

**DRAFT CONSULTANT SERVICES AGREEMENT
BETWEEN THE CITY OF SUNNYVALE
AND CHANDLER ASSET MANAGEMENT, INC.
FOR INVESTMENT MANAGEMENT SERVICES**

THIS AGREEMENT, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and CHANDLER ASSET MANAGEMENT, INC. ("CONSULTANT").

WHEREAS, CITY is in need of investment management services for the City of Sunnyvale; and

WHEREAS, CONSULTANT possesses the skill and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" attached and incorporated by reference. CONSULTANT shall determine the method, details and means of performing the services.

2. Time for Performance

The term of this Agreement shall be one (3) years from the execution date, unless otherwise terminated. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A". Extensions of time may be granted by the City Manager upon a showing of good cause.

3. Duties of CITY

CITY shall supply a facility within CONSULTANT shall perform the required services, and a schedule for each of CONSULTANT'S classes during the term of this Agreement.

4. Compensation

CITY agrees to pay CONSULTANT as full compensation for the services rendered pursuant to this Agreement, the amounts set forth in Exhibit "B". Total compensation shall not exceed Eight Hundred Fifty Thousand and No/100 Dollars (\$850,000).

CONSULTANT shall submit invoices to CITY no more frequently than monthly for services provided to date. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707. Payment shall be made within thirty (30) days upon receipt of an accurate, itemized invoice by CITY'S Accounts Payable Unit.

5. Ownership of Documents

CITY shall have full and complete access to CONSULTANT's working papers, drawings and other documents during progress of the work. All documents of any description prepared by CONSULTANT shall become the property of the CITY at the completion of the project and upon payment in full to the CONSULTANT. CONSULTANT may retain a copy of all materials produced pursuant to this Agreement.

6. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

7. Confidential Information

CONSULTANT shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONSULTANT may become aware in the performance of its services.

8. Compliance with Laws

- A. CONSULTANT shall not discriminate against, or engage in the harassment of, any City employee or volunteer or any employee of CONSULTANT or applicant for employment because of an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS-related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual). This prohibition shall apply to all of CONSULTANT's employment practices and to all of CONSULTANT's activities as a provider of services to the City.
- B. CONSULTANT shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

9. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONSULTANT. CONSULTANT is responsible for paying all required state and federal taxes.

10. Indemnity

CONSULTANT shall indemnify and hold harmless CITY and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

11. Insurance

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates or endorsements as specified in Exhibit "C."

12. CITY Representative

Timothy J. Kirby as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

13. CONSULTANT Representative

Carlos Oblites, Senior Vice President, Portfolio Strategist shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

14. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY:	Timothy J. Kirby Department of Finance CITY OF SUNNYVALE P. O. Box 3707 Sunnyvale, CA 94088-3707
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To CONSULTANT: Carlos Oblites
Chandler Asset Management
6225 Lusk Boulevard
San Diego, CA 92121

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by email or fax, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing.

15. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

16. Termination

- A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced in writing signed by all parties.

18. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

19. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

20. Additional Requirements

Additional requirement and are hereby agreed to in accordance with Exhibit "D".

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

("CONSULTANT")

By _____
City Attorney

By _____

Name and Title

By _____

Name and Title

Exhibit D
Additional Requirements

1. Authority of Chandler. Chandler is hereby granted full discretion to invest and reinvest all assets under its management in any type of security it deems appropriate, subject to the instructions given or guidelines set by Representative.
2. Electronic Delivery. From time to time, Chandler may be required to deliver certain documents to Client such as account information, notices and required disclosures. Client hereby consents to Chandler's use of electronic means, such as email, to make such delivery. This delivery may include notification of the availability of such document(s) on a website, and Client agrees that such notification will constitute "delivery". Client further agrees to provide Chandler with Client's email address(s) and to keep this information current at all times by promptly notifying Chandler of any change in email address(s).

Client email address(s):

Inderdeep Dhillon IDhillon@sunnyvale.ca.gov

Tim Kirby TKirby@sunnyvale.ca.gov

3. Proxy Voting. Chandler will vote proxies on behalf of Client unless otherwise instructed. Chandler has adopted and implemented written policies and procedures and will provide Client with a description of the proxy voting procedures upon request. Chandler will provide information regarding how Clients' proxies were voted upon request. To request proxy policies or other information, please contact us by mail at the address provided, by calling 800-317-4747 or by emailing your request to info@chandlerasset.com.
4. Custody of Securities and Funds. Chandler shall not have custody or possession of the funds or securities that Client has placed under its management. Client shall appoint a custodian to take and have possession of its assets. Client recognizes the importance of comparing statements received from the appointed custodian to statements received from Chandler. Client recognizes that the fees expressed above do not include fees Client will incur for custodial services.
5. Valuation. Chandler will value securities held in portfolios managed by Chandler no less than monthly. Securities or investments in the portfolio will be valued in a manner determined in good faith by Chandler to reflect fair market value.
6. Investment Advice. Client recognizes that the opinions, recommendations and actions of Chandler will be based on information deemed by it to be reliable, but not guaranteed to or by it. Provided that Chandler acts in good faith, Client agrees that Chandler will not in any way be liable for any error in judgment or for any act or omission, except as may otherwise be provided for under the Federal Securities laws or other applicable laws.

7. Payment of Commissions. Chandler may place buy and sell orders with or through such brokers or dealers as it may select. It is the policy and practice of Chandler to strive for the best price and execution and for commission and discounts which are competitive in relation to the value of the transaction and which comply with Section 28(e) of the Securities and Exchange Act. Nevertheless, it is understood that Chandler may pay a commission on transactions in excess of the amount another broker or dealer may charge, and that Chandler makes no warranty or representation regarding commissions paid on transactions hereunder.
8. Confidential Relationship. The terms and conditions of this Agreement, and all information and advice furnished by either party to the other shall be treated as confidential and shall not be disclosed to third parties except (i) as required by law, rule, or regulation, (ii) as requested by a regulatory authority, (iii) for disclosures by either party of information that has become public by means other than wrongful conduct by such party or its officers, employees, or other personnel, (iv) for disclosures by either party to its legal counsel, accountants, or other professional advisers, (v) as necessary for Chandler to carry out its responsibilities hereunder, or (vi) as otherwise expressly agreed by the parties.
9. Standard of Care. It is agreed that the sole standard of care imposed upon Adviser by this Agreement is to act with the care, skill, prudent, and diligence under the circumstances then prevailing that a prudent investment expert acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a no case be, or be interpreted to be, less stringent or less restrictive than any investment standard or standards, now in effect or included by amendment effective in the future, prescribed for investments by (State) law. While the Adviser will make a good faith effort to require brokers and dealers selected to effect Account transactions to perform their obligations, the Adviser shall not be responsible for any loss incurred because of any act or omission of any broker, dealer or custodian for the Account. The Adviser shall not act as a principal in sales and/or purchase of assets, unless the Adviser shall have received prior written approval from an Authorized Person for each such transaction. In maintaining its records, the Adviser does not assume responsibility for the accuracy of information furnished to Client by any other party. However, the Adviser shall cooperate with (entity) and the Custodian to reconcile the Account each month.
10. Investment Objectives and Restrictions. Client has specified in Schedule A the investment restrictions and limitations which govern the Account. It will be the Client's responsibility to inform the Adviser in writing of any changes or modifications in the investment objectives of the Account as well as any additional investment restrictions and limitations applicable thereto and to give the Adviser prompt written notice if Client deems any investment made for the Account to be in violation of such objectives or restrictions and limitations. The Adviser agrees to communicate its investment strategy for the Account and any changes thereto, in writing, to the Client, and, if necessary, to meet with the Client to review the Account's investment activity or to advise of changes in the Adviser's investment strategy.
11. Services to Other Clients. It is understood that the Adviser performs investment management services for other clients. The Client agrees that the Adviser may direct and take action with respect to any activity of its clients which may differ from

the direction or the timing or nature of action taken with respect to the Account so long as it is the Adviser's policy, to the extent practical, to allocate investment opportunities to the Account over a reasonable period of time on a fair and equitable basis relative to other clients. It is understood that the Advisor shall not have any obligations to purchase or sell for the Account any security which the Advisor, its principles, affiliates or employees may purchase or sell or Advisor's good faith opinion such transaction or investment appears unsuitable, impractical or undesirable of the Account.

12. Rescission. The Client acknowledges receipt of Form ADV Part II which accompanies this Agreement. The Adviser acknowledges that, notwithstanding the foregoing Paragraphs hereof, the Client shall have a unilateral right to rescind this Agreement without penalty by giving written notice of rescission to the Adviser in accordance with this Agreement in such a manner that the notice shall have been received by the Adviser within five (5) business days next following the execution of this Agreement. For purposes of this Paragraph, the term "business days" shall mean Monday through Friday, excluding holidays. In the event the Client rescinds this Agreement in accordance with this Paragraph neither party shall have any obligation or liability to the other. Client further acknowledges receipt of Chandler's Privacy Policy, as required by Regulation S-P.

Exhibit A
Detailed Scope of Work

1. Provide full-time, investment management services in accordance with the City's Investment Policy.
2. Assist with reviewing and recommending any appropriate amendments to the City's Investment Policy at the outset of the contract term, and assist with the annual review and update of the Investment Policy.
3. Assist the City with developing an appropriate cash flow model to minimize balances held in highly liquid but low interest accounts.
4. Assist the City with maturity analysis.
5. Perform analysis and review investments for compliance to the City's goal of social and environmental responsibility, including, but not limited to the exclusion of investments that directly or indirectly support the production or drilling of fossil fuels.
6. Work with the City's third party custodian (currently Union Bank) for safekeeping of securities and provide any services required to execute and settle investment trades.
7. Establish and recommend appropriate investment benchmarks.
8. Provide detailed monthly reports of investment portfolio activity, performance, holdings monthly, type, maturity, broker, duration, and benchmark comparable. Provide monthly and quarterly reports to Council as required by the Investment Policy and annual portfolio performance reports based on the City's Investment Policy, quarterly period close and fiscal year.
9. Be available to Finance Department staff in a timely manner by telephone or email and meet with and provide information to Finance Department staff upon request, and if requested, to other interested parties such as the Investment Committee, City Council and/or City Manager.
10. Provide assurance of portfolio compliance with all federal and State of California laws as well as ordinances, resolutions, and policies of the City relating to the investment of public funds.
11. Annually perform due diligence reviews of the broker/dealers, custodian bank, and financial institutions utilized by the City and provide supporting documentation to the City.

12. The selected firm will not act as a custodian of assets in the account or have possession of any such assets.
13. The selected firm will act as a fiduciary agent to the City, serving as an independent advisor to represent the best interests of the City.
14. Demonstrate independence from any financial institution or securities brokerage firm, or fully disclose any such relationships relevant to qualified investments for public sector entities.



- a. **Provide a comprehensive fee proposal outlining any one-time, up-front, and ongoing fees for all services including, but not limited to, asset allocation recommendations, asset management, funding analysis, trust document and trustee/custodial services including asset-based and fixed fees, and any investment or consulting services fees.**

Chandler Asset Management is pleased to provide comprehensive investment management services to the **City of Sunnyvale** as described in the City's *Scope of Services* and Chandler's proposal herein in accordance with the following fee schedule:

**Proposed Fee Schedule for
the City of Sunnyvale**

Assets Under Management	Annual Asset Management Fee
First \$100 million	0.08 of 1% (8 basis points)
Next \$100 million	0.06 of 1% (6 basis points)
Assets over \$200 million	0.04 of 1% (4 basis points)

Based on an account size of \$360 million, the annual fee would be **5.67 basis points** (0.0567 of 1%), for an effective dollar fee of \$204,000 per annum.

Fees are based on the amount of assets under management and are not based on transaction volume. Management fees will accrue as long as there are assets in the portfolio, even if there is no activity during the period. Since the firm calculates fees based on the average balance of assets under our direct management (market value including accrued interest), fees will fluctuate based on portfolio value. Fees are charged monthly in arrears, and can be debited directly from your third party custody account.

Our proposed fee schedule is all-inclusive for the services that Chandler provides, including full time investment management, technological resources, online access to the *Chandler Client Portal*, comprehensive reporting, meetings, personal visits, and educational offerings for your staff, as well as the additional services described herein in Chandler's proposal.

Our fee schedule does not include charges that the City would incur for third party custodial services.

Chandler does not charge fees on funds held in Local Government Investment Pools and other vehicles not directly under our management.

- b. **Provide a fee proposal based on Average Assets Under Management of between \$250 million to \$500 million with a breakdown of fees**

To illustrate the fees assessed to the City at different AUM levels, we have calculated below the fees per annum for a \$250 million, \$350 million, \$450 million and \$500 million portfolio:



Pursuant to the above proposed tiered fee schedule based on Average Assets Under Management, we have calculated below the fees per annum for portfolios from \$250 million to \$500 million:

Portfolio AUM (\$millions)	Fee in Basis Points	Total Annual Fee
\$250 million	6.40 basis points	\$160,000
\$350 million	5.71 basis points	\$200,000
\$450 million	5.33 basis points	\$240,000
\$500 million	5.20 basis points	\$260,000

c. List the expense ratios of funds/portfolio available.

None. Chandler manages separate portfolios comprised of individual securities, and does not use mutual funds or portfolios with embedded fees or expense ratios.

d. List in detail any minimum investment period, surrender, withdrawal, or deferred sales charges within your products.

None. There is no minimum investment period or deferred sales charges, nor are there fees assessed for surrender or withdrawal of funds from Chandler's management.

e. Describe any fee related to the transfer of assets and restrictions or costs related to termination of a contract with your firm.

None. There are no fees related to the transfer of assets into or out of Chandler's management, nor are their restrictions or costs related to termination of a contract with the firm.

INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Consultant, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance. Consultant shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form CG 0001 or equivalent is required.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
3. **Workers' Compensation** Statutory Limits and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.
4. **Errors and Omissions** Liability Insurance appropriate to the Consultant's Profession: \$1,000,000 per occurrence.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

Other Insurance Provisions

The **general liability** policy shall contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.
2. For any claims related to this project, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

Verification of Coverage

Consultant shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.