

**REPORT TO MAYOR AND COUNCIL  
SITTING AS THE LOCAL REUSE AUTHORITY**

**TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: February 2, 2016

**SUBJECT: APPROVING A MASTER AGREEMENT FOR PROFESSIONAL SERVICES TO PROVIDE MUNICIPAL ADVISORY FINANCIAL SERVICES RELATED TO THE AREA PLAN FOR THE FORMER CONCORD NAVAL WEAPONS STATION WITH FIELDMAN ROLAPP & ASSOCIATES NOT TO EXCEED \$40,000 FOR STAGE 1 SCOPE OF SERVICES; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT (FUNDING WILL BE PROVIDED FROM A LOAN TO THE LOCAL REUSE AUTHORITY (LRA) FROM THE GENERAL FUND)**

**Report in Brief**

Staff is recommending that the Local Reuse Authority (LRA) approve a Master Agreement for Professional Services with Fieldman Rolapp & Associates to provide municipal financial advisory services for the financing of infrastructure and other private or public facilities related to the development of the adopted Area Plan for the Concord Naval Weapons Station (CNWS). Further, staff is recommending that the LRA approve the Scope of Services under the Master Agreement; limiting Stage 1 to an amount not to exceed \$40,000 and authorize the City Manager to execute the Master Agreement (Attachment A).

The funding will come from a loan to the LRA from the General Fund. The loan was approved and appropriated as part of the adoption of the FY 2015/2016 budget. The loan will be repaid, with interest, from land sales and leases within the former CNWS.

**Background**

The LRA will soon select a Master Developer for implementation of the Phase 1 development of the adopted Area Plan for the CNWS. The Master Developer will prepare a Specific Plan and Environmental Impact Report (EIR) including infrastructure (utilities, roads); community facilities (parks, schools); and other facilities consistent with the adopted Area Plan and the City's 2030 General Plan.

The Master Developer candidates are aware that the City will not provide any direct financial assistance to fill any funding gaps or shortfalls for infrastructure or facilities, but the City/LRA will cooperate with the selected Master Developer in pursuing other applicable and available sources of public financing.

**APPROVING A MASTER AGREEMENT FOR PROFESSIONAL SERVICES TO  
PROVIDE MUNICIPAL ADVISORY FINANCIAL SERVICES RELATED TO THE  
AREA PLAN FOR THE FORMER CONCORD NAVAL WEAPONS STATION  
WITH FIELDMAN ROLAPP & ASSOCIATES NOT TO EXCEED \$40,000 FOR  
STAGE 1 SCOPE OF SERVICES; AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

February 2, 2016

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To ensure that any proposed financing of infrastructure or facilities in the Phase 1 development Specific Plan meets the City's goals and requirements, staff is requesting the assistance of a consultant with expertise in municipal financial advisory services.

**Discussion**

The City issued a Request for Proposals (RFP) and Statement of Qualifications (#2316) on April 15, 2015 and received three (3) proposals for consideration by the May 28, 2015 deadline.

A review team made up of five (5) City staff and outside consultants reviewed the submitted proposals for the three firms. All three firms were then interviewed by a panel comprised of Karan Reid, Director of Finance; Michael Wright, former LRA Executive Director; Steve Voorhies, Director of Parks and Recreation; Paul Silvern, HR&A Advisors; and William Zenoni, financial consultant. As part of the interviews, each firm presented its proposed approach to the requested services and highlighted its qualifications to provide the specified services. Based on the review of the written submittals and the interviews, the panel made a unanimous recommendation to retain Fieldman Rolapp & Associates.

Fieldman Rolapp & Associates is a California-based municipal/financial advisor providing financial and investment advisory services to state government agencies, cities, counties and special districts. Over the past ten years, the firm has acted as a municipal/financial advisor for similar land reuse projects including: the Naval Training Center Reuse for the City of San Diego; the Fort Ord Reuse for the County of Monterey and City of Marina; the Dublin Army Base Reuse for the City of Dublin; the El Toro Air Force Base Reuse for the City of Irvine; and, the Marine Corp Air Station Reuse for the City of Tustin. The firm will support the City in negotiating an effective and fiscally neutral public financing strategy, as well as the strategy's near-term and long-term implementation. The scope of services has been broken into two stages. (See attached Exhibit A to Attachment A.)

