

LEGAL SERVICES AGREEMENT

THIS LEGAL SERVICES AGREEMENT (Agreement) is entered into this 1st day of January, 2014 (Effective Date), by and between the City of Chula Vista, a Charter Municipal Corporation (hereinafter the "CITY") and Stradling, Yocca, Carlson & Rauth, P.C. (hereinafter "ATTORNEYS").

RECITALS

The following Recitals are a substantive part of this Agreement:

A. In 2008, the City entered into Land Offer Agreements (LOAs) that will provide approximately 375 acres of land to the City for a University Campus and Innovation District (UCID).

B. City staff is working on several activities that are foundational to the continued planning and ultimate development of the UCID.

C. The City Attorney has determined that additional legal assistance will be required to implement the UCID.

D. The City Attorney's Office placed advertisements in the San Diego Daily Transcript and Los Angeles Daily Journal for a Request for Qualifications/Proposal (RFQP) from attorneys and law firms to submit their qualifications and proposal to assist the City Attorney's Office in implementing the UCID.

E. The RFQP process resulted in the submission of qualifications/proposals from eleven (11) attorneys/law firms from around the state.

F. The City Attorney's Office created an in-house selection committee (the "Selection Committee"), familiar with the UCID, to review the qualifications/proposals.

G. The Selection Committee reviewed and ranked the proposals based on firm experience, quality of management team, capacity to perform the work, project understanding, proposal quality and clarity, local experience, and billing rates.

H. After Selection Committee interviews, the Selection Committee rated and chose Stradling, Yocum, Carlson & Rauth, P.C. for the subject transactional work.

I. ATTORNEYS represent that they are highly qualified by virtue of experience, training, education and expertise to accomplish the services necessary under this Agreement.

J. The City Council approved this Two-Party Agreement between the City of Chula Vista and Stradling, Yocca, Carlson and Rauth, P.C. for attorney services related to transactional work for the implementation of the University Campus and Innovation District, in the form presented, with such minor modifications as may be required or approved by the City Attorney, a copy of which shall be kept on file in the Office of the City Clerk, and authorized and directed the City Attorney or designee to execute the same.

AGREEMENT

FOR VALUABLE CONSIDERATION THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Term of Agreement.

This Agreement shall terminate when the parties have complied with all executory provisions hereof as determined solely by the City Attorney.

2. Services to be Provided.

The services to be performed by ATTORNEYS shall consist of any and all tasks reasonably required to advise, assist and fully represent the CITY in all legal matters presented to ATTORNEYS, wherein ATTORNEYS are consulted by or appear on behalf of the CITY, regarding providing legal support for the implementation of the UCID and formation/negotiations of all entities associated therewith and any negotiations concerning entering into any other agreements as may be required and other related work as determined by the City Attorney. ATTORNEY'S services shall include, but are not limited to, any and all reasonably required legal representation on behalf of the CITY as determined solely by the City Attorney or designee.

3. Compensation - ATTORNEY shall be compensated as follows:

3.1 *Amount.* The CITY shall compensate ATTORNEYS for services rendered at the following hourly rates:

Kurt Yeager	\$395/hour
Celeste Brady	\$395/hour
Vanessa Locklin	\$325/hour
Shareholders	\$395/hour
Senior Associates	\$325/hour
Associates	\$275/hour
Paralegals	\$140/hour
Legal Assistants	\$120/hour

Advisory Services concerning Public Financings:

Kurt Yeager	\$425/hour
Robert Whalen	\$425/hour
Shareholders	\$425/hour
Senior Associates	\$350/hour
Associates	\$325/hour

Travel time shall be billed at the same hourly rate. Except for reimbursable expenses as defined below, such hourly compensation shall be the sole and total remuneration for services rendered pursuant to this Agreement.

Attorney fees are not contingent upon any aspect of the matter.

3.2 *Billing.* ATTORNEYS agree to provide detailed invoicing of all billing for services on a monthly basis. Monthly invoices shall begin on the first of the month following the execution of the Agreement herein. All charges must be itemized by ATTORNEYS, showing in detail the work task performed during the billing entry. All charges must be presented in a line item format and in a manner such that each task is separately explained in reasonable detail, and with a specific time allocation recorded, for each task. The invoice shall include the amount, billing rate and basis for calculation of all fees and costs.

