



REQUEST FOR PROPOSALS

BROWNFIELDS INVENTORY FOR THE SAN BERNARDINO GREATER DOWNTOWN REVITALIZATION AREA August 2008

**City of San Bernardino
Economic Development Agency**

City of San Bernardino Economic Development Agency
201 North "E" Street, Suite 301
San Bernardino, CA 92401-1507
Office: 909-663-1044
Fax: 909-888-9413
www.sbrda.org

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I. INTRODUCTION

A. Background

The City of San Bernardino (City) Economic Development Agency (Agency) invites the submittal of Proposals from qualified consultants (Proposers) interested in providing services for the research and development of a GIS compatible Brownfields Inventory Database (GBID) and the development of selection criteria to prioritize those sites identified in the GBID process for further environmental investigation.

The San Bernardino Greater Downtown Revitalization Area (SBGDRA) is the area to be researched and inventoried. It is approximately 7,600 acres and is bounded on the north by Ninth Street, on the west by Pepper Street, on the south by Mill Street, and on the east by Tippecanoe Avenue. Exhibit A contains the web links to the SBGDRA maps.

With no previous inventory efforts made to identify and quantify potential impacts from releases of hazardous substances, the Agency applied for a federal Environmental Protection Agency (EPA) grant to assist in indentifying environmental barriers to redevelopment. In July 2008, the Agency received a grant from the EPA to create a GBID of possible Brownfield sites within the SBGDRA. Over half of the SBGDRA could be characterized as blighted or underutilized and likely impacted by historic releases of hazardous substances. After the GBID is developed, the Agency will prioritize these potential Brownfield sites for further characterization.

The goals of this Request for Proposal (RFP) are to create a GBID that will lead to the eventual cleanup and restoration of abandoned and blighted properties in order to protect public health, safety, and the environment. Those properties being cleared of environmental issues will become compatible with Agency redevelopment plans including meeting the demand for housing and open space.

B. Period of Contract

The term of the contract resulting from this RFP shall commence when the Agency executes the consultant agreement (Agreement), and shall continue for approximately 180 days. The Agency estimates that the term of the Agreement will commence on November 17, 2008.

C. Minimum Proposer Requirements

All Proposers must demonstrate in their Proposal they:

1. Have the capability to enter into the Agreement with the Agency in accordance with Exhibit E;
2. Have no record of unsatisfactory performance;
3. Have the ability to comply with the proposed delivery and performance schedule;
4. Can meet the requirements as specified in this RFP;
5. Have the ability to adjust to flexible work schedules as necessary;



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6. Have the administrative and fiscal ability to provide and manage the proposed activities and to ensure an adequate audit compliance;
7. Have the ability to maintain adequate files and records, which are subject to confidentiality requirements and meet statistical reporting requirements;
8. Have the ability to fulfill standard contract requirements, including indemnification and insurance; and
9. Have the capability to provide the proposed services.

D. RFP Addenda and Q&A

The Agency may issue one or more addenda to this RFP after receiving and reviewing submitted questions if the Agency decides that additional information or clarification is needed. Addenda shall be mailed/emailed to those who hold copies of the RFP if the holder is on the Agency's contact list. It is suggested that if a Proposer obtains a copy of this RFP from the Agency's web site, they should then email the Project Manager (krobles@sbrda.org) to have their contact information placed on the Agency's list. In any case, any addenda to this RFP will be posted on the Agency's web site.

Questions regarding this RFP are to be submitted no later than 4:00 p.m. August 29, 2008, via email to: Kathleen Robles, Project Manager, krobles@sbrda.org. Questions and answers will be posted to the Agency's website at: <http://sbrdaprojects.org/brownfields/> by September 3, 2008.

E. Submittal

All proposals must be received at the address listed below, no later than **4:00 p.m. on Wednesday, September 17, 2008:**

RFP – Brownfield Inventory for the San Bernardino Greater Downtown
Revitalization Area
Attention: Kathleen Robles, Project Manager
City of San Bernardino Economic Development Agency
201 North "E" Street, Suite 301
San Bernardino, CA 92401-1507

Facsimile or electronically transmitted proposals will ***not*** be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals will not be opened and considered and will be returned to the Proposer.



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II. PROPOSAL TIMELINE

The following timetable indicates the dates of major significance related to this RFP:

- | | |
|--|---|
| 1. Release of RFP | August 21, 2008 |
| 2. Deadline for submission of questions | 4:00 p.m. August 29, 2008 |
| 3. Q&A will be posted to website | September 3, 2008 |
| 4. Deadline for proposals | 4:00 p.m., Wednesday,
September 17, 2008 |
| 5. Tentative selection interviews | October 1, 2008 |
| 6. Tentative date for awarding of contract | November 17, 2008 |

The Agency reserves the right to revise the proposal timeline if such action is in the best interest of the Agency.

III. PROPOSAL CONDITIONS

A. Contingencies

This RFP does not commit the Agency to award a contract. The Agency reserves the right to accept or reject any or all proposals if the Agency determines it is in the best interest of the Agency to do so. The Agency will notify all Proposers, in writing, if the Agency rejects all proposals or cancels this RFP.

B. Modifications

The Agency reserves the right to issue addenda or amendments to this RFP.

C. Negotiations

The Agency may require the Consultant selected to participate in negotiations and to submit a price, technical or other revisions of their proposal as may result from negotiations.

D. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the Proposer's responsibility to ensure that its proposal arrives on or before the deadline as set forth in Section II - Proposal Timeline - 4.

E. Incurred Costs

This RFP does not commit the Agency to pay any costs incurred in the preparation of a proposal in response to this RFP and each Proposer agrees that all costs incurred in developing their respective proposals are the Proposer's responsibility.

IV. SCOPE OF WORK

Develop a GBID and site selection criteria to rank sites for the eventual cleanup and restoration of abandoned and blighted properties in order to protect public health, safety, and the environment. Public outreach is crucial in this process and the Agency will



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conduct a comprehensive community-based outreach process that will be used to evaluate the criteria and assist with the selection of sites to receive future environmental site assessments.

A. Site Information

The SBGDRA is the area to be inventoried. It is bounded on the North by Ninth Street, on the West by Pepper Street, on the South by Mill Street, and on the East by Tippecanoe Avenue. The SBGDRA is approximately 7,600 acres. The GBID will address both publicly and privately owned property. The prioritization criteria will be established in conjunction with Agency needs and those of the public based on public comment received. Web links to the study area maps are:

http://sbrdaprojects.org/brownfields/Brownfield_files/East_map.pdf
http://sbrdaprojects.org/brownfields/Brownfield_files/West_map.pdf

B. Scope of Work

1. All tasks necessary to:
 - ◆ Create a GBID of potential Brownfield sites within the SBGDA
 - ◆ Establish site prioritization criteria to ensure properties meet the definition of Brownfields and are eligible to receive EPA funds for future environmental site assessments.

2. Scope of work deliverables shall consist of, but not be limited to, the following:
 - ◆ Detailed schedule for completion of project
 - ◆ Maps
 - ◆ Meeting notes
 - ◆ Periodic summary reports
 - ◆ Site photos and an index for those photos copied to digital media and a hard copy print out
 - ◆ Site prioritization criteria
 - ◆ The GBID of potential Brownfield sites within the SBGDA

C. Agency Assistance

- ◆ Assist with identifying information to be gathered
- ◆ Supply information that has already been gathered by City
- ◆ Identify a liaison within each pertinent City/County department necessary for information and discussion
- ◆ Schedule public outreach meetings and workshops

V. RFP CONTRACT REQUIREMENTS

1. Attached, as Exhibit "E" to this RFP, for informational purposes only is the standard form of Agency consultant contract that each party responding to this RFP must be prepared to execute. The final form of such contract will be subject only to the obvious insertions of precise information, date, names and other similar pertinent information that will be unique to any party receiving a consultant contract from the Agency pursuant to this RFP. In the event any Proposer seeks to make modifications to this form consultant contract, such suggested changes must be



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included in the proposal in response to this RFP otherwise it will be assumed that each Proposer has accepted all terms and provisions of this form consultant contract.

2. **Recycled Paper Products** - The Agency requests the Proposers to use recycled paper for proposals and for any printed or photocopied material created as a result of a contract with the Agency. Please use both sides of paper sheets for reports and on recycled paper.

