

CONTRACT FOR SERVICES
REAL ESTATE ADVISORY SERVICES
BY AND BETWEEN THE
DUBLIN UNIFIED SCHOOL DISTRICT
AND
TERRA REALTY ADVISERS

This Contract is made and entered into as of the 16th day of November, 2016 by and between Dublin Unified School District, (hereinafter "District"), and Terra Realty Advisors, Inc., a California corporation (hereinafter "Consultant").

WHEREAS, the District requires real estate advisory services, and WHEREAS Consultant is qualified to perform such advisory services, IT IS MUTALLY AGREED as follows:

1. SCOPE OF SERVICES

Per the attached Scope of Services.

2. COMPENSATION

Compensation shall be as set forth in Exhibit "A".

3. TIME OF PERFORMANCE

This Contract shall be for a period of (1) year beginning October 2016 and ending October 2017. Contract shall not be extended unless notified in writing.

4. MODIFICATION AND TERMINATION

This Contract may be modified or amended only by a written instrument signed by the parties hereto. This contract may be terminated by District or Consultant at any time, upon thirty (30) days written notice, one to the other. Following termination, Consultant shall be reimbursed for all fees and expenditures made in good faith that are unpaid at the time of termination.

5. WARRANTY

It is understood that Consultant possesses the requisite skills necessary to perform the work as contemplated under this Contract. Consultant further warrants that it is a validly organized California Corporation, in good standing.

6. DEFAULT

A. If Consultant defaults in its performance, the District shall promptly notify Consultant in writing. If Consultant fails to cure said default within 10 days after notification, or if the default requires more than 10 days to cure and Consultant fails to commence to cure the default within 10 days after notification, then Consultant's failure shall terminate this Contract.

B. If District defaults in its performance, Consultant shall promptly notify District in writing. If District fails to cure said default within 10 days after notification, or if the default requires more than 10 days to cure and District fails to commence to cure the default within 10 days after notification, then District's failure shall terminate this Contract.

7. INSURANCE

A. Consultant shall maintain the following insurance for all activities of Consultant and its subcontractors arising out of or in connection with this Contract, written on a Comprehensive General Liability form including, but not limited to, premises and operations, independent contractor, products and completed operations, contractual liability and personal injury, in an amount no less than two million dollars (\$2,000,000) combined single limit for each occurrence and in the aggregate.

B. Automobile liability insurance covering bodily injury and property damage for all activities of Consultant arising out of or in connection with this Contract, including coverage for hired and non-owned vehicles, in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

C. As required by the Labor Code of the State of California, Worker's Compensation Insurance, for Consultant and employees of Consultant. All Worker's Compensation Policies shall be endorsed with the following specific language: "This policy shall not be canceled or materially changed without first giving thirty (30) days prior notice in Writing."

D. Professional Liability Insurance in the amount of one million dollars (\$1,000,000).

8. INDEMNIFICATION

A. District hereby agrees to indemnify, defend and hold harmless Consultant, its Agents and employees, from and against any and all claims, demands, losses, liabilities, actions, lawsuits and other proceedings, judgments, awards, and costs and expenses (including reasonable attorneys' fees), arising directly or indirectly, in whole or in part, out of any action reasonably undertaken by Consultant within the scope of its duties or authority hereunder, excepting only such actions which are negligent, fraudulent, and/or willful misconduct.

B. The provisions of this paragraph 9.(A) shall survive completion of Consultant's Services hereunder, or any earlier termination of this Contract.

9. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor and not an agent, officer or employee of District. It is understood by both Consultant and District this Contract is not intended to, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association. Consultant shall have no claim against District for any employee rights or benefits.

B. Consultant shall have no claim against District for employee rights or benefits including, but not limited to seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, retirement benefits, Social Security benefits, paid holidays or other paid leaves of absence.

C. Consultant is solely obligated to pay all their applicable taxes, deductions and other obligations including, but not limited to, federal and state income taxes, withholding, Social Security, unemployment, disability insurance, Workers' Compensation and Medicare payments.

