

**CONSULTANT AGREEMENT**  
(Strategic Real Estate Services)

THIS CONSULTANT AGREEMENT (the "Agreement") is made and entered into on July 1, 2008 by the REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG, a public body corporate and politic ("Agency"), and CARYN WEGERBAUER, doing business as, STRATEGIC REAL ESTATE SERVICES ("Consultant").

RECITALS

A. WHEREAS, the Agency has the need for professional consulting services in connection with the Agency's on-going efforts to market the "Old Town" neighborhood of the City of Pittsburg, including the dissemination of information regarding the redevelopment activities in the Los Medanos Project Area (the "Project Area"); and

B. WHEREAS, the Consultant is willing and qualified to provide such services on behalf of the Agency to assist the Agency in accomplishing the goals and objectives set forth in the Community Development Plan (the "Redevelopment Plan") for the Project Area.

NOW, THEREFORE, the Agency and Consultant, for the considerations hereinafter named, agree as follows:

**ARTICLE 1**  
**SCOPE OF WORK**

1.1 Scope of Work.

Subject to the terms and conditions pursuant hereto, the scope of work to be performed by the Consultant shall be in accordance with the Consultant's Scope of Work, attached as Exhibit A and incorporated herein by this reference (the "Scope of Work"). As part of the Consultant's Scope of Work, the Consultant shall identify all subcontractors performing work, if any, and shall provide an explanation to the Agency as to the scope of work and costs of such work to be performed by the subcontractor. The Consultant shall not be compensated for any additional services rendered in connection with its performance of this Agreement or listed in Exhibit A unless, such additional services are authorized in advance and in writing by the Executive Director. The Consultant shall be compensated for any such additional services in amounts and in the manner agreed to in writing by the Executive Director and such additional services shall be identified and incorporated into this Agreement.

1.2 Change in Scope of Services.

The Consultant shall perform no work for the Agency beyond the scope of services described in the Scope of Work without the Executive Director's prior written consent. Should either the Agency or the Consultant determine that services beyond the services described in the Scope of Work are required, the Consultant shall provide

the Agency with an amendment to the Scope of Work for the services to be performed. The amendment shall describe the modifications to the services, deliverables, and costs set forth in Exhibit A.

### 1.3 Delays.

If the work provided for under this Agreement is delayed due to factors or conditions beyond the control of the Consultant and through no fault or negligence on its part as determined solely by the Executive Director, the Consultant may request, in writing, an extension of time, an adjustment in compensation, or both. The request must be accompanied by substantiating data reasonably acceptable to the Executive Director. If, in the sole opinion of the Executive Director or his or her authorized representative, a delay is justified, the Consultant may be granted an extension of time, an adjustment in compensation, or both. The Executive Director's decision regarding any adjustment to time or compensation is final.

### 1.4 Inspection and Final Acceptance.

The Agency may inspect and accept or reject any of the Consultant's work under this Agreement, either during performance or when completed. If, during performance of the work as defined herein, the Agency determines that the Consultant's work is unsatisfactory, the Agency shall inform the Consultant in writing as to the deficiencies. The Consultant shall have ten (10) days from the date of the Agency's delivery of such notice (or the Consultant's refusal of delivery, if applicable) to cure such deficiencies. Failure to cure such deficiencies within the ten (10) day period shall be a breach of this Agreement. The Executive Director at his or her sole discretion may extend the time frame to cure deficiencies only by written authorization.

Upon completion of performance of work as defined herein, the Agency may reject work within sixty (60) days following the Agency's receipt of such work by giving written notice to the Consultant, otherwise such work shall be deemed accepted. Acceptance of any of the Consultant's work by the Agency shall not constitute a waiver of any provision of this Agreement, including but not limited to the insurance and indemnity provisions herein.

