

**AGREEMENT # A8-2015**  
**AGREEMENT FOR THE TRANSITION OF**  
**ECONOMIC DEVELOPMENT SERVICES**

This **AGREEMENT FOR THE DEVELOPMENT TRANSITION OF ECONOMIC DEVELOPMENT SERVICE** (this “*Agreement*”) is made and entered into as of the 28<sup>TH</sup> day of April, 2015 (the “*Effective Date*”), by and between NORTH OGDEN CITY, a municipal corporation of the State of Utah (the “*City*”), and BETTER CITY, LLC (formerly American Municipal Consultants, LLC) (hereafter the “*Firm*”).

**WHEREAS**, The Firm and the City had entered into several agreements to provide consulting services related to economic development within North Ogden municipal boundaries;

**WHEREAS**, The City wishes to cancel all existing agreements with the Firm and enter into the following agreement to compensate the Firm for work not yet completed listed below;

**WHEREAS**, The City wishes to perform the majority of economic development work while limiting the use of outside consultants;

**WHEREAS**, The City believes it is in the best interest of the City to terminate all outstanding agreements with the Firm;

**WHEREAS**, The Firm believes it is in the best interest of the Firm to terminate all outstanding agreements with the City.

**NOW THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the, the receipt and sufficiency of which are hereby acknowledged, accepted and agreed to, the City and the Firm, intending to be legally bound, agree to the terms set forth below.

1. **TERMINATION OF PREVIOUS AGREEMENTS.** All previous agreements have expired or will terminate by April 30, 2015 upon this mutual agreement.
2. **CONTINUATION OF CERTAIN PROJECTS.** The Firm may continue work on the following projects as the Firm sees fit.
  - a. Senior Living Project: The Firm may continue to work on the development issues related to the land between the municipal block and the old Smith’s store, currently slated for a senior housing project. The Firm may continue to work on securing the property from current owners and get it under contract with developers. The Firm will work with city officials to make sure the zoning is properly aligned for the proposed use and that the utility issues are resolved. The Firm will address the other items listed in the Letter of Intent to satisfy all of the pre-development issues so that the

developer can finish their due diligence, close on the property, gain City approval for a building permit and build the project.

- i. North Ogden City (City) will cooperate in a timely manner with the Firm in providing the scope of work described above and will pay in a timely manner, per the existing contract, for all completed work. The City will pay the Firm \$20,000 for a final payment upon application for a building permit by a developer upon the proposed site.
- b. Old Public Works Property: The Firm will continue to solicit developers for this property. The proposed Downtown Plan shows that site being rezoned for townhome development, therefore, the Firm will solicit developers and a housing product that will meet that product type. The Firm has solicited several such developers already and will make every effort to consummate a transaction. The Firm understands the goal of this property is to provide as much funding as possible to construct a storage facility at the new public works site. The Firm will have a **one year** period in which to pursue this project. This period may be extended by North Ogden City, for a specific developer, if the Firm is in productive negotiations with a specific developer at the end of the one year period.
  - i. North Ogden City will cooperate with moving existing uses on that block as a developer is secured, and will do so in a timely manner to facilitate a reasonable development timeline. The City will cooperate with zoning issues to meet this proposed use and will sell the land for a price that is reasonable given market conditions. The City will pay the Firm for work completed according to the contract in a timely manner with a final payment of \$15,000 upon the sale of the Old Public Works Property to a developer recruited by the Firm for the proposed townhomes use.
- c. Washington Boulevard Project: The Firm will continue working on two projects along Washington Boulevard for development or redevelopment. The projects and associated payment structures are as follows:
  - i. Wasatch Peaks Credit Union Parcel: (south of theater): The Firm will pursue a commercial or mixed-use development at this site. The Mid Point payment shall be made upon Better City's negotiation and creation of a development plan accepted by the landowner and the city. The midpoint payment shall be \$7,500. The final payment for this project shall be paid when a developer agrees to complete the project and signs a development agreement. The final payment shall be \$10,000. The Firm will have a **one year** period in which to pursue this project. This period may be extended by North Ogden City, for a specific developer, if the Firm is in productive negotiations with a specific developer at the end of the one year period.
  - ii. Froerer Property: The Firm will pursue a commercial or mixed-use project at this site. The Mid Point payment shall be made upon presentation of a

development plan accepted by the landowner and the city. The midpoint payment shall be \$5,000. The final payment for this project shall be paid upon completion of a signed development agreement. The final payment shall be \$10,000. The Firm will have a **one year** period in which to pursue this project. This period may be extended by North Ogden City, for a specific developer, if the Firm is in productive negotiations with a specific developer at the end of the one year period.

3. **OTHER PROJECTS EXCLUDED.** The Firm and City acknowledge that any other projects which were previously contemplated in previous agreements will not be completed by the Firm regardless at what point in the process the City and the Firm are currently at. As such no additional payments will be made to the Firm for work which has not been completed by April 30, 2015 except as outlined above.
4. **FUTURE PAYMENTS.** The City will make all payments according to the terms above. The City will not be responsible for payments if the Firm misses the deadlines contained in this Agreement without satisfying the terms for midpoint or final payment within the proscribed timeframe.
5. **INDEMNIFICATION.** The Firm agrees and covenants to hold harmless and indemnify the City from any claims, losses, injury, expenses and attorneys' fees proximately caused by any negligent conduct or omissions that constitute a form of tortious behavior on the part of the Firm, its officers, employees, or agents in the execution of the work performed in accordance with this Agreement, or which constitutes a breach of this Agreement.

The City agrees and covenants to hold harmless and indemnify the Firm from any claims, losses, injury, expenses and attorneys' fees proximately caused by any negligent conduct or omissions that constitute a form of tortious behavior on the part of the City, its officers, employees, or agents in the execution of the work performed in accordance with this Agreement, or which constitutes a breach of this Agreement.

6. **CONFIDENTIALITY OF DATA.** The Parties shall treat all data that each Party receives from or through, the other Party or is otherwise exposed to within the course of completing the scope of work, with the highest degree of confidentiality and in compliance with all applicable federal and state laws and regulations.

Each Party acknowledges that it may be provided or come into contact with Confidential Information of the other Party or other related parties (collectively, "Confidential Information"). In recognition of the foregoing, the Parties covenant and agree that each Party will:

- Keep and maintain the other Party's Confidential Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized use or disclosure;
- Use and disclose the other Party's Confidential Information solely for the purposes for which such information, or access to it, is provided, and not use or disclose Confidential

Information for its own purposes or for the benefit of anyone other than the Party providing the Confidential Information or related parties;

- Not directly or indirectly disclose any of the other Party's Confidential Information to any third party, except with such Party's prior written consent or as otherwise provided herein;
- Not directly or indirectly use any of the other Party's Confidential Information to gain an unfair business advantage;
- Upon the earlier of (i) completion of the Term of this Agreement, (ii) determination by a Party that it has no need for the other Party's Confidential Information, or (iii) at any time either Party may so request, dispose of all records, electronic or otherwise (including all backup records and/or other copies thereof) regarding or including any of the requesting Party's Confidential Information that the other Party may then possess or control. Disposal shall be achieved through prompt delivery of the records to the disclosing Party or destruction in a manner that renders the records unreadable and undecipherable by any means. Upon any occurrence of (i), (ii), or (iii) above, the Party to whom Confidential Information shall have been disclosed shall, upon request of the other Party, promptly certify in writing, in a form mutually acceptable to the Parties and executed by an authorized officer of certifying Party, that all of the other Party's Confidential Information has been destroyed or returned.

**7. ENTIRE AGREEMENT.** This Agreement contains the complete agreement and understanding of the Parties hereto and supersedes any previous understandings commitments, proposals or agreements whether oral or written and may only be modified or amended in writing or executed by authorized individuals of the City and Firm.

**8. JURISDICTION.** This Agreement shall be governed by the laws of the State of Utah.

**9. DISPUTE RESOLUTION.** Any dispute relating to this agreement will be resolved by binding arbitration in Weber County, Utah.

**10. SIGNATURES.**

Acknowledged by:

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Matthew Godfrey, CEO  
Better City, LLC

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Brent R. Taylor, Mayor  
North Ogden City

Attested by:

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S. Annette Spendlove, MMC Recorder  
North Ogden City