

August 9, 2011

**ITEM:** 8.C.

**RE:** CONSIDERATION AND APPROVAL OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY APPROVING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PERIODIC DEVELOPMENT CONSULTANT SERVICES.

**PROJECT AREA:** All Project Areas

**PREPARED BY:** Jill Wilkerson-Smith

**EXECUTIVE SUMMARY:** In July 2009 the Agency entered into contracts with three on-call development consultants to advise the Agency periodically on a variety of development-related issues. The contracts terminate on July 1, 2012. One of the three consultants will be terminating their contract this month. Due to early contract termination, staff is asking the Board's approval to reissue a Request for Proposals to hire up to three additional development consultants. The attached modified version of the original Request for Proposals would be used to solicit additional services.

**ALTERNATIVES:**

- 1) Pass a motion to approve the Request for Proposals and authorize staff to proceed with issuance of the document.
- 2) Provide staff with modifications to the Request for Proposals and authorize staff to proceed with issuance of the document.
- 3) Do not pass the motion and request either that staff return with a modified Request for Proposals or that the services not be retained.

**FUNDING:** To be determined on a project by project basis, based on fixed hourly rates.

**ANALYSIS AND ISSUES:** Two years ago, the RDA retained the services of three consulting firms to provide development consulting services. One of the consultants, Marilee Utter of Citiventure Associates, LLC, is closing her business to accept a position with the Urban Land Institute. Ms. Utter possesses a unique set of skills that helped to guide staff and the community through the Intermodal Hub Development Strategy process, and the Sugar House Streetcar Community Workshops. The transition from our assignments with Citiventure prompts us to consider a replacement consultant for the future needs of projects like these, and provides an opportunity to evaluate the skills and qualifications of potential resources to augment our remaining pool of on-call development consultants. We would honor the remaining term of the existing on-call contracts, and welcome consultants to participate in this RFP.

Attached is a modified version of the Request for Proposals for Development Consulting Services the RDA originally issued in 2008. Staff could select up to three consultants and enter into a three-year contract with each. The selected consultants would agree to provide services on an as-needed basis to the RDA at a set hourly rate. The consultant will provide a scope of services specifically tailored for each assignment that would be attached as an amendment to their original consultant contract.

If the Board adopts the Resolution, staff will issue and advertise the Request for Proposals. We propose that the selection committee be comprised of the Executive Director, the Director of Community and Economic Development, and one other RDA staff member.

**BACKGROUND:** In November 2008, the Board passed a resolution to retain several private consultants to advise the staff on a variety of periodic development issues. These services include preparation or review of Requests for Proposals for land disposition, help with creating design criteria that would be incorporated in Requests for Proposals and redevelopment plans, and providing periodic advice to Agency staff on a variety of development issues.

In July 2009 the Agency entered into contracts with three “on-call” development consultants to advise the Agency periodically on a variety of development-related issues. The contracts terminate on July 1, 2012.

**ATTACHMENTS:**

1. Resolution
2. Request for Proposals to Provide Development Consulting Services

RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY APPROVING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PERIODIC DEVELOPMENT CONSULTANT SERVICES.

WHEREAS, the Redevelopment Agency of Salt Lake City (“Agency”) was created to transact the business and exercise the powers provided for in the Utah Community Development and Renewal Agencies Act; and

WHEREAS, the Agency wishes to engage one to two development consultants under contract to be available for periodic services at the request and direction of Agency staff; and

WHEREAS, Agency staff has drafted a Request for Proposals seeking applications and information from qualified development consultants that contains a defined scope of work and a proposed contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY, that we do hereby authorize the issuance of the Request for Proposals in the form attached hereto as Exhibit “A.”

BE IT FURTHER RESOLVED, the final selection of the development consultant(s) and the terms of the agreements therewith shall be subject to further approval of the Board of Directors.

Passed by the Board of Directors of the Redevelopment Agency of Salt Lake City, this 9<sup>th</sup> day of August, 2011.

\_\_\_\_\_  
Luke Garrott, Chairperson

ATTEST:

\_\_\_\_\_  
D.J. Baxter, Executive Director

Transmitted to the Chief Administrative Officer on \_\_\_\_\_. The Chief Administrative Officer \_\_\_ does not request reconsideration \_\_\_\_ requests reconsideration at the next regular Agency meeting.

\_\_\_\_\_  
Ralph Becker, Chief Administrative Officer

ATTEST:

\_\_\_\_\_  
D.J. Baxter, Executive Director

Approved as to legal form: \_\_\_\_\_  
Brian Roberts, Agency Attorney

REQUEST FOR PROPOSALS  
TO PROVIDE  
DEVELOPMENT CONSULTING SERVICES

1. REQUEST FOR PROPOSALS.

The Redevelopment Agency of Salt Lake City (“Agency”) is requesting proposals from qualified developers and development consultants (hereinafter sometimes “Consultant“ and sometimes “Offerors”) for services that will assist the Agency in making decisions with regard to redevelopment activities within the Agency’s Project Areas. The Agency will enter into a Consulting Services Agreement with two (2) to three (3) individuals or firms as consultants whose services will be rendered on an as-needed basis.

2. SCOPE OF SERVICES.

The selected Consultant shall provide the services described in the Scope of Services attached as Exhibit “A,” as requested by the Agency. The selected Consultant may retain the services of other professionals on a subcontract basis as approved in writing by the Agency. Proposals of Offerors shall provide information on subconsultants, if any, that the Offeror proposes using on the possible assignments listed in the Scope of Services, along with a delineation of what types of services would be provide by the Offeror versus the subconsultant. The Agency may select and enter into a Consulting Services Agreement with as many as three Offerors under this Request for Proposals (“RFP”), and may request one or all of the selected Consultants to work with the Agency with respect to the same project. The Agency reserves the right to solicit similar services on a Request for Proposal basis during the term of the selected Consultant’s Consulting Services Agreement, even if the services are included within the Scope of Services described in Exhibit “A” or elsewhere in this RFP.

For each assignment, the selected Consultant shall work closely with Agency staff and, as directed by the Agency, with the Salt Lake City Planning Commission and staff, the Redevelopment Advisory Committee, the Redevelopment Agency Board of Directors, potential property purchasers, the Agency’s other consultants, the local community council, and/or other relevant parties as determined by the Agency. The selected Consultant shall coordinate its services with the parties specified by the Agency for each assignment.

3. QUALIFICATIONS.

The selected Consultant shall be an individual or firm with experience in the development of housing, retail, office, and mixed-use projects in urban areas of the western United States. The individual or firm should have responded to Requests for Proposals from governmental entities offering development opportunities and be prepared to provide the Agency with insights and suggestions to make the Agency’s redevelopment efforts more successful by promoting more responses and more innovative development options for Agency-owned properties.

4. WRITTEN AGREEMENT REQUIRED.

The selected Consultant shall enter into a written agreement with the Agency to provide the services required under the Scope of Services attached as Exhibit "A." The Scope of Services may be modified by the written agreement. The form of written Consulting Services Agreement proposed by the Agency is attached as Exhibit "B" and incorporated herein by reference. Offerors shall include as a part of their proposal a list of any changes Offeror proposes to the draft agreement.

5. TERM OF AGREEMENT.

The Agreement for Consulting Services with the selected Consultant shall expire three (3) years from the date the written agreement is executed unless terminated at an earlier date in accordance with the terms of the Consulting Services Agreement. Upon mutual agreement of the Agency and the Consultant, this Agreement may be extended for one (1) year after the expiration of its three (3) year term, all terms and conditions remaining the same.

6. SCHEDULE.

Each assignment by the Agency to the selected Consultant shall be completed in a timely fashion, and in accordance with any schedules agreed upon at the time of the assignment of a project to the selected Consultant.

7. FEES AND CHARGES.

Offerors shall provide in a separate sealed envelope a fee proposal in the form attached as Exhibit "C" stating the hourly fee for each employee and subconsultant who will be performing work for the Agency. The services of the selected Consultant shall be billed to the Agency at the hourly rates specified in the fee proposal, subject to a guaranteed maximum fee if one is negotiated for a project. Reimbursable expenses shall be billed at cost, without mark-up. The selection of the successful Offeror will not be based solely on the fee.

8. CONTENT OF PROPOSAL.

Offerors shall provide the following information in their Proposal for evaluation by the Agency:

- A. A list and description of projects which the Offeror and Offeror's proposed subconsultants have provided professional services; the names of the personnel of the Offeror or Offeror's proposed subconsultants who performed the work; a discussion of whether or not the projects were completed; and the names of persons responsible for the owner/developer and his/her telephone number.
- B. A list of the subconsultants, if any, proposed to be used by the Offeror in the performance of the services described in the Scope of Services.

- C. Name and address of the Offeror, the size of the Offeror's staff, the names and qualifications (including professional training, licenses, experience, awards, etc.) of personnel of Offeror and Offeror's proposed subconsultants for the services described in the Scope of Services, the role of Offeror on the projects.
- D. A statement of the Offeror's proposed approach to managing the services described in the Scope of Services, including a discussion of the Offeror's ability to meet the Agency's schedules for the performance of services.
- E. A fee proposal and evidence that the Offeror has professional liability insurance in the form of Exhibit "C." The Offeror's fee proposal shall be enclosed in a separate, sealed envelope.
- F. A list of proposed changes requested by the Offeror in the proposed form of Consulting Services Agreement attached as Exhibit "B."
- G. A list of references including name, addresses, and phone numbers of no more than eight individuals or organizations familiar with the Offeror's performance.
- H. Such other data or information to assist the Agency in applying the selection criteria set forth here in below.

9. SELECTION CRITERIA AND PROCESS.

An Agency appointed Selection Committee will evaluate all proposals. Qualifications of the Offerors will be evaluated using the following selection criteria:

- A. The extent of experience of the Offeror and the Offeror's proposed subconsultants and their personnel proposed for the Agency's projects to perform the type of services required and their proposed time commitments to the Agency's projects;
- B. The degree and depth of professional qualifications of the Offeror and the Offeror's proposed subconsultants and their personnel proposed for the Agency's projects for performance of the services;
- C. Past performance of the Offeror and the Offeror's proposed subconsultants on similar projects, in general, and redevelopment type projects, in particular;
- D. The Offeror's proposed approach to managing the services described in the Scope of Services, including the Offeror's ability to meet the Agency's schedules; and
- E. The ramifications to the Agency of the suggested changes to the Consulting Contract.

The Selection Committee will review each of the Offerors on the basis of the selection criteria and will select up to six (6) of the top Offerors (provided that more than six (6) proposals are received), or the most highly qualified and ranked in that order, on the basis of the meeting the selection criteria. These will be named to the "Short List" of the most highly qualified Offerors to provide the services described in Exhibit "A." The Selection Committee will then open the sealed fee proposals of the Short-Listed Offerors and provide to the Agency staff a ranking of the individuals or firms of the Short-Listed. The Agency staff, subject to the final approval of the Chief Administrative Officer of the Agency, will then negotiate with the two (2) to three (3) most highly qualified Offerors a fair and reasonable fee and, if modifications to the proposed form of Consulting Services Agreement attached as Exhibit "B" have been proposed in the Offeror's proposal, modifications to the Consulting Services Agreement. The Agency is not required to accept any of the Short-Listed Offeror's suggested modifications to the proposed form of Consulting Services Agreement and may decline to further negotiate with any Short-Listed Offeror proposing terms of the Consulting Services Agreement unacceptable to the Agency. The Agency shall not be bound by any Short-Listed Offeror's fee proposal in negotiating a fair and reasonable fee. In determining a fair and reasonable fee, the Agency staff may take into account the fee proposals of other Short-Listed Offerors but shall not communicate to any Offeror the fees proposed by any other Offeror, unless and until such information shall become public at the time of the execution of a Consulting Services Agreement between a Short-Listed Offeror and the Agency. If the Agency staff is unable to negotiate with the most highly qualified individual or firms on the Short-List a fee and terms of a Consulting Services Agreement that it is willing to recommend to the Chief Administrative Officer of the Agency, the Agency staff will terminate such negotiations and begin negotiations with the next highest qualifying Short-Listed Offeror. Once the Agency staff negotiates a fee and terms of a Consulting Services Agreement with a Short-Listed Offeror that it is willing to recommend to the Chief Administrative Officer of the Agency, such fee and terms of an agreement are subject to the final approval of the Chief Administrative Officer of the Agency, whose determination is final. This process shall be employed until the Chief Administrative Officer of the Agency has approved a fee and terms of a Consulting Services Agreement with two (2) to three (3) Short-Listed Offerors as are recommended by the Agency staff and approved by the Chief Administrative Officer of the Agency to be retained pursuant to this RFP. If, after negotiations with each of the Short-Listed Offerors recommended by the Selection Committee, the Agency staff has not recommended or the Chief Administrative Officer of the Agency has not approved an agreement and fee with such number of Offerors, the Agency staff may request additional recommendations from the Selection Committee on the basis of their qualifications, or open negotiations (in order of their qualifications) with the originally Short-Listed Offerors. At any time, the Agency may reject all proposals.

10. SUBMISSION OF PROPOSAL AND DUE DATE.

To be considered for award, Offerors submitting a proposal shall submit eight (8) copies of the written proposal and the fee proposal to the Redevelopment Agency of Salt Lake City, 451 South State Street, Room 418, P.O. Box 145518, Salt Lake City, Utah 84114-5118, **prior to 4:30 p.m. on Thursday, \_\_\_\_\_, 201108.** The written proposal and the fee proposal shall be

signed in ink by an officer or employee of the Offeror authorized to bind the Offeror contractually.

All proposals shall be delivered in a sealed package containing the proposal, and containing the fee proposal enclosed in a separate sealed envelope marked "Fee Proposal." The proposal package shall state the Offeror's name, address, date of proposal, and Request for Proposals title on the cover. Failure to separate the fee proposal from the written proposal may be grounds for rejection.

Proposals that are not received in the Agency offices prior to the time and date specified in this Paragraph 10 will be considered late. LATE PROPOSALS WILL NOT BE CONSIDERED FOR AWARD. Failure to read the Request for Proposal and comply with its instructions will be at the Offeror's own risk.

11. ORAL PRESENTATION.

At the option of the Agency, the Offerors may be requested to meet with the Selection Committee for an oral presentation. Proposals, however, may be accepted without oral presentations. Oral presentations, if held, are expected to be scheduled during the weeks of \_\_\_\_\_, 2011~~08~~.

12. WITHDRAWAL OF PROPOSALS.

Proposals shall not be withdrawn and shall remain open for acceptance by the Agency for a period of sixty (60) days after the time and date set as the Due Date in paragraph 10 above.

13. PUBLIC INFORMATION.

Offerors are hereby advised that all proposals shall become Agency property at the time of submission. Information contained in the proposals accepted by the Agency will be available to the public upon inquiry immediately following the execution of a Consulting Services Agreement between the Agency and such Offeror.

14. PROPOSAL COORDINATOR/ ADDENDA.

The Agency coordinator for this project will be \_\_\_\_\_, \_\_\_\_\_, Redevelopment Agency of Salt Lake City, telephone (801) 535-\_\_\_\_ or email at -----@slcgov.com. Questions concerning the Scope of Services or the meaning or intent of this Request for Proposal shall be directed to \_\_\_\_\_. The answer to any such request shall not be relied upon unless in writing. Written clarification to this Request for Proposal shall be in the form of written Addenda. Copies of any such written Addenda issued by the Agency shall be available for review by any interested party at the Agency's offices prior to the submission date.

15. RIGHT TO REJECT/WAIVE INFORMALITY OR IRREGULARITY.

The Agency reserves the right to reject all proposals. The Agency also reserves the right to reject any and all proposals and to waive any informality or irregularity in proposals received, in the interests of the Agency. The Agency is not obligated to award a contract based upon the lowest priced submission. If terms cannot be mutually agreed upon, the Agency may enter into negotiations with another Offeror.

16. COST OF DEVELOPING PROPOSALS.

All costs related to the preparation of the proposals and any related activities are the sole responsibility of the Offeror. The Agency assumes no liability for any costs incurred throughout the entire selection process.

17. REPRESENTATION REGARDING ETHICAL STANDARDS FOR AGENCY OFFICERS AND EMPLOYEES AND FORMER AGENCY OFFICERS AND EMPLOYEES.

The Offeror must represent that it has not: (1) provided an illegal gift or payoff to an Agency officer or employee or former Agency officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and promises that it will not knowingly influence, an Agency officer or employee or former Agency officer or employee to breach any of the ethical standards set forth in the Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

The consultant shall perform the following services as requested by the Agency:

1. Provide development-related consultation and document review, on an as-requested basis, to the staff and Board of Directors of the Redevelopment Agency of Salt Lake City. Specific requests for assistance may include, but are not limited to, the following:
  - A. Read, review, and prepare written comments and suggestions for Agency-issued solicitations for land disposition activities.
  - B. Read, review, and prepare written comments and suggestions on design guidelines for residential, commercial, and industrial property as requested by the Agency. The design guidelines may be included in the Agency's Requests for Proposals from developers, and may be included in the development agreement or the covenants, conditions, and restrictions recorded at the close of transactions involving the Agency.
  - C. Read, review, and prepare written comments on redevelopment plans for new tax-increment project areas created by the Agency.
  - D. Meet with Agency staff, the City planning staff, developers, and others to discuss development, planning, finance, or design issues.
  - E. Review Agency development goals and objectives, and develop recommendations for design, finance, and construction considerations that will facilitate effective implementation of those goals and objectives.
  - F. Such other services as may be requested by the Agency from time to time.

**EXHIBIT “B”**

**CONSULTING SERVICES AGREEMENT**

THIS CONSULTING SERVICES AGREEMENT (“Agreement”), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201~~10~~<sup>18</sup>, by and between the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public entity of the State of Utah, hereinafter referred to as “Agency” and \_\_\_\_\_, hereinafter referred to as “Consultants.”

**WITNESSETH**

WHEREAS, the Redevelopment Agency of Salt Lake City is a redevelopment agency authorized under the provisions of the Utah Community Development and Renewal Agencies Act; and

WHEREAS, the Redevelopment Agency of Salt Lake City has undertaken efforts to revitalize blighted areas of Salt Lake City; and

WHEREAS, the Agency issued a Request for Proposals to Provide Development Consulting Services (the “RFP”) soliciting proposals from qualified individuals or firms to provide professional and technical services on an as-needed basis in connection with various redevelopment projects to be undertaken by the Agency in the next three (3) years; and

WHEREAS, Consultant is an individual or firm that, based upon its experience, expertise, and the other selection criteria set forth in the RFP, has been selected to advise and assist the Agency in its redevelopment objectives.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the parties agree as follows:

1. Agreement: The Agency agrees to engage Consultant and Consultant agrees to provide its professional and technical services as hereinafter provided.
2. Scope of Services/Coordination: As requested by the Agency in writing during the term of this Agreement, the Consultant shall provide one or more of the services included in the Scope of Services attached as Exhibit “A” to this Agreement upon receipt of such written request. The Consultant shall not commence work on any services unless notified in writing by the Agency to commence such services. Such services shall be performed in accordance with the terms of this Agreement and, to the extent not inconsistent with the terms of this Agreement, the RFP. The Agency reserves the right to solicit services on a Request for Proposals basis during the term of this Agreement, even if such services are within the Scope of Services described in Exhibit “A” or elsewhere in this Agreement. With respect to each assignment of services to the Consultant pursuant to this Agreement, the Consultant shall work closely with the Agency and its staff, and as directed by the Agency, with the Salt Lake City Planning Commission and staff, the Redevelopment Advisory Committee, the Redevelopment Agency Board of Directors,

potential property purchasers, the Agency's other consultants, the local community council and/or other interested parties as determined by the Agency. The Consultant shall coordinate its services with the parties specified by the Agency for each assignment.

3. Compensation and Method of Payment: With respect to an assignment of services being considered by the Agency to the Consultant, the Consultant and any subconsultants shall, without fee, (i) prepare an estimate for the services being considered by the Agency for assignment to the Consultant, (ii) if requested by the Agency, propose a guaranteed maximum fee for such services, and (iii) if requested by the Agency, propose a schedule for the Consultant's performance of the services. The Agency will pay the compensation to the Consultant specified in the fee proposal of the Consultant attached hereto as Exhibit "B," subject to any guaranteed maximum fee if one is negotiated for the project. The Consultant shall submit invoices to the Agency monthly and the Agency shall make payment to the Consultant within 30 days of receipt of the invoice, if the Agency does not dispute the amount of the invoice. If the amount of the invoice is disputed, the Agency shall, within 30 days of receipt of the invoice by the Agency, pay the undisputed amount to the Consultant and notify the Consultant in writing why an amount of the invoice has not been paid.

4. Term of Agreement/Schedule: This Agreement shall commence on \_\_\_\_\_, 2011~~09~~, and terminate on \_\_\_\_\_, 2014~~12~~, unless extended for one year as provided herein. Time is of the essence of this Agreement and it is fully understood that the Consultant shall perform its services in a timely manner, in accordance with the best professional standards of practice, and in accordance with any schedule agreed upon at the time of the assignment of the project to the Consultant. Upon mutual agreement of the parties in writing, this Agreement may be extended for one-year upon expiration of the term set forth herein, all items and conditions remaining the same.

5. Amendments: Any change in this Agreement (including a one-year extension of the term) shall be mutually agreed upon by the Agency and the Consultant and shall be set forth in a written amendment to this Agreement.

6. Subconsultant Agreements: All the services required hereunder will be performed by the Consultant or under its supervision and all personnel engaged in providing the services shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. In order to perform one or more of the services listed in the Scope of Services, it may be necessary for the Consultant to retain the professional services of various subconsultants. Those subconsultants listed in Exhibit "B," attached hereto and incorporated herein, have been pre-approved by Agency at the hourly rates shown in Exhibit "B." Any subconsultants not shown in Exhibit "B" must be approved (and have their fees approved) by the Agency in writing prior to that subconsultant performing any services under this Agreement.

7. Agency's Obligations:

(a) The Agency shall provide, at no expense to the Consultant, such books, maps, records, plans, reports, statistics or other data or information, that are existing, as may be reasonably required by the Consultant to perform the tasks or services.

(b) The Agency shall contract separately for legal services.

(c) The Agency shall have available for the Consultant's use, all pertinent and available data reasonably required for the performance of the Consultant's services within five (5) working days after receipt of a written request by the Consultant for such data.

(d) The Agency shall promptly review all documents, plan reports, studies, or other submittals from the Consultant.

8. Assignment: The Consultant shall not assign any obligation under this Agreement and shall not transfer any obligation contained herein (whether by assignment or novation).

9. Discrimination: The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin.

10. Conflicts of Interest - General: The Agency and the Consultant agree that no officer, employee, or members of the Agency's governing board, and no other public officer or other governing body of the locality or localities in which the project is situated or being carried out who exercised any function or responsibilities with respect to the project during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with this Agreement.

11. Conflicts of Interest - Consultant: The Agency and the Consultant recognize that the Consultant's work product must be viewed by the general public and interested parties as completely independent and without potential or possible conflicts of interest. For this reason, the Agency has requested and the Consultant has agreed that the Consultant, the Consultant's subconsultants, and their officers, principals, members, partners, employees, agents, successors, executors, administrators and assigns (hereinafter individually and collectively referred to as the "Consultant Group") shall not participate in or undertake any services or work which might create a conflict of interest. The Consultant shall notify the Agency immediately if an assignment requested by the Agency would result in a conflict of interest or potential or possible conflict of interest for the Consultant and/or any subconsultant. In the Agency's sole discretion, the Agency may waive the conflict of interest or retain the services of another development professional.

The Consultant hereby covenants and agrees that the Consultant Group shall not contract to acquire any interest in, and shall not act as a consultant, architect, planner or developer or any

combination thereof with respect to, and shall not perform any services with respect to, any building, structure, or other improvements planned or constructed on, under or above the real property for which consulting services have been provided to the Agency pursuant to this Agreement, without the prior written approval of the Agency. More specifically, the Consultant:

(a) does hereby agree that the Consultant Group will not contract to perform, and will not perform, any of the aforementioned services for a developer of real property sold by the Agency for which consulting services have been provided by the Consultant to the Agency without the written consent of the Agency or while under contract with the Agency; and

(b) does further agree that the Consultant will disclose to the Agency the name of any client proposing to the Consultant or the Consultant Group services or work with respect to any real property for which consulting services have been provided by Consultant to the Agency and to disclose to the Agency the exact nature of the services or work proposed for the full review and approval of the Agency. The Agency shall be reasonable in its determination of the existence of any possible conflicts of interest.

The obligations of this paragraph 11 shall apply to the Consultant, all subconsultants listed in Exhibit "B," and any subconsultants approved by the Agency pursuant to paragraph 6, and shall remain in effect, notwithstanding the earlier termination of this Agreement, until the consultant's contract expires. The Consultant agrees to include this paragraph in its entirety in its subconsultant agreements.

12. Records: The Consultant shall maintain complete and accurate records with respect to charges for services and expenses reimbursable under this Agreement. All such records shall be maintained on a generally accepted accounting basis and shall be clearly identified and available to the Agency for audit. The Consultant shall provide free access to the representatives of the Agency or their appointees at all proper times to such books and records. The Agency shall have the right to examine and audit such books and records, and to make copies and transcripts therefrom as necessary, and to inspect all work data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment under this Agreement.

13. Ownership of Materials: All materials and other documentation prepared in providing services pursuant to this Agreement (whether completed or uncompleted, or draft or final) shall become the property of the Agency and shall be submitted to the Agency upon completion of each assignment or the earlier termination of the Consultant's services with respect to such assignment. The consultant hereby assigns to the Agency all the ownership and retained rights in such materials and other documentation, including the copyright. The Agency shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. Credits for work prepared by the Consultant shall be included with all documents issued by the Agency. The Consultant retains the right to duplicate and retain copies of all reports and other documents prepared in providing services pursuant to this Agreement.

14. Independent Contractor Relationship: The legal relationship of the Consultant to the Agency with respect to the services required under this Agreement shall be that of an independent contractor and not that of an agent or employee.

15. Representatives and Notices: The following are designated as representatives of the parties to this Agreement:

(a) The Agency designates D.J. Baxter, Executive Director of the Redevelopment Agency of Salt Lake City, as its representative in all matters under this Agreement and all notices given to the Agency shall be addressed to the Redevelopment Agency of Salt Lake City, 451 South State Street, Room 418, P.O. Box 145518, Salt Lake City, Utah 84114-5518, Attention: Executive Director.

(b) The Consultant designates \_\_\_\_\_ as its representatives in all matters under this Agreement and all notices sent to the Consultant shall be addressed to the above designated representative at \_\_\_\_\_.

16. Indemnification: The Consultant agrees and covenants to indemnify, and hold harmless the Agency and Salt Lake City Corporation, and their officers, directors, employees, agents, successors and assigns, from and against any and all claims, losses, liabilities, damages, and expenses, including reasonable attorneys' fees, arising out of or based in whole or in part upon: (i) any negligent act, error or omission or intentional misconduct of the Consultant, the Consultant's subconsultants or their officers, principals, members, partners, employees, agents, successors, executors, administrators or assigns in the performance of services or work pursuant to this Agreement, or (ii) any breach of this Agreement.

17. Termination for Cause:

(a) If the Consultant fails to fully perform in a timely and proper manner its obligations under this Agreement, or if the Consultant violates any of the covenants, agreements, or stipulations of this Agreement, the Agency shall thereupon have the right upon not less than fifteen (15) days' prior written notice to terminate this Agreement effective as of the date set forth in such written notice. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Consultant or the Consultant's subconsultants under this Agreement shall, at the option of the Agency, and upon payment of all undisputed amounts for all services satisfactorily performed prior to the effective date of termination, be delivered to Agency. Notwithstanding the above, the Consultant shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this Agreement by the Consultant, and the Agency may withhold any payments otherwise due to the Consultant until such time as the exact amount of damages due to the Agency from the Consultant is determined.

(b) If the Agency fails to fully perform in a timely and proper manner its obligations under this Agreement, or if the Agency violates any of the covenants, agreements or stipulations of this Agreement, the Consultant shall thereupon have the right upon not less than fifteen (15) days' prior written notice, to terminate this Agreement effective as of the date set forth in such

notice. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Consultant under this Agreement shall, at the option of the Agency, be delivered to the Agency, and the Agency shall pay the Consultant in accordance with this Agreement all undisputed amounts for all services satisfactorily performed prior to the effective date of termination. Notwithstanding the above, the Agency shall not be relieved of liability to the Consultant for damages sustained by the Consultant by virtue of any breach of this Agreement by the Agency.

18. Termination for Convenience: The Agency may terminate this Agreement and/or the services with respect to a project assigned pursuant to this Agreement for its convenience at any time by serving the Consultant with notice in writing stating an effective date of termination at least five (5) days hence, at which time this Agreement and/or the assignment of a project is deemed terminated. If the Agency terminates this Agreement and/or an assignment as provided herein, the Consultant will be paid all undisputed amounts for all services rendered and expenses incurred in accordance with this Agreement to the effective date of termination.

19. Compliance with Laws and Ordinances: The Consultant shall comply with all applicable federal, state and local laws, ordinances, codes and regulations, and shall commit no trespass on any public or private property in performing any of the services or work required by this Agreement.

20. Confidentiality: All of the draft and final reports prepared or assembled by the Consultant under this Agreement are confidential until made public by the Agency. The Consultant agrees that the draft and final reports shall not be made available to any person or organization without the prior written approval of the Agency.

21. Standard of Care: All services provided by Consultant and Consultant's subconsultants hereunder shall be performed in accordance with the professional standards of licensed professionals of their respective disciplines experienced, competent and specializing in the services being provided to the project (whether licensed and/or practicing in the jurisdiction where the project is located or elsewhere).

22. Insurance: The Consultant shall secure and maintain at its own cost throughout the term of this Agreement and the term of any extension hereof, from insurers licensed by the State of Utah and acceptable to Agency, the following insurance coverages with insurance limits specified below:

- a. Workers' Compensation Insurance with statutory limits;
- b. Employers Liability Insurance with limits of not less than \$1,000,000;
- c. General Liability Insurance with combined single limits of not less than \$1,000,000 per claim/annual aggregate;
- d. Automobile Liability Insurance, including owned, non-owned and hired vehicles, with combined single limits of not less than \$1,000,000 per claim/annual aggregate;

- e. Professional Liability Insurance with limits of not less than \$1,000,000 per claim/annual aggregate and a per claim deductible not greater than \$25,000 (unless approved by the Agency in writing) to be maintained continuously for not less than two (2) years after the termination of this Agreement or any extension hereof;
- f. Valuable Papers and Records Insurance - \$50,000 per occurrence; and
- g. Electronic Data Processing Insurance (Data and Media Coverages) - \$50,000 per occurrence.

The Agency and Salt Lake City Corporation shall be named as additional insureds of the coverages required by Subparagraphs 22c and 22d above. The maintenance in full force and effect of the insurance coverages and limits of liability required by this paragraph 22 shall be a condition precedent to the Consultant's exercise or enforcement of any rights under this Agreement. The Consultant shall not commence services under this Agreement until all of the insurance required herein shall have been obtained by the Consultant. Upon request of the Agency, the Consultant shall furnish to the Agency Certificates of Insurance verifying that such insurance has been obtained. Such Certificates of Insurance shall incorporate a commitment to provide written notice to the Agency at least thirty (30) days prior to any cancellation, non-renewal or material modification of the policies. If the Consultant at any time neglects or refuses to procure the insurance required by this paragraph 22, or should such insurance be cancelled, the Agency shall have the right, but not the obligation, to procure such insurance at the cost and expense of the Consultant, and the cost thereof may be deducted from any monies then due or thereafter due to the Consultant. If the Agency and Salt Lake City Corporation are damaged by the failure of the Consultant to purchase and maintain the insurance coverage and limits of liability required by this paragraph 22 of this Agreement, the Consultant shall bear all reasonable costs, expenses and damages incurred by the Agency and Salt Lake City Corporation arising out of such failure to purchase and maintain the insurance coverage and/or limits of liability required by this paragraph 22. When requested by the Agency, the Consultant agrees to make available for inspection and copying by the Agency, the original insurance policies required by this paragraph 22, including the declarations page and any endorsements to such policies.

23. Jurisdiction: This Agreement shall be governed by the laws of the State of Utah.

24. Entire Agreement: This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements whether oral or written, and may only be modified or amended as herein provided; and the parties further agree that the terms and conditions of any order or other instrument issued by either party hereto in connection with this Agreement which are additive to or inconsistent with the provisions of this Agreement, except a duly executed amendment hereto, shall not amend this Agreement.

25. Representation Regarding Ethical Standards: Consultant represents that it has not (1) provided an illegal gift or payoff to an Agency or a Salt Lake City officer or employee or former Agency or Salt Lake City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a

commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in Salt Lake City’s conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, an Agency or a Salt Lake City officer or employee or former Agency or Salt Lake City officer or employee to breach any of the ethical standards set forth in Salt Lake City’s conflict of interest ordinance, Chapter 2.44 Salt Lake City Code.

IN WITNESS WHEREFORE, the Agency and the Consultant have hereunto executed this Agreement the day and year first above written.

Approved as to form by legal counsel:

\_\_\_\_\_

REDEVELOPMENT AGENCY  
OF SALT LAKE CITY (the “Agency”)

By \_\_\_\_\_  
Ralph Becker  
Chief Administrative Officer

By \_\_\_\_\_  
D.J. Baxter  
Executive Director

\_\_\_\_\_ (the “Consultant”)

By \_\_\_\_\_  
Principal

**EXHIBIT "C"**

**FEE PROPOSAL**

Consultant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

PERSONNEL

BILLING RATE

Principals:

\_\_\_\_\_/hour

\_\_\_\_\_/hour

\_\_\_\_\_/hour

Clerical:

\_\_\_\_\_/hour

\_\_\_\_\_/hour

Professional Liability Insurance:

Carrier: \_\_\_\_\_

Insurance Limits: \$\_\_\_\_\_ per claim: \$\_\_\_\_\_ annual aggregate

Deductible Amount: \_\_\_\_\_

Policy Expiration Date: \_\_\_\_\_

Sub-Consultant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

PERSONNEL

BILLING RATE

Principals:

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

Clerical:

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

Professional Liability Insurance:

Carrier: \_\_\_\_\_

Insurance Limits: \$ \_\_\_\_\_ per claim: \$ \_\_\_\_\_ annual aggregate

Deductible Amount: \_\_\_\_\_

Policy Expiration Date: \_\_\_\_\_

Sub-Consultant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

PERSONNEL

BILLING RATE

Principals:

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

Clerical:

\_\_\_\_\_ /hour

\_\_\_\_\_ /hour

Professional Liability Insurance:

Carrier: \_\_\_\_\_

Insurance Limits: \$ \_\_\_\_\_ per claim: \$ \_\_\_\_\_ annual aggregate

Deductible Amount: \_\_\_\_\_

Policy Expiration Date: \_\_\_\_\_