

**REIMBURSEMENT AGREEMENT FOR PAYMENT OF COSTS FOR
PROFESSIONAL ECONOMIC, FINANCIAL AND MARKET CONSULTING
SERVICES**

This Reimbursement Agreement for Payment of Costs for Professional Economic, Financial, and Market Consulting Services (“Agreement”) is entered into effective as of _____ (“Effective Date”) by and between the City of Chula Vista, a chartered municipal corporation (“CITY”) and San Diego Metropolitan Transit System (“MTS”) (collectively, the “Parties” and, individually, a “Party”) with reference to the following facts:

Recitals

The CITY intends to solicit qualifications and proposals for the development of CITY-owned property located at 707 F Street in the City of Chula Vista.

The MTS intends to solicit qualifications and proposals for the development of MTS-owned property located at 750 E Street in the City of Chula Vista.

The CITY and MTS desire to jointly release a Request for Qualifications/Proposals for the development of 707 F Street and 750 E Street in the City of Chula Vista.

The CITY and MTS require third-party professional services for Economic, Financial and Market Consulting services to assist in the development and evaluation of developer qualifications and proposals that CITY and MTS receive.

Agreement

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and MTS hereby agree as follows:

I. Work to be Done

CITY shall enter into a two-party professional services agreement with KEYSER MARSTON ASSOCIATES, INC. for the purposes of conducting professional Economic, Financial and Market Consulting services to develop a Request for Qualifications/Proposals to solicit and to evaluate development qualifications and proposals for CITY-owned 707 F Street and MTS-owned 750 E Street in the City of Chula Vista. CITY’s two-party professional services agreement with KEYSER MARSTON ASSOCIATES is presented in Exhibit “A,” which by this reference is made part hereof. MTS hereby acknowledges review of CITY’s two-party professional services agreement with KEYSER MARSTON ASSOCIATES and agrees to the scope of work and payment terms provided therein.

Deviations from the scope of work described above that are initiated by either the CITY shall be agreed upon in writing by both Parties hereto under a Revised Notice to MTS (“Revised Notice”). The Revised Notices shall be mailed or delivered to MTS to the address provided, and

in the manner specified in Article IV. General Conditions – “Notices”. Such Revised Notices, once approved by MTS and acknowledged by CITY, will constitute agreement to amend the two-party professional services agreement between CITY and KEYSER MARSTON ASSOCIATES, INC. No work under said deviation shall commence prior to receipt of the Revised Notice by MTS. Changes in the scope of work or payment terms will require written amendment to this Agreement in addition to the Revised Notice.

II. Performance of Work

CITY agrees to provide MTS with access to all work product, written communication, and project notes associated with work performed by KEYSER MARSTON ASSOCIATES, INC., in the same manner and to the same extent allowed by CITY under the two-party agreement, for the purpose of inspection to ensure that the work is performed in accordance with the two-party professional services agreement between CITY and KEYSER MARSTON ASSOCIATES, INC. and this Agreement. MTS shall direct all questions and comments regarding work being performed by KEYSER MARSTON ASSOCIATES, INC. to CITY’s Director of Economic Development for his/her evaluation and final disposition.

III. Payment for Work

CITY and MTS agree that CITY will pay for costs identified in the two-party professional services agreement between CITY and KEYSER MARSTON ASSOCIATES, INC. and that MTS will reimburse CITY with fifty percent (50%) of all such costs.

The projected total cost for work bid and to be performed by KEYSER MARSTON ASSOCIATES, INC. is \$72,000. Subsequent to the execution of this Agreement and upon demand of CITY, MTS shall deposit with CITY fifty percent (50%) of the projected cost for the work totaling \$36,000 (“Deposit”).

MTS acknowledges and agrees that CITY shall draw down the Deposit in the following manner:

1. Following the receipt of an invoice from KEYSER MARSTON ASSOCIATES, INC., CITY will determine fifty percent (50%) of the invoice (“MTS’ Share”).
2. The CITY will then deduct MTS’ Share from the Deposit.
3. On a monthly basis, the CITY will submit to MTS a summary of the balance of MTS’ Share and the amounts deducted from the Deposit.

Following the completion of work by KEYSER MARSTON ASSOCIATES, INC., the City shall conduct an accounting of the actual charges associated with the two-party agreement between CITY and KEYSER MARSTON ASSOCIATES, INC. In the event that the actual cost exceeds the amount of the Deposit, the CITY shall invoice MTS for the difference, and MTS shall remit such amount to the CITY within forty-five (45) calendar days. If the actual cost is less than the Deposit, the CITY shall remit the balance of the Deposit to MTS within forty-five (45) calendar days.

IV. General Conditions

Notices. All notices, demands, or requests provided for or permitted to be given pursuant to this Agreement shall be sent by United States mail, postage prepaid or by a similar means reasonably calculated to ensure delivery within five (5) calendar days after deposit addressed as follows:

If to CITY: City of Chula Vista
Director of Economic Development
276 Fourth Avenue
Chula Vista, CA 91910

With a copy to: City of Chula Vista
City Attorney
276 Fourth Avenue
Chula Vista, CA 91910

If to MTS: San Diego Metropolitan Transit System
Manager of Real Estate Assets
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

With a copy to: San Diego Metropolitan Transit System
General Counsel
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

Successors and Assigns: Neither party to this Agreement may assign or transfer its rights or obligations under this Agreement without the other party's prior written consent thereto.

Authority: Each party and its respective agents executing this Agreement warrants and represents that it has the full power and authority to execute, deliver and perform the obligations under this Agreement and that each party's performance hereunder has been duly authorized by all requisite actions on the part of that party.

Entire Agreement: This Agreement represent the entire understanding of CITY and MTS as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to the matters covered herein. This Agreement may not be modified or altered except in writing signed by both Parties.

Severability. Should any part of this Agreement be held to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall be considered as the whole Agreement and be binding on the contracting Parties.

Governing Law and Venue: This Agreement shall be construed in accordance with and governed by the laws of the State of California. This Agreement shall be deemed made and entered into in San Diego County, which shall also be deemed to be the sole and proper venue for any action or proceeding relating to this Agreement

Captions and Counterparts: The captions of this Agreement are for the purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement. This Agreement may be executed in a number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, THE BELOW Parties have executed this Agreement as of the date of the last party to sign.

CITY OF CHULA VISTA

**SAN DIEGO METROPOLITAN
TRANSIT SYSTEM**

By: _____
Gary Halbert
City Manager

By: _____
Paul Jablonski
Chief Executive Officer

Date: _____

Date: _____

Approved as to form and legality:

By: _____
Glen R. Googins
City Attorney

By: _____
Karen Landers
General Counsel

Date: _____

Date: _____