



Shums Coda Associates, INC

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of the ____ day of _____, 2024, by and between the Greater Salt Lake Municipal Services District (“Jurisdiction”) and Shums Coda Associates, INC (“Consultant”).

WHEREAS, Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

WHEREAS, Consultant is willing to render the professional services described herein on the following terms and conditions.

NOW, THEREFORE, the parties agree as follows:

- Scope of Services:** The Consultant shall furnish the following services in a professional manner:

“Consultant shall perform the services described on Exhibit A which is attached hereto and incorporated herein by reference. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A, subject to the direction of the Jurisdiction through its staff that it may provide from time to time.”
- Time of Performance:** The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is approved by Jurisdiction. Consultant shall not be responsible for delays caused by circumstances beyond its reasonable control. The contract may be for a period of up to three (3) years, subject to the MSD’s unilateral right to extend the term by up to two (2) additional one (1) year terms and may be canceled at any time with or without cause by either party upon thirty (30) days written notice.
- Compensation:** Compensation to be paid to Consultant shall be in accordance with the Schedule of Fees set forth in Exhibit B, which is attached hereto and incorporated herein by reference. Payment by Jurisdiction under this Agreement shall not be deemed a waiver of defects, even if such defects were known to Jurisdiction at the time of payment.
- Method of Payment:** Consultant shall submit monthly billings to Jurisdiction describing the work performed during the preceding month. Consultant’s bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent, and by whom, and a description of any reimbursable expenditures. Jurisdiction shall pay Consultant no later than 30 days after approval of the monthly invoice by Jurisdiction staff.
- Ownership of Documents:** All plans, studies, documents, and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the Jurisdiction upon payment to Consultant for such work, and the Jurisdiction shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant’s expense, provide such reports, plans, studies, documents, and other writings to Jurisdiction upon written request.
- Independent Contractor:** It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act

as an agent or employee of the Jurisdiction. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to Jurisdiction's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

7. **Interest of Consultant:** Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.
8. **Professional Ability of Consultant:** Jurisdiction has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall, therefore, provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.
9. **Indemnity:** Consultant agrees to defend, indemnify and hold harmless the Jurisdiction, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, including attorney's fees, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement to the extent caused by the negligent acts, errors, or omissions of Consultant. Jurisdiction also agrees to defend, indemnify and hold harmless the Consultant, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, including attorney's fees, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement to the extent caused by the negligent acts, errors, or omissions of the Jurisdiction.
10. **Insurance:** Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies with insurers possessing a Best's rating of no less than A:
 - a. **Workers' Compensation Coverage:** Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of Utah. In addition, Consultant shall require each subcontractor to similarly maintain Worker's Compensation Insurance and Employer's Liability Insurance. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the Jurisdiction at least thirty (30) days prior to such change.
 - b. **General Liability Coverage:** Consultant shall maintain commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit (\$4,000,000) is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
 - c. **Automobile Liability Coverage:** Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

- d. **Professional Liability Coverage:** Consultant shall maintain professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by the Consultant or by its employees, subcontractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis.
- e. **Policy Endorsements:** Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:
- 1) The Jurisdiction, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations.
 - 2) This policy shall be considered primary insurance as respects the Jurisdiction, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the Jurisdiction, including any self-insured retention the Jurisdiction may have, shall be considered excess insurance only and shall not contribute with it.
 - 3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Jurisdiction, its elected or appointed officers, officials, employees, agents or volunteers.
 - 5) The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the Jurisdiction.
- f. **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by the Jurisdiction. At the Jurisdiction's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- g. **Certificates of Insurance and Endorsements:** Consultant shall provide certificates of insurance with original endorsements to Jurisdiction as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the Jurisdiction on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the Jurisdiction at all times during the term of this Agreement.
11. **Compliance with Laws:** Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.
12. **Licenses:** Consultant represents and warrants to Jurisdiction that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to Jurisdiction that consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall maintain a business license, if required.

- 13. **Controlling Law Venue:** This Agreement and all matters relating to it shall be governed by the laws of the State of Utah and any action brought relating to this Agreement shall be held exclusively in a state court in the appropriate Jurisdiction.
- 14. **Written Notification:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Jurisdiction: _____

If to Consultant: **Shums Coda Associate, INC**
 5776 Stoneridge Mall Rd., Ste. #150
 Pleasanton, CA 94588

- 15. **Consultant's Books and Records:**
 - a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to Jurisdiction for a minimum period of six (6) years, or for any longer period required by law, from the date of final payment to consultant to this Agreement.
 - b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of six (6) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
 - c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Jurisdiction Manager, Jurisdiction Attorney, Jurisdiction Auditor or a designated representative of these officers. Copies of such documents shall be provided to the Jurisdiction for inspection so they can be accessed digitally from their internal system. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
 - d. Where Jurisdiction has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, Jurisdiction may, by written request by any of the above named officers, require that custody of the records be given to the Jurisdiction and that the records and documents be maintained. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.
- 16. **Entire Agreement:** This Agreement constitutes the complete and exclusive statement of Agreement between the Jurisdiction and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.
- 17. **Amendments:** This Agreement may be modified or amended only by a written document executed by both Consultant and Jurisdiction and approved as to form by the Jurisdiction Attorney.

18. **Waiver:** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.
19. **Litigation Expenses and Attorneys' Fees:** If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.
20. **Execution:** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
21. **Assignment & Subcontracting:** The parties recognize that a substantial inducement to Jurisdiction for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the Jurisdiction. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the Jurisdiction. If Jurisdiction consents to such subcontract, Consultant shall be fully responsible to Jurisdiction for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between Jurisdiction and consultant nor shall it create any obligation on the part of the Jurisdiction to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.
22. **Termination:** This Agreement may be terminated immediately for cause or by either party without cause upon thirty (30) days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed in a manner consistent with this agreement.
23. **E-Verify:** Consultant covenants, represents and warrants to District (or Jurisdiction) that Consultant is and at all times during the performance of Services will be in full compliance with the requirements of Utah Code Ann. § 63G-12-302(3) (including amendments and substitutions to the law) relative to the verification of the work eligibility status of employees and, in particular, that Consultant is registered and participates in a Status Verification system as required by law, and will require the same of any subcontractor who may assist Consultant in performing Services under this Agreement.
24. **Government Records Access and Management Act:** Consultant recognizes that, as a governmental entity, District (or Jurisdiction) is subject to the Government Records Access and Management Act, Title 63G, Chapter 2 of the Utah Code ("GRAMA"), and cannot guarantee that information or any document or record provided to the District will not be subject to disclosure unless it is properly classified as a "protected record" under GRAMA based upon a written claim of business confidentiality under Utah Code Ann §§ 63G-2-305 and -309 and other provisions of GRAMA. For any record to be classified as a "protected record", Consultant must provide a written claim of business confidentiality and a concise statement of reasons and justifications supporting the claim of business confidentiality with the record when it is first submitted by Consultant to District (or Jurisdiction) and, if not so provided, any claim to protected record status may be deemed to have been waived and relinquished by Consultant.
25. **Governmental Immunity Act:** Consultant understands and acknowledges that District (or Jurisdiction) is a political subdivision of the state of Utah and, as such, District (or Jurisdiction) and its employees is/are entitled to any and all immunity from suit, limitations on judgements, protections and defenses afforded by the Governmental Immunity Act of Utah, Title 63G, Chapter 7 of the Utah Code. Nothing stated in this Agreement or elsewhere is intended, nor shall it be interpreted or construed, to release, alter, waive, or minimize any immunity, limitation, protection or benefit afforded to District (or Jurisdiction) and/or its employees by the Governmental Immunity Act of Utah.

26. **No Work Guaranty:** Consultant understands, acknowledges and agrees that District (or Jurisdiction) may use its own staff to provide Services identified in this Agreement and that District (or Jurisdiction) may enter into other third party contracts for the provision of Services identified in this Agreement. As a consequence, there is no guarantee or assurance that Consultant will be called upon to perform services, or the number of times or frequency that Consultant may be asked to perform Services, and work assignments may be distributed among Consultant and other consultants, if there is more than one third party consultant contract, based on expertise, availability, geography, cost, or any other factor as determined by District (or Jurisdiction).
27. **Anti-Boycott:** Consultant certifies that it is not currently engaged in a boycott of the State of Israel or an economic boycott, as defined in Utah Code Ann. § 63G-27-102 and prohibited by Utah Code Ann. § 63G-27-201(1); and agrees not to engage in a boycott of the State of Israel for the duration of this Agreement. Furthermore, Consultant agrees to notify the District in writing if Consultant begins engaging in a prohibited economic boycott during the term of this Agreement. Activities which are not to be boycotted, absent an ordinary business purpose or unless the boycott is intended to comply with applicable state or federal law, include a boycott of companies that are engaged in fossil fuel-based energy, timber, mining, agriculture, or firearms; companies that do not meet or commit to meet environmental standards beyond applicable state and federal law requirements; or companies that do not facilitate or commit to facilitate access to abortion or sex characteristic surgical procedures. Notwithstanding anything to the contrary stated in this contract, pursuant to Utah Code Ann. § 63G-27-201(3), this provision does not apply to a contract with a total value of less than \$100,000 or to a contract with an entity that has fewer than 10 full-time employees, nor prohibit District (or jurisdiction) from entering into a contract with an entity that engages in an otherwise prohibited economic boycott if there is no economically practicable alternative available “to (A) acquire or dispose of a good or service; or (B) meet...[District’s (or Jurisdiction’s)] legal duties to issue, incur, or manage debt obligations, or deposit, keep custody of, manage, borrow, or invest funds” or if the purpose of the economic boycott is to “comply with federal law.”

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

JURISDICTION:

CONSULTANT:

Signature: _____

Signature: David Basinger

Print: _____

Print: David Basinger

Title: _____

Title: CEO/ Principal

Attachments: Exhibit A - Scope of Services
Exhibit B - Schedule of Fees

EXHIBIT A SCOPE OF SERVICES

TASK 2—Building Inspection Services

The desired services include performing building inspections to ensure compliance with State-adopted International Codes and municipal or county ordinances, as applicable. Inspections may include new inspections or follow up inspections for new construction, additions, remodels, accessory structures, solar projects, and other permitted projects. As applicable, tasks and requirements may include the following:

- a) Inspection of industrial, commercial, residential, and detached buildings and structures during construction and/or remodeling to ensure compliance with State-adopted International Codes and municipal or county ordinances, as applicable.
- b) Inspection of existing buildings for change of use and/or occupancy to ensure compliance with the adopted State Codes and municipal or county ordinances, as applicable.
- c) Provide technical support and guidance to contractors, architects, engineers and building owners or their representatives to answer questions and provide information about the application, inspection and correction process.
- d) Document inspection results in designated permitting and inspection software to verify inspection progress and completion (will be required to maintain records of inspections and inspection results and keep a daily work record).
- e) Perform business license inspections, including interpretations of existing non-complying conditions and situations; making decisions as to required actions and corrections and issue notices of violations.
- f) Inspect and investigate complaints of existing structures/construction to determine if hazardous or illegal conditions exist. The function of inspecting will be a core service to be provided by the selected consultant(s).
- g) Inspect buildings after fires and natural or other disasters/accidents/incidents to determine if a dangerous condition exists and what should be done to remedy/mitigate it.
- h) Random and periodic audits of the reviews will be conducted to validate that review work is done appropriately.
- i) Inspection results are to be completed and documented in the MSD permitting system.
- j) MSD will send a notification that inspection services are needed prior to 3:00 p.m. the business day before consultant services are needed.
- k) Inspection assignments will be made electronically via MSD permitting and inspection software.
- l) Consultant(s) will be required to complete all assigned inspections before the end of each business day.

EXHIBIT B
SCHEDULE OF FEES

Hourly Rates – Plan Review and Inspection Services

Invoices will be submitted to the jurisdiction on a monthly basis.

| Job Title | Hourly Rate |
|--|-------------|
| Principal | \$150 |
| Acting Building Official | \$110 |
| Structural Plan Check Engineer | \$110 |
| Plans Examiner | \$95 |
| Engineer (Civil Reviews) | \$105 |
| Fire Plan Review | \$95 |
| Fire Protection Engineer | \$180 |
| Fire Systems (Complex Sprinklers/Alarms/Hoods/Racks/Smoke Control) | TBD |
| Clerical Support | \$45 |
| Inspector II** | \$85 |
| Inspector I** | \$80 |

Overtime Inspection and other overtime services will be charged at 150% of the standard hourly rates (as agreed upon mutually with the jurisdiction).

These hourly rates include all costs for any associated reimbursable expenses, such as travel, phone, project printing, etc.

**** Hours for inspections in excess of 8 hours (per day) will be billed as overtime at the rate shown above. When inspection overtime is requested, on days when inspector has not already performed inspections on the site (i.e., weekends, holidays, etc.), inspection overtime services will be provided in 4-hour minimum segments.**