

Consulting Services Contract
City of Waukesha – Vierbicher Associates, Inc.
Project Name: Housing Study and Needs Analysis

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, referred to herein as the City; and Vierbicher Associates, Inc., N27 W23957 Paul Road, Suite 105, Pewaukee, WI 53072, referred to herein as the Consultant. Together, the City and Consultant are referred to as the Parties.

Recitals

The City published a Request for Proposals, referred to as the RFP, for consulting services in connection with a housing study and needs analysis for the City.

The RFP contained a specific Scope of Work to be incorporated into the successful bidder's contract.

The Consultant submitted a proposal in response to the RFP, and was selected by the City to be awarded the contract for the Project.

The Consultant is willing to perform consulting services according to the Scope of Work stated in the RFP and the Consultant's responsive Proposal, and to accept the award of the contract for the Project.

Now, therefore, the City and the Consultant agree and contract as follows:

1. **Scope of Work.** The Consultant shall perform the Work described on Schedule A, according to the terms and conditions of this Contract. Schedule A is incorporated into this Contract by reference.
2. **Standard of Work.** Consultant will perform the Work according to generally-accepted industry practices and the standards of the professions of the individual employees performing the Work for Consultant.
3. **Payment.** The City shall pay to Consultant a total, flat Contract Price of Twenty-Six Thousand Three Hundred Dollars (\$26,300.00) for performance of the Work in compliance with the terms and conditions of this Contract. Consultant shall invoice the City, monthly, as Work progresses. No more than 80% of the Contract Price shall be payable before Consultant's Work is complete and delivered to the City. All invoices shall be payable net 30 days.
4. **Time.** Consultant shall commence the Work as promptly after execution of this Contract as is possible, and shall complete the Work no later than January 31, 2018, subject only to delays for circumstances beyond Consultant's control, provided Consultant recommences work promptly in good faith upon the return of normal circumstances.
5. **Ownership of Work Product.** All materials produced in the performance of the Work shall be the sole property of the City, and shall be kept confidential and not disclosed to any third party without the prior written permission of the City. Reuse or modification of any such documents by the City, without Consultant's written permission and professional involvement in the applicable reuse or modification, shall be at City's sole risk, and City agrees to waive all claims against and defend, indemnify and hold Consultant harmless from all claims, damages and expenses, including attorney fees, arising out of such reuse by City or by others acting through City.
6. **Changes.** This Contract can only be amended by the written, mutual agreement of the Parties. No change to the scope of the Work, or the total amount to be paid to Consultant, shall be effective unless done by the written mutual agreement of the Parties.
7. **Indemnification.** Consultant shall indemnify and hold the City harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind arising out of, or

connected in any way with, Consultant's negligence, errors or omission in performance of the Work, including court costs and actual attorney fees.

8. **Limitation of Liability.** Consultant shall not be liable for any consequential or incidental damages arising from its breach of this Contract.
9. **Insurance.** Consultant shall maintain insurance of the following kinds and for not less than the following limits, at Consultant's sole expense, at all times during the performance of the Work. Policies shall be occurrence, and not claims-made, policies, except for errors and omissions policies. Consultant's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, Consultant shall deliver a certificate of insurance to City showing that all requirements of this section are met.
 - a. Commercial general liability, including products-completed operations, \$1,000,000 per occurrence, \$2,000,000 aggregate per project.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Umbrella, \$4,000,000.
 - d. Worker compensation, statutory requirements.
 - e. Professional liability-errors and omissions, \$2,000,000, with extended-reporting period endorsement.
10. **Record Keeping.** Consultant shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Consultant acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
11. **Public Records, Confidentiality.** All documents delivered by Consultant to the City shall be presumed to be public records and available to the public under Wisconsin's open-records law. Trade secrets will be kept confidential only upon a finding by the City Attorney that the materials fall within the definition of a trade secret under Wisconsin law.
12. **Cooperation by City.** The City shall cooperate with the Consultant in the performance of the Work, and shall respond timely to all reasonable requests for information and access.
13. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
14. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
15. **Permits and Licenses.** Consultant shall be responsible, at Consultant's expense, for obtaining all permits and licenses required for the performance of the Work.
16. **Assignment Prohibited.** This Contract, and the Consultant's responsibility to perform the Work under this Contract, may not be assigned by the Consultant without the City's written consent.
17. **Notices.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:

