CONTINUING PROFESSIONAL SERVICES AGREEMENT

PIGGYBACK AGREEMENT TO AGREEMENT BETWEEN THE CITY OF LAKE MARY AND ASSOCIATED CONSULTING INTERNATIONAL, INC. DATED AUGUST 24, 2010

THIS CONTINUING PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into by and between CITY OF DeBARY, a Florida municipal corporation, whose address is 16 Colomba Road, DeBary, Florida 32713 (hereinafter referred to as "City"), and ASSOCIATED CONSULTING INTERNATIONAL, INC., whose address is 955 North Pennsylvania Avenue, Winter Park, Florida 32789 (hereinafter referred to as "ACI").

WHEREAS, the City desires to engage an independent contractor to perform professional services related to real estate planning and design consulting specializing in redevelopment trends, guidelines and standards for stimulating high quality redevelopment investment and transit oriented development (TOD) (herein "Scope of Services"); and

WHEREAS, the Scope of Services to be performed hereunder do not include architectural services or other "professional services" as defined by Section 287.055(2)(a), Florida Statutes; and

WHEREAS, the City of Lake Mary (the "Lake Mary") has previously selected ACI through the competitive procurement process to provide Lake Mary with the Scope of Services and Lake Mary and ACI entered into that Continuing Professional Services Contract dated August 24, 2010 to provide such services, a true and accurate copy of which are attached hereto as **Exhibit "A"** and incorporated herein by this reference (collectively herein "Original Government Contract"); and

WHEREAS, the City has reviewed the Original Government Contract and has found the Scope of Services, rates, and other terms and conditions as set out in the such contract to be reasonable, acceptable and of benefit to the City's citizens; and

WHEREAS, the City has determined that use and procurement of ACI's services pursuant to the prices, terms and conditions of the Original Government Contract by piggybacking on such contract is cost-effective and in the best interest of the City, and therefore, the City Council by approving this Agreement hereby grants a waiver to formal procurement pursuant to Section 2-186(a), City of DeBary Code of Ordinances.

NOW THEREFORE, for good and valuable consideration, which the parties acknowledge, the City agrees to enter into and does hereby enter into this Agreement with ACI, and ACI agrees to enter into and does hereby enter into this Agreement with the City for the Scope of Services as set forth herein:

1. RECITALS: The foregoing Recitals are true and correct and are incorporated herein as material provisions of this Agreement by this reference.

2. SERVICES. ACI shall provide the City with the Scope of Services in accordance with the terms and conditions of the Original Government Contract between Lake Mary and ACI attached hereto as **Exhibit "A,"** except that the "City of DeBary" shall be substituted for the "CITY" and references to "City of Lake Mary," and ACI is the "CONSULTANT." ACI shall not be paid for any work or services performed without a Work Authorization from the City. This Agreement shall govern any Work Authorization issued hereunder. The scope of services and other terms and conditions of the Original Government Contract are hereby incorporated into this Agreement as material terms and conditions. In the event the terms of this Agreement conflict with the terms of the Original Government Contract, the terms of this Agreement shall control to the extent of the conflict. The City shall have no liability or responsibility for or concerning ACI's services performed for Lake Mary.

No Work Authorization issued under this Agreement shall provide for a fee or compensation to ACI exceeding $35,000 per project or task-assigned. Each Work Authorization exceeding the City Manager's purchasing authority under the City Code of Ordinances shall be approved by the City Council prior to issuance and ACI's work thereunder.

This Agreement is non-exclusive. The City does not guarantee, warrant, or represent that any number of projects, or type of work will be assigned to the ACI under the terms of this Agreement. The City shall have the sole discretion to select the project(s), if any, that may be given to ACI. The City reserves the right to request and retain other consultants to perform any project, work, service or task within the Scope of Services under this Agreement.

3. INITIAL WORK AUTHORIZATION. Upon the Effective Date, the City does hereby authorize ACI to perform and ACI does hereby agree to perform the services as set forth in the July 30, 2016 proposal for Development Advisory Services for the Development Implementation Strategy of the City of DeBary's Transit Oriented Development Master Plan (the "TOD Project") attached hereto as **Exhibit "B"** and incorporated herein by this reference. This Section 3 shall be considered a Work Authorization for the TOD Project. The total compensation to be paid by City to ACI for the TOD Project-Part 1services shall be a lump sum of $14,700.00 for labor plus a not-to-exceed amount of $1,300.00 for out-of-pocket reimbursable expenses for a total lumps sum amount of $16,000.00. ACI shall comply with the schedule and provide the deliverables and services to the City as set forth in the proposal attached hereto as Exhibit "B."

