



REQUEST FOR COUNCIL DISCUSSION

DATE: 01/24/2011

ITEM NO: 12.c

Department Approval:

City Manager Approval:

Item Description: Selection of consultant to complete the Regulating Map and Plan component of the Roseville Zoning Ordinance re-write.

1.0 BACKGROUND

1.1 On December 13, 2010, the Roseville City Council adopted a new Official Zoning Map and Zoning Ordinance for Roseville. The ordinance or text portion replaced in its entirety a number of sections including 1001-1009, 1011, and 1019, while the map created zoning districts similar to the Comprehensive Plan - Land Use Map counterparts.

1.2 One of the specific changes that occurred was the creation of the Community Mixed Use District (CMU) for the Twin Lakes Redevelopment Area, which district requires a Regulating Map and Plan before redevelopment can occur. A Regulating Map and Plan is the technical document for the Twin Lakes Redevelopment Area and would include:

- a. Parking Locations: Locations where surface parking may be located would be specified by block or block face. Structured parking is treated as a building type.
b. Building and Frontage Types: Building and frontage types would be designated by block or block face. Some blocks should be coded for several potential building types; others for one building type on one or more block faces. Permitted and conditional uses may occur within each building type as specified in Table 1005-1 of the Roseville Zoning Ordinance.
c. Building Lines: Building lines would indicate the placement of buildings in relation to the street.
d. Street Types: The regulating map may include specific street design standards to illustrate typical configurations for streets within the district, or it may use existing City street standards.

1.3 The proposal by the Planning Division would replace the existing Twin Lakes Urban Design Principles with the Regulating Map and Plan. The existing Urban Design Principles is the current technical document and checklist for redevelopment proposals, but is merely a guideline. The document also includes certain items that are no longer applicable and/or may provide confusion between the guidelines and the new Code requirements adopted in December, if the Urban Design Principles document continues to exist. However, there are a number of items contained in the Urban Design Principles document that would remain and be incorporated into the Regulating Plan, which will become part of the CMU District requirements.

31 1.4 The Planning Division sent out via email a request for Professional Services (attached) to
32 the five finalists in the original Zoning Ordinance update process (RFP), which included
33 Bonestroo, The Cuningham Group, Hoisington Koegler Group, Inc. (HKGI), Sanders,
34 Wacker and Bergly, Inc. (SWB), and Short, Elliot Henderson, Inc. (SEH).

35 1.5 The Planning Division received three proposals for Professional Services to assist us in
36 creating the Regulating Map and Plan. The three proposals included Bonestroo, The
37 Cuningham Group and HKGI; while SWB declined to submit and SEH did not reply.

38 1.6 After careful consideration the Planning Division rated the proposals in order of
39 preference as follows: The Cuningham Group, HKGI and Bonestroo. In rating the three
40 consultants The Cuningham Group and HKGI stood out for their previous work on the
41 zoning ordinance re-write and the Comprehensive Plan, respectively. However, in the
42 final analysis the knowledge of the adopted zoning ordinance and their previous work on
43 regulating maps and plans was the determining factor in the Planning Division decision
44 to recommend the Cuningham Group. At \$14,500 The Cuningham Group also has the
45 lowest cost to complete the Regulating Map and Plan.

Cuningham Group	\$14, 500
Bonestroo	\$15,750
HKGI	\$16,000

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48 **2.0 STAFF RECOMMENDATION**

49 Based on the analysis completed, the Planning Staff recommends to the City Council that
50 the Cuningham Group be approved for completing the Community Mixed Use/Twin
51 Lakes Regulating Map and Plan.

52 **3.0 REQUESTED CITY COUNCIL ACTION**

53 BY MOTION, APPROVE, The Cuningham Group to complete the Community Mixed
54 Use/Twin Lakes Regulating Map and Plan and enter into a Standard Agreement for
55 Professional Services.

56

Prepared by: Thomas Paschke, City Planner

- Attachments:
- A. Request for Professional Services
 - B. Cuningham Group Proposal
 - C. Standard Agreement for Professional Services

57

REQUEST FOR PROFESSIONAL SERVICES

The City of Roseville Community Development Department is seeking quotes for professional services to create the Regulating Map and Plan for the Twin Lakes Redevelopment Area.

BACKGROUND

The Twin Lakes Redevelopment Area of Roseville has been a high priority for the City for the past 20 years. In 2007 the City established the Urban Design Principles, a set of guidelines for redevelopment predicated on pedestrian connectivity and form-based development. Recently, the City adopted a new Comprehensive Plan (2009) and a new Official Zoning Map, which identified the Twin Lakes Redevelopment Area as Community Mixed Use (CMU). The City also adopted new “form based” zoning regulations for the CMU district as well as the other zoning districts. However, the unique feature of the CMU district and the purpose of the Request for Professional Services is that the CMU district, in addition to its specific design standards and other regulations, requires a Regulating Map.

Much like a zoning ordinance includes technical requirements specific to each zoning district and in some instances specific uses, the Regulating Map and Plan is considered the technical document for the Twin Lakes Redevelopment Area and as such will replace the 2007 Urban Design Principles.

SCOPE OF WORK

The development of the Regulating Map and Plan for the CMU district will include the following tasks:

Task 1: Introductory Meeting - Meet with City staff to review scope of work and define overall direction and guidance, as well as the basic assumptions for preparing a working draft regulating map and plan.

Task 2: Kick-Off Meeting – Meet with City Council to discuss the process, review nuances of a Regulating Map, and to obtain guidance and direction on the important principles that should be incorporated into the map and plan.

Task 3: Draft Map and Plan – Prepare an initial draft to address text and graphic definitions for building location, height, frontage, setbacks, parking, uses and criteria defined in the CMU district.

Task 4: Work Session #1 – Meet with City staff to review the draft map and plan, and prepare for Community Open House.

Task 5: Community Open House – conduct and facilitate an Open House for the general community to review and gather feedback on the draft map and plan.

Task 6: Work Session #2 – Meet with staff to review and discuss feedback from the Community Open House and make necessary revisions.

Task 7: Revised Draft Map and Plan – based on feedback from Community Open House and direction from the Community Development Department, prepare the Proposed Twin Lakes Regulating Map and Plan.

Task 8: Public Hearing with Planning Commission – Attend and present the Proposed Twin Lakes Regulating Map and Plan for consideration and recommendation to the City Council.

Task 9: City Council meeting – Attend and present Proposed Twin Lakes Regulating Map and Plan document for consideration and approval.

The City’s Community Development Department staff will be responsible for coordinating, communicating and advertising all meetings as well as providing for appropriate venue locations. The hired consultant will prepare materials and media necessary to conduct and facilitate the various meetings.

REQUIRED DELIVERABLES

All deliverables shall be prepared using Indesign CS4 and the consultant will provide all copies of materials and products in digital formats as agreed to with the City. The Regulating Map and Plan that are defined with graphics and text shall include:

- a. Regulating Map graphic – digital copy to scale based on most current data and information as provided by the City.
- b. Parking Locations: Locations where surface parking may be located are specified by block or block face. Structured parking is treated as a building type.
- c. Building and Frontage Types: Building and frontage types are designated by block or block face. Some blocks should be coded for several potential building types; others for one building type on one or more block faces. Permitted and conditional uses may occur within each building type as specified in Table 1005-1 of the Roseville Zoning Ordinance.
- d. Building Lines: Building lines indicate the placement of buildings in relation to the street.
- e. Street Types: The regulating map may include specific street design standards to illustrate typical configurations for streets within the district, or it may use existing City street standards.

REGULATING MAP BOUNDARY

The Regulating Map and Plan shall include the Twin Lakes Redevelopment Area generally bound by Cleveland Avenue on the west, Fairview Avenue on the east, County Road C2 on the north, and County Road C and the south.

BUDGET

The Community Development Department has \$19,000 of professional services dollars that it can apply to this project.

SELECTION PROCESS AND TIMELINE

The Community Development Department is on an aggressive timeline to both select a consultant, as well to complete the project, and offers the following completion timeline:

Quotes/Proposals Due:	January 18, 2011
Review of Proposals:	January 19-20, 2011
Recommendation to Council:	January 24, 2011
Begin Work:	February 1, 2011
Complete Work:	April 15, 2011



**CUNNINGHAM
GROUP**

January 14, 2011

Patrick Trudgeon, Community Development Director
City of Roseville, MN
2660 Civic Center Drive
Roseville, MN 55113

**Subject: PROPOSAL AND AGREEMENT FOR PROVIDING PROFESSIONAL SERVICES
Twin Lakes Regulating Map**

Dear Pat:

Cunningham Group Architecture, P.A. (Architect) is delighted to be able to provide the City of Roseville (Client), with this Proposal and Agreement for professional services to assist you in preparing the Twin Lakes Regulating Plan.