The CITY will not accept, and will not be responsible for block or cumulative invoice entries. ATTORNEYS shall not charge the CITY for more than one ATTORNEY'S time when appearing at a meeting, in Court, or for performing any task unless the CITY has expressly authorized the use of two or more ATTORNEYS for the appearance or task.

All billing for work performed under this Agreement shall be sent to the following:

Glen R. Googins, City Attorney
Michael J. Shirey, Deputy City Attorney III
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
(619) 691-5037

With a copy to:

Eric Crockett
Assistant Director Development Services
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

3.3 *Reimbursements for Expenses.* ATTORNEYS shall keep accurate records of all costs, travel and expenses. These records shall be made available to the CITY upon reasonable request.

The CITY will reimburse actual, reasonable and necessary out of pocket expenses incurred by ATTORNEYS in performing any services under this Agreement as follows:

- a. Photocopying charges at no more than \$0.15 per page.
- b. Facsimile charges at no more than \$1.00 per page.
- c. Computerized legal research at the actual amount charged to ATTORNEYS. However, all computerized legal research must be authorized and approved in advance by the CITY.
- d. Parking Fees at the actual amount charged to ATTORNEYS.

- e. Travel/Mileage at the rate of 58.5¢ per mile. Any travel fees incurred outside of San Diego County must be authorized and approved in advance by the CITY.
- f. Statutory Fees, Witness Fees, Reporters Fees, Stenographic Transcription, jury fees and the cost of serving process actually incurred by ATTORNEYS.
- g. ATTORNEYS may seek reimbursement for any actual, reasonable and necessary expenses incurred on items not identified above with the prior authorization and approval by the CITY.

The CITY will not reimburse ATTORNEYS for any additional charges incurred due to “rush” deliveries or “late” charges, unless such expenses are approved in advance by the CITY and the need for such services is determined by the CITY to be reasonably beyond the control of ATTORNEYS.

To obtain reimbursement, ATTORNEYS shall submit a monthly summary of expenses, along with all supporting receipts, within thirty (30) days of the expense being incurred.

3.4 Expert Consultations and Witnesses.

Expert consultations and witnesses, and any investigators, may be retained on terms acceptable to the CITY, authorized and approved in advance, for which the CITY shall reimburse the ATTORNEYS or pay investigators, consultants or experts directly. In no event shall ATTORNEYS retain any service of any expert, investigator or consultant without first receiving express authorization and approval from the CITY.

4. Insurance.

4.1 Professional Errors and Omissions Insurance.

ATTORNEYS shall obtain and maintain in full force and effect at all times Professional Errors and Omissions Liability Insurance. Such insurance shall provide coverage in an amount not less than two million dollars (\$2,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. The CITY reserves the right to require insurance for a higher coverage than the minimum limits noted above. All insurance carriers shall hold a Best rating of “A+” or better. The insurance policy required under this paragraph shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage, or in limits, except after thirty (30) days prior written notice, by certified mail return receipt requested, given to the CITY.

Said insurance policy shall provide coverage to the CITY for any damages or losses suffered by the CITY as a result of any error or omission, or neglect by ATTORNEYS which arise out of the services rendered under this Agreement. Such insurance may not be subject to a self-insured retention or deductible in an amount in excess of Five thousand (\$5,000.00) dollars without prior written authorization and approval by the CITY.

ATTORNEYS shall, within ten (10) days after entering into this Agreement, and before commencing or performing any services under the Agreement, deposit with the CITY a certificate of insurance certifying that all insurance required herein is, and will be, in full force and effect from the time the Agreement is entered into until completion or termination of this Agreement. The Certificates of Insurance must be renewed at least fifteen (15) days prior to expiration.

ATTORNEYS shall not commence any work under this Agreement until ATTORNEYS have obtained all CITY approved insurance.