4. TERM/TERMINATION. The initial term of this Agreement shall be from the Effective Date until September 30, 2017, unless terminated earlier in accordance with this Agreement. Thereafter, this Agreement shall automatically be renewed for up to two (2) additional City-fiscal year terms running October 1st to September 30th (renewal term) and expiring on September 30, 2019, unless terminated earlier in accordance with this Agreement. The initial term and any renewal term hereunder shall collectively be referred to in this Agreement as the "Term." The other termination provisions of the Original Government Contract are incorporated herein by this reference.

5. INSURANCE. Within ten (10) days from the Effective Date and prior to rendering services to the City, the ACI shall provide the City with certificates of insurance evidencing insurance coverage required by the Original Government Contract. ACI shall maintain required insurance coverage during the Term of this Agreement.

6. GOVERNING LAW.

(A) Laws/Venue/Mediation. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Regardless of anything herein to the contrary, the sole and exclusive venue for any litigation arising out of or concerning this Agreement and its exhibits, Work Authorizations issued and performance of services hereunder shall be in Volusia County, Florida before County Court or Circuit Court in and for Volusia County, Florida.

Any disputes, claims or counterclaim between City and ACI arising out of or in connection with this Agreement which cannot be amicably resolved by the parties through good faith negotiations shall first be submitted to nonbinding mediation for resolution. As a condition precedent to the filing of any suit or other legal proceeding, the parties shall endeavor to resolve claims, disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within fifteen (15) days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator, then the City shall select the mediator who, if selected solely by the City, shall be a mediator certified by the Supreme Court of Florida. No suit or other legal proceeding shall be filed until (i) the mediator declares an impasse, which declaration, in any event, shall be issued by the mediator not later than sixty (60) days after the initial mediation conference; or (ii) sixty (60) days has elapsed since the written mediation request was made in the event the other party refuses to or has not committed to attend mediation; provided however, a lawsuit may be filed prior to the satisfaction of the mediation requirement in order to preserve a claim that will elapse due to an immediate forthcoming expiration of an applicable statute of limitation. In the event a lawsuit is filed prior to the completion of the mediation requirement, the lawsuit shall be abated upon motion of either party until such time as the mediation requirement has been satisfied. The parties shall share the mediator's fee equally. The mediation shall be held in Volusia County, Florida, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(B) Sovereign Immunity. Nothing contained in this Agreement or any record or communication arising out of or concerning this Agreement shall be considered or deemed a waiver of the City's sovereign immunity protections or of any other privilege, immunity or defense afforded to the City and its officials, officers, agents and employees under law.

(C) Non-Appropriation. Regardless of anything to the contrary contained in this Agreement, the City's payment and performance of obligations under this Agreement for each and every fiscal year of the City's beyond the fiscal year when the Agreement is executed shall be subject to discretionary annual appropriation by the City's City Commission of funds therefore. When funds are not appropriated or otherwise made available to support the

continuation of payment and performance in a subsequent fiscal period, this Agreement shall be deemed terminated on the last day of the fiscal period for which appropriations were made, without further cost, penalty or obligation to the City, provided that, notwithstanding the foregoing, the City shall be responsible for payment for all services requested by the City and performed by ACI.

(D) No Damages Against City for Delay. Notwithstanding any other provisions of this Agreement and the Original Government Contract, ACI's exclusive remedy for delays, impacts, disruption, acceleration, resequencing, and interruptions in performance of the services caused by events beyond ACI's and its employees', materialmen's, subcontractors' and agents' control, including delays, impacts, disruption, acceleration, resequencing and interruptions claimed to be caused by or attributable to the City or its officials, officers, employees and agents (or any combination thereof), shall be a claim for and be limited to an equitable extension of time under the applicable service authorization. Without limiting the foregoing, ACI shall not be entitled to costs for remobilization after a delay, impact, disruption, acceleration, resequencing or interruption in the performance of the services has occurred.

(E) Public Records Law. ACI acknowledges and agrees that the City is a public entity that is subject to Florida's Public Records Act (Chapter 119, Florida Statutes) and as such, records in ACI or City's control and possession generated or received concerning the services performed under this Agreement are subject to public inspection pursuant to Chapter 119, Florida Statutes, unless there is an applicable exemption or confidential provision under state law or are otherwise not legally considered a public record. Records, documents, computerized information and programs, e-mails, electronic files, memos, drawings, audio or video tapes, photographs, or other records of the ACI regardless of form that are subject to the provisions of Chapter 119, Florida Statutes and applicable retention schedules, and may not be destroyed without the specific written approval of the City's City Clerk. While in the possession and control of ACI, at ACI's expense, all public records shall be secured, maintained, preserved, and retained in the manner specified and pursuant to the Public Records Act and comply with all "Contractor" provisions of Section 119.0701(2), Florida Statutes, and further ACI shall allow inspection of such records in accordance with the Public Records Act. ACI hereby indemnifies and hold harmless the City concerning any claims, damages, suits, judgments, losses, expenses and penalties arising out of or concerning ACI's violation of the Public Records Act or this provision, including for attorneys' fees and costs at all trial and appellate levels. Contractor affirmatively agrees to comply with all "Contractor" provisions of Section 119.0701(2), Florida Statutes. **IF ACI HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ACI'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: Warren Graham, City Clerk, 16 Colomba Road, DeBary, Florida 32713; Email – wgraham@debary.org; Telephone – (386) 668-2040.**

(F) Legal Compliance.

(i) ACI hereby represents and warrants to City that ACI has the knowledge, experience and skill to perform the services required to be performed by it hereunder; that ACI

shall comply with all applicable federal, state and local laws and codes, including, without limitations, all professional registration requirements (both corporate and individual for all required basic disciplines); that it shall perform said services in accordance with generally accepted professional standards, in the most expeditious and economical manner, and consistent with the best interest of City.

(ii) ACI and its employees and agents shall promptly observe, comply with, and execute the provision of any and all present and future federal, state, and local laws, rules, regulations, requirements, ordinances, and orders (including Resolutions, Codes and Ordinances of the City of DeBary) which may pertain or apply to the Services that may be rendered hereto, or to the wages paid by ACI to its employees. ACI shall also require, by contract, that all sub-consultants shall comply with the provisions of this subsection.

(iii) ACI shall, during the Term of this Agreement, procure and keep in full force, effect, and good standing all necessary licenses, registrations, certificates, and other authorizations as are required by local, state, or federal law, in order for ACI to render its services or work as described herein.

(iv) ACI shall not engage in any action that would create a conflict of interest in the performance of the actions of any City official, officer, employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, *Florida Statutes*, relating to ethics in government.

(v) ACI warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ACI to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ACI, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate this Agreement without liability.

(G) Severability. In the event any provision hereof is determined to be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect. To that extent, this Agreement is deemed severable.

(H) ACI represents and warrants that the information contained within the certifications and statements made by ACI in response to the request for qualifications (RFQ) issued by Lake Mary and within the Original Government Contract are true and correct on the Effective Date of this Agreement, and said certifications, representations and warranties are hereby made to the City.

(I) False Claims. If ACI is unable to support any part of its claim and it is determined that such inability is attributable to misrepresentations of fact or fraud on the part of the ACI, ACI shall be liable to the City for an amount equal to such unsupported part of the

claim in addition to all costs to the City attributable to the cost of reviewing said part of ACI's claim. The City and ACI acknowledge that the "Florida False Claims Act" provides civil penalties not more than $10,000.00 plus remedies for obtaining treble damages against contractors or persons causing or assisting in causing Florida Governments to pay claims that are false when money or property is obtained from a Florida government by reason of a false claim. ACI agrees to be bound by the provisions of the Florida False Claims Act for purposes of this Agreement and the services performed hereunder.

(J) Deductive Change Orders. At any time and without penalty or cost, City shall have the right to reduce or eliminate any portion of the services not yet performed by ACI from this Agreement or any Work Authorization through a unilateral directive or change order, and reduce the contract price accordingly based on unit prices for the portion of the services being eliminated.

(K) No Liens: ACI acknowledges and agrees that the real property for which each project and work is being constructed upon and the project itself is owned by a municipality either in fee, by easement or other property interest, and therefore is not subject to construction liens pursuant to Chapter 713, Florida Statutes or any other liens pursuant to the City's sovereign immunity protections. ACI and its subcontractors, materialmen, laborers, vendors and all others claiming by and through ACI shall not record or file any claims of lien concerning any project, work, or any portion thereof.

