

7) **Professional Services Agreement with HELIX Environmental Planning, Inc. for Environmental Documentation for The Cove Project**

Approve and authorize the City Manager to execute an Agreement for Professional Services with HELIX Environmental Planning, Inc. to prepare California Environmental Quality Act (CEQA) compliance documents in the amount not to exceed \$53,400, in such final form as approved by City Attorney.



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Damaris Abraham, Interim Assistant Community Development Director

**Date:** May 9, 2023

**Subject:** Professional Services Agreement with HELIX Environmental Planning, Inc. for Environmental Documentation for The Cove Project

### **Recommendation**

Approve and authorize the City Manager to execute an Agreement for Professional Services with HELIX Environmental Planning, Inc. to prepare California Environmental Quality Act (CEQA) compliance documents in the amount not to exceed \$53,400, in such final form as approved by City Attorney.

### **Background**

The City of Lake Elsinore serves as the lead agency to evaluate the environmental impacts of development projects proposed within the City. The Community Development Department is responsible for the preparation of the necessary information and, depending on the scope and size of the project, will either prepare the environmental documents in-house or have a consultant prepare the documents and studies. The project applicant (3rd & Dexter, LLC) through the application deposit process pays for the cost of preparing the environmental analysis.

### **Discussion**

The applicant has submitted an entitlement application for a new mixed-use development located north side of Dexter Avenue between 2<sup>nd</sup> Street and 3<sup>rd</sup> Street (APNs:377-090-013; 377-090-037; 377-090-039; 377-090-040). The proposed development includes four office buildings totaling 293,024 square feet in floor area, a 312-unit apartment complex and associated improvements on an approximately 23.5-acre site in the Commercial Mixed Use (CMU) zoning district.

The project is required to prepare technical studies such as a Traffic Impact Report, Vehicle Miles Traveled Analysis, Air Quality Report, Greenhouse Gas Emissions Report, Energy Report, Noise Report, Water Quality Management Plan, Hydrology Report, Biological Report, Cultural Resources Report, Phase 1 Environmental Site Assessment, Paleontology Report and a

Geotechnical Report. HELIX will utilize the technical engineering reports and studies to prepare detailed analysis for the project as required by CEQA.

**Fiscal Impact**

The cost of preparing the environmental review will be paid by fees collected from the developer through the City's cost recovery program. All staff administrative time and consultant costs are paid from the applicant's fees. No general fund budgets will be allocated or used for the completion of the CEQA documents for the project.

**Attachments**

Attachment 1- Agreement  
Exhibit A- Proposed Scope of Work

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### ***HELIX ENVIRONMENTAL PLANNING, INC.***

#### ***ENVIRONMENTAL DOCUMENTATION FOR THE COVE PROJECT***

This Agreement for Professional Services (the "Agreement") is made and entered into as of [Click or tap to enter a date.](#), by and between the City of Lake Elsinore, a municipal corporation ("City") and HELIX Environmental Planning, Inc., a California corporation ("Consultant").

#### **RECITALS**

- A. The City has determined that it requires the following professional services:  
CEQA consulting services for The Cove project ("Project")
- B. Consultant has submitted to City a proposal, dated April 21, 2023, attached hereto as Exhibit A ("Consultant's Proposal") and incorporated herein, to provide professional services to City pursuant to the terms of this Agreement.
- C. Consultant possesses the skill, experience, ability, background, certification and knowledge to perform the services described in this Agreement on the terms and conditions described herein.
- D. City desires to retain Consultant to perform the services as provided herein and Consultant desires to provide such professional services as set forth in this Agreement.

#### **AGREEMENT**

1. Scope of Services. Consultant shall perform the services described in Consultant's Proposal (Exhibit A). Consultant shall provide such services at the time, place, and in the manner specified in Consultant's Proposal, subject to the direction of the City through its staff that it may provide from time to time.

2. Time of Performance.

a. Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the professional services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the professional services contemplated pursuant to this Agreement according to the agreed upon performance schedule in Consultant's Proposal (Exhibit A).

b. Performance Schedule. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the Consultant's Proposal (Exhibit A). When requested by Consultant, extensions to the time period(s) specified may be approved in writing by the City Manager.

c. Term. The term of this Agreement shall commence upon execution of this Agreement and shall continue until the services and related work are completed in accordance with the Consultant's Proposal (Exhibit A).