## **ARTICLE 2 PROGRESS OF WORK**

### 2.1 Beginning of Work.

The Consultant shall commence work pursuant to the Scope of Work attached as Exhibit A hereto upon receipt of written notice to proceed and shall diligently prosecute all work to completion. For each additional service to be performed by the Consultant pursuant to this Agreement, such service shall not commence until the Agency Executive Director has approved, in writing, the scope of such services and the Consultant's compensation for such services, and thereafter delivered a written notice to proceed to the Consultant. Upon the Consultant's receipt of such notice to proceed, the Consultant shall diligently prosecute all work to completion in accordance with the terms

of this Agreement. For the purposes of this Agreement, the Agency's execution of this Agreement shall be deemed to be the notice to proceed, and the Consultant shall commence work no later than July 1, 2008.

## 2.2 Time of Completion.

Following the written notice to proceed provided by the Agency pursuant to Section 2.1, the Consultant shall commence work and shall complete the work no later June 30, 2009. The schedule shall be maintained unless changed by mutual agreement as provided herein. This Agreement shall terminate on June 30, 2009.

## 2.3 Temporary Suspension of Work.

Should the Agency suspend work pursuant hereto through no fault of the Consultant, and then resume work, the Consultant shall have the right to renegotiate fees, but only if the period of suspension exceeds one hundred and twenty (120) calendar days.

## 2.4 Termination.

The Agency reserves the right to terminate this Agreement at any time prior to completion of any of the services upon thirty (30) days written notice to the Consultant of such termination. If the Consultant fails to perform any material obligation and/or is in default under the terms of this Agreement, then, in addition to any other remedies, the Agency may terminate this Agreement immediately upon written notice.

If the Agency fails to approve either an amendment to the Scope of Work as described in Section 1.2 or a reasonable increase in total compensation requested by Consultant pursuant to Section 4.1, then either party may terminate this Agreement immediately upon written notice. If any payment is not made by the Agency to the Consultant when due in accordance with this Agreement, the Consultant may, thirty (30) days after delivery of written notice of nonpayment to Agency, terminate this Agreement immediately upon written notice.

In the event of termination, the Consultant shall invoice the Agency for the services completed prior to the date of termination subject to the limitations of Section 4.1 of this Agreement. Further, all property belonging exclusively to the Agency which is in the Consultant's possession (including, but not limited to all work performed by the Consultant prior to the termination, and all materials referenced in Section 3.9) shall, within five (5) days after the effective date of termination, be returned to the Agency by the Consultant.

## **ARTICLE 3 CONTROL OF THE WORK**

### 3.1 Authority of the Agency.

The Agency shall vest authority in the Executive Director of the Agency to decide all questions which may arise as to the quality or acceptability of the Consultant's work and as to the manner of performance and rate of progress of all services provided by the Consultant.

### 3.2 Assignment.

Performance of the services as defined herein shall not be assigned except upon the prior written consent of the Executive Director. Consent to subcontract, assign, or otherwise dispose of any portion of this Agreement will not be construed to relieve the Consultant of any responsibility for the fulfillment of this Agreement.

### 3.3 Consultant Not an Agent.

Except as the Agency may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of the Agency in any capacity whatsoever as an agent.

### 3.4 Subcontracts.

The Consultant shall give its complete attention to the fulfillment of this Agreement and shall keep the work to be performed under this Agreement under its control. The Consultant shall be fully responsible to the Agency for the acts and omissions of its employees and subcontractors and of persons either directly or indirectly employed by them.

Any contract entered into between the Consultant and a subcontractor for work related to this Agreement shall incorporate the applicable provisions of this Agreement. The Agency shall reserve its right to approve all subcontractors, either as part of Consultant's proposal as provided under Section 1.1 or anytime during the performance of work as defined herein, prior to the Consultant entering into any agreement with a subcontractor for work to be performed pursuant to this Agreement.

### 3.5 Standard of Performance.

The Consultant shall perform the services set forth in the Scope of Work to the reasonable satisfaction of the Executive Director in accordance with generally accepted standards for professional marketing and related services. While the Consultant shall perform its services in reasonable accordance with professional standards in effect at the time the Consultant's services are performed, the Consultant and the Agency agree and acknowledge that such standards may subsequently change due to improvements in the state of practice and the Consultant shall thereafter perform to such standard. All work performed by the Consultant shall be subject to review and approval of the Executive Director or his or her authorized representative at all times. The Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, timely, and professional manner.