7. NOTICE. Whenever in this Agreement it is necessary to give notice or demand by either party to the other, such notice or demand shall be given in writing and sent by certified or registered mail, return receipt requested, and addressed as follows:

To ACI: ACi
Attn: Larry H. Adams, Jr., President
955 North Pennsylvania Avenue
Winter Park, Florida 32789

To City: City of DeBary
Attn: City Manager
16 Colomba Road
DeBary, Florida

8. EFFECTIVE DATE. The Effective Date of this Agreement shall be the date when the last of the parties has executed this Agreement and upon its approval by the City of DeBary City Council.

[Signature Page on Next Page]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year entered by the last party executing this Agreement as written below.

Associated Consulting International, Inc.,
A sub-chapter S corporation

_____

By: Larry Adams, Jr.
Its: President

Date: _____

Attest:_____

By:_____

CITY OF DeBary, a Florida municipal corporation

_____

By: Ronald McLemore

Its: City Manager

Approved by the City Council on September 7, 2016.

s:\aka\clients\debary,city of\general d334-16191\aci professional services contract\aci revisions-d langley-debary continuing professional services - aci piggyback 08-10-2016 doc

EXHIBIT "A"

CONTINUING PROFESSIONAL SERVICES CONTRACT

This CONTRACT made and entered into this 24th day of August, 2010, and amended by and between the:

CITY OF LAKE MARY
100 NORTH COUNTRY CLUB ROAD
LAKE MARY, FL 32746

a political subdivision of the State of Florida, hereinafter referred to as the CITY, and:

ASSOCIATED CONSULTING INTERNATIONAL, INC.
955 NORTH PENNSLYVANIA AVENUE
WINTER PARK, FL 32789

hereinafter referred to as the **CONSULTANT.**

PURPOSE

The CITY desires to retain the services of the CONSULTANT for continuing professional services on a project or task authorization basis. In consideration of the mutual covenants and agreements hereinafter contained, upon the terms and conditions hereinafter set forth, and the CONSULTANT performing services as an independent contractor and performing such services upon said terms and conditions; it is agreed by and between the parties hereto as follows:

A. Scope of Services

1. The following specific tasks will be performed by the CONSULTANT.

   a. General CONSULTANT and professional services related to real estate planning and design consulting specializing in town redevelopment trends, guidelines and standards for stimulating high quality redevelopment investment and transit oriented development (TOD).

b. The professional CONSULTING services include, but are not limited to, town center trends analysis, master planning, public-private implementation strategies, experience with request for qualifications and proposals to private investment sectors, redevelopment site analysis, technical design criteria, landscape design, detailed development standards, research on potential development issues, consultation on development strategies, market positioning of projects, support in briefings and public meetings, support in developer interviews and negotiations, preparation of design documents, and general coordination activities as directed by the City.

c. The CONSULTANT will manage various project issues simultaneously and comply with City deadlines.

d. Any other lawful professional services which the CONSULTANT is qualified to provide and which the CITY authorizes the CONSULTANT to undertake.

e. Provide interagency coordination between jurisdictions as they may pertain to City projects.

B. TERMS OF PERFORMANCE

It is further mutually agreed by both parties hereto that:

1. The CITY does not guarantee any minimum amount of work.

2. The CITY and the CONSULTANT will mutually agree upon reasonable time frames for the completion of all work performed under this agreement.

3. The CITY shall make available to the CONSULTANT all technical data in the CITY'S possession and other information required by the CONSULTANT and relating to his work.

4. If any services covered by this Agreement to be carried out by the CONSULTANT shall be suspended, abated, or abandoned at the direction of the CITY for reasons unrelated to any specific provision in this Agreement, the CITY shall pay the CONSULTANT for the services actually rendered for such suspended, abated, or abandoned work, and any reasonable additional costs incurred in an orderly closing of its activities, with the payment to be based on the fees as established in the Agreement.

5. The drawings, specifications, calculations, supporting documents, or other work products for any projects will become the property of the CITY. All copyrights to drawings, specifications, calculations, supporting documents and all other work products for any projects will become the property of the CITY. The CONSULTANT may keep copies or samples thereof and shall have the right to use such drawings, specifications, calculations, supporting documents, or other documents. The CITY agrees to indemnify and hold harmless the CONSULTANT from any liability, claim, damages, costs, including attorney's fees and other expenses resulting from the CITY'S reuse of any such document other than as initially intended.

6. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of nature, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONSULTANT or CITY may suspend its performance on any assignment as a result of a force majeure,

without being in default of the Agreement, but, upon the removal of such force majeure, the CONSULTANT or CITY shall resume its performance as soon as is reasonably possible.