To the City: Maria Pandazi, City Planner
City of Waukesha
201 Delafield Street
Waukesha WI 53188

To Consultant: Daniel Lindstrom
Vierbicher Associates, Inc.
N27 W23957 Paul Road
Suite 105
Pewaukee WI 53072

18. **Corporate Authorization.** The individuals executing this Contract on behalf of the Consultant warrant and represent that they are duly authorized to bind the Consultant to this Contract. Consultant warrants and represents that the execution of this Contract is not prohibited by the Consultant's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Consultant shall provide proof upon request.
19. **Assistance of Counsel, Voluntary Contract.** The Consultant acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.
20. **Adequacy of Consideration.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
21. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
22. **Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
23. **Survival and Parties Bound.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
24. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
25. **Integration.** This Contract constitutes the entire agreement of the Parties formed by the City's RFP and the Consultant's responsive proposal; however, if any ambiguity in this Contract requires resolution, or this Contract is silent on a material point, then reference may be made to the RFP and the Consultant's proposal, in that order of priority, to construe this Contract. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable.

26. **Termination.** Either party may terminate this Contract without cause by giving written notice of termination to the other party, with termination to occur no sooner than 20 days after delivery of the notice. Upon termination, Consultant shall be paid for all Work completed as of the date of termination.

City of Waukesha

By Shawn N. Reilly, Mayor
Date: _____

Attested by Gina L. Kozlik, City Clerk
Date: _____

To certify that funds are provided for payment:

Richard L. Abbott, Director of Finance
Date: _____

Vierbicher Associates, Inc.

By Rod Zubella, President
Date: _____

By Daniel Lindstrom, Project Leader
Date: _____

Schedule A
Scope of Work

1. **Project Understanding.** The Consultant shall complete a city-wide housing study and needs assessment that will guide the Client's immediate and future housing actions. The study shall assess the existing housing supply, identify issues and gaps related to housing, establish a demographic profile of the community, project current and future demand for housing using available data and identify potential financing opportunities to achieve the housing goals of the Client. The Client shall pay a flat fee of Twenty-Six Thousand Three Hundred Dollars (\$26,300.00), and the final deliverable study shall be delivered no later than January 31, 2018.
2. **Scope of Services.**
 - a. **Specific Services Provided by Consultant.**
 - i. **Engagement.** Stakeholder engagement is essential to a quality strategic planning process. Our proven planning framework establishes expectations and opportunities for involvement from the community, Client staff, the and Steering/Review Committee. The following tasks outline the work to be completed as part of the engagement phase.
 - (1) **Steering/Project Review Committee Meetings.**
 - (a) First meeting. Consultant shall meet with the Project Review/Steering Committee to establish a clear expectation for communication throughout the strategic planning process. Consultant shall also identify and present the roles, responsibilities, and milestones for completing the project. Consultant requests the Client organize and invite the appropriate individuals to comprise the Project Review/Steering Committee as described in Section 2.b.i of this Schedule A.
 - (b) Second meeting. Consultant shall present the results of the site inventory, public survey, and stakeholder focus groups.
 - (c) Third meeting. Consultant shall present the draft study, strategies, recommendations, and implementation plan prior to the final recommendation by the Project Review/Steering Committee.
 - (2) **Public Participation.**
 - (a) Online Survey. Consultant shall deploy a citywide electronic survey to gather data from residents related to their current housing situation, housing issues or challenges, and the desired housing scenarios. Consultant shall also collect user data on self-reported property conditions, occupancy, vacancy, rental rate, affordability, and satisfaction.
 - (b) Focus Groups. Consultant shall facilitate discussions with stakeholders such as landlords, brokers, property managers, developers, neighborhood associations and other groups that can provide invaluable insights to a housing analysis and needs assessment. Consultant recommends organizing several focus groups with invited stakeholders for this purpose. The focus group interview would occur over two sequential days. Consultant staff shall facilitate up to eight (8) focus group discussions between individuals or groups. As the experts in the local community,

Consultant requests the Client organize and invite the appropriate individuals or organizations as described in Section 2.b of this Schedule A.

- (c) **Public Open House.** Consultant shall host a public open house once the assessment and strategy phases of the process are complete. This shall provide an opportunity for the project team to present its findings to the public and solicit input from participants.

ii. **Assessment.** The goal of the Assessment phase is to define the housing situation and needs in the City. The following tasks outline the work to be completed as part of the assessment phase.

(1) Understanding Community Reality and Regional Context.

- (a) **Existing Document Review.** Consultant shall become acquainted with the City's Comprehensive Plan and other existing documents and information relevant to the housing study, such as the zoning and land division codes, corridor plans, and other guiding documents.

(2) Housing Market Analysis.

- (a) **City Housing Market Analysis.** Consultant shall conduct an analysis for the City of Waukesha housing market. The analysis shall review the demographic makeup of the City, the current and future demand for housing, issues relating to housing such as blight status, access to fair housing, and any additional factors that come to light during the assessment phase. Future demographic projections for the City shall be used to understand the composition of residents and businesses and how that might impact the housing.
- (b) **Housing Stock Analysis.** Consultant shall conduct an analysis of existing housing stock characteristics based on the collected and available data on occupancy, vacancy, amenities and rental rate trends by unit type and property age. The assessment shall also include single- and multi-family construction activity and trends by size, type and price point. This analysis shall be balanced with field verification (notes, pictures, ratings, etc.) of selected character blocks to assist in understanding the current community composition.
- (c) **Sales Market Analysis.** Consultant shall conduct a sales market analysis.
- (d) **Rental Market Analysis.** Consultant shall conduct an analysis of the rental housing market.
- (e) **Infrastructure and Growth Analysis.** Consultant shall conduct a citywide assessment of the infrastructure capacity for growth to identify possible locations for development or redevelopment. This analysis will be based on the data supplied by the Client as described in Section C of this agreement.
- (f) **Regional Comparison.** Consultant shall use information from the Client, economic census, DOA, regional planning agencies, and information from stakeholder interviews to conduct a regional comparison. This information shall be used to identify and assess the communities that compete with the City for residential housing or employment.

- iii. **Strategy.** Information from the assessment phase shall be used to identify needs and forecast demand patterns in the City of Waukesha. These issues and forecasts shall be used to develop residential housing strategies for the City and downtown. The following tasks outline the work to be completed as part of the strategy phase.
 - (1) **Future Needs.**
 - (a) **Future Projections.** Consultant shall prepare a summary of future market demands for 5-, 10-, and 20-year increments. This summary shall identify the number and type of units, derived from data showing anticipated population and household trends within the community as well as the City's ability to capture a share of regional demands. Elements considered as part of this forecast shall include:
 - i. Change in distribution of demographic cohorts and household income which influences the decision to rent versus own and type of housing preferred.
 - ii. Projected units supported by product type in Waukesha as a result of continued changes to the population base.
 - (b) **Generational Impacts.** Consultant shall provide a synopsis of the anticipated impacts that influence generation housing preferences. This information shall be pulled from the public survey and contrasted with national and regional reports.
 - (2) **Strategy Development.** The Consultant and project team shall develop short- and long-term strategies to fill each of the housing issues identified in the assessment phase. These could include:
 - (a) Strategies that support development of specific types of housing that are not currently in sufficient supply.
 - (b) Strategies that encourage development of housing options that support the preferences of desired demographics.
 - (c) Strategies that address blighted properties and/or neighborhoods.
 - (d) Strategies that improve accessible and affordable housing choices for specific segments of the population (senior, special needs, etc.)
 - (e) Short-term strategies for catalytic projects or programs.
 - (f) Long-term strategies to match housing demand with appropriate supply.
 - (g) Strategies that identify targeted performance measurements, benchmarks, and milestones for strategic housing initiatives resulting from the planning process.
- iv. **Implementation.** The final scope element of the study summarizes all of the strategic recommendations that were developed throughout the process and creates a roadmap for addressing housing needs and demand for the City. The following tasks outline the work to be completed as part of the implementation phase.