All insurance required shall be carried only by responsible insurance companies licensed to do business in California and shall name as additional insured the CITY, its elected officials, officers, employees, agents and representatives. All policies shall contain language to the effect that: (1) the insurer waives any right of subrogation against the CITY and the CITY's elected officials, officers, employees, agents, and representatives; (2) insurance shall be primary non-contributing and any other insurance carried by the CITY shall be excess over such insurance; and, (3) such insurance shall not be cancelled or materially changed except after thirty (30) days notice by the insurer to the CITY by certified mail. ATTORNEYS shall furnish the CITY with copies of all applicable policies promptly upon receipt.

Nothing in this section shall be construed to make ATTORNEYS other than a Consultant for all purposes.

ATTORNEYS agree to notify the CITY in the event that the limits shall fall below the coverage stated above or if the insurance policies noted here are allowed to lapse and substitute insurance is, or is not, obtained.

4.2 *Workers Compensation Insurance.*

ATTORNEY shall obtain and maintain workers compensation insurance in accordance with section 3700 of the California Labor Code.

5. Indemnification.

ATTORNEYS agree to protect, hold harmless, defend, and indemnify the CITY, its employees, elective or appointive boards, officers, agents, agenda and affiliates, from any and all loss, claims liabilities, expenses, or damages of any nature whatsoever, including attorneys' fees, arising out of or in any way connected with the performance of, or services rendered by, ATTORNEYS, ATTORNEYS' agents, officers, employees, sub-contractors or independent contractors of ATTORNEYS, except where the loss or liability is due to the sole negligence or willful misconduct of the CITY.

6. City Agent.

Glen R. Googins, City Attorney, or his designee, for the purposes of this Agreement, is the Agent for the CITY. Whenever authorization or approval is required, ATTORNEYS understand that the City Attorney has the authority to provide the authorization or approval.

7. Independent Contractor.

ATTORNEYS, and anyone employed by ATTORNEYS, are not and shall not be, deemed employees of the CITY. ATTORNEYS are solely responsible for the payment of employment taxes, workers compensation taxes, and any other taxes for employees.

8. Conflict of Interest.

ATTORNEYS represent that they presently have no material financial interest other than that which may be held by the general public and shall not acquire any interest, direct or indirect, in any contract or decision made on behalf of the CITY which may be affected by the services to be performed by ATTORNEYS under this Agreement. ATTORNEYS further agree that no person having any such interest shall be employed by them. If ATTORNEYS, or their employees, acquire a direct or indirect personal interest, such interest shall be immediately disclosed to the CITY and the interested individual shall abstain from any contracts or decisions under this Agreement.

In addition to the proscriptions regarding conflicts of interest imposed on ATTORNEYS by the Business and Professions Code and by California Rules of Professional Conduct, ATTORNEYS represent that no ATTORNEY shall represent clients before any board, commission, committee or agency of the CITY or represent any client with interests adverse to the CITY. Furthermore, ATTORNEYS shall at all times avoid conflicts of interest or the appearance of a conflict of interest in performance of this Agreement. ATTORNEYS shall immediately notify the City Attorney of any circumstances, or change of circumstances, that may provide for the potential for a conflict of interest, or actual conflict of interest.

9. Non-Liability of Officials/Employees of the City.

No official or employee of the CITY shall be personally liable for any default or liability under this Agreement.

10. Compliance with Law.

ATTORNEYS shall comply with all applicable laws, ordinances, codes and regulations of the Federal, State and local governments. In addition, ATTORNEYS agree to abide by all ethical and moral standards as represented by the Rules of Professional Conduct as applied to the California State Bar.

11. Work Product.

All documents, or other information developed or received, by ATTORNEYS shall be the property of the CITY. ATTORNEYS shall provide the CITY with copies of items upon reasonable demand and upon termination of this Agreement.

12. Notices.

All notices shall be personally delivered or mailed, via first class mail, to the below listed address. In addition, such addresses shall be used for delivery for service of process. ATTORNEYS agree to notify the CITY within ten (10) days of the date of any change of address and agrees to keep an updated address with the applicable Courts on any matters that

ATTORNEYS are representing the CITY.