C. COMPENSATION

As compensation for providing the services enumerated in Section A, the CITY shall pay the CONSULTANT based on the negotiated fees as agreed upon by the CONSULTANT and the CITY.

1. Lump Sum Method

The CITY shall pay the CONSULTANT an agreed upon lump sum amount which includes all of the CONSULTANT'S hourly rates, reimbursable expenses, and direct project expenses.

2. Standard Hourly Rate Method

The CITY shall pay the CONSULTANT the agreed upon hourly rates for time actually spent on the work covered by this Agreement.

3. Reimbursable Expenses

The CONSULTANT'S, including those for sub-consultants, reimbursable expenses are in addition to the fee for services and shall be billed at the actual costs plus a reasonable handling charge. They shall include expenditures made in the interest of the project for printing, reproduction of drawings and specifications and reports, photography, materials; equipment rental; authorized long distance phone calls, travel, postage and delivery charges.

If requested by the CITY, the CONSULTANT shall prepare a separate reimbursable expenses budget that estimates the amount of reimbursable expenses anticipated for each Work Authorization requested by the CITY.

D. RATE SCHEDULE

The CONSULTANT agrees that the rates stipulated in Exhibit A (attached hereto) shall remain in effect for 12 months from the execution of this agreement. The CONSULTANT shall have the right to ask for changes in rates within 60 calendar days of the anniversary date of this agreement. Failure to request any rate increase as stated above will result in the CONSULTANT honoring his rates as stipulated in Exhibit A for another 12 months. If mutual agreement on increased rates cannot be reached, either party shall have the right to terminate this agreement as set forth herein.

E. WORK AUTHORIZATIONS

Each project shall be authorized by execution of a Work Authorization by the CITY and the CONSULTANT. The CONSULTANT shall submit a draft Work Authorization for each project to the CITY, which describes the project and establishes the time of performance and the method of compensation. For projects using the Lump Sum method, the amount of the lump sum shall be set forth in the Work Authorization. For projects using the Standard Hourly Rate Method, the Work Authorization shall set forth an amount, which shall not be exceeded without prior authorization.

F. SUBCONSULTANTS

The services of sub-consultants, whose expertise is required within the scope of the CONSULTANT'S work and/or who are retained by the CONSULTANT as a convenience to the CITY, will be allowed. The use of any sub-consultants must be approved by the CITY before such sub-consultants are retained by the CONSULTANT.

G. INSURANCE

1. General Liability Insurance

The CONSULTANT will purchase and maintain such liability insurance as will protect it from claims under Worker's Compensation laws, disability benefit laws, or other similar employee benefit laws from claims for damages because of bodily injury, occupational sickness or disease, or death of its employee; claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees, including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of personal property, including loss of use resulting there from, any or all of which may arise out of or result from the CONSULTANT'S direct operations under this Agreement, The General Liability limits of liability which must be carried by the CONSULTANT shall not be less that $1,000,000.00 per occurrence and $1,000,000.00 aggregate. This insurance shall contain a provision that the coverage afforded under the policy(ies) will not be canceled, until at least thirty (30) calendar days prior written notice has been given to the CONSULTANT and CITY.

2. Professional Liability Insurance

During the term of this Agreement, the CONSULTANT will carry Errors and Omission insurance which will cover liability for any damage on account of any error, omission, or other provable negligence caused wholly by the CONSULTANT. The amount of insurance shall not be less that $1,000,000.00 per occurrence and

aggregate. The CITY may require a higher limit as mutually agreed to with the CONSULTANT for a specific project. This insurance shall contain a provision that the coverage afforded under the policy (ies) will not be canceled until at least thirty (30) calendar days prior written notice has been given to the CONSULTANT and CITY.

H. TERMS OF PAYMENT

1. Monthly Invoices

The CONSULTANT shall submit invoices once each month to the CITY for the services performed and the expenses and other charges accounted for under this Agreement during the preceding month. Separate invoices shall be due and payable within thirty (30) calendar days of receipt of billing.

Payments not made within 30 calendar days bear interest from 30 calendar days after the due date at the maximum rate of 1.5 percent per month on the unpaid balance. The CONSULTANT must invoice the CITY for any interest accrued in order to receive the interest payment.

The above provisions are in accordance with FS 218.73 and 218.74.

2. Late Payment

In the event payment for services rendered has not been made within forty-five (45) days from the date of invoicing, then the CONSULTANT may, at his option suspend all work on all authorized projects. Upon receipt of payment for services, the CONSULTANT will continue with authorized services.