3. Compensation. Compensation to be paid to Consultant shall be in accordance with the fees set forth in Consultants' Proposal (Exhibit A), which is attached hereto and incorporated herein by reference. In no event shall Consultant's compensation exceed fifty three thousand four hundred dollars (\$53,400) without additional written authorization from the City. Notwithstanding any provision of Consultant's Proposal to the contrary, out of pocket expenses set forth in Exhibit A shall be reimbursed at cost without an inflator or administrative charge. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.

4. Method of Payment. Consultant shall promptly submit billings to the City describing the services and related work performed during the preceding month to the extent that such services and related work were performed. Consultant's bills shall be segregated by project task, if applicable, such that the City receives a separate accounting for work done on each individual task for which Consultant provides services. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. City shall pay Consultant no later than forty-five (45) days after receipt of the monthly invoice by City staff.

5. Background Checks. At any time during the term of this Agreement, the City reserves the right to make an independent investigation into the background of Consultant's personnel who perform work required by this Agreement, including but not limited to their references, character, address history, past employment, education, social security number validation, and criminal or police records, for the purpose of confirming that such personnel are lawfully employed, qualified to provide the subject service or pose a risk to the safety of persons or property in and around the vicinity of where the services will be rendered or City Hall. If the City makes a reasonable determination that any of Consultant's prospective or then current personnel is deemed objectionable, then the City may notify Consultant of the same. Consultant shall not use that personnel to perform work required by this Agreement, and if necessary, shall replace him or her with a suitable worker.

6. Suspension or Termination.

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of such notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City, pursuant to Section entitled "Method of Payment" herein.

7. Plans, Studies, Documents.

a. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notepad internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request. City shall have sole determination of the public's rights to documents under the Public Records Act, and any third-party requests of Consultant shall be immediately referred to City, without any other actions by Consultant.

b. Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require that all subcontractors agree in writing that City is granted a nonexclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

c. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

8. Consultant's Books and Records.

a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.

b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

9. Independent Contractor.

a. Consultant is and shall at all times remain as to the City a wholly independent contractor pursuant to California Labor Code Section 3353. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatsoever against City, or bind City in any manner.

b. Notwithstanding any other federal, state and local laws, codes, ordinances and regulations to the contrary and except for the fees paid to Consultant as provided in the Agreement, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

11. Interests of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered

by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

a. will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and

b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

12. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

13. Compliance with Laws.

a. Consultant shall comply with all local, state and federal laws and regulations applicable to the services required hereunder, including any rule, regulation or bylaw governing the conduct or performance of Consultant and/or its employees, officers, or board members.

b. Consultant represents that it has obtained and will maintain at all times during the term of this Agreement all professional and/or business licenses, certifications and/or permits necessary for performing the services described in this Agreement, including a City business license.

14. Licenses. Consultant represents and warrants to City that it has the licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall maintain a City of Lake Elsinore business license.

15. Indemnity. Consultant shall indemnify, defend, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of



law arises from the sole negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

16. Insurance Requirements.

a. Insurance. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, unless modified by the City's Risk Manager, the following insurance policies.

i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City. In the event that Consultant is exempt from Worker's Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California, Consultant shall submit to the City a Certificate of Exemption from Workers Compensation Insurance in a form approved by the City Attorney.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Required commercial general liability coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. No endorsement may be attached limiting the coverage.

iii. Automobile Liability Coverage. Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence. Automobile liability coverage must be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement may be attached limiting the coverage.

iv. Professional Liability Coverage. Consultant shall maintain professional errors and omissions liability insurance appropriate for Consultant's profession for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's services under this Agreement, whether such services are provided by the Consultant or by its employees, subcontractors, or sub consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis, or a combined single limit per occurrence basis.

b. Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

i. Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered by all policies, except for Workers' Compensation, shall bear an endorsement whereby it is provided that, the City and its officers, employees, servants, volunteers and agents and independent contractors, including without limitation, the City Manager and City Attorney, are named as additional insureds. Additional insureds shall be entitled to the full benefit of all insurance policies in the same manner and to the same extent as any other insureds and there shall be no limitation to the benefits conferred upon them other than policy limits to coverages.

ii. This policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

vi. The insurance provided by this Policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the City.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

d. Certificates of Insurance. Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

17. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: City of Lake Elsinore  
Attn: City Manager  
130 South Main Street  
Lake Elsinore, CA 92530

With a copy to: City of Lake Elsinore  
Attn: City Clerk  
130 South Main Street  
Lake Elsinore, CA 92530

If to Consultant: HELIX Environmental Planning, Inc.  
Attn: Vanessa Toscano  
7578 El Cajon Boulevard  
La Mesa, CA 91942

18. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant and the subcontractors listed in Exhibit B. Consultant shall be fully responsible to City for all acts or omissions of any subcontractors. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement except as provided in Exhibit B without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of those subcontractors. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

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

20. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

21. Mediation. The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and share the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS or its successor in interest. JAMS shall provide the parties with the names of five qualified mediators. Each party shall have 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.

22. Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

23. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Consultant agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the parties that, in connection with the Work or Services provided pursuant to this Agreement, Consultant shall bear all risks of payment or non-payment of prevailing wages under California law, and Consultant hereby agrees to defend, indemnify, and hold the City, and its officials, officers, employees, agents, and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

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

26. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Riverside.

27. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to

make this Agreement and to bind each respective party. The City Manager is authorized to enter into an amendment or otherwise take action on behalf of the City to make the following modifications to the Agreement: (a) a name change; (b) grant extensions of time; (c) non-monetary changes in the scope of services; and/or (d) suspend or terminate the Agreement.

28. Counterparts. This Agreement 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 hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

29. Entire Agreement; Incorporation; Conflict. This Agreement contains the entire understanding between the parties relating to the obligations described herein. All prior or contemporaneous understandings, agreements, representations and statements, oral or written, are superseded in total by this Agreement and shall be of no further force or effect. Consultant's Proposal is incorporated only for the description of the scope of services and/or the schedule of performance and no other terms and conditions from such proposal shall apply to this Agreement unless specifically agreed to in writing. In the event of conflict, this Agreement shall take precedence over those contained in the Consultant's Proposal.

30. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

[Signatures on next page]

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

“CITY”

CITY OF LAKE ELSINORE, a municipal corporation

“CONSULTANT”

HELIX Environmental Planning, Inc., a California Corporation

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
By: Vanessa Toscano  
Its: Environmental Planning Group  
Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Assistant City Manager

Attachments: Exhibit A – Consultant’s Proposal  
Exhibit B – List of Subcontractors

EXHIBIT A  
CONSULTANT'S PROPOSAL  
[ATTACHED]

EXHIBIT B  
LIST OF SUBCONTRACTORS  
[ATTACHED]



HELIX Environmental Planning, Inc.  
7578 El Cajon Boulevard  
La Mesa, CA 91942  
619.462.1515 tel  
619.462.0552 fax  
[www.helixepi.com](http://www.helixepi.com)



April 21, 2023

Kevin Beery, Associate Planner  
City of Lake Elsinore  
Community Development Department, Planning Division  
130 South Main Street  
Lake Elsinore, CA 92530  
[kbeery@lake-elsinore.org](mailto:kbeery@lake-elsinore.org) | (951) 674-3124 ext. 805

**Subject: Letter Proposal to Provide Environmental Consulting Services for the Lake Elsinore Technology Park and Cover Apartments Project**

Dear Mr. Beery:

HELIX Environmental Planning, Inc. (HELIX) is submitting this letter proposal to the City of Lake Elsinore to provide environmental consulting services for the Lake Elsinore Technology Park and Cove Apartments Project (project) in the City of Lake Elsinore (City), Riverside County (County), California.

The project entails the construction of three 4- to 5-story office buildings encompassing a total of approximately 300,000 square feet, a 3-story parking structure with a partial subterranean level, 312 residential units within fifteen 2- to 3-story buildings, two recreation areas, a dog park, surface parking, detention basins, and landscaping. The project would be constructed within a 22.93-acre site bound by Third Street on the northwest, Dexter Avenue on the southwest, Second Street on the southeast, and Cambern Avenue (unpaved) on the northeast (Assessor Parcel Numbers 377-090-013, -037, -039, -040). The office component would be constructed on 7.71 acres on the western portion of the site with access from Third Street. The residential component would span the central and eastern portions of the site on 15.22 acres.

The project site is located within the Business District with a General Plan land use designation of Commercial Mixed-Use and a corresponding zone classification of Commercial Mixed-Use District. It is currently undeveloped and characterized by open fields with scattered trees and some fencing. Surrounding uses include commercial retail to the north, undeveloped land to the east and west, and an RV park to the south. Interstate 15 is located approximately 550 feet to the west and State Route 74 is approximately 1,300 feet to the north.

## **SCOPE OF SERVICES**

The services to be completed by HELIX include peer review of environmental technical studies, environmental compliance documentation pursuant to the California Environmental Quality Act (CEQA), and environmental project management and meeting attendance.

## Task 1 Peer Review of Draft Technical Studies

HELIX will conduct a peer review of the first draft of technical studies addressing the following:

- Air Quality/Greenhouse Gas (GHG) Emissions/Energy;
- Noise;
- Cultural/Paleontological Resources;
- Biological Resources; and
- Hazardous Materials (Phase 1 Environmental Site Assessment [ESA]).

The first draft of the technical studies identified above, prepared by the applicant's consultant, will be provided to HELIX (including the technical report and any technical appendices) in electronic format (PDF and Word). HELIX will review the first draft technical reports for content, focusing on the scope and adequacy of the technical report to support the CEQA impact analysis for the project. HELIX technical specialists will review the reports addressing air quality/GHG emissions, noise, biology, and cultural resources, and an environmental generalist will review the hazardous materials report. Review of the paleontological resources analysis will be conducted by Material Cultural Consulting as a subcontractor to HELIX. Comments will be provided to the City via an electronic version (Word) in tracked changes format, as well as an electronic version (Excel) of a consolidated technical studies comment matrix in a format acceptable to the City.

HELIX will review one subsequent version of the revised technical reports to confirm that revisions have been incorporated to the satisfaction of the reviewer and City staff. This task also includes HELIX team reviewers' attendance at two, one-hour comment resolution virtual meetings with City staff and the project applicant's consultant(s), if required.

## Task 2 Draft Environmental Compliance Documentation

HELIX will prepare an Initial Study (IS) pursuant to CEQA in the City's standard format that identifies potential environmental effects based on the questions included in the IS checklist. The City's IS checklist is based on Appendix G of the CEQA Guidelines. The IS will include an introduction, a description of the project, an IS environmental checklist, and supporting figures. The IS will summarize the results and conclusions of technical analyses and studies prepared for the project, as well as address each environmental issue in the IS environmental checklist. All technical studies needed to complete the IS will be provided by the City, including, but not limited to, air quality/GHG emissions/energy, noise, cultural/paleontological resources, biological resources, hazardous materials, transportation, geotechnical, and hydrology/water quality. Analysis within the provided technical studies shall be prepared to the satisfaction of the City and will address their respective issues at a sufficient level of detail to support the IS in accordance with CEQA. The City will provide HELIX a list of cumulative projects to include for the cumulative analysis in the IS.

The IS will form the basis for the City to decide as to what CEQA environmental compliance document will be prepared for the project. Based on the information currently available regarding the proposed project, it is anticipated that a Mitigated Negative Declaration (MND) will be the appropriate CEQA documentation for the project; however, should it be determined through review of the IS and technical studies that there is substantial evidence that the project may result in significant and unmitigable environmental impacts, an Environmental Impact Report (EIR) will be required. If the IS concludes that there is the potential for significant effects on the environment which may not be reduced below a

level of significance through avoidance or implementation of mitigation measures, HELIX will immediately inform the City. If the City agrees with this conclusion, then an EIR would be required to be prepared and the scope and fee for this task would be amended accordingly. If there are impacts which can be mitigated either through project design or mitigation measures, an MND would be prepared.

The Draft MND will describe the proposed project including its location, identify potentially significant impacts and the associated mitigation that would avoid or reduce those impacts to less-than-significant levels, and include a finding that the proposed project would not, as mitigated, have a significant effect on the environment.

**Deliverables:**

HELIX will submit a draft IS electronically (in Microsoft Word and PDF formats) for City staff review. HELIX will revise the draft IS one time in response to City comments (which are assumed to be minor not requiring substantial revisions or new analysis). This scope assumes up to 12 hours of professional staff time to prepare the revised IS. Once the City determines an MND is appropriate for the project, HELIX will prepare and submit an electronic version of the draft MND for concurrent City staff review with the revised draft IS. An electronic version of a pre-print Public Review Draft IS/MND will be submitted to the City to authorize finalizing the Public Review Draft IS/MND. It is assumed that only minor formatting changes would be needed between the pre-print and public review drafts, and no substantive comments related to the technical analysis for any issue area would remain. HELIX will produce up to two printed copies of the Public Review Draft IS/MND (with appendices), as well as an electronic version to be posted on the City's website.

HELIX will prepare a Notice of Intent (NOI) to Adopt an MND and submit to it the City for review and approval. The City will provide the mailing list for distribution of the NOI. HELIX will be responsible for distribution of the NOI to up to 75 recipients (via regular mail), as well as submitting the required deliverables to the State Clearinghouse and filing the NOI with the County Clerk. It is assumed that the City will be responsible for placing newspaper advertisements and the County Clerk filing fee.

**Task 3      Final Environmental Compliance Documentation**

This task assumes that an IS/MND is determined to be the appropriate CEQA document; should an EIR be required the scope and fee for this task would be amended accordingly. In consultation with the City and Project Applicant, HELIX will respond to substantive comments received on the content of the Draft IS/MND during public review of the document. This scope assumes that preparation of responses to comments would occur within the limits of a 24-hour professional staff budget. An introduction, the responses, and revisions to the Draft IS/MND (if needed) will be incorporated into the final document. To support the MND, HELIX will develop a Mitigation Monitoring and Reporting Program (MMRP) to identify responsibility for the mitigation monitoring and reporting schedule, and completion requirements.

**Deliverables:**

HELIX will submit an electronic copy (Microsoft Word and PDF versions) of a screencheck draft version of the Final IS/MND and revise it once per City staff comments (assumed not to be substantive or alter the analysis). This scope assumes up to 30 hours of professional staff time to prepare the screencheck

Final IS/MND, up to 12 hours for the revised screencheck Final IS/MND, and up to 4 hours for the Final IS/MND. HELIX will produce an electronic version and up to two printed copies of the Final IS/MND (with appendices).

HELIX will prepare a draft Notice of Determination (NOD) and submit it to the City for review and approval. HELIX will be responsible for filing the NOD with the County Clerk and State Clearinghouse within five days of adoption of the Final IS/MND. The City will be responsible for payment of applicable California Department of Fish and Wildlife and County Clerk filing fees.

#### Task 4 Project Management

HELIX will provide general environmental project management services as the project undergoes environmental processing with City. Management tasks will consist of formal and informal communication with the project team, including telephone conversations and email. Other management responsibilities will include tracking budgets and reviewing schedule progress. Quality assurance reviews of major deliverables will be completed by senior staff prior to submittal to City. For the purposes of this cost estimate, it is assumed that the environmental review process will be completed within six months of its initiation and that four hours per month of the HELIX Project Manager's time would be required. If the City requests additional services that cause HELIX to exceed the time allocated for this task, additional authorization would be required.

#### Task 5 Meetings

HELIX's Project Manager will participate in up to four project meetings (assuming each meeting is virtual and 1.5 hours in duration, including preparation time and follow-up). No specific presentation graphics are anticipated for any of the meetings. It is assumed that HELIX attendance at public hearings will not be required and is not included in this scope of services.

### COST ESTIMATE AND PAYMENT PROCEDURES

HELIX submits this cost estimate not to exceed \$53,400, which is provided below in a breakdown by task. All work shall be invoiced on a time-and-materials basis pursuant to Exhibit A, Schedule of Fees.

<b>Task Number</b>	<b>Task Name</b>	<b>Cost</b>
1	Peer Review of Technical Reports	
	Air Quality/GHG Emissions/Energy	\$3,400
	Noise	3,000
	Cultural/Paleontological Resources	6,600
	Biological Resources	4,900
	Hazardous Materials (Phase 1 ESA)	3,000
2	Draft Environmental Compliance Documentation	17,300
3	Final Environmental Compliance Documentation	7,700
4	Project Management	6,000
5	Meetings	<u>1,500</u>
	<b>TOTAL</b>	<b>\$53,400</b>

## ASSUMPTIONS AND LIMITATIONS

The following assumptions and limitations are a material component of this proposal:

- City will provide HELIX with current available digital baseline data and project plans for producing all maps and graphics, which should be submitted in one of the following formats: .dxf, .dwg (AutoCAD), .dgn (Microstation), .shp (ArcView shapefiles), .gdb (ArcGIS geodatabase) or .kmz (Google Earth). In some cases, .pdf files will be acceptable.
- City will provide HELIX with copies of all relevant technical studies/information prepared for the project, including relevant guidance documentation that the City previously provided to the applicant, such as scopes of work for the subject technical studies. The City also will provide information necessary to address utility service.
- HELIX may contact the specialists who prepared technical studies to ask questions and obtain additional information, as necessary. Any required additions or revisions to these reports are not included.
- Costs associated with additional meetings, public meetings, technical studies, biological surveys, permit preparation and processing, and/or CEQA processing not otherwise described in this scope (“additional work”) are not included within the scope of services.
- Once peer reviews and preparation of the IS have begun, no changes to the project design will occur such that major revisions to the project description or re-analysis of any environmental issue will be required.
- Client is responsible for ensuring that technical reports that are provided to HELIX for the public record by any party not under subcontract to HELIX are consistent with the document accessibility requirements of the Americans with Disabilities Act (ADA), Section 508 of the Rehabilitation Act, and any similar requirements.
- HELIX is committed to meeting accessibility requirements for the ADA and Section 508 of the Rehabilitation Act for public-facing digital document deliverables. Information presented from third-party sources (e.g., California Emissions Estimator Model outputs) and documents prepared using the strike-out underline feature, a standard for annotation of final CEQA documents, may not achieve the full level of accessibility.

## CLOSING

This quote is good for 30 days from the date of this letter.

We look forward to working with you on this project. If you have any questions concerning this proposal, please contact your Project Manager, Tim Belzman, at (619) 462-1515 or [TimB@helixepi.com](mailto:TimB@helixepi.com), or me at [VanessaB@helixepi.com](mailto:VanessaB@helixepi.com).

Sincerely,



Vanessa Toscano  
Environmental Planning Group Manager

**Enclosure:** Exhibit A, Schedule of Fees

### **CONSULTING SERVICES**

Consulting services performed by HELIX typically include, but are not necessarily limited to, office, field, meetings, hearings, and travel time. Consulting services for expert witness review, deposition, and/or testimony will be provided at one and one-half times our standard rates. Overtime also may be charged at one and one-half times our standard rates.

### **DIRECT COSTS**

Certain identifiable direct costs will be charged to the project at cost plus ten percent. Examples of direct costs include subconsultants, vehicle or equipment rentals, airplane and train fares, parking, per diem and lodging, mileage (at IRS rates), communications, reproduction, and supplies. A 4-wheel drive premium will be charged at \$25 per project day. There will be additional charges for use of noise monitors, GPS, and other field equipment, as well as for plotting, color printing, and aerial photographs.

### **Payment**

Invoices will be submitted monthly. Payment on invoices is due within thirty days of receipt.

### **PROFESSIONAL RATES**

Current hourly rates for consulting services:

Principal	\$230-300
Principal Acoustician	\$215-225
Principal Biologist	\$225-290
Principal Landscape Architect	\$190-210
Principal Planner	\$220-290
Principal Regulatory Specialist	\$225-290
Principal Cultural Resources Specialist	\$190-210
Safety Manager	\$210-220
Senior Fisheries Scientist	\$250-255
Senior Noise/Air Quality Specialist	\$200-220
Senior Project Manager I-III	\$165-230
Senior Scientist	\$155-195
Senior Regulatory Specialist	\$160-\$170
Project Manager I-III	\$135-175
Assistant Project Manager	\$120-145
Regulatory Specialist	\$105-150
Environmental Planner I-III	\$105-135
Biologist I-V	\$100-155
Noise/Air Quality Specialist	\$130-145
Environmental Compliance Specialist	\$85-125
Senior Archaeologist	\$125-170
Senior Architectural Historian	\$165-175
Archaeology Field Director	\$125-\$135
Architectural Historian	\$120-155
Staff Archaeologist	\$80-125
Senior Landscape Architect	\$145-160
Landscape Architect	\$120-140
Landscape Planner I-III	\$110-120
Senior GIS Specialist	\$150-185
GIS Specialist I-III	\$110-140
Graphics	\$115-\$125
Technical Editor	\$110-125
Operations Manager	\$100-140
Word Processor I-III	\$90-100
Clerical	\$65-75

*Rates are subject to change on a yearly basis*