scope of Work shall not exceed \$470,000 and will be adjusted annually beginning in November 2021 by the percentage change in the CPI for Consumer Price Index, Los Angeles-Long Beach-Anaheim, All Items, 1982-84=100 base, All Urban Consumers (CPI-U) published the month prior to the first month of the **AUTHORITY'S** preceding fiscal year.

**CONSULTANT** shall not receive compensation for any services provided outside the Scope of Work unless such additional services (hereinafter “Extra Work” as defined in Section 3.3) are approved in writing by **AUTHORITY** or its appointed representative prior to **CONSULTANT** performing the Extra Work.

### 3.2 Payment of Compensation.

**CONSULTANT** shall draw the fee for services directly for the Park La Habra and View Park Mobile Home Estates from the operating account at the beginning of the first day of the contract and thereafter at the beginning of each calendar month and will be paid in separate amounts to the Property Manager and the **CONSULTANT**.

### 3.3 Extra Work.

At any time during the term of this Agreement, **AUTHORITY** may request that **CONSULTANT** perform Extra Work. As used herein, "Extra Work" means any work which is determined by **AUTHORITY** to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. **CONSULTANT** shall not perform Extra Work until receiving prior written authorization (unless in the case of emergency) from **AUTHORITY'S** Project Representative. It is specifically understood and agreed that oral requests and/or approvals of Extra Work shall be barred and are unenforceable.

If **AUTHORITY** requests Extra Work for services not described in Exhibit A, including work that requires a dealer license, capital project management, additional personnel request, special projects or resident services such on-site organized recreation activities, **AUTHORITY** will pay the **CONSULTANT** for such additional services an amount agreed upon by the parties in writing prior to the commencement of such Extra Work.

### 3.4 Amendment of Scope of Work.

**AUTHORITY** shall have the right to amend the Scope of Work within the Agreement by written notification to the **CONSULTANT**. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Failure of **CONSULTANT** to secure **AUTHORITY'S** written authorization for "Extra Work" or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate **AUTHORITY** authorization.

### 3.5 Reimbursement for Expenses

**CONSULTANT** shall not be reimbursed for any expenses unless prior written authorization is obtained from **AUTHORITY**. Insurance expenses, or other expenses related to the unique requirements of this agreement, or that were unforeseen as of the date of the Agreement, are considered a reimbursable expense upon written authorization of **AUTHORITY**.

## **ARTICLE IV** **INSURANCE**

### 4.1 Insurance Requirements.

**AUTHORITY** reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the existing policies do not meet the Insurance

Requirements set forth herein, **CONSULTANT** agrees to amend, supplement or endorse the policies to do so.

Without limiting the indemnity provisions of the Contract, the **CONSULTANT** shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance.

The Insurance obligations under this agreement shall be the minimum Insurance coverage requirements and/or limits shown in this agreement. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the **AUTHORITY**. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the **CONSULTANT** under this agreement.

#### 4.2 Minimum Scope and Limits of Insurance.

- 1) Commercial General Liability (CGL) which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence. 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.
- 2) Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with limit no less than \$1,000,000 each accident for bodily injury and property damage. Such insurance shall include coverage for owned, hired and non-owned automobiles.
- 3) Workers' Compensation as required by the State of California with statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease.
- 4) Professional Liability with limit of not less than \$1,000,000 each claim and \$2,000,000 aggregate. Covered Professional Services shall specifically include all work to be performed under the contract and delete any exclusion that may potentially affect the work to be performed.
- 5) Bond Crime Comprehensive Crime Coverage, including employee dishonesty/fidelity coverage, covering the theft, loss or destruction of money and securities, in an amount not less than \$2,000,000.

### 4.3 Endorsements

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to **AUTHORITY** for approval. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) Commercial General Liability

- (1) **Additional Insured: AUTHORITY** and the City of La Habra, their elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the **CONSULTANT** including materials, parts or equipment furnished in connection with such work or operations.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of **CONSULTANT**
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Contract

Additional Insured Endorsements shall be at least as broad as ISO Form(s) CG 20 10 11 85; or CG 20 10 and CG 2037.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

(b) Auto Liability

- (1) **Additional Insured:** The **AUTHORITY** and the City of La Habra, their elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with

regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the **CONSULTANT**.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(c) **Workers' Compensation**

- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

4.4 [reserved].

4.5 Notice of Cancellation

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the **AUTHORITY** except ten (10) days shall be allowed for non-payment of premium.

4.6 Waiver of Subrogation

Required insurance coverages shall not prohibit **CONSULTANT** from waiving the right of subrogation prior to a loss. **CONSULTANT** shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the **AUTHORITY** has received a waiver of subrogation endorsement from the insurer.

4.7 Evidence of Insurance

All policies, endorsements, certificates, and/or binders shall be subject to approval by the **AUTHORITY** as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the **AUTHORITY**. The **AUTHORITY** reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the **AUTHORITY**. If such coverage is cancelled or reduced, **CONSULTANT** shall, within ten (10) days after receipt of written

notice of such cancellation or reduction of coverage, file with the **AUTHORITY** evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

#### 4.8 Deductible or Self-Insured Retention

Any deductible or self-insured retention must be approved in writing by the **AUTHORITY** and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The **AUTHORITY** may require the **CONSULTANT** to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

#### 4.9 Contractual Liability

The coverage provided shall apply to the obligations assumed by the **CONSULTANT** under the indemnity provisions of this Agreement.

#### 4.10 Failure to Maintain Coverage

**CONSULTANT** agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the **AUTHORITY**. The **AUTHORITY** shall have the right to withhold any payment due until **CONSULTANT** has fully complied with the insurance provisions of this Agreement.

In the event that the **CONSULTANT**'s operations are suspended for failure to maintain required insurance coverage, the **CONSULTANT** shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

#### 4.11 Acceptability of Insurers

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the **AUTHORITY**.

#### 4.12 Claims Made Policies

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of this Agreement with the **AUTHORITY** and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

#### 4.13 Insurance for Subcontractors.

**CONSULTANT** shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Contract/Agreement, including adding the City of La Habra as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractor's policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as broad as CG 20 38 04 13. **CONSULTANT** will add subcontractor as additional insured to **CONSULTANT'S** Commercial General Liability policy. All other insurances will be provided by subcontractor.

#### 4.14 Indemnification and Hold Harmless.

**CONSULTANT** and Property Manager shall defend, indemnify, hold free and harmless **AUTHORITY**, its officers, officials, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless **AUTHORITY**, its officers, officials, employees, and designated agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including but not by way of limitation, all civil claims, worker's compensation claims, and all other claims resulting from or arising out of the acts, or errors or omissions of **CONSULTANT**, its employees, whether intentional or negligent, in the performance of this Agreement. **CONSULTANT** shall indemnify, hold free and harmless **AUTHORITY** for the acts of **CONSULTANT'S** employees, **CONSULTANT** and subcontractors including Property Manager. The defense obligation shall be provided without any advance showing or negligence or wrongdoing by **CONSULTANT**.

These Indemnification provisions are independent of and shall not in any way be limited by the Insurance Requirements of this Agreement. City of La Habra approval of the Insurance contracts required by this Agreement does not in any way relieve the **CONSULTANT** from liability under this section.

**AUTHORITY** shall defend, indemnify, hold harmless **CONSULTANT** and Property Manager, shall defend, indemnify, hold free and harmless **CONSULTANT** and Property Manager its officers, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons,

and shall defend, indemnify, save and hold harmless **CONSULTANT** and Property Manager, their respective officers, employees, agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including but not by way of limitation, all civil claims, worker's compensation claims, and all other claims resulting from or arising out of the acts, errors or omission of **AUTHORITY**, its employees and or authorized consultants and contractors, whether intentional or negligent, in the performance of this Agreement.

#### 4.15 Additional Insurance.

Further, **CONSULTANT** shall obtain any additional kinds and amounts of insurance which, in its own judgment, may be necessary for the proper protection of any of its officers', employees', or authorized sub-contractors consultants' own actions during the performance of this Agreement.

### **ARTICLE V** **TERMINATION AND INDEMNIFICATION**

#### 5.1 Notice of Termination.

**AUTHORITY** and **CONSULTANT** may terminate the whole or any part of this Agreement at any time for cause by giving seven (7) days written notice of such termination, and specifying the effective date thereof. **CONSULTANT** shall discontinue all services affected by such termination within seven (7) days of receipt of such notice, unless otherwise instructed by **AUTHORITY** in writing. **CONSULTANT** shall not terminate this Agreement except for cause.

