

**CITY OF GARDENA
ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083**

INTRODUCTION

Legislative Intent

With the adoption of Assembly Bill 562 in 2013, now codified as California Government Code Section 53083, the California Legislature recognized the authority of local officials to use their regulatory powers, direct spending, and tax policies to influence where, when, and how the private sector invests capital and improves real property. The Legislature also intended to promote transparency and accountability in economic development subsidies, similar to annual financial reporting and local fiscal decisions. The legislation requires that subsidies to local businesses in the amount of \$100,000 or more – those intended to increase employment, enhance the local tax base, and attract or retain desirable businesses – be detailed in a written report and placed on an agenda for a public hearing at a regularly scheduled meeting. The City Council, at its regularly scheduled April 9, 2019 meeting, will consider approval of an agreement that would provide a subsidy in excess of \$100,000 to G3 Urban, Inc. and Affiliates. Therefore, this report is intended to satisfy the requirements of Government Code Section 53083, and is being made available to the public prior to consideration of the proposed agreement and authorization of the economic development subsidy.

Proposed Agreement

The City of Gardena proposes to enter into an Economic Development Subsidy Agreement (“Agreement”) in an effort to remediate contaminated properties, eliminate blight and assist the development of 63 single family dwelling units. The Agreement requires the City to pay up to \$150,000.00 of Developer’s predevelopment costs for environmental studies. The Agreement also provides that the City will contribute up to an additional \$650,000.00 to assist in the clean-up of hazardous materials on the development site. These monies will be provided as credits against permit and impact fees otherwise payable by developer.

AB 562 REPORTING REQUIREMENTS

This section addresses the required reporting elements of Government Code Section 53083.

- (1) The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.

G3 is a California incorporated entity and has its principal place of business at 15235 South Western Avenue, Gardena, CA 90249.

- (2) The start and end dates and schedule, if applicable, for the economic development subsidy.

The first \$150,000 for predevelopment costs will be advanced by City during the project entitlement phase. Developer's costs for remediation of hazardous materials on the site will be applied as credits against fees that are payable to the City prior to commencing construction. Thus the subsidy will commence upon approval of the Agreement and will end prior to commencing construction.

- (3) A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency because of the economic development subsidy.

The proposed Agreement, in essence, waives up to \$800,000.00 in permit and impact fees in an amount equal to the costs to perform environmental studies and to clean-up the contaminated properties. The City anticipates that the fees payable by Developer for the development will be approximately \$800,000. Absent the development the City would not receive these fees so the City is not truly out of pocket for the subsidy provided by this Agreement.

The City's normal practice is to have a developer enter into a Reimbursement Agreement to pay the City's costs for conducting environmental studies and other entitlement processing costs. Under the proposed Agreement the Developer will enter into a Reimbursement Agreement but the City will pay for the first \$124,954.00 called for in the agreement. If additional amounts are required, City, in lieu of Developer, shall pay up to \$25,046.00 dollars in addition to the initial payment. Any required deposits in excess of \$150,000.00 shall be the sole responsibility of Developer. Developer shall execute an unsecured note in favor of the City which will be payable if Developer abandons the project. If City pays less than the \$150,000.00, the difference between the amount paid by City and \$150,000.00 shall be added to the amount eligible for reimbursing the cost of environmental clean-up services.

The Developer shall execute an unsecured note to provide for repayment of the amounts advanced by City for the Reimbursement Agreement in the event that Developer abandons the Project.

The City shall also reimburse Developer for the actual reasonable cost of the remediation services performed in an amount not to exceed \$650,000.00. Reimbursement shall be made by City providing a credit to Developer in an amount equal to any City permit and inspection fees, Quimby fees, and development fees payable for the Project. Developer shall not receive a credit for any fees payable to other entities, such as the Los Angeles Unified School District, and fees paid for processing entitlements other than as provided in Section 1 of this Agreement. Any costs for Services in excess of the amount of \$650,000 shall be the responsibility of Developer

In the event that Developer acquires the Site and commences the Services described in the subject Agreement prior to securing entitlements, Developer may request the City to reimburse the cost of the remediation services as they are performed rather than as a credit against permit, inspection and development fees. The City Manager can approve such request provided that Developer provides for repayment of all sums so reimbursed with a note payable to City secured by a first deed of trust against the development site. The note shall be repayable upon Developer securing construction financing, or, in any event, not more than one-year from the date of execution. Any

amounts so repaid on the note shall revive, in an equal amount, Developer's entitlement to credits against permit, inspection and development fees.

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(4) A statement of the public purposes for the economic development subsidy.

The major portion of the development site has been unproductive blighted property for decades. The presence of soil contamination impedes productive use of the site. Clean up of contaminated properties and converting blighted properties into residential use serves an important public purpose.