- a. Address of ATTORNEYS is as follows:

Stradling, Yocca, Carlson & Rauth, P.C.
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Attn: E. Kurt Yeager

- b. Address of CITY is as follows:

Glen R. Googins, City Attorney/General Counsel
Michael J. Shirey, Deputy City Attorney III/Deputy General Counsel
Eric Crockett, Assistant Director Development Services
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

13. Default/Termination of Agreement.

CITY and ATTORNEYS shall have the right to terminate this Agreement without cause by giving fifteen (15) written notice. However, ATTORNEYS shall not substitute out as Attorneys of record on any matters it may be representing the CITY without first obtaining written consent from the CITY, or first obtaining an appropriate Court Order, allowing ATTORNEYS to withdraw as counsel of record.

14. Limitations Upon Assignment/Subcontracting.

ATTORNEYS agree that no portion of their performance or services rendered under this Agreement shall be assigned by ATTORNEYS or subcontracted to any other without prior written authorization and approval of the City Attorney.

15. Non-Discrimination.

ATTORNEYS covenant there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

16. Time of Essence.

Time is of the essence in the performance of this Agreement.

17. Authority to Execute.

The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement as herein stated.

18. City/ Audit

The CITY is required to complete an annual audit. The Auditors may contact and require

some input from ATTORNEYS concerning matters ATTORNEYS are engaged for the CITY. ATTORNEYS agree to cooperate, at not charge to the CITY, for such cooperation or input as part of Attorney costs of service for the CITY.

19. Entire Agreement.

This Agreement represents the Parties' final and mutual understanding. This Agreement supersedes any previous Agreements, oral or written.

20. Modification.

This Agreement shall not be modified or replaced except by another signed, written Agreement, properly executed by the parties.

21. Waiver.

The waiver of any breach or any provision of this Agreement does not waive any other breach of that term, or any other term, in this Agreement.

22. Partial Invalidity.

If any part of this Agreement is found for any reason to be unenforceable, all other parts nonetheless shall remain in force.

23. Governing Law.

This Agreement shall be interpreted and construed in accordance with the laws of the State of California. Any action commenced regarding this Agreement shall be filed in the Central Branch of the San Diego Superior Court.

24. Interpretation.

This Agreement shall be interpreted as though prepared by both parties.

25. Survival.

All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the CITY and ATTORNEYS survive the termination of this Agreement.

26. Financial Interests.

If ATTORNEYS are designated on Exhibit A, as a Fair Political Practices Commission ("FPPC") Filer, ATTORNEYS are deemed to be a "Consultant" for the purposes of the Political Reform Act conflict of interest and disclosure provisions, and shall report economic interests to the City Clerk on the required Statement of Economic Interests in such reporting categories as are specified in Exhibit A, or if none are specified, then as determined by the City Attorney.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF CHULA VISTA, a Charter
Municipal Corporation

By: _____
Glen R. Googins
City Attorney

ATTEST:

By: _____
City Clerk

STRADLING, YOCCA, CARLSON &
RAUTH, P.C.

By: _____
E. Kurt Yeager

Approved as to Form:

Glen R. Googins
City Attorney

**EXHIBIT “A”
TO
LEGAL SERVICES AGREEMENT**

STATEMENT OF ECONOMIC INTERESTS

Attorneys:

(X) Not Applicable. Not a Fair Political Practices Commission (“FPPC”) Filer.

() FPPC Filer.

If Attorneys in the performance of its services under this agreement: (1) conducts research and arrives at conclusions with respect to its rendition of information, advice, recommendations or counsel independent of the control and direction of the City or of any City official, other than normal contract monitoring; and (2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendations or counsel, Attorneys should not be designated as an FPPC Filer.

If Attorneys are designated as FPPC filers, specify below which disclosure categories apply:

- () 1. All investments, sources of income and business positions;
- () 2. Interests in real property;
- () 3. Investments, business positions, interests in real property, and sources of income subject to the regulatory, permit or licensing authority of the department;
- () 4. Investments and business positions in business entities and sources of income that engage in land development, construction or the acquisition or sale of real property;
- () 5. Investments and business positions in business entities and sources of income that, within the past two years, have contracted with the City of Chula Vista or the Redevelopment Agency to provide services, supplies, materials, machinery or equipment;
- () 6. Investments and business positions in business entities and sources of income that, within the past two years, have contracted with the designated employee’s department to provide services, supplies, materials, machinery or equipment;
- () 7. List Attorneys’ interests in real property within 2 radial miles of Project Property, if any: