

THIRD AMENDMENT TO
THE CONSULTING AND DEVELOPMENT SERVICES AGREEMENT
(Phase III – Bloomington Mixed Use Development)

This Third Amendment to the Consulting and Development Services Agreement (the "Third Amendment") is entered into as of May 18, 2021, by and among the County of San Bernardino, a political subdivision of the state of California (the "County" or "Owner"), Bloomington Park Developer, LLC, a California limited liability company (the "Consultant"), and the Bloomington Recreation and Park District, a California special district (the "Park District" or "District") with reference to the following facts:

RECITALS

A. Capitalized terms used in this Third Amendment, but not defined, shall have the meaning set forth in that certain Consulting and Development Services Agreement (Contract #18-760), dated as of October 16, 2018 (the "Original Services Agreement"), as amended by that First Amendment To The Consulting and Development Services Agreement (the "First Amendment") and as further amended by that Second Amendment To The Consulting and Development Services agreement (the "Second Amendment" and together with the Original Services Agreement and the First Amendment hereinafter collectively referred to as the "Services Agreement").

B. The Services Agreement governs the design and the development of the public park that will be constructed on the Park Parcel.

C. Under the First Amendment, adopted December 10, 2019, the parties proposed an update to the Development Schedule for the construction and completion of the Park Improvements to align the construction of the Park with the construction of the Ayala Park Community Center, which is being developed under a separate agreement.

D. The County, the District and the Consultant desire to enter into this Third Amendment to: (1) further update the Development Schedule for the construction and completion of the Park Improvements; and (2) make additional non-substantive revisions to effectuate the terms of this Third Amendment.

NOW, THEREFORE, the County, the District and the Consultant agree as follows:

ARTICLE 1.
AMENDMENTS TO SERVICES AGREEMENT

Section 1.1 Amendment to Development Schedule. The Development Schedule attached to the First Amendment as Attachment I (which replaced the Development Schedule attached as Exhibit D to the Services Agreement) is hereby deleted in its entirety and replaced with Attachment I of this Third Amendment, incorporated herein by this reference.

ARTICLE 2.
MISCELLANEOUS

Section 2.1 No Other Changes to the Services Agreement. Except as expressly modified by this Third Amendment, all other provisions of the Services Agreement remain unmodified and continue in full force and effect.

Section 2.2 Conflicts with the Services Agreement. In the event of any conflict between this Third Amendment and the Services Agreement, the provisions of this Third Amendment shall prevail.

Section 2.3 Effective Date. This Third Amendment shall be effective on the date first set forth above.

Section 2.4 Successors and Assigns. This Third Amendment shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

Section 2.5 California Law. This Third Amendment shall be governed by and construed in accordance with the laws of the State of California.

Section 2.6 Counterparts; Multiple Originals. This Third Amendment may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

[Signature Page(s) Follow.]

IN WITNESS WHEREOF, the Owner, Consultant, and Park District have entered into this Third Amendment as of the date first set forth above.

OWNER:

COUNTY OF SAN BERNARDINO, a political subdivision
of the State of California

By: _____
Curt Hagman, Chairman
Board of Supervisors

Date: _____

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

LYNNA MONELL
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO LEGAL FORM:

MICHELLE D. BLAKEMORE
County Counsel

By: _____
Dawn Martin,
Deputy County Counsel

Date: _____

CONSULTANT:

Bloomington Park Developer, LLC, a California limited Liability company

By: The Related Companies of California, LLC, a California limited liability company, its Sole Member

By: _____
Frank Cardone, President

PARK DISTRICT:

Bloomington Recreation and Park District, a California Special District

By: _____
Curt Hagman, Chairman, Board of Directors

ATTACHMENT I

AMENDED EXHIBIT D OF SERVICES AGREEMENT
UPDATED DEVELOPMENT SCHEDULE

This Schedule of Performance ("Schedule") summarizes the schedule for various activities under the Consulting and Development Services Agreement (the "Services Agreement") to which this Exhibit D is attached. The description of items in this Schedule is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Services Agreement to which such items relate. Section references herein to the Services Agreement are intended merely as an aid in relating this Schedule to other provisions of the Services Agreement and shall not be deemed to have any substantive effect.

Whenever this Schedule requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the Owner or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, Consultant shall consult with County staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Notwithstanding anything to the contrary herein, administrative, non-substantive changes to this Exhibit D may be made by the authorized County representative, upon consultation with County Counsel, without further approval of the Board of Supervisors.

<u>Action</u>	<u>Date</u>
<u>Community Engagement- Public Park.</u> Owner (with cooperation of Consultant) to conduct any additional Community Workshop. [§5.9]	Deemed completed.
<u>Submission – Conceptual Site Map.</u> Consultant shall submit any updates to the Conceptual Site Map for County approval. [§5.5]	Deemed completed. Opportunity is provided in §5.5 for resubmission and further review of a disapproved revisions to the Site Map related to the inclusion of Enhanced Park Improvements.
<u>Review of Conceptual Site Map.</u> The County shall approve or disapprove any revisions to the Conceptual Site Map. [§5.5]	Deemed completed.
Demolition. Consultant to demolish all existing improvements. [5.11]	Deemed Complete.
<u>Submission – Financing Proposal.</u> Consultant shall prepare and submit the updates to the Scope and Financing Proposal for Owner approval. [§5.4]	Deemed complete, subject to revisions associated with additional funding for Enhanced Park Improvements.

Action	Date
<u>Review of Financing Proposal.</u> The Owner shall approve or disapprove the updates to the Scope and Financing Proposal. [§5.4]	Deemed completed.
<u>Environmental Review.</u> Consultant shall perform any additional environmental studies required by the Owner in connection with its environmental review of the Development in accordance with NEPA. [§5.6]	Deemed completed.
<u>Application – Land Use Approvals.</u> Consultant shall apply for the Land Use Approvals and shall provide evidence of the same to the Owner. [§5.8]	Deemed completed.
<u>Submission – Design Development Documents.</u> Consultant shall prepare and submit the Design Development Documents for Owner approval. [§5.7]	Deemed completed.
<u>Review Design Development Documents.</u> The Owner shall approve or disapprove the Design Development Documents. [§5.7]	Deemed completed.
<u>Update to Development Schedule.</u> the Consultant, in consultation with the Owner, shall develop a proposed update to the Development Schedule for the construction and completion of the Park Improvements [§4.2]	Deemed completed. Opportunity is provided in Section 4.2 for updates to Development Schedule for construction of Enhanced Park Improvements.
<u>Review Development Schedule.</u> The Owner shall approve or disapprove the updates to the Development Schedule. [§4.2]	Within 15 days after receipt of the proposed updates to the Development Schedule. Opportunity is provided in §4.2 for resubmission and further review of disapproved Development Schedule.
<u>Commencement of Construction of Park Improvements.</u>	Deemed complete
<u>Completion of Construction of Park Improvements.</u>	No later than March 13, 2022.
<u>Expiration Date.</u> Date the Park Improvements have been completed and the Park Owner has accepted title to the Park Improvements.	Five (5) years after the Effective Date of the Original Services Agreement, unless automatically extended by the <i>force majeure</i> provisions of Section 14.12 or by mutual agreement of the Parties.