(1) **Final Report Document and Implementation Matrix.**

- (a) Consultant shall prepare a final document to include a data summary of materials generated throughout the process. The documents shall also include a set of strategies and initiatives to address housing issues and capitalize on identified opportunities to be described in an implementation matrix. The matrix shall identify responsible parties, timing and suitable financing vehicles for each action item. The implementation matrix shall also take into consideration existing efforts and resources available through local economic development partner organizations.

(2) **Presentations of Final Report.**

- (a) Consultant shall prepare and present a summary of the final report document to both the City of Waukesha Plan Commission and Common Council, at their respective meetings.

b. **Additional Services if Requested by Client.** If requested by Client, Consultant is prepared to provide the following additional services:

- i. Additional public meetings/workshops to gather input from residents for inclusion in the study.
- ii. Additional presentations of findings and/or final study to additional stakeholder audiences (in addition to the final presentation to the City Council, which is included in the scope of this work.).
- iii. NOTE: These services are not part of this Agreement. A separate Agreement or Amendment to this Agreement will be necessary to formally contract for this work.

3. **Services Not Provided as Part of this Project.** In addition to the "Services Not Provided as Part of This Agreement" section indicated in the attached General Terms and Conditions, the following services are not included as part of this work.

- a. Administration and compilation of any non-digital survey tools or responses.
- b. Consultant will not enter any properties to conduct a physical inspection of property condition.

4. **Information Provided by Others.** To complete our scope of services, the following information shall be provided by others:

- a. Client shall publish public meeting notifications if/as required.
- b. Client shall establish and populate a project review/steering committee according to City policy.
- c. Client shall provide relevant information and previous studies as needed.
- d. Client shall provide data from various City databases.
- e. Client shall provide GIS shapefiles as needed.
- f. Client shall identify and invite individual stakeholders to the focus group meetings.
- g. Client shall identify and arrange for suitable meeting space for the public open house and stakeholder focus groups as determined by the quantity of persons anticipated.

5. **Work Schedule.** This Agreement is based upon the following anticipated schedule:
 - a. Authorization to Proceed..... Week of October 2, 2017
 - b. Kickoff meeting Week of October 9, 2017
 - c. Substantial Completion Mid-January 2018
6. **Schedule of Deliverables.** The final document, Housing Study and Needs Assessment, shall be delivered by mid-January, 2018
7. **Designation of Responsible Parties.** The designated responsible parties representing the Client and Consultant, respectively, shall have authority to transmit instructions, receive information, and render decisions relative to the project on behalf of each respective party.

Overall coordination and project supervision for Consultant is the responsibility of Daniel Lindstrom, AICP, Project Leader. He, along with other personnel, shall provide the services required for the various aspects of the project. Please direct all communications that have a substantive impact on the project to him.

The Client designates Maria Pandazi, AICP, as its representative. Consultant shall direct all communications that have a substantive impact on the project to that individual, and that individual's responses shall be binding on the Client.

8. **Fees.** The fixed fee to provide the scope of services described herein is \$26,300. Reimbursable expenses are included in the above-stated fees or estimates.

[End of Schedule A]