**Cunningham Group
Architecture, P.A.**

St. Anthony Main
201 Main Street SE
Suite 325
Minneapolis, MN
55414

Tel: 612 379 3400
Fax: 612 379 4400

www.cunningham.com

PROJECT UNDERSTANDING

We understand the City is interested in preparing a Regulating Map for the Twin Lakes area to be consistent with the new zoning code update and specifically the Community Mixed Use district. The Regulating Map should respond to the provisions of the new code, specifically section 1005.07, item B. We know Twin Lakes has been the subject of attention from the City as well as potential developers over the years; the City has prepared a variety of studies, plans, and guidelines. In particular the *Twin Lakes Master Plan & Redevelopment Area Urban Design Principles* should be used as the primary reference for preparing the Regulating Map.

APPROACH/SCOPE OF WORK

We will attend an initial meeting with you to clarify scope, schedule and confirm details for the Regulating Map (map). This will result in the preparation of a “working draft” map that we will deliver and discuss with you prior to facilitating a meeting with the immediate stakeholders; this will be followed by a larger community open house. We will then assemble the comments received as the basis for reviewing with Staff and making revisions. A revised Regulating Map would then be prepared for review and comment by Staff. A final draft is produced for review by Plan Commission and then City Council.

Task 1: Kick-off Meeting - Meet with City staff to review scope of work and define overall direction and guidance as well as the basic assumptions for preparing a working draft regulating map.

Task 2: City Council Meeting #1 – Attend council meeting and present general approach and definition of the Regulating Map; facilitate comments and feedback.

Task 3: Working Draft – Prepare the initial working draft that would address the graphic element of the map as well as include text and graphic definitions for building location, height, frontage, setbacks, parking, uses and criteria defined in the CMU district.

Task 4: Work Session #1 – Meet with City staff to review Working Draft.

Task 5: Community Open House -- Facilitate an Open House for the general community to review and gather feedback on the Working Draft.

Task 6: Work Session #2 – Meet with staff to review and discuss feedback from the Stakeholders and Open House meetings; determine edits and revisions per the feedback from the meetings.

John W. Cunningham, FAIA
John Quilter, AIA
Thomas L. Hoskens, AIA
Douglas A. Lowe, FAIA
Lee Brennan, AIA
John W. Culligan, AIA
Timothy Dufault, AIA
Jack Highwart, AIA
Roger W. Kipp, AIA
Margaret S. Parsons, AIA
John G. Pfluger, AIA
James S. Scheidel, AIA
David M. Solner, AIA
Michael P. Strand, AIA
Brian Tempas, AIA
Kathryn M. Wallace, AIA
Jonathan V. Watts, AIA

Task 7: Revised Working Draft – Per direction from Staff and based on feedback from Stakeholder and Community meetings we will prepare a Final Working Draft.

Task 8: Plan Commission meeting – Attend and present Working Draft

Task 9: City Council meeting #2 – Attend and present Working Draft

The City's Community Development Department staff will be responsible for coordinating, communicating and advertising all meetings as well as providing for appropriate venue locations. Cunningham Group will prepare materials and media necessary to conduct and facilitate the various meetings.

Deliverables

All deliverables will be prepared using Indesign CS4 unless specified otherwise. CGA will provide all copies of materials and products in digital formats as agreed to with the City. A Regulating Map and Urban Standards that are defined with graphic and text shall include:

- **Regulating Map graphic** – digital copy to scale based on most current data and information as provided by the City. **Street and Block Layout:** The regulating map defines blocks and streets based on existing and proposed street alignments. New street alignments, where indicated, are intended to identify general locations and required connections but not to constitute preliminary or final engineering.
- **Parking Locations:** Locations where surface parking may be located are specified by block or block face. Structured parking is treated as a building type.
- **Building and Frontage Types:** Building and frontage types are designated by block or block face. Some blocks are coded for several potential building types; others for one building type on one or more block faces. Permitted and conditional uses may occur within each building type as specified in Table 1005-1.
- **Building Lines:** Building lines indicate the placement of buildings in relation to the street.
- **Street Types:** The regulating map may include specific street design standards to illustrate typical configurations for streets within the district, or it may use existing City street standards. Private streets may be utilized within the CMU District where defined as an element of a regulating map.

Regulating Map boundary

Attached as Exhibit 1 is the Community Mixed Use district as defined by the current zoning map. The Twin Lakes Regulating Map will not technically address this entire boundary but it should take into consideration the idea and vision of the larger district as a well connected, wholistic, mixed use place. As such CGA and the City should agree on the basic assumptions about public realm and open space (specifically as it relates to Langton Lake Park), access, and circulation. The intent and purpose of the Regulating Map is to provide greater specificity and predictability that deliver the physical characteristics of walkable, people-oriented, mixed-use communities A key objective is to support a prominent public realm (ROW, streets, sidewalks, parks, open space, civic buildings, etc.) with how the private sector investments are arranged and organized to physically define the public realm.

PROJECT TEAM

Michael Lamb will lead the project working closely with Andrew Dresdner.

FEES

We are proposing a fee of fourteen thousand five hundred dollars (\$14,500) to complete the above scope of work.

SCHEDULE

A schedule will be determined with the City of Roseville staff.

REIMBURSABLES

We do not anticipate any reimbursable expenses; however if reimbursable expenses are incurred they are in addition to the above fees. They include all normal expenses incurred by Architect for the benefit of the project including, but not limited to, out-of-town travel (if any and if authorized), mileage, long-distance telephone calls, faxing, messenger service, printing, etc. These expenses will be billed at 1.15 times their direct cost to Architect.

ADDITIONAL SERVICES

Services you may request such as physical models, 3-D computer modeling, additional drawings or any renderings, any engineering or special consultants, or other special services not specifically included in the above scope of work shall be invoiced at the current hourly rates or at 1.15 times the direct cost of consultant's charges to Architect. In addition, any changes in the scope will also be billed at an hourly rate. Hourly rates will be per Architect's current Hourly Rates, attached as Exhibit "A." Additional services will be performed only upon your written authorization.

INVOICING

Billings will be issued at 30-day intervals. Payment is due and payable upon invoice receipt. Interest of 1.0% per month will be due on the unpaid balance beginning 20 days after invoice date.

USE OF SUPPLIED INFORMATION

Owner agrees to provide and/or obtain all required licenses, including copyright license, to allow Architect to use and incorporate all Client supplied project-related drawing or other information and agrees to indemnify, defend and hold Architect and their consultants harmless from or against any and all claims arising out of or relating to Architect's or their consultants' use or incorporation of such information.

OTHER TERMS AND CONDITIONS

Except as otherwise modified herein, the terms and conditions of AIA Document B151, *Abbreviated Standard Form of Agreement Between Owner and Architect*, 1997 edition (copy attached) where Client acts as Owner for purposes of the Agreement, shall apply to all services provided under this Proposal and Agreement.

This Proposal and Agreement shall be interpreted and enforced under the laws of the State of Minnesota.

With your signature below you are indicating your acceptance of the understandings, terms and conditions of this Proposal and Agreement. This Proposal and Agreement may be



terminated by either party upon seven (7) days written notice should either party fail to perform substantially in accordance with its terms. Failure of Client to make payments to Architect within 20 days of invoice date shall be considered substantial non-performance and cause for suspension or termination of Architect's services.

If this Proposal and Agreement meets with your approval, please sign both copies and return one copy for our records and we will begin the work.

Thank you again for this opportunity to be of assistance. We look forward to working with you.

Sincerely,

CUNINGHAM GROUP ARCHITECTURE, P.A.

Approved By:
CITY OF ROSEVILLE

Michael Lamb
Director, Urban Design Studio

Patrick Trudgeon
Community Development Director

Date: _____

Date: _____

Mr./mrl/

Attachment:
Exhibit 1 – Project boundary



CUNNINGHAM
G R O U P

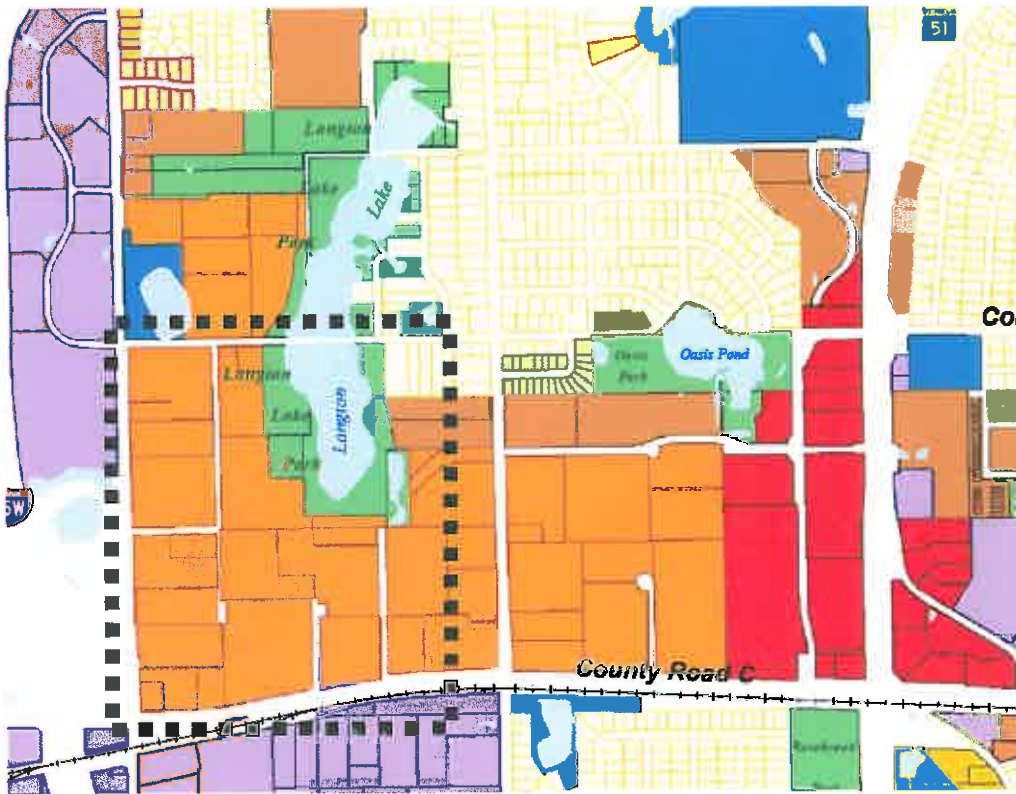



Exhibit 1 – Project Boundary

 Approximate area of Regulating Map

STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made on the 24th day of January, 2011, between the City of Roseville, Minnesota (hereinafter "City"), whose business address is 2660 Civic Center Drive, Roseville, MN 55113-1899, and Cuningham Group Architecture, P.A., a Minnesota Professional Corporation (hereinafter "Consultant") whose business address is St. Anthony Main, 201 Main Street SE, Suite 325, Minneapolis, MN 55414.

PRELIMINARY STATEMENT

The City has adopted a policy regarding the selection and hiring of consultants to provide a variety of professional services for City projects. That policy requires that persons, firms or corporations providing such services enter into written agreements with the City. The purpose of this Agreement is to set forth the terms and conditions for the provision of professional services by Consultant for creating the Regulating Map and Plan for the Community Mixed Use District of the Zoning Ordinance (Title 10, chapter 1005), hereinafter referred to as the "Work".

The City and Consultant agree as follows:

1. **Scope of Work/Proposal.** The Consultant agrees to provide the professional services shown in Exhibit "A" in connection with the Work. The terms of this standard agreement shall take precedence over any provisions of the Consultants proposal and/or general conditions.
2. **Term.** The term of this Agreement shall be from January 24 through April 30, 2011, the date of signature by the parties notwithstanding. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.
3. **Compensation for Services.** City agrees to pay the Consultant on a stipulated sum fee basis plus expenses in a total amount of not to exceed \$14,500 for the services as described in Exhibit A.
 - A. Any changes in the scope of the work which may result in an increase to the compensation due the Consultant shall require prior written approval by an authorized representative of the City or by the City Council. The City will not pay additional compensation for services that do not have prior written authorization.
 - B. Special Consultants may be utilized by the Consultant when required by the complex or specialized nature of the Project and when authorized in writing by the City.
 - C. If Consultant is delayed in performance due to any cause beyond its reasonable control, including but not limited to strikes, riots, fires, acts of God, governmental actions, actions of a third party, or actions or inactions of City, the time for performance shall be extended by a period of time lost by reason of the delay. Consultant will be entitled to payment for its reasonable additional charges, if any, due to the delay.
4. **City Information.** The City agrees to provide the Consultant with the complete information concerning the Scope of the Work and to perform the following services:
 - A. Access to the Area. Depending on the nature of the Work, Consultant may from time to time require access to public and private lands or property. As may be necessary, the City shall obtain access to and make all provisions for the Consultant to enter upon public and private lands or property as required for the Consultant to perform such services necessary to complete the Work.

- B. Consideration of the Consultant's Work. The City shall give thorough consideration to all reports, sketches, estimates, drawings, and other documents presented by the Consultant, and shall inform the Consultant of all decisions required of City within a reasonable time so as not to delay the work of the Consultant.
 - C. Standards. The City shall furnish the Consultant with a copy of any standard or criteria, including but not limited to, design and construction standards that may be required in the preparation of the Work for the Project.
 - D. Owner's Representative. A person shall be appointed to act as the City's representative with respect to the work to be performed under this Agreement. He or she shall have complete authority to transmit instructions, receive information, interpret, and define the City's policy and decisions with respect to the services provided or materials, equipment, elements and systems pertinent to the work covered by this Agreement.
5. **Method of Payment.** The Consultant shall submit to the City, on a monthly basis, an itemized invoice for professional services performed under this Agreement. Invoices submitted shall be paid in the same manner as other claims made to the City for:
- A. Progress Payment. For work reimbursed on a stipulated sum fee basis, the Consultant shall invoice monthly for the amounts due for the percentage of the scope of services completed for each project phase less amounts previously invoiced. Consultant shall verify all statements submitted for payment in compliance with Minnesota Statutes Sections 471.38 and 471.391. For reimbursable expenses, if provided for in Exhibit A, the Consultant shall provide an itemized listing and such documentation as reasonably required by the City. Each invoice shall contain the City's project number and a progress summary showing the original (or amended) amount of the contract, current billing, past payments and unexpended balance of the contract.
 - B. Suspended Work. If any work performed by the Consultant is suspended in whole or in part by the City, the Consultant shall be paid for any services performed prior to receipt of written notice from the City of such suspension, all as shown on Exhibit A.
 - C. Payments for Special Consultants. The Consultant shall be reimbursed for the work of special consultants, as described in Section 3B, and for other items when authorized in writing by the City.
 - D. Claims. To receive any payment on this Agreement, the invoice or bill must include the following signed and dated statement: "I declare under penalty of perjury that this account, claim, or demand is just and correct and that no part of it has been paid."
6. **Project Manager and Staffing.** The Consultant has designated Michael Lamb to serve on the Project. He will be assisted by other staff members as necessary to facilitate the completion of the Work in accordance with the terms established herein. Consultant may not remove or replace these designated staff from the Project without the approval of the City.
7. **Standard of Care.** All Work performed pursuant to this Agreement shall be in accordance with the standard of care in Ramsey County, Minnesota for professional services of the like kind.

8. **Audit Disclosure.** Any reports, information, data, etc. given to, or prepared or assembled by the Consultant under this Agreement which the City requests to be kept confidential, shall not be made available to any individual or organization without the City's prior written approval. The books, records, documents and accounting procedures and practices of the Consultant or other parties relevant to this Agreement are subject to examination by the City and either the Legislative Auditor or the State Auditor for a period of six (6) years after the effective date of this Contract. The Consultant shall at all times abide by Minn. Stat. 13.01 et seq., the Minnesota Government Data Practices Act, to the extent the Act is applicable to data and documents in the possession of the Consultant.
9. **Termination.** This Agreement may be terminated by either party by seven (7) days written notice delivered to the other party at the address written above. Upon termination under this provision, if there is no fault of the Consultant, the Consultant shall be paid for services rendered and reimbursable expenses until the effective date of termination. If however, the City terminates the Agreement because the Consultant has failed to perform in accordance with this Agreement, the City may retain another consultant to undertake or complete the work identified in Paragraph 1 and the Consultant shall be paid for services rendered to the effective date of termination less the City's replacement consultant cost to have the Consultant's uncompleted scope of services completed.
10. **Subcontractor.** The Consultant shall not enter into subcontracts for services provided under this Agreement except as noted in the Scope of Work, without the express written consent of the City. The Consultant shall pay any subcontractor involved in the performance of this Agreement within the ten (10) days of the Consultant's receipt of payment by the City for undisputed services provided by the subcontractor. If the Consultant fails within that time to pay the subcontractor any undisputed amount for which the Consultant has received payment by the City, the Consultant shall pay interest to the subcontractor on the unpaid amount at the rate of 1.5 percent per month or any part of a month. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Consultant shall pay the actual interest penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Consultant shall be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.
11. **Independent Consultant.** At all times and for all purposes herein, the Consultant is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Consultant an employee of the City.
12. **Non-Discrimination.** During the performance of this Agreement, the Consultant shall not discriminate against any employee or applicants for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age. The Consultant shall post in places available to employees and applicants for employment, notices setting forth the provision of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Consultant shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work. The Consultant further agrees to comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363.01, et. seq., Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990.

13. **Assignment.** Neither party shall assign this Agreement, nor any interest arising herein, without the written consent of the other party.
14. **Services Not Provided For.** No claim for services furnished by the Consultant not specifically provided for herein shall be honored by the City.
15. **Severability.** The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.
16. **Entire Agreement.** The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.
17. **Compliance with Laws and Regulations.** In providing services hereunder, the Consultant shall abide by statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided. The Consultant and City, together with their respective agents and employees, agree to abide by the provisions of the Minnesota Data Practices Act, Minnesota Statutes Section 13, as amended, and Minnesota Rules promulgated pursuant to Chapter 13. Subject to the professional standard of care identified in Paragraph 7, a violation of statutes, ordinances, rules and regulations pertaining to the services to be provided shall constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.
18. **Waiver.** Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.
19. **Indemnification.** Consultant agrees to defend, indemnify and hold the City, its officers, and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorney's fees, to the extent resulting from a negligent act or omission (including without limitation professionally negligent errors or omissions) of the Consultant, its agents, employees, or subcontractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of said Consultant fully to perform, in all material respects, the obligations under this Agreement.
20. **Insurance.**
 - A. **General Liability.** Prior to starting the Work, Consultant shall procure, maintain and pay for such insurance as will protect against claims for bodily injury or death, or for damage to property, including loss of use, which may arise out of operations by Consultant or by any subcontractor or by anyone employed by any of them or by anyone for whose acts any of them may be liable. Such insurance shall include, but not be limited to, minimum coverages and limits of liability specified in this Paragraph, or required by law. The policy(ies) shall name the City as an additional insured for the services provided under this Agreement and shall provide that the Consultant's coverage shall be primary and noncontributory in the event of a loss.
 - B. Consultant shall procure and maintain the following minimum insurance coverages and limits of liability on this Project:

Worker's Compensation	Statutory Limits
Employer's Liability	\$500,000 each accident \$500,000 disease policy limit \$500,000 disease each employee
Comprehensive Liability	\$1,000,000 property damage per occurrence \$2,000,000 general aggregate \$2,000,000 Products – Completed Operations Aggregate \$100,000 fire legal liability each occurrence \$5,000 medical expense
Comprehensive Automobile Liability	\$1,000,000 combined single limit (shall include coverage for all owned, hired and non-owned vehicles.
Umbrella or Excess Liability	\$2,000,000

- C. The Comprehensive General/Commercial General Liability policy(ies) shall be equivalent in coverage to ISO form CG 0001, and shall include the following:
1. Premises and Operations coverage with no explosions, collapse, or underground damage exclusion (XCU).
 2. Products and Completed Operations Property Damage coverage. Consultant agrees to maintain this coverage for a minimum of two (2) years following completion of its work.
 3. Personal injury with Employment Exclusion (if any) deleted.
 4. Broad Form CG0001 0196 Contractual Liability coverage, or its equivalent.
 5. Broad Form Property Damage coverage, including completed operations, or its equivalent.
 6. Additional Insured Endorsement(s), naming the "City of Roseville" as an Additional Insured, on ISO form CG 20 10 11 85, or CG 20 10 10 01 and CG 20 37 10 01, or an endorsement(s) providing equivalent coverage to the Additional Insureds. ISO form CG 20 10 07 04, and later versions of said form, are not acceptable.
 7. If the Work to be performed is on an attached condominium, there shall be no exclusion for attached or condominium projects.
 8. "Stop gap" coverage for work in those states where Workers' Compensation insurance is provided through a state fund if Employer's liability coverage is not available.
 9. Incidental Malpractice and Host Liquor Liability insurance applicable to the Consultant's performance under this Agreement.

10. Severability of Insureds provision.
- D. Professional Liability Insurance. The Consultant agrees to provide to the City a certificate evidencing that they have in effect, with an insurance company in good standing and authorized to do business in Minnesota, a professional liability insurance policy. Said policy shall insure payment of damage for legal liability arising out of the performance of professional services for the City, in the insured's capacity as the Consultant, if such legal liability is caused by a negligent error, omission, or act of the insured or any person or organization for whom the insured is legally liable. Said policy shall provide an aggregate limit of \$2,000,000. Said policy shall not name the City as an insured.
- E. Consultant shall maintain in effect all insurance coverages required under this Paragraph at Consultant's sole expense and with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by City in writing. In addition to the requirements stated above, the following applies to the insurance policies required under this Paragraph:
1. All polices, except the Professional Liability Insurance policy, shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable);
 2. All polices, except the Professional Liability Insurance policy, shall be apply on a "per project" basis;
 3. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall contain a waiver of subrogation naming "the City of Roseville";
 4. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall name "the City of Roseville" as an additional insured;
 5. All policies, except the Professional Liability Insurance and Worker's Compensation Policies, shall insure the defense and indemnity obligations assumed by Consultant under this Agreement; and
 6. All polices shall contain a provision that coverages afforded there under shall not be canceled or non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the City.

A copy of the Consultant's insurance declaration page, Rider and/or Endorsement, as applicable, which evidences the compliance with this Paragraph 20, must be filed with City prior to the start of Consultant's Work. Such documents evidencing Insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Consultant has complied with all insurance requirements. Renewal certificates shall be provided to City prior to the expiration date of any of the required policies. City will not be obligated, however, to review such declaration page, Rider, Endorsement or certificates or other evidence of insurance, or to advise Consultant of any deficiencies in such documents and receipt thereof shall not relieve Consultant from, nor be deemed a waiver of, City's right to enforce the terms of Consultant's obligations hereunder. City reserves the right to examine any policy provided for under this paragraph.

F. **Effect of Consultant's Failure to Provide Insurance.** If Consultant fails to provide the specified insurance, then Consultant will defend, indemnify and hold harmless the City, the City's officials, agents and employees from any loss, claim, liability and expense (including reasonable attorney's fees and expenses of litigation) to the extent necessary to afford the same protection as would have been provided by the specified insurance. Consultant also agrees that if applicable law limits or precludes any aspect of this indemnity, then the indemnity will be considered limited only to the extent necessary to comply with that applicable law. The stated indemnity continues until all applicable statutes of limitation have run.

21. **Ownership of Documents.** All plans, diagrams, analyses, reports and information generated in connection with the performance of the Agreement ("Information") shall become the property of the City, but Consultant may retain copies of such documents as records of the services provided. The City may use the Information for its purposes and the Consultant also may use the Information for its purposes. Use of the Information for the purposes of the project contemplated by this Agreement ("Project") does not relieve any liability on the part of the Consultant, but any use of the Information by the City or the Consultant beyond the scope of the Project is without liability to the other, and the party using the Information agrees to defend and indemnify the other from any claims or liability resulting therefrom.

22. **Dispute Resolution/Mediation.** Each dispute, claim or controversy arising from or related to this Service Agreement or the relationships which result from this Agreement shall be subject to mediation as a condition precedent to initiating arbitration or legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No arbitration or legal or equitable action may be instituted for a period of 90 days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties. Mediation shall be held in the City of Roseville unless another location is mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a Mediated Settlement Agreement, which Agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

23. **Governing Law.** This Agreement shall be controlled by the laws of the State of Minnesota.

24. **Conflicts.** No salaried officer or employee of the City and no member of the Board of the City shall have a financial interest, direct or indirect, in this Contract. The violation of this provision renders the Contract void. Any federal regulations and applicable state statutes shall not be violated.

25. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

Executed as of the day and year first written above.

CITY OF ROSEVILLE

Mayor

City Manager

Cunningham Group Architecture P.A.

By: _____

Its: _____