D. Consultant shall indemnify and hold Client harmless from any liability which Consultant may incur because of Consultant's failure to pay such obligations as referenced in paragraph 9(C).

E. As an independent contractor, Consultant is not subject to the direction and control of District except as to the final result contracted for under this Contract. District may not require Consultant to change his/her manner of doing business, but may require redirection of efforts to fulfill this Contract.

F. Consultant may provide real estate advisory/consulting services to other during the same period Consultant provides service to District under this Contract.

G. Any third persons employed by Consultant shall be under Consultant's exclusive direction, supervision and control. Consultant shall determine all conditions of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other condition of employment.

H. As an independent contractor, Consultant shall indemnify and hold District harmless from any claims that may be made against District based on any contention by a third party that an employer-employee relationship exists under this Contract.

I. Consultant, with full knowledge and understanding of the foregoing, freely, knowingly, willingly and voluntarily waives the right to assert any claim to any right or benefit or term of condition of employment insofar as they may be related to or arise from compensation paid hereunder.

10. COMPLIANCE WITH LAW

Consultant shall comply with all federal, state and local laws and regulations applicable to its performance, including, but not limited to, licensing, employment and purchasing practices, wages, hours and conditions of employment.

11. CONFIDENTIALITY

A. Consultant and District shall prevent unauthorized disclosure of any project Information.

B. Consultant shall promptly transmit to District all request for disclosure of confidential and project information.

12. CONFLICT OF INTEREST

Consultant agrees that it presently has no interest in real property belonging to District, and shall not acquire any interest in real property, direct or indirect, which would conflict in any manner with the performance of services. Consultant has affirmative duty to disclose to District in writing the names(s) of any person(s) who have an actual, potential or apparent conflict of interest.

13. DRUG FREE WORKPLACE

Consultant warrants that it is knowledgeable of Government Code section 8350 et. Seq. regarding a drug free workplace, and shall abide by and implement its statutory

requirements.

14. INSPECTION

Authorized representatives of District may inspect and/or audit Consultant's performance, place of business and/or records pertaining to this Contract with appropriate notice provided, and in no event less than 48 hours.

15. NONDISCRIMINATION

Consultant shall comply with all applicable federal, state and local laws, rules and regulations with regard to services rendered under this Contract and shall not discriminate on the basis of age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion or sexual orientation.

16. SUBCONTRACTOR AND ASSIGNMENT

A. Services under this Contract are deemed to be personal services. Scott Sheldon, President of Terra Realty Advisors, Inc. (TRA), shall serve as the primary representative of TRA for all services provided under this Contract.

B. Consultant shall not subcontract any work under this Contract, nor assign the Contract or monies due without the prior written consent of the District, subject to any required state or federal approval.

C. Assignment by Consultant of any monies due shall not constitute an assignment of the Contract.

17. UNFORESEEN CIRCUMSTANCES

Consultant is not responsible for any delay caused by natural disaster, war, civil disturbance, labor dispute or other cause beyond Consultant's reasonable control, provided Consultant gives written notice to District of the cause of the delay within ten (10) days of the start of the delay.

18. OWNERSHIP OF DOCUMENTS

A. District shall be the owner of, and shall be entitled to possession of any computations, plans, correspondence or other pertinent data and information gathered by or computed by Consultant prior to termination of the Contract by District, or upon completion of the work pursuant to this Contract. Consultant shall also be entitled to copies of all such documents, etc.

B. No material prepared by consultant in connection with their services shall be subject to copyright in the United States or in any other Country.

19. NOTICE

Any notice necessary to the performance of this Contract shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

Dublin Unified School District
7471 Larkdale Avenue
Dublin, CA 94568
Attn: Kim McNeely
(925) 828-2551

Terra Realty Advisors, Inc.
2300 Boynton Avenue, Suite 202
Fairfield, CA 94533
Attn: Scott Sheldon
(707) 639-1000

If notice is given by personal deliver, notice is effective as of the date of personal Delivery. If notice is given by mail, notice is effective as of the day following the date of mailing or the date of delivery reflected upon a receipt, whichever occurs first.