Stage 1 utilizes the time period prior to the selection of the Master Developer to familiarize the consultant with the goals and policies of the Area Plan while the consultant reviews the existing fiscal impact analysis and prepares a white paper on the relative merits of current public financing techniques most suited to the needs of implementing the Area Plan.

At the conclusion of Stage 1, and after the selection of the Master Developer, the consultant will refine a new scope of services, schedule and budget (Stage 2) to advise the City in our negotiations of the Disposition and Development Agreement (DDA) with the Master Developer; evaluate public financing proposals recommended by the Master Developer; and assist the City with the implementation of the preferred public financing strategy.

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**Fiscal Impact**

The funding for Stage 1 work will come from a loan to the LRA from the General Fund. The loan was approved and appropriated as part of the adoption of the FY 2015/2016 budget. The loan will be repaid, with interest, from land sales and leases within the former CNWS.

**Public Contact**

Agenda has been posted in accordance with legal requirements.

**Recommendation for Action**

Approve a Master Agreement for Professional Services with Fieldman Rolapp & Associates for the Stage 1 Scope of Work in an amount not to exceed \$40,000; and authorize the City Manager to execute the Agreement.



Valerie J. Barone

City Manager

valerie.barone@cityofconcord.org

Prepared by: Guy Bjerke

Executive Director, Local Reuse Authority

guy.bjerke@cityofconcord.org

Enclosures: Attachment A – Agreement for Professional Services with Fieldman Rolapp & Associates

## AGREEMENT FOR PROFESSIONAL SERVICES

1 THIS AGREEMENT ("Agreement") is entered into on February , 2016 between the City of  
2 Concord ("CITY") and **Fieldman Rolapp & Associates**, a C-Corporation, 19900 MacArthur Blvd.,  
3 Ste. 1100, Irvine, CA 92612 ("CONSULTANT").

4 THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings  
5 and intentions:

6 The CITY desires to contract with CONSULTANT to provide the professional services  
7 described in Section 2 of this Agreement, upon the terms and conditions hereinafter set forth.

8 NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the  
9 parties herein contained, the parties hereto agree as follows:

10 1. **TERM.** This Agreement shall commence on February \_\_, 2016 and expire on  
11 February \_\_, 2017.

12 A. **EXTENSION OF TERM.** Upon mutual written agreement by the parties, the term of  
13 this Agreement may be extended for two additional period(s) of one-year each commencing upon the  
14 expiration of the initial or extended term, subject to the same terms and conditions of this Agreement  
15 or renewable at the Local Reuse Authority-LRA's discretion. CONSULTANT shall give written  
16 notice of its request for extension of the term of the Agreement to the City's Authorized  
17 Representative, as identified in Section 4 below, at least thirty (30) days prior to expiration of the  
18 initial or extended term.

19 The extension(s) of the term of this Agreement shall be subject to a review of  
20 CONSULTANT'S performance in accordance with the terms and conditions of this Agreement and  
21 shall be subject to City approval. Such extension of time shall be in writing by a duly executed  
22 Amendment to this Agreement

23 2. **SCOPE OF SERVICES.** Subject to such policy direction and approvals provided by  
24 the CITY's Authorized Representative, CONSULTANT shall perform the services described in detail  
25 in Exhibit B, Scope of Services, extracted from Request for Proposal (RFP) #2316 Municipal  
26 Advisory Financial Services for Implementation of Concord Naval Weapons Station Area Plan.  
27 CITY retains all rights of approval and discretion with respect to the projects and undertakings  
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1 contemplated by this Agreement

2       **3.     PAYMENT.** The compensation to be paid to CONSULTANT including payment for  
3 professional services and reimbursable expenses, shall be at the rate and schedules in detail in  
4 Exhibit A. However, shall in no event shall the amount CITY pays CONSULTANT exceed Forty  
5 Thousand Dollars (\$40,000) for the term of this Agreement. Any Amendment to this Agreement that  
6 includes an increase to this compensation amount shall be made in accordance with Section 5 below.

7       CONSULTANT may submit monthly statements for services rendered; all statements  
8 shall include adequate documentation demonstrating work performed during the billing period. It is  
9 intended that CITY review such statement and pay CONSULTANT for services rendered within 30  
10 days of receipt of a statement that meets all requirements of this Agreement. Payment by CITY shall  
11 not be deemed a waiver of unsatisfactory work, even if such defects were known to the CITY at the  
12 time of payment.

