

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (the "Agreement") is made and entered into this 25th day of March 2014 (the "Effective Date") by and between North Ogden City, a governmental entity duly organized under law as a political subdivision of the State of Utah (hereinafter referred to as the "City") and Better City, a Utah LLC, a (hereinafter referred to as the "Firm").

WHEREAS, the City wishes to engage the Firm to provide the services described herein and the Firm agrees to provide the services for the compensation and otherwise in accordance with the terms and conditions contained in this Agreement;

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, 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. TERM. Commencing as of the Effective Date, and continuing for a period of twelve months (the "Term"), unless earlier terminated pursuant to Section 6 hereof, the Firm agrees that it will provide consultant services to the City. This Agreement will be automatically renewed for an additional 12 months unless cancelled in writing before the expiration of the Term by either party.

2. DUTIES AND SERVICES. The Firm's duties and responsibilities ("Services") shall be to perform economic development work on behalf of the City. This will include, but not be limited to facilitating the development of existing commercially zoned land, assisting in the redevelopment of exiting commercial properties, recruiting of tenants and investment, job creation strategies, gathering community input for economic plans and strategies, and other duties that would pertain to the economic vitality of the City. Such work will be identified and prioritized by the City.

(a) The Firm represents and warrants to the City that the Firm is under no contractual or other restrictions or obligations which are inconsistent with the execution of this Agreement, or which will interfere with the performance of the Firm's duties. The Firm represents and warrants that the execution and performance of this Agreement will not violate any policies or procedures of any other person or entity for which the Firm performs Services concurrently with those performed herein.

(b) City will assist the Firm in providing the corresponding city information and data gathering that is necessary to perform the scope of Services outlines above and will do so in a timely manner.

3. CONSULTING FEE.

(a) The Firm shall be paid \$1,000 monthly as a retainer, which shall be paid by the 1st of every month. The Firm shall also be paid for the delivery of Services outlined in the attached Scope of Work, which shall be amended from time to time as the Parties agree. In no case shall the payments exceed \$60,000 per year without prior approval from the City. Payment for those services shall be made within 30 days of delivery of Services.

(b) In addition to the retainer described in paragraph “a” of section 3, the Firm reserves the right to negotiate a payment structure that will be generated from the projects that are orchestrated by the Firm on behalf of the City. The City shall maintain the right to review and approve any such payment structures.

(c) The Firm shall be reimbursed for any direct expenditures that are incurred while working on behalf of the City and will be subject to City approval before these expenditures are made.

(d) The Firm agrees that all Services will be rendered by employees of the Firm as independent contractors and that this Agreement does not create an employer-employee relationship between the Consultant and the Firm. The Firm shall have no right to receive any employee benefits including, but not limited to, health and accident insurance, life insurance, sick leave and/or vacation. The Firm agrees to pay all taxes including self-employment taxes due in respect of the Consulting Fees and to indemnify the City in the event the City is required to pay any such taxes on behalf of the Firm.

4. AUTHORIZED REPRESENTATIVES. Each party shall name an individual, specified in Sections 4a and 4b, as its authorized representative for purposes of representation and notices.

(a) The City designates:
Ron Chandler
505 East 2600 North
North Ogden City, UT 84414
rhandler@nogden.org

(b) The Consultant designates:
Matthew Godfrey
1100 Country Hills Drive, Suite 300
Ogden, UT 84403
Matthew@bettercity.us

5. INDEMNIFICATION. The Firm agrees and covenants to hold harmless and indemnify the Client 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.

5. SUCCESSORS. The Firm and City agree that the provisions of this Agreement shall be binding on heirs, permitted assigns and successors and agents.

6. TERMINATION. This Agreement may be terminated by either party upon 90 days notice to the designated representative. At the time of termination, the Firm will provide to City all work completed or in process as of the date of termination. Within 90 days of termination, City will make payment to the Firm for all authorized fees and expenses outstanding.

7. CONFIDENTIALITY OF DATA. The Firm shall treat all data that it receives from or through City, 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.

The Firm acknowledges that it may be provided or come into contact with confidential information of the City or other related parties (collectively, "City's Confidential Information"). In recognition of the foregoing, the Firm covenants and agrees that

- It will keep and maintain the City's Confidential Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized use or disclosure;
- It will use and disclose the City's Confidential Information solely for the purposes for which such information, or access to it, is provided, and Consultant will not use or disclose City's Confidential Information for its own purposes or for the benefit of anyone other than the City or related parties;
- It will not directly or indirectly disclose any of the City's Confidential Information to any third party, except with the Client's prior written consent or as otherwise provided herein;
- It will not directly or indirectly use any of the City's Confidential Information to gain an unfair business advantage;
- It shall, upon the earlier of (i) completion of discussions between the parties or any engagement of the Firm by City, (ii) determination that it has no need for the City's Confidential Information, or (iii) at any time the City 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 City's Confidential Information that Consultant may then possess or control. Disposal shall be achieved through prompt delivery of the records to the City 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 Firm shall, upon request of the City, promptly certify in writing, in a form acceptable to the City and executed by an authorized officer of the Firm, that all of City's Confidential Information has been destroyed or returned.

8. 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 City and Firm.

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

10. SIGNATURES.

EXECUTED as of the Effective Date.

NORTH OGDEN CITY

MATTHEW R GODFREY

By: _____
Mayor Brent Taylor
North Ogden City

President, Better City

Hereunto Duly Authorized

Attested By: _____
Annette Spendlove
City Recorder
North Ogden City

Scope of Work

Project 1: Smith's Block Revitalization

This project entails helping to fill the soon-to-be vacated Smith's grocery store with new tenants. This may include recruiting developers as well as tenants to the site. Remaining retail needs to be occupied and beautified. This may include some of the surrounding properties in the commercially zoned area.

Midpoint payment: \$12,000 for the delivery of a project plan, market study and proforma to support the plan for Project 1.

Final Payment: \$20,000 for the delivery of a signed development agreement to accomplish the project described above.

Project 2: Kings Block Revitalization

This project involves crafting a redevelopment strategy to rehabilitate or remove the empty/blighted land and buildings to create a retail and/or mixed-use center that is attractive and tax revenue generating.

Midpoint payment: \$15,000 for the delivery of a project plan, market study and proforma to support the plan for Project 2.

Final Payment: \$25,000 for the delivery of a signed development agreement to effect what is described as Project 2.

Project 3: Barker Property

This area is the vacant land to the north and west of Walgreens. The objective is to recruit retail/commercial tenants or a developer that could recruit tenants that would produce significant tax receipts, economic activity and beautification for the City.

Final Payment: \$20,000 for the delivery of a signed development agreement to build out at least 70% of the vacant land in retail/commercial purposes described under Project 3.

Project 4: Washington Boulevard Redevelopment

The City needs a demonstration project to show how the Washington Boulevard commercial frontage can be redeveloped in an attractive way. This may involve retail, mixed-use, housing or commercial buildings with some re-use of existing building or more likely the construction of new structures that will create a draw to the area. This should also produce significantly more taxes than current uses and have the ability to be replicated along the corridor.

Midpoint payment: \$15,000 for the delivery of a project plan, market study and proforma to support the plan for Project 4.

Final Payment: \$20,000 for the delivery of a signed development agreement as described in Project 4.

Project 5: Public Works Building Re-use

This would require an analysis of the potential reuse of the current buildings or the removal of the existing structures and redevelopment of the site.

Midpoint payment: \$6,000 for the delivery of a project plan, market study and proforma to support at least two options for the redevelopment of this site.

Final Payment: \$15,000 for the delivery of a signed development agreement to carry this project forward.

Both parties understand that all projects will be pursued in order to identify which of them is most competitive with market conditions and can be moved forward most expeditiously. It's also understood that these project in aggregate will take multiple years to complete and that new project may be added or replace the project listed above.