20. NONRENEWAL

Consultant acknowledges there is no guarantee the District will renew Consultant's services under a new contract following expiration or termination of this Contract. Consultant waives all rights to notice of non-renewal of Consultant's services.

21. CHANGES AND AMENDMENTS

A. District may request changes in Consultant's scope of services. Any mutually agreed upon changes, including any increase or decrease in the amount of Consultant's compensation, shall be effective when incorporated in written amendments to this Contract.

B. The party desiring the revision shall request amendments to the terms and conditions of this Contract in writing. Any adjustment to this Contract shall be effective only upon the parties' mutual contract in writing.

C. No verbal agreements, or conversations prior to execution of this Contract, or requested Amendment, shall affect or modify any of the terms or conditions of this Contract unless reduced to writing according to the applicable provisions of this Contract.

22. CHOICE OF LAW

The parties have executed and delivered this Contract in the State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Contract. Solano County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Contract.

23. ENTIRE CONTRACT

This Contract, including any exhibits referenced herein, embodies the whole contract between the parties, and there are no inducements, promises, terms, conditions or obligations made by District or Consultant other than those contained herein.

IN WITNES WHEREOF, the Parties have executed this Contract the day and year first written above.

DUBLIN UNIFIED SCHOOL DISTRICT

TERRA REALTY ADVISERS, INC.
A California Corporation

Kim McNeely
Executive Director, Facilities

Scott Sheldon
President

Dr. Leslie Boozer
Superintendent

SCOPE OF SERVICES

- A. Consultant shall represent and provide advice to District in connection with the District's various real estate needs, and shall perform these services and carry out such other responsibilities as set forth herein, and any additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities as designated from time to time by the District.
- B. Services shall be performed in the name, and on behalf of District, and shall consist of the duties set forth herein; provided, however, the performance of any duty is not beyond the reasonable control of TRA:
- Research and provide advice on real estate options available to the District.
 - Assist District by reviewing and understanding their real property needs; current and future.
 - Develop recommendations and potential strategies for District.
 - Act as lead negotiator for real estate related matters with other affected parties/owners, including the City of Dublin, Alameda County, and potential real property developers, as directed.
 - Act as point of contact for all consultants hired by District or sub-consultants hired by TRA, as needed, with advance written approval.
 - Attend public functions, at the direction of District, as a real estate representative of District.
 - Attend District meetings: open and closed session, as directed by District, to update the Governing Board.
 - Coordinate the development of press releases and community function "talking points" with District, as directed.
 - Assist District staff as directed.
- C. Perform and administer any and all other services and responsibilities which are set forth in any other provisions of this Contract, or which are reasonably requested to be performed by the District, and are within the general scope of the services described herein.

EXHIBIT A – Compensation of the Consultant Manager

In it's capacity under this Agreement, TRA shall receive fees, as set forth in the Rate Schedule as referenced herein, which rates may be adjusted annually on July 1.

RATE SCHEDULE 2016/2017

The following are the hourly rates for each position:

Principal	\$215.00/hour
Senior Project Manager	\$150.00/hour
Project Manager	\$100.00/hour
Assistant Project Manager	\$ 85.00/hour
Administrative/Clerical	\$ 45.00/hour

Invoices will be issued monthly, and will be due and payable upon receipt. All other costs, such as phone, fax, or travel outside the Bay Area or Sacramento, overnight delivery charges, blueprints, etc., and additional costs, shall be reimbursed at cost. All payments will be delinquent after 30 days, and shall bear interest at 1 1/2% per month.

The following is a budget estimate of fees likely to be incurred for our services based on the attached Scope of Services. An estimate is not a fixed fee and does not constitute a commitment to perform services for that amount, or an obligation for the Client to pay that amount. Client consent will be obtained before TRA charges for fees that exceed the stated budget.

Preparing to serve, or serving as a consultant or witness in any litigation, arbitration or other legal proceedings are additional costs, and will be charged at 1.5 times the hourly rates as shown above.

Both parties herein agree to keep all information relating to this project and Agreement confidential