13       **4.     AUTHORIZED REPRESENTATIVES.** Authorized representatives shall represent  
14 CITY and CONSULTANT in all matters pertaining to the services to be ordered by CITY or rendered  
15 by CONSULTANT under this Agreement except where approval for the CITY is specifically required  
16 by the City Council. The CITY's authorized representative is Karan Reid, Finance Director of the  
17 Finance Department. The CONSULTANT's authorized representative is James Fabian, Principal of  
18 Fieldman Rolapp & Associates.

19       **5.     AMENDMENT TO AGREEMENT.** This Agreement may be amended in writing,  
20 subject to approval by both parties. If additional services are requested by CITY other than as  
21 described in the above Scope of Services, this Agreement may be amended, modified, or changed by  
22 the parties subject to mutual consent and in accordance with the CITY's Municipal Code by execution  
23 of an Amendment by authorized representatives of both parties setting forth the additional scope of  
24 services to be performed, the performance time schedule, and the compensation for such services.

25       **A.     Amendment for Additional Compensation.** CITY's Authorized  
26 Representative is authorized to execute amendments to the Agreement on behalf of CITY, including  
27 amendments providing for additional compensation to CONSULTANT not to exceed \$50,000 during  
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1 the fiscal year, including the base contract amount, throughout the term of this Agreement. Any  
2 additional compensation to CONSULTANT that is \$50,000 or more for the fiscal year, including the  
3 base contract amount, must be approved by City Council.

4 Consultant's failure to secure CITY's written authorization for additional compensation or  
5 changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the price  
6 or time due, whether by way of compensation, restitution, quantum meruit, or similar relief.

7 **6. INDEPENDENT CONTRACTOR**. Both parties understand and acknowledge that  
8 CONSULTANT, its agents, employers and subcontractors are and shall at all times remain as to the  
9 CITY wholly independent contractors. Neither the CITY nor any of its officers or employees shall  
10 have any control over the manner by which the CONSULTANT performs this Agreement and shall  
11 only dictate the results of the performance. CONSULTANT shall not represent that CONSULTANT  
12 or its agents, employees or subcontractors are agents or employees of the CITY, and CONSULTANT  
13 shall have no authority, express or implied, to act on behalf of the CITY in any capacity whatsoever as  
14 an agent, and shall have no authority, express or implied, to bind the CITY to any obligation  
15 whatsoever, unless otherwise provided in this Agreement.

16 As an independent contractor, CONSULTANT shall not be eligible for any benefits, which the  
17 City may provide to its employees and all persons, if any, hired by CONSULTANT shall be  
18 employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of  
19 the CITY in any respect. CONSULTANT shall receive no premium or enhanced pay for work  
20 normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work  
21 performed during non-standard business hours, such as in the evenings or on weekends.  
22 CONSULTANT shall not receive a premium or enhanced pay for work performed on a recognized  
23 holiday. CONSULTANT shall not receive paid time off for days not worked, whether it be in the  
24 form of sick leave, administrative leave, or for any other form of absence. CONSULTANT shall pay  
25 all taxes, assessments and premiums under the federal Social Security Act, any applicable  
26 unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use  
27 taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by  
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1 reason of or in connection with the services to be performed by CONSULTANT.

2       **7.     STANDARD OF PERFORMANCE.** CONSULTANT represents and warrants to  
3 CITY that CONSULTANT is skilled and able to provide such services described in the Scope of  
4 Work and that such services shall be performed in an expeditious manner, and with the degree of skill  
5 and care that is required by current, good, and sound procedures and practices. CONSULTANT  
6 further agrees that the services shall be in conformance with generally accepted professional standards  
7 prevailing at the time work is performed.

8       **8.     PERFORMANCE BY CONSULTANT.** CONSULTANT shall not employ other  
9 consultants, subconsultants, experts, or contractors without the prior written approval of the CITY.  
10 Notwithstanding the foregoing, CITY shall not be obligated or liable for payment hereunder to any  
11 party other than the CONSULTANT. CONSULTANT hereby designates the CONSULTANT'S  
12 representative as the person primarily responsible for the day-to-day performance of  
13 CONSULTANT'S work under this Agreement. CONSULTANT shall not change the  
14 CONSULTANT'S representative without the prior written consent of the CITY. Unless otherwise  
15 expressly agreed by the CITY, CONSULTANT'S representative shall remain responsible for the  
16 quality and timeliness of performance of the services, notwithstanding any permitted or approved  
17 delegation hereunder.