#### 5.2 [reserved]

#### 5.3 Termination for Cause.

Should **CONSULTANT** default in the performance of any covenant, condition, or agreement contained in this Agreement and the default is not cured within thirty (30) days after written notice of the default is served on **CONSULTANT** by **AUTHORITY** then **AUTHORITY**, in addition to any other remedies at law or equity, may terminate this Agreement. **CONSULTANT** shall be compensated for services which have been completed and accepted by **AUTHORITY**. **CONSULTANT** shall be liable to **AUTHORITY** for any reasonable additional costs incurred to correct or cure unsatisfactory work performed by **CONSULTANT** which, at **AUTHORITY'S** discretion, must be revised, in part or in whole, to complete the Project.

#### 5.4 [reserved]

#### 5.5 Work Product.

In the event of termination of this Agreement, all finished or unfinished design, development and construction documents, data studies, drawings, maps

and reports prepared by **CONSULTANT** shall be delivered to the **AUTHORITY** within seven (7) days of **CONSULTANT'S** receipt of termination notice, and at no additional cost to **AUTHORITY**. Any use of uncompleted documents without specific written authorization from **CONSULTANT** shall be at **AUTHORITY'S** sole risk and without liability or legal expense to **CONSULTANT**.

#### 5.6 Indemnification and Hold Harmless.

**CONSULTANT** and Property Manager shall defend, indemnify, hold free and harmless **AUTHORITY**, its officers, officials, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless **AUTHORITY**, its officers, officials, employees, and designated agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, worker's compensation claims, and all other claims resulting from or arising out of the acts, errors or omissions of **CONSULTANT**, its employees, whether intentional or negligent, in the performance of this Agreement. **CONSULTANT** shall indemnify, hold free and harmless **AUTHORITY** for the acts of **CONSULTANTS** employees, **CONSULTANT** and subcontractors including Property Manager. The defense obligation shall be provided without any advance showing or negligence or wrongdoing by **CONSULTANT**.

These Indemnification provisions are independent of and shall not in any way be limited by the Insurance Requirements of this Agreement. **AUTHORITY** approval of the Insurance contracts required by this Agreement does not in any way relieve the **CONSULTANT** from liability under this section.

**AUTHORITY** shall defend, indemnify, hold free and harmless **CONSULTANT** and Property Manager, shall defend, indemnify, hold free and harmless **CONSULTANT** and Property Manager, its officers, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless **CONSULTANT** and Property Manager, their respective officers, employees, agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, worker's compensation claims, and all other claims resulting from or arising out of the acts, errors or omission of **AUTHORITY**, its employees and or authorized consultants and contractors, whether intentional or negligent, in the performance of this Agreement.

## **ARTICLE VI** **GENERAL PROVISIONS**

### 6.1 Notices.

All notices and written communications sent by one party to the other shall be personally delivered or sent by registered or certified U.S. Mail postage prepaid, return receipt requested to the following addresses indicated below:

IF TO CITY: EXECUTIVE DIRECTOR  
P.O. Box 337  
La Habra, Ca. 90631

TO CONSULTANT: AUGUST COMMUNITIES, LLC  
Attention: Executive Director  
400 N. Mountain Avenue, Suite 205  
Upland, California 91786

The effective date of any notice or written communications sent by one party to the other shall be the date received if by personal service, or 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark.

#### 6.2 Entire Agreement.

This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreement whether verbal or written, concerning the same subject matter. This Agreement may be modified only by a writing signed by both parties.

#### 6.3 Successors and Assigns.

This Agreement shall be binding on the successors and assigns of the parties. This Agreement may not be sold, transferred or assigned by either party, or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such sale, transfer or assignment, or attempted sale, transfer or assignment without written permission, may be deemed by the other party to constitute a voluntary termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

#### 6.4 Subcontracts.

**CONSULTANT** shall not subcontract any portion of the work required by this Agreement without prior written approval of **AUTHORITY**. All approved subcontracts, if any, shall be accomplished by a written instrument. Such instrument shall contain an expressed assumption by the subcontractor of all conditions and terms and covenants contained in this Agreement.

#### 6.5 Equal Opportunity Employment.

**CONSULTANT** represents that it is an equal opportunity employer and shall not discriminate either directly or indirectly against an employee or applicant for employment with **CONSULTANT** on the basis of race, color, religion, national

origin, ancestry, sexual preference, sex or age. **CONSULTANT** shall also take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, national origin, ancestry, sexual preference, sex, age, or other prohibited grounds.

#### 6.6 Attorney's Fees.

If either party commences a legal action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover reasonable attorney's fees and costs of suits.

#### 6.7 Governing Law.

This Agreement shall be governed by and construed with the laws of the State of California. Any Action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Orange.