### 3.6 Independent Contractor.

The Consultant is an independent contractor and not an officer, employee or agent of the Agency, and is solely responsible for its acts or omissions. Neither the Consultant, nor any of the Consultant's officers, employees, subcontractors, sub-consultants, or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to the Agency's employees. The Consultant expressly waives any claim it may have to any such rights. The Consultant shall have no authority to bind the Agency in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against the Agency, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or authorized written amendments to this Agreement.

The personnel performing the services under this Agreement on behalf of the Consultant shall at all times be under the Consultant's exclusive direction and control. The Consultant shall not at any time or in any manner represent that the Consultant or any of the Consultant's officers, employees, subcontractors, sub-consultants, or agents are in any manner officials, officers, employees or agents of the Agency.

### 3.7 Conflict of Interest.

The Consultant understands that its professional responsibility under the terms of this Agreement is solely to the Agency. The Consultant warrants that it presently has no interest and will not acquire any direct or indirect interest that would conflict with its performance of this Agreement. During the time the Consultant provides services to the Agency, the Consultant shall not participate in any activity, employment, or contractual relationship that would constitute a conflict of interest with its duties to the Agency or to employ any such person having such an interest. The Consultant and its agents or employees working under this Agreement shall submit statements of economic interest under applicable law if requested to do so by the Agency.

### 3.8 Covenant against Contingent Fees.

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement.

For breach or violation of this warranty, the Agency shall have the right to annul this Agreement without liability, or, at its sole discretion, deduct from the Consultant's compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

### 3.9 Ownership of Documents.

All documents including but not limited to original models, photographs, studies,

surveys, reports, data, notes, computer files, files and other documents prepared, developed, or discovered by the Consultant in the course of providing any services pursuant to this Agreement (collectively the "Project Documents") shall become the sole property of the Agency. However, such Project Documents are not intended nor represented to be suitable for reuse by the Agency for purposes other than as related to the Scope of Work as defined herein. Any reuse for specific purposes intended will be at the user's sole risk. The Agency hereby grants a license to the Consultant to use or reuse the Project Documents, provided such use or reuse is not adverse to the interests of the Agency.

Following the completion of the services under this Agreement and final payment to the Consultant, the Project Documents shall become the exclusive property of the Agency and, at the request of the Executive Director, the Consultant shall promptly deliver to the Agency all such original models, photographs, studies, surveys, reports, data, notes, computer files, files and other documents produced in connection with the performance of services as defined herein.

The Agency shall comply with all public records requests pursuant to applicable law. The Agency shall not be liable for release of information disclosed.

### 3.10 Replacement and Reimbursement.

Where applicable to the services performed under this Agreement, in the event that any such services furnished by the Consultant are reasonably rejected or found to be unacceptable by the Agency, the Consultant shall at its sole expense remove or replace all rejected services or project deliverables. Should the Consultant fail, neglect or refuse to remove and replace rejected services or project deliverables, the Agency may substitute services in the open market and deduct the cost of such substitute services from any money due the Consultant. This section does not in anyway limit the Agency's rights and remedies for Consultant's breach of this Agreement.

### 3.11 Testimony.

The Consultant agrees to testify at the Agency's request if litigation is brought against the Agency in connection with the Consultant's services. Unless the action is brought by the Consultant or is based upon the Consultant's wrongdoing, the Agency shall compensate the Consultant for the testimony at the Consultant's standard hourly rates as set forth in the Scope of Work.

### 3.12 Compliance with Applicable Laws.

The Consultant shall carry out the work defined under this Agreement in conformity with all applicable laws, including without limitation applicable provisions of the City of Pittsburg Municipal Code; all applicable disabled and handicapped access requirements, including with limitation the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., Government Code section 4450, et seq., Government Code section 11135 et seq., and the Unruh Civil Rights Act, California Civil Code section 51 et seq.