VI. PROPOSAL SUBMISSION

A. General

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, including all appendices, attachments, exhibits, schedules, and addendum (as applicable) and all concerns regarding this RFP have been satisfied.
2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a manner as to provide a straightforward, concise description of their capabilities to satisfy the requirements of this RFP. Expensive bindings, displays, promotional materials, etc., are neither necessary nor desired. Emphasis should be concentrated on compliance with the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. All proposals and materials submitted become the property of the Agency. All proposals received are subject to the "California Public Records Act" and are public documents.
5. **All proposals must be submitted no later than 4:00 p.m. Wednesday, September 17, 2008 at the address listed below and labeled accordingly:**

RFP – Brownfield Inventory for the San Bernardino Greater Downtown
Revitalization Area
Attention: Kathleen Robles, Project Manager
City of San Bernardino Economic Development Agency
201 North "E" Street, Suite 301
San Bernardino, CA 92401-1507

**PROPOSALS SUBMITTED AFTER THE ABOVE STATED TIME AND DATE
WILL NOT BE CONSIDERED**



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B. Proposal Presentation

1. An original and five (5) copies of the written proposal are required to be submitted.
2. The package containing the original and five (5) copies must be sealed and marked with the Proposer's name and "**CONFIDENTIAL – RFP – BROWNFIELD INVENTORY FOR THE SAN BERNARDINO GREATER DOWNTOWN REVITALIZATION AREA.**"
3. The cost proposal shall be enclosed in a separate sealed envelope and clearly marked "**COST PROPOSAL.**"
4. All proposals should be submitted on 8½" by 11" recycled paper with double-sided printing, unless specifically shown to be impractical, with no less than ½" top, bottom, left, and right margins. Proposals must be typed or prepared with work processing equipment. Typeface must be a minimum of 12 pt. font. Each page, including attachments and exhibits, must be clearly and consecutively numbered.

C. Proposal Format

Response to this RFP must be in the form of a proposal package that must be submitted in the following format:

1. RFP Checklist (Exhibit B)
2. RFP Cover Sheet (Exhibit C) - Submit Request for Proposal coversheet and a letter, on letterhead stationery, signed by a duly authorized officer, employee, or agent of the organization/firm submitting the proposal that must include the following information:
 - a. A statement that the proposal is submitted in response to the Request for Proposals for **Brownfield Inventory for the San Bernardino Greater Downtown Revitalization Area.**
 - b. A statement indicating which individuals, by name, title, address and phone number, are authorized to submit proposals and negotiate with the Agency on behalf of the organization/firm.
3. Statement of Certification (Exhibit D) - Include the following in this section of the proposal:
 - a. A concise statement of the services proposed.
 - b. A statement that the offer made in the proposal is firm and binding for 90 days from the date the proposal is opened and recorded.
 - c. A statement that all aspects of the proposal, including the cost proposal, have been determined independently, without consultation with any other prospective Proposer or competitor for the purpose of restricting competition.
 - d. A statement that all declarations in the proposal and attachments are true and that this shall constitute a warranty, the falsity of which shall entitle the Agency to pursue any remedy by law.



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- e. A statement that the Proposer agrees that all aspects of the RFP and the proposal submitted shall be binding if the proposal is selected and a contract awarded in the form of the Agreement as attached to the RFP.
 - f. A statement that the Proposer agrees to provide the Agency with any other information that the Agency determines is necessary for an accurate determination of the Proposer's ability to perform services as proposed.
 - g. A statement that the prospective Proposer, if selected, will comply with all applicable rules, laws and regulations.
4. Proposal Description - A detailed description of the proposal being made.
- a. Proposal should address, but is not limited to all items in **Section IV – Scope of Work - A-C.**
 - b. Proposal should include the following:
 - Overview of the business
 - Organizational Chart
 - Services offered
 - References, including related projects, studies, or assignments
 - Brief synopsis of the Proposer's understanding of the Agency's needs and how the Proposer plans to meet these needs. This should provide a broad understanding of the Proposer's entire proposal.
 - Narrative description of work to be performed, to include detail plan of activities
 - Proposed timelines
 - Proposed deliverables
 - Detailed cost statement
 - Explanation of any assumptions and/or constraints
 - Any other pertinent information needed to evaluate proposal
 - Any other relevant materials the firm desires to submit to support its qualifications.
5. Statement of Qualifications
- Include the following in this section of the proposal:
- Statement of Qualifications: Each Proposer shall state the ability to provide requested service and percentage of time to be committed to the project.
 - Resume: Each Proposer shall provide a resume for each individual involved with this proposed Agreement who will deal with the Agency, such as the Project Manager, Project Engineer, etc.
 - A statement that the Proposer does not have any commitments or potential commitments which may impact of the Proposer's assets, lines of credit, guarantor letters or ability to perform the Agreement.

Any reasonable inquiry to determine the responsibility of a Proposer may be conducted by the Agency. The submission of a proposal constitutes permission by the Proposer for the Agency to verify all information contained therein. If the Agency deems it necessary additional information may be requested from the Proposer. Failure to comply with any such request may disqualify a Proposer from further consideration. Such additional information may include evidence of financial ability to perform.



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D. Cost Proposal

In a separately sealed envelope, include the Cost Proposal. The proposal should include a “not to exceed” project budget that indicates the costs and hours for the total project on a task-by-task basis, and inclusive of reimbursables. Reimbursables as a separate line item(s) are not allowed: mileage, postage, faxes, copying/printing, per diems, etc. A final cost will be negotiated with the selected firm. An overall rate structure should also be included in the Cost Proposal.

VII. PROPOSAL EVALUATION AND SELECTION

A. Evaluation Process

A primary consideration shall be the effectiveness of the Proposer in the delivery of comparable or related services based on demonstrated performance. The evaluation will be based on the written proposal as submitted.

B. Evaluation Criteria

1. **Initial Review** - All proposals will be initially evaluated to determine if they meet the following minimum requirements:
 - a. The proposal must be completed, in the required format and comply with the requirements of this RFP.
 - b. Prospective contractors must meet the requirements as stated in the Minimum Proposer Requirements as outlined in **Section I – Introduction - C.**

Failure to meet these requirements may result in a proposal being deemed non-responsive. No proposal shall be deemed non-responsive, however, if it contains a minor irregularity, defect or variation or if the irregularity, defect, or variation is considered by the Agency to be immaterial or inconsequential. In such cases, the Proposer will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect, or variation, or the Agency may elect to waive the deficiency and accept the proposal except for late submittals of proposals which will not be waived by the Agency.

2. **Technical Review** - Proposals meeting the above requirements will be evaluated on the basis of the following criteria:
 - a. Past experience providing similar services
 - b. Ability to provide services in a timely manner (including, but not limited to, providing sufficient personnel and equipment).
 - c. Qualifications of team
 - d. Project schedule
 - e. Procedures and systems for record keeping and other aspects of the requested services.
 - f. Cost.



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3. Oral selection interviews may be held:

Selection will be based on determination of which proposal will best meet the needs of the Agency and the requirements of this RFP.

C. Agreement Award

The Agreement will be awarded based on a competitive selection of proposals received.

The contents of the proposal of the successful Proposer will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

Award of the Agreement may or may not be on an all or nothing basis. The Agency reserves the option to make one or more awards as it deems to be in the best interests of the Agency.



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**Exhibit A – SAN BERNARDINO GREATER DOWNTOWN
REVITALIZATION AREA**

http://sbrdaprojects.org/brownfields/Brownfield_files/East_map.pdf

http://sbrdaprojects.org/brownfields/Brownfield_files/West_map.pdf



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Exhibit B - RFP SUBMITTAL CHECKLIST

Please use this checklist when submitting your RFP package.

<u>Item</u>	<u>Description</u>	<u>Included</u>
1.	RFP Submittal Checklist – Exhibit B	
2.	RFP Cover Sheet – Exhibit C	
3.	Statement of Certification – Exhibit D	
4.	Proposal Description	
5.	Scope of Work and Schedule	
6.	Statement of Qualifications	
7.	Organizational Chart	
8.	Resume of Project Manager	
9.	Resumes of key personnel	
10.	Itemized Cost Proposal in a separate sealed envelope	



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Exhibit C - RFP COVER SHEET

RFP – Brownfield inventory for the San Bernardino Greater Revitalization Area

Submit original and five (5) copies complete with attachments and one (1) cost proposal in a separate sealed envelope to:

RFP – Brownfield inventory for the San Bernardino Greater Revitalization Area
Attention: Kathleen Robles, Project Manager
City of San Bernardino Economic Development Agency
201 North “E” Street, Suite 301
San Bernardino, CA 92401-1507

OFFICIAL AGENCY/ORGANIZATION NAME AND ADDRESS: Indicate address, as it is to appear on contract.

Name: _____

Address: _____

City: _____

Zip Code: _____

Federal Employee ID #: _____

Telephone: () _____

Fax: () _____

Email: _____



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Exhibit D - CERTIFICATION

Certification: (To be completed by all Proposers on their letterhead).

The undersigned hereby certifies that the statements contained in the application package are true and complete to the best of the Proposer's knowledge, and further, understands that this is a public document available for public inspection.

Original Signature _____

Title _____

Company Name (Print) _____

Date _____



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Exhibit E - SAMPLE CONTRACT

REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into as of _____ 200____, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO ("Agency"), a public body, corporate and politic, and _____, ("Consultant").

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND MUTUAL PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **SUPERVISION OF CONSULTANT.** The Agency Staff designated in **Exhibit "A"** shall be responsible for the direction of any work to be performed by the Consultant and any other consultants or subconsultants to the Agency under this Agreement. The Consultant shall not undertake any work under the terms of this Agreement, unless instructed to do so by one of the designated staff members. No other staff member is authorized by the Agency to request services from the Consultant.
2. **TERM OF AGREEMENT.** The term of this Agreement shall commence on the date first appearing in this Agreement and will terminate upon the completion of the services described in the Scope of Services as referenced in Section 3, unless earlier terminated as provided in this Agreement. The Agency reserves the right through the actions of the Interim Executive Director to terminate this Agreement at anytime either with or without cause and at the sole convenience of the Agency upon delivery of notice of termination to the Consultant; provided, however, that upon the effective date of any such termination, the Agency shall be responsible to pay and/or reimburse the Consultant for all services, materials and supplies as may have been furnished to the Agency in accordance with the Scope of Services as referenced in Section 3.
3. **SCOPE OF CONSULTANT SERVICES.** The Agency hereby retains the Consultant to provide the professional consulting services set forth in the Scope of Services attached hereto as **Exhibit "B"** and incorporated herein by this reference. The Consultant hereby agrees to perform the work set forth in the Scope of Services, in accordance with the terms of this Agreement. The Consultant shall perform the services as set forth on said Scope of Services within the time periods to be identified by the appropriate Agency representative.
4. **PAYMENT BY AGENCY FOR WORK PERFORMED BY CONSULTANT.**
 - A. The Agency shall compensate the Consultant in an aggregate amount not to exceed \$ _____ for completion of the services described in the Scope of Services set forth in **Exhibit "B."**
 - B. The compensation designated in subsection 4. A. shall be the Total Fee for the performance of the work and the delivery of the final work product materials, as set forth in the Scope of Services. The Total Fee shall include, but not be limited to, the salaries of all subcontractors retained by the Consultant and all employees of the Consultant to perform work pursuant to this Agreement and shall be inclusive of all costs and expenses incurred for mileage, travel, graphics, telephone, printing, fax transmission, postage, copies and such other expenses related to completion of the work set forth in the Scope of Services.
 - C. The Consultant shall invoice the Agency for work performed by the Consultant under this Agreement each calendar month during the term of this Agreement.



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D. The Consultant shall submit invoices under this Agreement to:

Redevelopment Agency of the City of San Bernardino
Attention: _____ Executive Director
201 North “E” Street, Suite 301
San Bernardino, California 92401-1507

E. Each invoice of the Consultant shall set forth the time and expenses of the Consultant incurred in performance of the Scope of Services, during the period of time for which the invoice is issued. Each invoice of the Consultant shall clearly set forth the names of the individual personnel of the Consultant and any individual subconsultants utilized by the Consultant, during the time period covered by the invoice, a description of the professional services rendered on a daily basis by each named individual during such time period, the respective hourly rates of each named individual and the actual time expended by each named individual. Each invoice of the Consultant shall be accompanied by copies of all third party invoices for other direct costs incurred and paid by the Consultant during such time period. The Agency shall pay all amounts set forth on the invoices of the Consultant and approved by the authorized Agency Staff personnel who requested the services, within thirty (30) days after such approval.

6. **RECORDS RETENTION.** Records, maps, field notes and supporting documents and all other records pertaining to the use of funds paid to the Consultant hereunder shall be retained by the Consultant and available to the Agency for examination and for purposes of performing an audit for a period of five (5) years from the date of expiration or termination of this Agreement or for a longer period, as required by law. Such records shall be available to the Agency and to appropriate county, state or federal agencies and officials for inspection during the regular business hours of the Consultant. If the Consultant does not maintain regular business hours, then such records shall be available for inspection between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding federal and state government holidays. In the event of litigation or an audit relating to this Agreement or funds paid to the Consultant by the Agency under this Agreement, such records shall be retained by the Consultant until all such litigation or audit has been resolved.
6. **INDEMNIFICATION.** The Consultant shall defend, indemnify and hold harmless the Agency, its officers, employees, representatives, and agents from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys fees, for injury or damage of any type claimed as a result of the negligent acts or omissions of the Consultant, its officers, employees, subcontractors and agents, to the extent arising from or related to negligent performance by the Consultant of the work required under this Agreement.
7. **INSURANCE.** The Consultant shall maintain insurance, as set forth in **Exhibit “C”** to this Agreement, throughout the term of this Agreement. The Consultant shall remain liable to the Agency pursuant to Section 6. above to the extent the Consultant is not covered by applicable insurance for all losses and damages incurred by the Agency that are caused directly or indirectly through the actions or inactions, willful misconduct or negligence of the Consultant in the performance of the duties incurred by the Consultant pursuant to this Agreement.
8. **OWNERSHIP AND REUSE OF DOCUMENTS AND OTHER MATERIALS AND INFORMATION.** All maps, photographs, data, information, reports, drawings, specifications, computations, notes, renderings, designs, inventions, photographs, modifications, adoptions, utilizations, correspondence or other documents generated by or on behalf of the Consultant for performance of the work (collectively, the “Work Products”) set forth in the Scope of Services shall upon payment for those services embodying the particular element of the Work Products, become the sole property of the Agency, and the Work Products shall thereafter be delivered to the Agency upon written request from the Agency to the Consultant. The Consultant shall not make use of any maps, photographs, data, information, reports, drawings, specifications, computations, notes, renderings, designs, inventions, photographs, modifications, adoptions,



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utilizations, correspondence or other documents and other materials whether for marketing purposes or for use with other clients when such have become the property of the Agency without the prior express written consent of the Agency except to the extent that such maps, photographs, data, information, reports, drawings, specifications, computations, notes, renderings, designs, inventions, photographs, modifications, adoptions, utilizations, correspondence or other documents are readily available to the general public as public records pursuant to State law; provided, however, that the Consultant may retain copies of any such items for their business records.

The Consultant shall execute, acknowledge and perform any and all acts which shall reasonably required in order for the Agency to establish unequivocal ownership of the maps, photographs, data, information, reports, drawings, specifications, computations, notes, renderings, designs, inventions, photographs, modifications, adoptions, utilizations, correspondence or other documents and record, register and procure an issuance in or to the Agency's rights, title and/or interest. Any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at the Agency's sole risk and without liability or legal exposure to the Consultant.

9. **PRESS RELEASES.** Press or news releases, including photographs or public announcements, or confirmation of the same related to the work to be performed by the Consultant under this Agreement shall only be made by the Consultant with the prior written consent of the Agency.
10. **CONFIDENTIALITY OF MATERIALS AND INFORMATION.** The Consultant shall keep confidential all reports, survey notes and observations, information, and data acquired or generated in performance of the work set forth in the Scope of Services, which the Agency designates confidential. None of such designated confidential materials or information may be made available to any person or entity, public or private, without the prior written consent of the Agency.
11. **DEFAULT AND REMEDIES.**
 - A. Failure or delay by any party to this Agreement to perform any material term or provision of this Agreement shall constitute a default under this Agreement; provided, however, that if the party who is otherwise claimed to be in default by the other party commences to cure, correct or remedy the alleged default within seven (7) calendar days after receipt of written notice specifying such default and shall diligently complete such cure, correction or remedy, such party shall not be deemed to be in default hereunder.
 - B. The party which may claim that a default has occurred shall give written notice of default to the party in default, specifying the alleged default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default; provided, however, the injured party shall have no right to exercise any remedy for a default hereunder without delivering the written default notice, as specified herein.
 - C. Any failure or delay by a party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties under this Agreement are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
 - D. In the event that a default of any party to this Agreement may remain uncured for more than seven (7) calendar days following written notice, as provided above, a "breach" shall be deemed to have occurred. In the event of a breach, the injured party shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings.



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12. **TERMINATION.**

- A. This Agreement may be terminated by either party for any reason by giving the other party fifteen (15) calendar days' prior written notice. The Agency shall pay the Consultant for all work authorized by the Agency and completed, prior to the effective termination date.
- B. In the event of a termination of this Agreement under this Section 12, the Consultant shall provide all documents, notes, maps, reports, data or other work product developed in performance of the Scope of Services of this Agreement to the Agency, within ten (10) calendar days of such termination and without additional charge to the Agency.

13. **NOTICE.** All notices given hereunder shall be in writing. Notices shall be presented in person or by certified or registered United States Mail, return receipt requested, postage prepaid or by overnight delivery by a nationally recognized delivery service to the addresses set forth below. Notice presented by United States Mail shall be deemed effective on the third business day following the deposit of such Notice with the United States Postal Service. This Section 13 shall not prevent the parties hereto from giving notice by personal service or telephonically verified fax transmission, which shall be deemed effective upon actual receipt of such personal service or telephonic verification. Either party may change their address for receipt of written notice by notifying the other party in writing of a new address for delivering notice to such party.

CONSULTANT: _____

AGENCY: Redevelopment Agency of the City of San Bernardino
Attention: _____ Executive Director
201 North "E" Street, Suite 301
San Bernardino, California 92401-1507

14. **COMPLIANCE WITH LAW.** The Consultant shall comply with all local, state, and federal laws, including, but not limited to, environmental acts, rules and regulations applicable to the work to be performed by the Consultant under this Agreement. The Consultant shall maintain all necessary licenses and registrations for the lawful performance of the work required of the Consultant under this Agreement.

15. **NONDISCRIMINATION.** The Consultant shall not discriminate against any person on the basis of race, color, creed, religion, natural origin, ancestry, sex, marital status or physical handicap in the performance of the Scope of Services of this Agreement. Without limitation, the Consultant hereby certifies that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status of national origin. Further, the Consultant shall promote affirmative action in its hiring practices and employee policies for minorities and other designated classes in accordance with federal, state and local laws. Such action shall include, but not be limited to, the following: recruitment and recruitment advertising, employment, upgrading and promotion. In addition, the Consultant shall not exclude from participation under this Agreement any employee or applicant for employment on the basis of age, handicap or religion in compliance with State and Federal laws.

16. **CONSULTANT AND EACH SUBCONTRACTOR ARE INDEPENDENT CONTRACTORS.** The Consultant shall at all times during the performance of any work described in the Scope of Services be deemed to be an independent contractor. Neither the Consultant nor any of its subcontractors shall at any time or in any manner represent that it or any of its employees are employees of the Agency or any member agency of the Agency. The Agency shall not be requested or ordered to assume any liability or expense for the direct payment of any salary, wage or benefit to any person employed by the Consultant or its



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subcontractors to perform any item of work described in the Scope of Services. The Consultant is entirely responsible for the immediate payment of all subcontractor liens.

17. **SEVERABILITY**. Each and every section of this Agreement shall be construed as a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof to certain circumstances shall be declared invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
18. **ENTIRE AGREEMENT**. This Agreement constitutes the entire agreement between the parties. This Agreement supersedes all prior negotiation, discussions and agreements between the parties concerning the subject matters covered herein. The parties intend this Agreement to be the final expression of their agreement with respect to the subjects covered herein and a complete and exclusive statement of such terms.
19. **AMENDMENT OR MODIFICATION**. This Agreement may only be modified or amended by written instrument duly approved and executed by each of the parties hereto. Any such modification or amendment shall be valid, binding and legally enforceable only if in written form and executed by each of the parties hereto, following all necessary approvals and authorizations for such execution.
20. **GOVERNING LAW**. This Agreement shall be governed by the laws of the State of California. Any legal action arising from or related to this Agreement shall be brought in the Superior Court of the State of California in and for the County of San Bernardino.
21. **NON-WAIVER**. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the same provision or any remaining provisions of this Agreement.
22. **ASSIGNMENT**. This Agreement may not be assigned by the Consultant without the prior written consent of the Agency.
23. **REPRESENTATIONS OF PERSONS EXECUTING AGREEMENT**. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the parties each purports to represent.
24. **EXECUTION IN COUNTERPARTS**. This Agreement may be executed in one (1) or more counterparts, each of which will constitute an original.
25. **EFFECTIVENESS OF AGREEMENT AS TO THE AGENCY**. This Agreement shall not be binding on the Agency until signed by an authorized representative of the Consultant, approved by the Agency and executed by the Interim Executive Director or his designee.
26. **CONFLICTS OF INTEREST**. The Consultant hereby represents that it has no interests adverse to the Agency or the City at the time of execution of this Agreement except as previously disclosed to the Agency Staff and in particular with respect to other work being performed by the Consultant for the (i) _____, and (ii) _____. The Consultant hereby agrees that, during the term of this Agreement, the Consultant shall not enter into any agreement or acquire any interests detrimental or adverse to the Agency or the City. Additionally, the Consultant hereby represents and warrants to the Agency that the Consultant and any partnerships, individual persons or any other party or parties comprising the Consultant, together with each subcontractor who may hereafter be designated to perform services pursuant to this Agreement, do not have and, during the term of this Agreement, shall not acquire any property ownership interest, business interests, professional employment relationships, contractual relationships of any nature or any other financial arrangements relating to the



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Agency, property over which the Agency has jurisdiction or any members or staff of the Agency that have not been previously disclosed in writing to the Agency, and that any such property ownership interests, business interests, professional employment relationships, contractual relationships or any nature or any other financial arrangements will not adversely affect the ability of the Consultant to perform the services to the Agency as set forth in this Agreement.

- 27. **NON-EXCLUSIVITY.** This Agreement shall not create an exclusive relationship between the Agency and the Consultant for the services set forth in **Exhibit "B"** or any similar or related services. The Agency may, during the term of this Agreement, contract with other consultants for the performance of the same, similar or related services as those that may be performed by the Consultant under this Agreement. The Agency reserves the discretion and the right to determine the amount of services to be performed by the Consultant for the Agency under this Agreement, including not requesting any services at all. This Agreement only sets forth the terms upon which any such services will be provided to the Agency by the Consultant, if such services are requested by the Agency, as set forth in this Agreement.

- 28. **CONSEQUENTIAL DAMAGES AND LIMITATION OF LIABILITY.** The Agency and Consultant agree that except as otherwise provided in this Section 28, in no event will either be liable to the other under this Agreement for any damages including but not limited to, special damages, loss of revenue, loss of profit, operating costs or business interruption losses, regardless of cause, including breach of contract, negligence, strict liability or otherwise. The limitations and exclusions of liability set forth in this Section 28 shall apply regardless of fault, breach of contract, tort, strict liability or otherwise of the Consultant and the Agency, their employees or subconsultants.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date indicated next to the authorized signatures of the officers of each of them as appear below.

AGENCY

Dated: _____

Redevelopment Agency of the City of San Bernardino, a public body, corporate and politic

By: _____
_____, Executive Director

Approved as to Form and Legal Content:

By: _____
Timothy Sabo, Agency Counsel

CONSULTANT

Dated: _____

By: _____

Name: _____

Title: _____



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EXHIBIT "A"
SUPERVISORY STAFF PERSONNEL

Agency Staff: _____, Executive Director
_____, Deputy Director
_____, Project Manager

EXHIBIT "B"
SCOPE OF SERVICES
(Draft Proposal Subject to Change)

EXHIBIT "C"
INSURANCE REQUIREMENTS

The Consultant shall maintain insurance policies issued by an insurance company or companies authorized to do business in the State of California and that maintain during the term of the policy a "General Policyholders Rating" of at least A(v), as set forth in the then most current edition of "Bests Insurance Guide," as follows:

- (1) Comprehensive General Liability Insurance. The Contractor shall maintain comprehensive general liability insurance of not less than One Million Dollars (\$1,000,000.00) combined single limit, per occurrence.
- (2) Automobile Insurance. The Consultant and each of its subcontractors shall maintain comprehensive automobile liability insurance of not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit per occurrence for each vehicle leased or owned by the Consultant or its subcontractors and used in performing work under this Agreement.
- (2) Worker's Compensation Insurance. The Consultant and each of its subcontractors shall maintain worker's compensation coverage in accordance with California workers' compensation laws for all workers under the Consultant's and/or subcontractor's employment performing work under this Agreement.
- (3) Errors and Omissions Coverage. The Consultant shall maintain an insurance policy covering liability for errors and omissions of the Consultant in performing the Scope of Services of this Agreement in an amount of not less than One Million Dollars (\$1,000,000.00).

Concurrent with the execution of this Agreement and prior to the commencement of any work by the Consultant, the Consultant shall deliver to the Agency, copies of policies or certificates evidencing the existence of the insurance coverage required herein, which coverage shall remain in full force and effect continuously throughout the term of this Agreement. Each policy of insurance that Consultant purchases in satisfaction of the insurance requirements of this Agreement shall name the Agency as an additional insured and shall provide that the policy may not be cancelled, terminated, or modified, except upon thirty (30) days prior written notice to the Agency.