#### 6.8 Time of Essence.

Time is of the essence for each and every provision of this Agreement.

#### 6.9 [reserved]

#### 6.10 Covenant Against Contingent Fees.

**CONSULTANT** warrants that he/she/it has not employed or retained any company or person, other than a bona fide employee working with **CONSULTANT**, to solicit or secure this Agreement, and that he/she/it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, **AUTHORITY** shall have the right to annul this Agreement without liability or, in its discretion to deduct from **CONSULTANT'S** compensation provided under this Agreement, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

#### 6.11 Conflict of Interest.

**CONSULTANT** covenants that he/she/it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. **CONSULTANT** further covenants that in the performance of this Agreement, no person having any such conflict of interest shall be employed by **CONSULTANT**.

#### 6.12 Statement of Economic Interest.

If **AUTHORITY** determines **CONSULTANT** comes within the definition of **CONSULTANT** under the Political Reform Act (Government Code §87100 et. seq.), **CONSULTANT** shall complete and file and shall require any other person doing work under this Agreement, to complete and file a "Statement of Economic Interest" with the City Clerk of the City of La Habra disclosing **CONSULTANT** and/or such other person's financial interests.

#### 6.13 No Waiver of Breach; Time.

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

#### 6.14 Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

#### 6.15 Taxes.

**CONSULTANT** agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. **CONSULTANT** agrees to indemnify and hold **AUTHORITY** harmless from any liability which it may incur to the United States or to the State of California as a consequence of **CONSULTANT'S** failure to pay, when due, all such taxes and obligations.

#### 6.16 Compliance With Law.

**CONSULTANT** shall comply with applicable federal, state and local laws, rules and regulations affecting the **CONSULTANT** and his/her/its work hereunder.

#### 6.17 Title to Documents.

Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by **CONSULTANT** under the Agreement shall be vested in **AUTHORITY**, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of **AUTHORITY**. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to **AUTHORITY** without restriction or limitations on their use. **CONSULTANT** may retain copies of the above described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written

permission of **AUTHORITY** during the term of this Agreement or until ninety (90) days after receipt of final payment from **AUTHORITY**.

6.18 Validity.

The validity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provisions of this Agreement.

6.19 Headings.

Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

6.20 Counterparts.

This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

6.21 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provision of this Agreement.

6.22 Confidentiality.

All findings, reports, information and exhibits prepared or assembled by **CONSULTANT** in connection with the performance of its professional services pursuant to this Agreement are confidential and **CONSULTANT** agrees that they shall not be made available to any individual or organization without the prior consent of **AUTHORITY**. All findings, reports, information and exhibits shall become the property of **AUTHORITY**.

6.23 Responsibility for Errors.

**CONSULTANT** shall be responsible for its own work and results under this Agreement, and shall not be responsible for any work by **AUTHORITY** performed prior to the date of this Agreement or for any other acts or omissions directly attributable to **AUTHORITY**. **CONSULTANT**, when requested, shall furnish clarification and/or explanation as may be required by **AUTHORITY** regarding any services rendered under this Agreement at no additional cost to **AUTHORITY**. In the event that an error or omission attributable to **CONSULTANT** occurs, then **CONSULTANT** shall, at no cost to **AUTHORITY**, provide all necessary design drawings, estimates and other **CONSULTANT** professional services, as authorized by this Agreement necessary to rectify and correct the matter to the

sole satisfaction of **AUTHORITY** and to participate in any meeting required with regard to the correction.

6.24 Independent Contractor.

The parties hereto acknowledge and agree that the relationship between **AUTHORITY** and **CONSULTANT** is one of principal and independent contractor and no other. Nothing contained in this Agreement shall create or be construed as creating a partnership, a joint venture, employment relations, or any other relationship except as set forth between the parties. The parties specifically acknowledge and agree that **CONSULTANT** is not a partner with **AUTHORITY**, whether general or limited, and no activities of **AUTHORITY** or **CONSULTANT** or statements made by **AUTHORITY** or **CONSULTANT** shall be interpreted by any of the parties hereto as establishing any type of business relationship other than an independent contractor relationship.

This Agreement is made on the express condition and understanding that Suzanne Taylor's personal services are a substantial inducement to **AUTHORITY** for entering into this Agreement. If for any reason Suzanne Taylor should no longer be the responsible manager for **CONSULTANT**, this Agreement shall be subject to immediate termination on written notice from **AUTHORITY**.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the date and year first above written.

**LA HABRA:  
HOUSING AUTHORITY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jim Sadro  
Executive Director

\_\_\_\_\_  
Richard Jones  
Legal Counsel

**ATTEST:**

\_\_\_\_\_  
Laurie Swindell, CMC  
Authority Secretary

**COUNTER SIGNED:**

\_\_\_\_\_  
Suzanne Taylor  
Augusta Communities, LLC

# EXHIBIT “A”

## SCOPE OF WORK

### Scope of Services

Augusta Communities, LLC (the “**CONSULTANT**”) will provide comprehensive , manufactured housing consulting, asset management and property management services designed to lessen the burdens of the La Habra Housing **AUTHORITY** (the “**AUTHORITY**”) and its related agencies, authorities, boards or commissions by undertaking the operation and management of the manufactured housing communities of Park la Habra and View Park (the “Communities), and for developing specialized affordable housing and resident services programs for the benefit of the low and moderate income households who reside in the Communities, in furtherance of its collective affordable housing goals.

In consideration of the services to be provided by the **CONSULTANT** pursuant to this Agreement, **CONSULTANT** will provide the following services:

### Services to be Provided

- 1) The **CONSULTANT** shall be responsible for developing and implementing the management and operational strategy of the Communities, implementing **AUTHORITY** housing policies and developing programs to meet its housing goals, addressing resident concerns, preparing budgets, hiring and overseeing property management, managing professional services, improving operational efficiencies, reducing potential risks and liabilities, monitoring and executing changes related to ever-changing manufactured housing residency, rental housing and fair housing laws (including those related to COVID-19), developing and managing affordable housing and resident services programs, collecting and analyzing community demographic information and measuring resident satisfaction, preparing key-indicator and financial reports, overseeing improvement projects, working closely with City of La Habra and **AUTHORITY** staff, working with specialized legal counsel, and providing specialized manufactured housing and affordable housing consulting services.
- 2) The **CONSULTANT** and the **AUTHORITY** will develop and implement a communication plan acceptable to both parties that will redirect resident inquiries, complaints, requests and other communications to the **CONSULTANT** and away from the **AUTHORITY**.
- 3) **CONSULTANT** will develop an annual work program, including an on-site staffing and staff housing plan, with project milestones, and present it to the **AUTHORITY** for its consideration and approval as part of the annual budgeting process. Such work program can be modified upon mutual written agreement by **CONSULTANT** and **AUTHORITY**.
- 4) A representative from the **CONSULTANT** will visit the Communities for purposes of inspection and to meet with on-site staff not less than one time per month for the term of the Agreement.

- 5) At the request of **AUTHORITY**, **CONSULTANT** will prepare reports and presentations, or meet with **AUTHORITY** staff, related agencies, authorities, boards or commissions or community members.
- 6) The **CONSULTANT** will prepare and submit to the following reports:
  - a) Monthly financial statements including the statement of income, balance sheet, cash flow, budget variances. In the event revenues are less than 90% of budget for any two consecutive months, or in the event operations and maintenance costs exceed 110% of the budget for any two consecutive months, the **CONSULTANT** will contact the **AUTHORITY** to discuss reasons for budget variance.
  - b) Monthly at-a-glance management report (revenue variance, expense variance and ratios, NOI, maintenance, homes sales, capital improvements, home rehabilitation, requisition summaries, delinquency, occupancy, average rent, legal actions, turnover, new move ins, 3/60 notices, 60-day notices, complaints, clubhouse events, financial assistance or housing credits, etc.)
  - c) Quarterly income eligibility and affordability compliance reports.
  - d) Comprehensive annual report (financial statements, historical operating results, capital improvements, affordability and resident services).
  - e) The **CONSULTANT** will prepare and file all compliance reports required by the **AUTHORITY**, **AUTHORITY** or other regulatory agency as directed.
- 7) The **CONSULTANT** will conduct regular homeowners' meetings (meetings will be held quarterly in year one and bi-annually, thereafter).
- 8) The **CONSULTANT** will conduct a monthly inspection of the Project and provide notice to the Property Manager of any significant deficiencies. If deficiency cannot be corrected within a reasonable period of time, the **CONSULTANT** will notify the **AUTHORITY**.
- 9) Annually, the **CONSULTANT** will recertify the income of the occupants of the Communities through an income certification process developed by the **CONSULTANT** and approved by the **AUTHORITY**.
- 10) The **CONSULTANT** will prepare the annual budget to the **AUTHORITY** at least 90 days prior to the beginning of the Communities' fiscal year. The **AUTHORITY** will provide written comments to the **CONSULTANT** on the proposed budget within 30 days of the receipt of the proposed budget from the **CONSULTANT**. The **CONSULTANT** will submit a final budget within 15 days, thereafter. For any item in a budget for which the **AUTHORITY** disagrees representatives of the **CONSULTANT** and the **AUTHORITY** will meet and confer in good faith to attempt to reach a compromise. In the event that no agreement is reached or no budget is approved, the treatment given

to such item in the prior year's annual budget will be followed to ensure the continuing operation of the Communities.

- 11) The **CONSULTANT** will reasonably cooperate with and make available to **AUTHORITY** the books, records and other materials such persons may reasonably request, including full with the **AUTHORITY's** auditors.
- 12) **CONSULTANT**, its agents, representatives, employees or subconsultants shall use commercially reasonable efforts to enforce the terms of all leases and to collect all rents and other charges due from or payable by tenants, concessionaries, if any and others in accordance with the leases and authorized use of the Project. **AUTHORITY** authorizes **CONSULTANT** to request, demand, collect, receive and receipt for all such rent and other charges and, subject in each instance to the prior written approval of **AUTHORITY** (except that such approval shall not be required for the write off of any late charges or default interest payable by a tenant or to write off not more than Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00) in a tenant's other monetary obligations under its lease), to settle or compromise the payment of such amounts of such amounts.
  - a) All preliminary enforcement actions, including dunning letters and threats of litigation, and all preparation for the monitoring of litigation and settlement of claims, shall be performed by **CONSULTANT**. **CONSULTANT** shall provide written notice to **AUTHORITY** of any legal proceedings instituted for the collection of rent or for the dispossession of tenants in the normal course of operations. All legal proceedings for the collection of rent or dispossession of tenants shall be conducted by counsel approved in writing by the **AUTHORITY** and the fees for such services shall be billed to Project by such counsel and paid by Project as and when due. **CONSULTANT** shall notify all tenants of the Project of any rules, regulations or notices, which may be promulgated by **AUTHORITY**.
- 13) The **CONSULTANT** will retain and manage a third party independent professional property management firm that specializes in manufactured housing communities ("Property Manager").
  - a) **CONSULTANT** will enter into property management agreement with the property management firm, which is subject to review and approval by the **AUTHORITY**.
  - b) The Property Manager must be acceptable to the **AUTHORITY**, which for purposes hereof is Les Frame Enterprises, Inc. and is accepted as the Property Manager in accordance with the terms and conditions substantially described in Exhibit "B" attached hereto.
  - c) The Property Manager will immediately actively engage in the management of the Communities at the staffing levels directed by the Consultant.
  - d) The duties of the Property Manager include, but are not limited to, management of the day-to-day operation of the Communities including providing excellent customer service, closely managing revenue and

expenses, evaluating resident applications, preparing and executing rental agreements, enforcing rules and regulations, resolving disputes, close coordination with legal counsel, implementing affordable housing programs, preparing rent statements, collecting rents, managing and paying vendors, managing vendors, providing 24-hour management response, and preparing various financial and operations reports, operating and maintaining all common area interior and exterior improvements and common buildings (exclusive of the mobile homes and tenant spaces), including landscaping, in good condition and repair, including necessary replacements.

- e) The initial on-site staffing levels of the Communities for the Project are as follows:
  - (a) Manager 1 (FT)
  - (b) Manager 2 (FT)
  - (c) Maintenance 1 (FT)
  - (d) Maintenance 2 (PT)
  - (e) Coverage 1 – (PT) stipend/rent credit, plus hourly for properly documented work time
- f) All work performed by the Property Manager must be accomplished in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies.
- g) The Property Manager will make every reasonable effort to employ a community management team that lives off-site but works on-site during normal operating hours.
- h) The Property Manager will retain an after-hours employee that lives onsite in the Communities to handle after-hours emergencies. The **CONSULTANT** will provide contact information for the person filling this position to the **AUTHORITY**.
- i) The Property Manager will cause a supervisor to visit the Communities for the purpose of inspecting the property and meeting with on-site personnel no less than two times per month.
- j) The **CONSULTANT** will cause the Property Manager to maintain strict enforcement of all rules and regulations applicable to the Communities
- k) The **CONSULTANT** will confirm that the Property Manager deposits with the **AUTHORITY** or its agent the revenues generated by the Communities as indicated in a schedule to be provided by the **AUTHORITY**.