The Consultant shall at all times observe and comply with all federal, state, and local laws, regulations, ordinances, orders, and decrees applicable to the Scope of Work. The Consultant shall indemnify, defend, and hold harmless the Agency and its Indemnitees as defined herein against any claims of liability arising from acts or omissions of its agents, sub-consultants, subcontractors, employees based on the violation of any such law, regulation, ordinance, order, and decree.

## **ARTICLE 4 COMPENSATION AND METHOD OF PAYMENT**

### **4.1 Method of Measurement.**

Compensation for services performed pursuant hereto shall be paid as set forth below and in Exhibit A. The total amount to be paid to the Consultant in accordance with this Agreement shall not exceed a total of One Hundred Twenty One Thousand Six Hundred Dollars (\$121,600) during term of this Agreement unless additional compensation is approved in writing in accordance with this Agreement. The Agency shall pay the Consultant a monthly retainer fee in the amount of Six Thousand Eight Hundred Dollars (\$6,800) per month (the "Monthly Payment Date"). Such monthly retainer fee shall be paid no later than 10<sup>th</sup> of each month during the term of this Agreement. In addition to the monthly retainer fee, the Agency shall pay the Consultant an amount not to exceed Forty Thousand Dollars (\$40,000) for Marketing Outreach in Ten Thousand Dollar (\$10,000) increments on July 7, 2008, October 6, 2008, January 5, 2009 and April 5, 2009.

No later than fifteen (15) days prior to each Monthly Payment Date and payment for Marketing Outreach services, the Consultant shall submit an invoice to the Agency for services rendered during the previous month. All invoices shall identify the scope of services performed and shall detail charges including, where appropriate, labor (by sub-category), travel, materials, equipment, supplies, subcontractor charges, and miscellaneous expenses. The Agency shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid within fifteen (15) days following receipt. In the event any charges or expenses are disputed by the Agency, the original invoice shall be returned by the Agency to Consultant for correction and resubmission. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects, errors, or omissions in work performed by the Consultant.

### **4.2 Invoices.**

The Consultant shall provide the Agency with invoices for all services provided. Invoices shall identify the service performed in accordance with the scope of services outlined in the Scope of Work (and as approved in writing by the Agency in accordance with Section 2.1), the period of time during which the work was performed, the

position(s) of the employee(s) performing the work and the number of hours worked by each position.

Invoices shall be addressed to:

Redevelopment Agency of the City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565  
Attn: Randy Starbuck

## **ARTICLE 5 INSURANCE REQUIREMENTS; INDEMNITY**

### 5.1 General Insurance Requirements.

The Consultant shall not begin work under this Agreement until it obtains insurance required under this Article and shall maintain in full force and effect the required insurance during the term of this Agreement. All insurance policies shall be subject to approval by the Agency as to form and content. The Consultant may, in writing, notify the Agency of explanation as to why any specific insurance requirements should be waived. The Executive Director in conjunction with the Redevelopment Agency Director may determine to waive certain requirements. Such determination is final. Any amendment or waiver to the insurance requirements as defined herein shall be in writing and incorporated into this Agreement. All insurance shall cover the Consultant and its principals and employees and also cover their liability arising out of operations of the Consultant's agents, representatives, and subcontractors in connection with its operations under this Agreement. All insurance requirements shall appear either in the body of the insurance policies or as endorsements. The insurance required under this Article shall specifically name the Agency, its officers, officials, agents, employees and volunteers ("the Agency and its employees") as an additional insured.

A copy of all policies or evidence thereof shall be furnished to the Agency at least ten (10) days prior to the Consultant's commencement of services under this Agreement. All policies shall provide for at least thirty (30) calendar days prior notice to the Agency before coverage is canceled; the Consultant shall notify the Agency at least thirty (30) calendar days prior to any suspension, voiding, or reduction of coverage or of limits. The Consultant's insurance is to be placed with insurance companies with A.M. Best Co.'s rating of no less than A-VII. Any deductibles or self-insured retention exceeding \$35,000 shall be declared to the Agency and the Agency shall determine whether to approve such deductible or self-insurance retention, or to require the Consultant to provide additional coverage. The Consultant's insurance shall be primary with respect to the Agency and its employees. Any failure by the Agency and its employees to comply with the reporting provisions of the policy shall not affect coverage provided to the Agency and its employees.