(5) Projected tax revenue to the local agency as a result of the economic development subsidy.

The 63 homes should produce annual property tax revenues to the City in an approximate amount of \$45,000. Current property tax revenues are nominal. The residents of the homes should also increase utility tax and sales tax receipts in the City in an amount that is roughly estimated at \$20,000 annually.

(6) Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

G3 Urban estimates that it will create a total of 150 or more jobs by the economic development subsidy. Of those jobs, 25 will be full time, and 125 will be temporary positions.

**REIMBURSEMENT AGREEMENT BETWEEN THE CITY
OF GARDENA AND G3 URBAN, INC. FOR THE
PAYMENT OF FEES AND COSTS FOR CONTRACT
ENVIRONMENTAL, PLANNING, ENGINEERING AND
LEGAL SERVICES RELATING TO THE DEVELOPMENT
OF A 64 UNIT PROJECT LOCATED ON MARINE AVENUE**

This Agreement ("Agreement") is entered into by and between the City of Gardena ("City"), a general law city, and G3 Urban, Inc., a California Corporation ("Developer") who agree as follows:

1. Recitals. This Agreement is made with reference to the following facts and circumstances:

A. Developer holds interests in certain real property ("Property") consisting of 2.95 acres to 2315, 2403, 2415, 2421, and 2545 Marine Avenue (the "Property").

B. Developer filed applications for development of a 64 unit live-work project on the Property. In order to develop the Project in the Mixed-Use Overlay zone, Developer requires a tract map and site plan approvals (the "Project"). In addition to the listed entitlements, the Project will also require environmental review for compliance with California Environmental Quality Act ("CEQA") and a soils investigation study based on the Phase I and Phase II reports which were submitted to City by Developer.

C. City does not have personnel with sufficient expertise to prepare and review the potential environmental documentation. In order for City to process the Project, City will need to hire an environmental consultant for CEQA purposes. The City has received a revised proposal from Kimley-Horn and Associates, Inc. to prepare the required environmental document (the "Environmental Consultant") dated February 26, 2019. A copy of the Proposal is attached hereto as Exhibit A.

D. City also will need to hire a consultant to prepare the soils investigation study. The City has received a proposal from Mearns Consulting LLC ("Environmental Soils Consultant") dated March 5, 2019. A copy of the Proposal is attached hereto as Exhibit B.

E. In addition, processing the project will also require services to be performed by the City's contract City Attorney's office, including but not limited to, drafting of ordinances, resolutions, staff reports, and review and revision of the environmental document.

F. The work to be performed by the Environmental Consultant, Environmental Soils Consultant, and City Attorney's office shall collectively be referred to herein as "Services."

G. City believes it is in the public interest for Developer to pay for such Services. Further, City has adopted a Resolution which specifies that Developer will pay for City Attorney services on projects such as this.

H. Developer desires to move forward with the processing of its Project subject to the reimbursement obligations set forth herein.

2. Agreement to Pay for Services.

Developer agrees to pay for all costs and expenses related to the Services as provided for in this Agreement.

3. Environmental Consultant.

A. Environmental Consultant shall provide the Services as set forth in the Proposal attached as Exhibit A on a labor fee plus expense basis. Until an Initial Study is prepared and studies are done, it is not known whether the environmental documentation will be a Mitigated Negative Declaration ("MND") or an Environmental Impact Report ("EIR").

1. The cost for a Mitigated Negative Declaration will be \$99,925, as further set forth in Exhibit A.

2. The cost for an Environmental Impact Report ("EIR") will be \$192,930, as further set forth in Exhibit A.

3. If the time to prepare the Draft MND or EIR or attend the meetings and hearings exceeds the time allotted in the Proposal, the Environmental Consultant will be on a time and materials basis at the rates specified in the Proposal.

B. Upon execution of this Agreement, Developer agrees to deposit with City, the sum of \$76,630 for the Environmental Consultant which covers the Tasks 1 through 6 for both options and the cost of traffic counts. Once it is determined whether a MND or EIR will be required, Developer will be required to deposit additional moneys in an amount determined sufficient by the City.

C. City shall provide Developer with statements of draws against the deposit as they occur.

D. Developer understands that if it is determined that additional studies are necessary, Developer will be required to deposit additional monies to pay for such Additional Services.

E. To the extent there is any inconsistency between this Agreement and the Proposal, the terms of the Proposal shall govern.

4. Environmental Soils Consultant.

A. Environmental Soils Consultant shall provide the Services as set forth in the Proposal attached as Exhibit B.

B. Upon execution of this Agreement, Developer agrees to deposit with City, the sum of \$28,324 for the Environmental Soils Consultant.

C. City shall provide Developer with statements of draws against the deposit as they occur.

D. Developer understands that if it is determined that additional studies are necessary, Developer will be required to deposit additional monies to pay for such Additional Services.

E. To the extent there is any inconsistency between this Agreement and the Proposal, the terms of the Proposal shall govern.

5. City Attorney Services.

A. The City Attorney will provide Services for this Project on an hourly basis. The City Attorney's contract billing rate for this work is \$242.50.

B. Upon execution of this Agreement, Developer agrees to deposit with the City an additional sum of \$20,000 as a deposit for City Attorney Services, and the invoices received for such Services shall be applied against this amount. Services covered shall include any time incurred on this Project from the date of original Project submittal, which date may proceed the date of this Agreement.

C. City shall provide Developer with a monthly statement of draws against this deposit. However, until the Project is acted upon, City reserves the right to redact the bills if determined necessary in order to maintain attorney-client privilege and attorney-work product.

6. Deposits.

A. Developer understands that no work will take place on this project until such deposits are made.

B. At any time that City determines the deposit amounts to be inadequate, Developer shall replenish the deposits with the amount requested by City, within fifteen (15) calendar days of such request.

C. Should the deposit not be replenished in the time and amount specified, City may direct that all Services be halted until such time as the deposit is replenished.

D. All deposits will be placed in a non-interest bearing trust account. Developer understands and agrees that City will not pay interest to Developer on the deposits, and Developer will not seek interest payments from City.

E. Upon completion of the Services, City will provide Developer with a final accounting of those costs and expenses, which accounting the Developer agrees will be conclusive, in the absence of manifest error. Should the total reimbursement amount be

less than the total amount deposited, City will refund any remaining deposit amount to Developer within thirty (30) days after determining the final reimbursement amount.

7. Other Costs. Developer acknowledges that the cost of Services does not include application, permitting, inspection, or other fees, which amounts shall be separately paid.

8. No Guarantee of Approval. Developer acknowledges that its payments and deposits described herein are not an indication that the City will approve the Project or that City staff will make a recommendation in favor of the Project. Nothing herein prevents the City from considering all feasible mitigation measures and if an EIR is prepared, all feasible alternatives. Even if the Project is not approved, Developer shall remain liable for all costs for Services.

9. Independence of Consultants.

A. During the term of this Agreement, Developer will not directly or indirectly enter or propose to enter into any financial or business relationship with any of City's consultants that are working on the Project.

B. Developer hereby acknowledges and agrees as follows:

i. City has sole discretion to select which of its employees or independent contractors are assigned to work on Developer's application;

ii. City has sole discretion to determine which persons City will hire as consultants to work on Developer's application.

iii. As between City and Developer, City has sole discretion to direct the work and evaluate the performance of the consultants whom the City hires to work on Developer's application. City retains the right to terminate or replace at any time any consultant who is assigned to work on Developer's application.

iv. City has sole discretion to determine the amount of compensation paid to consultants hired by City to work on Developer's application.

v. City, not Developer, shall pay consultants hired or assigned by City to work on Developer's application from a deposit account under the exclusive control of City, which is to be funded by Developer as set forth in this Agreement.

C. City and Developer hereby acknowledge and agree that processing of Developer's application is not contingent on the hiring of any specific consultant.

D. City and Developer hereby acknowledge and agree that Developer's duty to reimburse City is not contingent upon the approval or disapproval of the proposed Project, or upon the result of any action of the City.

E. Neither Developer nor its officers, employees or agents, shall communicate with City's environmental consultant team during the term of this Agreement without prior

approval of the City, unless such communication is initiated by the environmental consultant to obtain information about the Project which is needed to prepare the Environmental Document.

10. Termination. Absent a formal withdrawal of the Project application(s), Developer shall not be entitled to terminate this Agreement. If Developer does formally withdraw the Project application(s), Developer shall remain liable for all costs for Services incurred through the date of termination.

11. Developer Default.

A. Should Developer fail to perform any of its obligations under this Agreement, then City may, at its option, pursue any or all of the remedies available to it under this Agreement, at law or in equity.

B. Without limiting any other remedy which may be available to it, if Developer fails to perform any of its obligations under this Agreement, City may cease performing its obligations under this Agreement and halt all Services relating to the processing of the Project.

C. If any amounts remain owing to City, City may bring an action to recover all costs and expenses incurred by the City in completing the Services, together with interest thereon from the date incurred at the rate of 10% per annum, or at the maximum legal rate, whichever is greater.

D. If the Project is approved and any amounts remain owing to City for Services, City may withhold permits and/or certificates of occupancy until all such amounts are paid.

12. Indemnification. Developer further agrees that to the fullest extent permitted by law, the Developer shall defend, indemnify, and hold harmless, the City of Gardena and its officers, employees, volunteers, attorneys and agents (in the aggregate, "City Indemnitees") from any and all liability, demand, claim, action, or proceeding, whether actual or threatened, including by way of example but not exclusion, proceedings of an administrative or regulatory nature and proceedings that may be associated with alternative dispute resolution (an "Indemnified Claim") brought by third parties against any City Indemnities (including any advisory agency of the City), challenging the validity of any approvals granted for the Project, the Environmental Document concerning the Project, or seeking damages which may arise from this Agreement, other than liabilities, demands, claims, actions or proceedings caused by the sole negligence or willful misconduct to the City or any City Indemnatee. In any defense of any City Indemnitees, City shall have the absolute right to unilaterally select the legal counsel for such City Indemnitees (with the intention of using one law firm to defend all City Indemnitees unless conflicts of interest preclude such joint representation) and any experts or consultants deemed necessary by City in an exercise of City's sole discretion.

City shall promptly render notice to the Developer of the existence of the Indemnified Claim (a "Notice") and Developer shall defend the City Indemnitees at Developer's expense. City shall cooperate fully with Developer in the defense of any Indemnified Claim. In any Notice, City shall estimate the cost of its defense, which shall include but not be limited to actual attorney fees, court costs, expert witnesses and consultant fees, and all other costs that may arise out of, or be incurred by City in the defense of an Indemnified Claim. Upon such Notice, Developer shall promptly deposit funds equal to the first three (3) months of the Estimated Cost with the City and shall make additional deposits as and when required to fund the further costs of defending the City Indemnitees for such Indemnified Claim. City shall refund, without interest, any unused portion of the deposits once litigation is finally concluded or a dispute is resolved regarding an Indemnified Claim.

13. Compliance with Law. Developer will, at its sole cost and expense, comply with all of the requirements of all federal, state, and local laws now in force, or which may hereafter be in force, pertaining to this Agreement.

14. Waiver of Breach. Any express or implied waiver of a breach of any term of this Agreement will not constitute a waiver of any further breach of the same or any other term of this Agreement.

15. Notices. Except as otherwise expressly provided by law, all notices or other communications required or permitted by this Agreement or by law to be served on or given to either party to this Agreement by the other party shall be in writing and will be deemed received on: (i) the day of delivery if delivered by hand, e-mail (with confirmation of receiving party) and fax (both required), or overnight courier service, during regular business hours; or (ii) on the third business day following deposit, with postage prepaid, in the United States Postal Service and addressed to the contracting parties. Name, address, telephone numbers, and e-mail addresses of the Parties are as follows:

City : City of Gardena
 Attention: Community Development Manager
 1700 West 162nd Street
 Gardena, CA 90247
 Telephone: (310) 217-9526
 Fax: (310) 217-9698
 E-mail: rbarragan@cityofgardena.org

With a Copy to:

Peter Wallin
City Attorney, City of Gardena
11355 W. Olympic Boulevard, Suite 300
Los Angeles, CA 90064
Telephone: (310) 450-9582
E-mail: peter@wkrklaw.com

Developer: G3 Urban, Inc.
15235 S. Western Avenue
Gardena, California 90249
Attn: Mitch Gardner
Telephone: (909) 594-9702
E-mail: mitch@g3urban.com

Either party may change its address for the purpose of this Section by giving written notice of the change to the other party.

16. Successors. This Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective parties hereto.

17. Governing Law. This Agreement has been made in and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this Agreement will be in Los Angeles County.

18. Partial Invalidity. Should any provision of this Agreement be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Agreement will remain in effect, unimpaired by the holding.

19. Integration. This instrument and its attachments constitute the sole agreement between City and Developer respecting the above matters, and correctly sets forth the obligations of City and Developer. Any Agreements or representations by City to Developer not expressly set forth in this instrument are void.

20. Construction. The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party, whether or not that party drafted all or a portion hereof.


21. Authority/Modification. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment. City's City Manager, or designee, may execute any such amendment on behalf of City.

22. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.

23. Effective Date. This Agreement shall be effective as of the date of submission of the applications on November 29, 2018, and cover all Services incurred after such date.

IN WITNESS WHEREOF the parties hereto have executed this contract.

CITY OF GARDENA:




Edward Medrano, City Manager
Dated: 3/27/19

ATTEST:



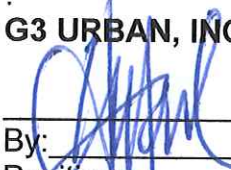
for City Clerk

APPROVED AS TO FORM:




City Attorney

G3 URBAN, INC



By: _____
Position: CEO
Dated: 3/27/19



By: Mitchell Gardner
Position: Pres. of Development
Dated: 27 March 19