I. ASSIGNABILITY

The CONSULTANT shall not assign or transfer any interest in this Agreement.

J. REMEDIES

All claims, counter claims, disputes, and other matters in question between the CONSULTANT and the CITY will be first reviewed by authorized representatives of both parties for a recommended solution. If no solution or resolution is forthcoming, such disputes will be decided by a court of competent jurisdiction convened in Seminole County. This Agreement shall be governed by the laws of the State of Florida.

K. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the CITY and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the work, providing that any such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom; and (2) is caused in whole or in part by an negligent act or omission of the CONSULTANT, any Subconsultant, anyone else directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section. In any and all claims against the CITY or any of their agents or employees by any employee of the CONSULTANT, any subconsultant, any directly or indirectly employed by and of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONSULTANT or any Subconsultant under workers' or worker's compensation acts, disability benefit acts or other employee benefit acts.

L. CERTIFICATIONS

The CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any project to which this Agreement or any related Work Order pertains or any other interest which would conflict in any manner or degree with its performance of any contracted service hereunder. However, this paragraph should not be construed to prohibit or prevent CONSULTANT from providing services to prospective developers in the future, or acquire ownership interest(s) in development projects, once the scope of CONSULTANT'S services, and/or the terms of CONSULTANT'S performance are completed, as long as such services do not conflict with, or in any way compromise CONSULTANT'S obligations under this agreement or future work authorizations and furthermore do not conflict with, or in any way compromise CONSULTANT'S independent professional judgment and obligation to the CITY.

CONSULTANT agrees to obtain prior written approval from the CITY prior to providing any such future services to prospective developers in the event that the scope of CONSULTANT'S services may create a conflict. The CONSULTANT further covenants that in the performance of this Agreement no person having such interest shall be employed.

The CONSULTANT shall comply with the applicable requirements of Federal, State or local laws and all Codes and Ordinances of the City of Lake Mary as amended from time to time.

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the CITY shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

The CONSULTANT shall maintain all professional licenses during the term of this Agreement. CONSULTANT will notify CITY immediately if any professional license has expired, been revoked, suspended or changed.

M. TERM AND TERMINATION

The CITY or the CONSULTANT may terminate this Agreement for any reason by giving at least sixty (60) calendar days written notice to the other party of their intent to terminate. In the event the Agreement is terminated by the CITY for reasons unrelated to the quality of work, agreement on increases of rates, not maintaining the required insurance coverage, not maintaining the required professional licenses, creating conflict of interest as enumerated in Article L, assigning the Agreement or overcharging; the CITY shall forthwith pay the CONSULTANT in full for all work previously authorized and actually performed prior to the Notice of Termination and actual costs incurred by the CONSULTANT in orderly closing its activities. This payment shall be the sole financial obligation or responsibility of the CITY for compensation hereunder in the event of termination by either party in accordance with the provisions of this paragraph. The Agreement shall continue in effect until a Notice of Termination is given by either party as set forth above. Upon termination, the CONSULTANT shall turn over to the CITY all deliverables completed or partially completed up to the date of termination. The CITY shall indemnify and hold harmless the CONSULTANT from any liabilities resulting from the use of the above referenced deliverables without the prior written approval of the CONSULTANT.

N. VALIDITY SEVERABILITY AND REFORMATION

The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. Any provision or part thereof of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof

with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

O. ENTIRE AGREEMENT

This Agreement, including the exhibits hereto, constitutes the entire Agreement between the parties.

P. CONTROLLING LAWS

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Seminole County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year entered by the last party executing this Agreement as written below.

IN WITNESS WHEREOF, the parties have made and executed this Contract, the day and year first above written.

PINA M. FERLAINO
Notary Public - State of Florida
My Comm. Expires Jul 6, 2014
Commission # EE 6329
Bonded Through National Notary Assn.