### 5.2 Automobile Insurance.

The Consultant shall maintain minimum automobile coverage of (a) One Hundred Thousand Dollars (\$100,000) for property damage, Five Hundred Thousand Dollars (\$500,000) for injury to one person/any one occurrence and One Million Dollars (\$1,000,000) for injury to more than one person/any one occurrence or (b) combined single limit of One Million Dollars (\$1,000,000) per occurrence.

### 5.3 Workers' Compensation Insurance.

The Consultant shall maintain workers' compensation insurance as required by the State Labor Code and Employer's Liability Insurance with limits in the amount of One Million Dollars (\$1,000,000) per accident. The insurer shall agree to waive all rights of subrogation against the Agency and its employees for losses arising from work performed by Consultant for the Agency.

### 5.4 Public Liability and Property Damage Insurance.

The Consultant shall take out and maintain comprehensive general liability and property damage insurance and shall insure the Agency and its employees from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from the Consultant's negligent operations under this Agreement, whether or not done by the Consultant or by anyone directly or indirectly employed by the Consultant. Such insurance shall have a combined limit of not less than One Million Dollars (\$1,000,000).

### 5.5 Errors and Omissions Insurance.

The Consultant shall cause to be taken out and kept in full force and effect during the term of this Agreement a policy in form and content satisfactory to the Agency that shall indemnify the Consultant against errors and omissions or malpractice by the Consultant. Said policy or policies shall provide liability coverage in the amount of Five Hundred Thousand Dollars (\$500,000) per claim, and a deductible provision of not more than Fifty Thousand Dollars (\$50,000), and Two Million Dollars (\$2,000,000) aggregate.

### 5.6 Indemnity.

The Consultant shall indemnify and hold harmless the Agency, its elected and appointed boards, its officials, officers, agents, employees, and volunteers (individually and collectively referred to as "Indemnitees") from and against any and all demands, claims, causes of action, liability, loss, costs of whatever nature, proceedings including but not limited to administrative proceedings, suits, damages, judgments, liens, levies, and reasonable expenses (including without limitation costs and fees of litigation and attorneys fees) arising from or in any way connected with the Consultant's performance hereunder, to the extent that the above are caused by any negligence, errors, acts, omissions, or misrepresentations by the Consultant, its employees, agents, sub-consultants, subcontractors, either as a sole or contributory cause, sustained by any person or entity. The foregoing shall not apply to claims or causes of action caused by the sole negligence of the Indemnitees.

If any action or proceeding is brought against the Indemnitees in connection with the Consultant's services under this Agreement, the Consultant shall indemnify same as provided above, and shall defend same at the Consultant's expense and upon written notice from the Agency, by counsel acceptable to the Agency, such acceptance not to be unreasonably withheld.

This section shall survive termination of this Agreement.

## **ARTICLE 6 MISCELLANEOUS**

### 6.1 Notices.

Any notice given under this Agreement shall be in writing and deemed given when personally delivered, delivered by reputable overnight delivery service, or deposited in the mail (certified or registered) addressed to the parties as follows:

The Agency:                   Redevelopment Agency of the City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565  
Attn: Randy Starbuck

The Consultant:           Caryn Wegerbauer  
Strategic Real Estate Services  
115 Linscheid Drive  
Pittsburg, CA 94565

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section. Delivery shall be deemed to have occurred at the time indicated on the receipt for delivery, or refusal of delivery (if applicable).

### 6.2 Resolution of Disputes; Litigation.

Prior to either party commencing litigation, the parties shall meet in good faith to select a mediator, reasonably acceptable to each party, to mediate and resolve the dispute. The parties shall equally divide the cost of mediation. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS/ENDISPUTE or its successor in interest ("JAMS") and 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. If either party brings an action to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees and costs.

### 6.3 Waivers.

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

6.4 Modification.

No waiver or modification of this Agreement is valid unless made in writing and signed by both parties.

6.5 Severability.

If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

6.6 Entire Agreement.

This Agreement and its exhibits set forth the entire understanding between the parties.

6.7 Choice of Law.

This Agreement is governed by and to be construed in accordance with the laws of the State of California.

6.8 Headings.

Paragraph headings are used for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

6.9 Consultant Representation and Warranty Regarding Execution.

This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered by Consultant, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Consultant, and all actions required under Consultant's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement, or to be executed and delivered, pursuant to this Agreement, have been duly taken (to the extent such actions are required as of the date of execution and delivery of the above-named documents).

6.10 Counterparts; Multiple Originals.

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date written above.

CONSULTANT:

CARYN WEGENBAUER dba STRATEGIC  
REAL ESTATE SERVICES

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

AGENCY:

REDEVELOPMENT AGENCY OF THE CITY OF  
PITTSBURG, a public body corporate and politic

By: \_\_\_\_\_

Marc S. Grisham  
Executive Director

Approved as to Form:

GOLDFARB & LIPMAN LLP

\_\_\_\_\_  
Agency Counsel

**EXHIBIT A**  
**SCOPE OF WORK**  
**OLD TOWN PITTSBURG MARKETING & POSITIONING**  
**July 1, 2008 – June 30, 2009: \$121,600.00**

To Consultant Agreement entered into as of July 1, 2008 by the Redevelopment Agency of the City of Pittsburg (“Agency”) and Caryn Wegerbauer, doing business as Strategic Real Estate Services (“SRES”).

Scope of Consulting Services:

Strategic Real Estate Services is contracted to market the retail opportunities available in Old Town Pittsburg and to lease space on behalf of the Agency. In order to attract the quality merchandising mix desired by the Agency, it is necessary for the Old Town Pittsburg retail district to be maintained as an attractive retail environment through the implementation of Property and Asset Management. Strategic Real Estate Services will perform the following Property and Asset Management services and leasing services relating to the Old Town Pittsburg retail district:

Tenant Prospecting: Quality tenants that the Agency desires will have the retail opportunities for their business presented to them – not merely a notice that there is space available. The prospective tenants’ clear understanding of the opportunity will help to create interest in the available retail space. SRES will communicate with prospective tenants and commercial brokers representing qualified retail prospects. SRES will schedule meetings with the principals of prospective tenants and influential retail brokers to educate them on the retail opportunities and ongoing developments and opportunities in Old Town Pittsburg.

All reasonable efforts shall be made to lease properties controlled by the Agency in Old Town, by procuring tenants for the Properties and negotiating on behalf of the Agency. SRES may not enter into any lease. All leases must be signed by the Redevelopment Agency of the City of Pittsburg. SRES shall not decline to lease any Agency controlled space to a prospective tenant on the basis of the tenant's race, color, creed, national origin, sex, sexual orientation, or any other classification then protected by law. As part of the lease and proposal review process, SRES shall investigate the financial ability and history of the tenant to pay rent, obtain approvals for necessary credit checks, and obtain references from employers and prior landlords.

Lease and Property Management Administration: The Agency is the Landlord to a number of tenants including La Veranda Italian Café, the E.J. Phair Brewing Company and Mechanic’s Bank in Old Town. SRES will handle, on behalf of the Agency, lease administration and tenant communications. SRES will respond to tenant questions, complaints or problems in a professional and businesslike manner on behalf of the Agency. SRES will abstract the retail tenant leases and/or the Agency can choose to utilize SRES to train its staff on effectively abstracting retail leases.

Property Operations: For those parcels that the Agency currently controls or may control/Master Lease in Old Town Pittsburg, SRES will communicate, on behalf of the Agency, with the appropriate individuals contracted through the Agency, and with the Agency's tenants, to ensure that property operations are handled appropriately to support the needs of the building and the tenant. SRES will supervise the performance of interior and exterior improvements and maintenance of Agency controlled space in Old Town Pittsburg to ensure that all work complies with building codes, zoning and licensing requirements.

Code Enforcement: SRES will assist the code enforcement office for the City of Pittsburg ("City") as necessary to obtain results for code violations in Old Town Pittsburg, including the drafting of correspondence and the necessary follow-up communications with property owners/businesses.