18       **A.     Subconsultants** shall not start work until they have been granted final approval  
19 by the City. A list of Subconsultants shall be presented to the City with the company name, location,  
20 and description of services. Upon approval by the City's representative for this project,  
21 Subconsultants may proceed to commence work.

22       **9.     OWNERSHIP AND MAINTENANCE OF DOCUMENTS.** All documents  
23 furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT's  
24 services in respect to this project. They are not intended nor are represented to be suitable for reuse by  
25 others except CITY on extensions of this project or on any other project. Any reuse without specific  
26 written verification and adoption by CONSULTANT for the specific purposes intended will be at  
27 user's sole risk and without liability or legal exposure and expenses to CONSULTANT, including  
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1 attorney's fees arising out of such unauthorized reuse.

2 CONSULTANT's records, documents, calculations, and all other instruments of service  
3 pertaining to actual project shall be given to CITY at the completion of the project. The CITY  
4 reserves the right to specify the file format that electronic document deliverables are presented to the  
5 CITY.

6 **10. INDEMNIFICATION.** CONSULTANT agrees to defend, indemnify and hold  
7 harmless the CITY, its officers, officials, employees, agents and volunteers from and against any and  
8 all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and  
9 other litigation expenses) arising out of the CONSULTANT's performance under the terms of this  
10 Agreement. This indemnification obligation on CONSULTANT'S part shall not apply to demands,  
11 actions, losses, damages, injuries, and liability arising out of sole negligence or willful misconduct on  
12 the part of CITY.

13 **11. INSURANCE.** CONSULTANT shall, at its own expense, procure and maintain in full  
14 force at all times during the term of this Agreement the following insurance:

15 **A. Commercial General Liability Coverage.** CONSULTANT shall maintain  
16 commercial general liability insurance with limits of no less than one million dollars (\$1,000,000)  
17 combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily  
18 injury, personal injury, and property damage.

19 **B. Automobile Liability Coverage.** CONSULTANT shall maintain automobile  
20 liability insurance covering all vehicles used in the performance of this Agreement providing a One  
21 Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury,  
22 and property damage.

23 **C. Professional Liability Coverage (Errors and Omissions).** CONSULTANT  
24 shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions  
25 committed by CONSULTANT, its agents and employees in the performance of this Agreement. The  
26 amount of this insurance shall be not less than One Million Dollars (\$1,000,000) on a claims made  
27 annual aggregate basis or a combined single limit per occurrence basis.

1                   **D. Compliance with State Workers' Compensation Requirements.**

2 CONSULTANT covenants that it will insure itself against liability for Workers' Compensation  
3 pursuant to the provisions of California Labor Code §3700, et seq. CONSULTANT shall, at all times,  
4 upon demand of the City, furnish proof that Workers' Compensation Insurance is being maintained by  
5 it in force and effect in accordance with the California Labor Code. The insurer shall also agree to  
6 waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers for  
7 losses arising from work performed by CONSULTANT for CITY. This provision shall not apply  
8 upon written verification by CONSULTANT that CONSULTANT has no employees.

9                   **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to  
10 contain the following provisions:

11                   **(1) Additional Insured.** CITY, its officers, agents, employees, and  
12 volunteers are to be covered as an additional insured as respects: Liability arising out of activities  
13 performed by or on behalf of CONSULTANT and operations of CONSULTANT, premises owned,  
14 occupied, or used by CONSULTANT. The coverage shall contain no special limitations on the scope  
15 or protection afforded to CITY, its officers, officials, employees, or volunteers.

16                   Except for worker's compensation and professional liability insurance, the policies mentioned  
17 in this subsection shall name CITY as an additional insured and provide for notice of cancellation to  
18 CITY. CONSULTANT shall also provide timely and prompt notice to CITY if CONSULTANT  
19 receives any notice of cancellation or nonrenewal from its insurer.

20                   **(2) Primary Coverage.** CONSULTANT'S insurance coverage shall be  
21 primary insurance with respect to CITY, its officers, officials, employees, and volunteers. Any  
22 insurance, risk pooling arrangement, or self-insurance maintained by CITY, its officers, officials,  
23 employees, or volunteers shall be in excess of CONSULTANT'S insurance and shall not contribute  
24 with it.

25                   **(3) Reporting Provisions.** Any failure to comply with the reporting  
26 provisions of the policy shall not affect the coverage provided to the CITY, its officers, officials,  
27 employees, or volunteers.

1                   (4)     **Verification of Coverage.** CONSULTANT shall furnish CITY with  
2 certificates of insurance and the original endorsements effecting coverage required by this Agreement.  
3 The certificates and endorsements for each insurance policy are to be signed by a person authorized by  
4 that insurer to bind coverage on its behalf. The aforementioned policies shall be issued by an  
5 insurance carrier having a rating of Best A-7 or better which is satisfactory to the City Attorney and  
6 shall be delivered to CITY at the time of the execution of this Agreement or before work commences.  
7 Such policies and certificates shall be in a form approved by the City Attorney. CITY reserves the  
8 right to require complete certified copies of all required insurance policies at any time.

9                   12.     **TIME OF PERFORMANCE.** The time of performance of the services under this  
10 Agreement is of the essence, and all time deadlines identified in this Agreement or Scope of Services  
11 shall be strictly construed.

12                   13.     **SUSPENSION OF WORK.** CITY may, at any time, by ten (10) days' written notice,  
13 suspend further performance by CONSULTANT. All suspensions shall extend the time schedule for  
14 performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services  
15 performed and reimbursable expenses incurred prior to the suspension date. During the period of  
16 suspension, CONSULTANT shall not receive any payment for services, or expenses, except for  
17 reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

18                   14.     **TERMINATION.** CITY may terminate this Agreement for any reason upon ten (10)  
19 days written notice to the other party. CITY may terminate the Agreement upon five (5) days written  
20 notice if CONSULTANT breaches this Agreement. In the event of any termination, CONSULTANT  
21 shall promptly deliver to the CITY any and all finished and unfinished reports or other written,  
22 recorded, photographic, or visual materials, documents, data, and other deliverables ("Work  
23 Materials") prepared for the CITY prior to the effective date of such termination, all of which shall  
24 become CITY's sole property. After receipt of the Work Materials, CITY will pay CONSULTANT  
25 for the services performed as of the effective date of the termination.

26                   15.     **COMPLIANCE WITH CIVIL RIGHTS.** During the performance of this contract,  
27 CONSULTANT agrees as follows:  
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1           **A. Equal Employment Opportunity.** In connection with the execution of this  
2 Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment  
3 because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited  
4 to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or  
5 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and  
6 selection for training including apprenticeship.

7           **B. Nondiscrimination Civil Rights Act of 1964.** CONSULTANT will comply  
8 with all federal regulations relative to nondiscrimination in federally assisted programs.

9           **C. Solicitations for Subcontractors including Procurement of Materials and**  
10 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by  
11 CONSULTANT for work to be performed under a subcontract including procurement of materials or  
12 leases of equipment, each potential subcontractor, supplier or lessor shall be notified by  
13 CONSULTANT of CONSULTANT’S obligation under this Agreement and the regulations relative to  
14 nondiscrimination on the grounds of race, religion, color, sex, or national origin.

15           **16. CONFLICT OF INTEREST.**

16           **A. CONSULTANT** covenants and represents that neither it, nor any officer or  
17 principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in  
18 any manner with the interests of CITY or which would in any way hinder CONSULTANT’S  
19 performance of services under this Agreement. CONSULTANT further covenants that in the  
20 performance of the Agreement, no person having any such interest shall be employed by it as an  
21 officer, employee, agent or subcontractor without the express written consent of the CITY.  
22 CONSULTANT agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of  
23 interest, with the interests of the CITY in the performance of this Agreement.

24           **B. CONSULTANT** is not a designated employee within the meaning of the  
25 Political Reform Act because CONSULTANT:

26                           (1) Will conduct research and arrive at conclusions with respect to its rendition  
27 of information, advice, recommendation or counsel independent of the control and direction of the  
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1 CITY or of any CITY official, other than normal contract monitoring; and

2 (2) Possesses no authority with respect to any CITY decision beyond the  
3 rendition of information, advice, recommendation or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

4 **17. COMPLIANCE WITH LAWS.** CONSULTANT shall comply with all applicable  
5 Federal, State of California, and local laws, rules and regulations and shall obtain all applicable  
6 licenses, including a business license with the City of Concord, and permits for the conduct of its  
7 business and the performance of the services.

8 **18. CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance  
9 with the laws of the State of California, excluding any choice of law rules which may direct the  
10 application of the laws of another jurisdiction. In the event that suit shall be brought by either party  
11 hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the  
12 County of Contra Costa, California.

13 **19. NON-WAIVER.** The waiver by either party of any breach of any term, covenant, or  
14 condition contained in the Agreement, or any default in their performance of any obligations under the  
15 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other  
16 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default  
17 constitute a continuing waiver of same.

18 **20. ENFORCEABILITY: INTERPRETATION.** In the event that any of the provisions  
19 or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by  
20 a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment  
21 in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The  
22 illegality or invalidity of any of the provisions or portions of application of any of the provisions of  
23 the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of  
24 application of any of the provisions of the Agreement. This Agreement shall be interpreted as though  
25 it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the  
26 ground that said party was solely or primarily responsible for drafting the language to be interpreted.

1           **21.    INTEGRATION.** All exhibits identified in this Agreement are attached hereto and  
2 incorporated herein by reference. The Agreement contains the entire agreement and understanding  
3 between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or  
4 contemporaneous agreements, commitments, representation, writings, and discussions between  
5 CONSULTANT and CITY, whether oral or written.

6           **22.    SUCCESSORS AND ASSIGNS: NO THIRD PARTY BENEFICIARIES; NO**  
7 **JOINT VENTURE.** CITY and CONSULTANT respectively, bind themselves, their successors,  
8 assigns, and legal representatives to the terms and obligations of this Agreement. CONSULTANT  
9 shall not assign or transfer any interest in the Agreement without the CITY's prior written consent,  
10 which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach  
11 of this provision shall be void. This Agreement is not intended and shall not be construed to create  
12 any third party benefit. This Agreement is not intended and shall not be construed to create a joint  
13 venture or partnership between the parties. CONSULTANT, its officers, employees and agents shall  
14 not have any power to bind or commit the CITY to any decision.

15           **23.    FINANCIAL RECORDS.** Records of CONSULTANT's direct labor costs, payroll  
16 costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on  
17 a generally recognized accounting basis and made available to CITY if and when required.

18           **24.    NOTICES.** All notices required hereunder shall be in writing and mailed postage  
19 prepaid by certified or registered mail, return receipt requested, or by personal delivery to the CITY's  
20 address as shown below, or such other places as CITY or CONSULTANT may, from time to time,  
21 respectively, designate in a written notice given to the other. Notice shall be deemed received three  
22 (3) days after the date of the mailing thereof or upon personal delivery.

23  
24           To CITY:

Karan Reid, Finance Director  
Finance Department  
City of Concord  
1950 Parkside Drive  
Concord, CA 94519-2578  
Phone: (925) 671-3192  
Email: karan.reid@cityofconcord.org

To CONSULTANT:

James Fabian, Principal  
Fieldman Rolapp & Associates  
1990 MacArthur Blvd., Suite 1100  
Irvine, CA 92612  
Phone: (949)660-7607  
Email: jfabian@fieldman.com

25. **NON-LIABILITY**. No member of the CITY and no other officer, employee or agent of the CITY shall be personally liable to CONSULTANT or otherwise in the event of any default or breach of the CITY, or for any amount which may become due to CONSULTANT or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

26. **EXECUTION**. Each individual or entity executing this Agreement on behalf of Applicant represents and warrants that he or she or it is duly authorized to execute and deliver this Agreement on behalf of Applicant and that such execution is binding upon Applicant.

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.

**IN WITNESS WHEREOF**, the parties have executed this Agreement in one (1) or more copies as of the date and year first written above.

**CONSULTANT**

**CITY OF CONCORD, a Municipal Corporation**

By: \_\_\_\_\_  
Name: James Fabian  
Title: Principal  
Address: 19900 MacArthur Blvd., Ste. 1100  
Irvine, CA 92612  
Telephone: (949) 660-7607

By: \_\_\_\_\_  
Name: Valerie J. Barone  
Title: City Manager  
Address: 1950 Parkside Drive  
Concord, CA 94519  
Telephone: (925) 671-3150

APPROVED AS TO FORM:

ATTEST:

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

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

1 FINANCE DIRECTOR'S CERTIFICATION:

2 Concord, California

3 Date: \_\_\_\_\_, 2016

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5 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED  
6 DURING THE CURRENT FISCAL YEAR 2015/16 TO PAY THE ANTICIPATED  
7 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.

8 THE SUM OF \$\_\_\_\_\_. Account Code\_\_\_\_\_.

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10 \_\_\_\_\_  
11 Finance Director's Signature

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Fieldman Rolapp & Associates

**EXHIBIT A**

**Scope of Services and Schedule of Rates**

**(Extracted from RFP#2316-  
Municipal Advisory Financial Services for Implementation  
of Concord Naval Weapons Station Area Plan)**

**SCOPE OF SERVICES**

Support the City in negotiating an effective and fiscally neutral public financing strategy, as well as the strategy's near-term and long-term implementation.

**Stage 1**

- Participate in briefings by LRA staff and consultants to learn the history, goals, policies, and expectations that will drive the successful implementation of the Concord Reuse Area Plan.
- Evaluate and prepare a white paper on the relative merits of the public financing techniques most suited to the needs of implementing the Concord Reuse Area Plan, including assessment districts and special districts (e.g., Community Facilities Districts and Enhanced Infrastructure Financing Districts per SB 628).
- Review the fiscal impact analysis prepared by ALH Economics as updated in February 2015 to understand the City's public revenue and service cost issues that figure into the fiscal neutrality objective.
- Refine a new scope of services, schedule and proposed budget to perform the tasks listed in Stage 2 – Post Master Developer Selection and/or other tasks as appropriate.

**Stage 2 - Post Master Developer Selection:**

- Assist and advise the LRA in Disposition and Development Agreement (DDA) negotiations with the Master Developer (including analysis of the Master Developer's pro forma, preferred public financing proposals and ability to maintain fiscal neutrality).
- Review and evaluate any public financing proposals recommended or requested by the Master Developer.
- Advise and assist the LRA with the structure and formation of the most applicable public financing strategy for the Area Plan implementation, including cash flow forecasting and bond sizing.
- Coordinate with the Master Developer to implement the most applicable public financing strategy.
- Serve as the financial consultant to the LRA on the creation of an investment vehicle (e.g., endowment) to finance environmental mitigation measures in perpetuity.
- Serve as the economic consultant for any municipal securities associated with the preferred public financing strategy.

## **EXHIBIT A**

- Advise the LRA and City staff about managing, administering and monitoring the preferred public financing program, including Continuing Disclosure compliance and other statutory reporting requirements, as applicable.

**Fieldman Rolapp Personnel:**

**Mr. James V. Fabian**, Principal, will serve as the Engagement Manager and be the “Lead Consultant” to the City/LRA and will be listed as a “key person” in any agreement with the City/LRA. Mr. Fabian will attend all meetings and make presentations to the LRA. The role of the Engagement Manager is to ensure that the consultant’s services are delivered seamlessly and that the client has access to an experienced, knowledgeable consultant at all times. It will also be Mr. Fabian’s responsibility to make sure that the team has the right resources deployed to fully discharge the firm’s duties to the City.

**Ms. Anna V. Sarabian, Ph.D.**, Senior Vice President, will serve as the Project Manager to the City. Ms. Sarabian will supervise all of the financial modeling, numerical analysis and research work necessary to position the City, and the team, with the correct information required to make informed judgments. She will also be active on a day-to-day basis and attend all meetings. Ms. Sarabian will take direction from Mr. Fabian, or City/LRA staff, depending on the context. She has extensive city, base reuse and land secured experience, as well as expertise in cash flow modeling, the development of capital financing plans, and financial structuring that will benefit the LRA.

**Mr. Jason Chung**, Senior Associate, will serve as technical consultant to the City. Mr. Chung will perform financial modeling, prepare numerical analysis and assist with research work. He will also prepare RFQs for other service providers. He will take direction from Mr. Fabian, Ms. Sarabian or the City staff, depending on the context.

**Fees and Charges:**

<b>FRA SCHEDULE OF HOURLY RATES</b>	
Principal	\$290 Per Hour
Principal/Senior Vice President	\$275 Per Hour
Vice President	\$225 Per Hour
Senior Associate	\$150 Per Hour
Associate	\$125 Per Hour
Analyst	\$85 Per Hour
Administrative Assistant	\$65 Per Hour

Expenses will be billed for separately and will cover, among other things, travel, lodging, subsistence, overnight courier, conference calls, computer, and fax transmission charges. Directly related reimbursable expenses will be billed at 110% of cost. Monthly billings for staff time and expenses will be payable within thirty (30) days of invoice date.