(Seal)

CONSULTANT
Associated Consulting International, Inc.
BY: _____, President ATTEST: _____
Date: August 24, 2010

CITY OF LAKE MARY
City Commission, City of Lake Mary, Florida (Seal)

BY: _____, Mayor ATTEST: _____, City Clerk
Date: 8-26-10 8-26-10

APPROVED BY
CITY COMMISSION
8/26/10

LEGAL:
APROVED AS TO FORM AND LEGALITY,
FOR RELIANCE BY THE CITY OF LAKE MARY, FLORIDA ONLY

Robin Drage, City Attorney

Date: 8/26/10

Exhibit A

AC*i*

2010 Standard Hourly Rate Schedule

Principal	250.00/Hour
Project Manager	180.00/Hour
Project Design Architect	145.00/Hour
Project Architect	145.00/Hour
Senior Job Captain	145.00/Hour
Intern Architect	125.00/Hour
Job Captain	115.00/Hour
Designer	115.00/Hour
Typist	60.00/Hour

(Note: above rates are subject to annual salary increases)

AC*i*

955 NORTH PENNSYLVANIA AVENUE WINTER PARK, FLORIDA 32789-2463 VOICE 407.740.8405 FAX 407.740.8406
www.acistudios.com
DEVELOPMENT MANAGEMENT ARCHITECTURE AA 0002940

EXHIBIT "B"

ACi

ASSOCIATED
CONSULTING
INTERNATIONAL

July 30, 2016

Ronald Mclemore
Interim City Manager
16 Colomba Road
DeBary, FL 332713

Subject: Proposal for Professional Services By and Between City of DeBary, Florida ("City") and Associated Consulting International, Inc. ("Consultant") for Development Advisory Services for the Development Implementation Strategy of the City of DeBary's Transit Oriented Development Master Plan ("Project")"

Dear Mr. Mclemore:

In connection with our recent meetings with you and Mr. Roger Van Auker, please find attached our proposal for providing professional development advisory services to implement a vertical development strategy for DeBary's Transit Oriented Development (TOD) Master Plan and Overlay District.

AC*i* brings a high degree of expertise in targeting real estate opportunities for high-quality private investment capital that provide the opportunity to create and capture value. Our core investment approach is to find opportunities that involve place-making community development in which we can produce superior positive returns. Our investments tend to be made in asset categories where due diligence requires intensive data analysis and technical industry/legal expertise.

Our proposal is structured for you to build upon our unique knowledge and economic development advisory success with other SunRail and surrounding "commuter" cities. AC*i*'s work for these cities has resulted in $96 Million of new vertical tax base development with best of class developers and investors. Each development plan was carefully assessed and created to be unique to each city's vision and brand. Most important, it had to meet strict post-recession financial underwriting criteria.

As with these other cities, our greatest interest in DeBary is in creating a "place", not just a "project". The scope of our work can also serve as a basis for potential discussions with Volusia County and emerging national/state transportation agency initiatives for potential P3 partnering for funding of public-private growth around transit.

AC*i*'s work is structured to meet our understanding of your primary objectives as follows:

- **Part 1**-Consultant will first work closely with City Administration/Staff to perform a high-level economic feasibility of the immediate and long-term development options based on the City's valuable work to date. As with our work with other SunRail TOD cities, the City's work to date will be relied upon and serve as our "guiding principles" for the vertical development implementation plan. Our focus will also be on sustainable real estate market data generated by business models that can substantiate private sector's investment

955 NORTH PENNSYLVANIA AVENUE WINTER PARK, FLORIDA 32789-2463 VOICE 407.740.8405 FAX 407.740.8406
www.acistudios.com
DEVELOPMENT MANAGEMENT ARCHITECTURE AA 0002940

in the DeBary TOD trade area. AC*i*'s in-depth knowledge of TOD and local market metrics will be applied in similar fashion to how other TOD vertical development strategies were developed and underwritten by the public and private equity/debt sectors. One example of AC*i*'s success using this unique process includes the new $44M private sector investment in the Longwood Station TOD. A unique TOD business model was required to gain participation, investment and approval from City of Longwood, Seminole County, FDOT and the Federal Transit Administration in Washington and Atlanta;

- **Part 2**-in collaboration with City Administration/Staff and based on the outcomes of Part 1, Consultant will then detail a composition of uses/options to shape as predictable a development strategy as possible. That will be tied to the above market assessed metrics. This strategy will then be compared and aligned with private investor/developer interests to create financially feasible, high-quality development phases. This will be used to "set the stage" for informal discussions with the private sector;
- Based on above, create investment-based development implementation documents including a recommended vertical development plan, preliminary development proforma, form-based code and identify and/or incorporate any City development approvals and/or incentives that may be needed;
- Based on the above, identify and meet with qualified targeted investors/developers that we believe will be a "good fit" to invest in the City's "guiding principles" and "business models" generated above. Strategically share with targeted investors/developers the business models to help "proof" the implementation plan's financial viability. We will work collaboratively with their approach, and help solve potential obstacles including possible incentives, and timely approval process requirements;
- As a neutral party for the City, assist City Administration/Staff in the negotiations with developer/investment candidates as needed.

SCOPE OF WORK

Project Objective:
Explore strategies that maximize vertical development opportunities to create economics that will support the City's TOD strategy.

PART 1-ECONOMIC FEASIBILITY

Understanding:

- High level review of City's existing vision, master plans and studies with a focus on the TOD "'core";
- High level review of analytical information on current and projected investor/developer interests to identify development opportunities;
- Perform a high level preliminary review/SWOT analysis with potential underwriters, investor/developer candidates to determine potential obstacles and strategic solutions to obstacles;
- Provide high level research on current market trends and opportunities that could be incorporated into development opportunities;
- Identify place-making opportunities that can enhance the value of the real estate as well as City of DeBary's brand;
- Benchmark other SunRail TOD outcomes and development metrics as a guide to DeBary's TOD;
- Identify public-private-partnership strategies and measure the potential investment "gap" that may be required for the initial phase.

▲ ■

Activities: One internal charrette between Consultant and City Administration/Staff. A review of all City documents. Consultant shall research and have discussions with market development underwriters for similar type developments to assess viable uses and potential income streams for development opportunities.

Deliverable: Executive summary and high-level presentation explaining the charrette outcomes and initial real estate opportunities that should be targeted in Part 2.

PART 2-DEVELOPMENT IMPLEMENTATION

Development Implementation Strategy:

- Based on the review of Part 1, we will compose vertical development plan options for place-making real estate investment opportunities for review with investors/developers under the of the City Administration/Staff;
- Evaluate potential real estate opportunities for initial build-out based on SunRail TOD real estate market experience;
- High level evaluation of expected development value to surrounding TOD land in comparison to County's development rights over existing FDOT controlled parking land. This will be related to potentially enlarging development opportunities and define the relationship between the two opportunities;
- Identify targeted potential investor/developer candidates that align with proposed vertical development plan options to share business models that support both City preferences, market demands and market driven financial feasibility metrics;
- Informally meet and share with targeted investor/developers, development opportunities including market data and vertical development planning that we supports financial investment by the private sector;
- Based on the above, create/refine the vertical development plan with an emphasis on place-making qualities that enhance the private and potential public investment;
- Refine the vertical development plan business model to remove/reduce development obstacles and still remain aligned with City TOD guiding principles;
- Identify any valid investment "gap" issues and identify potential public incentives/partnerships that could strategically solve the gap issues facing private developers;
- Create a "form-based" code for vertical development plan;
- Assist the City in discussions, negotiations with private sector candidates to support creative problem solving that enhances predictability and avoids misfires with the private sector.

Activities: One internal charrette between Consultant and City. Facilitate and conduct informal meetings with targeted investor/developer candidates and City Administration/Staff.

Deliverable: An executive summary supporting planning and form-based code documents that quantify and qualify the vertical development implementation plan and proposed next steps. One public presentation to City Commission is included.

▲ ■

Workplan/Schedule
The scope of work described above is anticipated as follows:

Part 1-Economic Feasibility:	45-60 days
Part 2-Development Implementation Strategy:	To be determined based on Part 1 findings.

Fees

Part 1-Economic Feasibility:	$14,700 lump sum labor plus reimbursable expenses.
Part 2-Development Implementation Strategy	To be determined upon completion of Part 1.

An initial payment of $7,000.00 shall be made and credited against Consultant's final invoice for Part 1.

Reimbursable Expenses
Reimbursable expenses are in addition to the compensation for Consultant's labor fee and include actual expenditures made by, its employees in the interest of the project. Reimbursable expenses shall include, but may not be limited to, direct expenses such as photographic and reproduction costs, mailing/postage, travel, lodging, overnight express mail, courier/messenger services, long distance, telephone and fax communication, fees paid for government approval, special presentations, models, mileage beyond a 50-mile single round trip distance from ACi's office and out of town travel (when authorized by the City).

Authorized Execution
If the above meets the City's approval, please execute by signature. The person signing warrants they are an authorized agent and will be the authorized representative and main contact throughout the project. Please return a signed copy to the undersigned.

We greatly appreciate your consideration and look forward to sitting down with you to create extraordinary value for you and the City of DeBary.

Sincerely,
Associated Consulting International, Inc. (AC*i*)

Larry H. Adams, Jr.
President

Cc: Julie vonWeller, AC*i* Director Community Strategies