Special Projects: SRES will assist the Agency with the implementation of special projects in Old Town. For example, the US Postal Service ("USPS") made clear that successful relocations occur when property is exchanged with a public entity, i.e. a city. Should the Agency or the City wish to pursue the relocation of the USPS to a location outside of Old Town Pittsburg, SRES will resume the relocation negotiations, on behalf of the City and Agency, to obtain a preferred USPS relocation parcel near Highway 4.

Marketing Outreach: The marketing outreach that has been taking place for Old Town Pittsburg will be continued in order to continue to educate retail brokers and prospective retailers about the developments taking place and the opportunities available for lease in Old Town Pittsburg. The Marketing Outreach Budget program outlined below is not intended to specifically advertise already scheduled Old Town events. The program will capitalize upon selected special events and new retailers, as an opportunity to bring prospective tenants to Old Town. NOTE: It is absolutely necessary that new retailers be successful, because prospective retailers will speak directly with the new retailers about their sales. Since this Marketing Outreach budget does not directly drive traffic to the new retailers, it is imperative that the Old Town Coordinator and the Agency strategize to creatively market Old Town to maximize the sales of all new retailers. Hosting special events in Old Town Pittsburg is not enough – drawing patrons from East Contra Costa County to Old Town Pittsburg to frequent the new retailers is a priority.

Budget:

An annual Marketing/Positioning Budget ("Budget") will be provided in the amount of \$40,000. Examples of deliverables that can be created, produced and distributed as a part of the \$40,000.00 budget are listed below:

**Postcard Series:** Production and mailing of themed postcards for distribution to prospective retailers and the retail brokerage community.

**Approximate cost \$7,000.00**

**ICSC:** Representation at two shopping center conventions per calendar year.

**Approximate cost \$10,000.00**

**Direct Mail:** The copy write and distribution of well-timed and targeted press releases, the digital reprinting of press and production of email blasts disbursing appropriate and timely information to the public – including but not limited to: new store announcements, ground breaking announcements, and grand opening announcements. Ongoing updates to and printing of the Old Town Pittsburg Brochure, continued updates to the FYI Folders to include digital press updates and additional distribution of FYI Folders to prospects and brokers.

**Approximate cost \$10,000.00**

**Guerilla Marketing:** The design and development of a guerilla marketing giveaway for Old Town Pittsburg that is to be provided at the ICSC Convention and themed with the developments and progress taking place, such as the t-shirts, wine glasses and beer growlers produced in prior years as part of the Old Town Pittsburg Marketing Outreach.

**Approximate cost \$13,000.00**

Marketing Outreach Disbursements:

To implement the Marketing Outreach Budget of \$40,000.00, the following contracted installment disbursements will be made:

July 7, 2008	\$10,000.00
October 6, 2008	\$10,000.00
January 5, 2009	\$10,000.00
April 5, 2009	\$10,000.00

Should additional design services be requested, they will be provided at the hourly labor rate of \$100/hour, including reimbursable expenses. Reimbursable expenses include expenses incurred by SRES in the interest of the project for: transportation, long-distance communications, fees paid for securing approvals, film and processing, printing, reproductions, renderings and models requested by the Agency, postage and handling, messenger and overnight mail services, plotter output expenses, faxing, additional insurance coverage or limits required by the Agency and all state and local taxes.

Consulting Fee:

The Strategic Real Estate Services consulting fee for Property and Asset Management as outlined above is a monthly retainer fee of \$6,800.

Total annual contract price including the \$40,000.00 Marketing Outreach Budget, and the \$81,600 Property and Asset Management retainer fee is equal to \$121,600.00.

The Agency will also execute the Exclusive Marketing Agreement (See Attachment 1) with SRES for space available in Old Town Pittsburg and brokerage payments will be made per the terms of the Exclusive Marketing Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date written above.

CONSULTANT:

Caryn Wegerbauer dba Strategic Real  
Estate Services

By: \_\_\_\_\_

Name: Caryn Wegerbauer

Date: