

RESOLUTION NO. 4333/355

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD AND THE BOARD OF DIRECTORS OF THE SOLEDAD REDEVELOPMENT AGENCY AUTHORIZING THE CITY MANAGER/EXECUTIVE DIRECTOR TO ENTER INTO AN AGREEMENT WITH URBAN FUTURES, INC. FOR PROFESSIONAL CITY AND AGENCY CONSULTING SERVICES IN AN AMOUNT NOT TO EXCEED \$75,000

WHEREAS, the City Council and the Agency Board have a need to contract for consulting services relating, but not limited, to providing an assessment of the downtown's overall economic conditions and develop recommendations regarding future economic growth; and

WHEREAS, funding for contractual services shall be drawn from the Redevelopment Agency and General Fund Budgets for FY 2008-09; and

WHEREAS, it is recommended that the City Council and the Agency Board approve a one year agreement with Urban Futures, Inc. for business consulting services.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad and the Board of Directors of the Soledad Redevelopment Agency Board that the City Manager/Executive Director is hereby authorized to execute a "Standard Contractual Services Agreement", attached as "Exhibit A" with Urban Futures, Inc. for business consulting services in the amount of \$75,000, subject to minor modification and subsequent approval by the City Attorney. Funding for contractual services shall be drawn at 45% from the General Fund Budget and 55% from the Redevelopment Agency Budget.

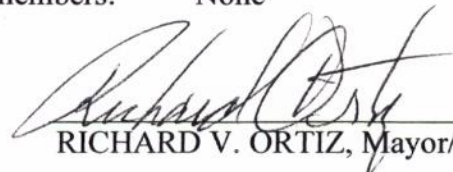
PASSED AND ADOPTED by the Soledad Redevelopment Agency at a regular meeting duly held on the 7th day of January, 2009, by the following vote:

AYES, and in favor thereof, Councilmembers/Agencymembers: Richard J. Perez, Juan Saavedra, Patricia Stephens, Mayor Pro Tem/Vice Chair Martha Camacho, Mayor/Chairman Richard Ortiz

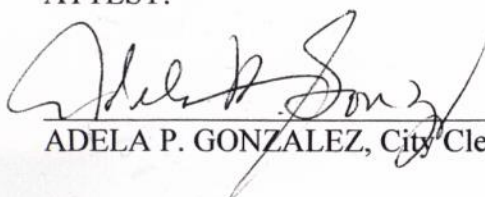
NOES, Councilmembers/Agencymembers: None

ABSTAIN, Councilmembers/Agencymembers: None

ABSENT, Councilmembers/Agencymembers: None


RICHARD V. ORTIZ, Mayor/Chairman

ATTEST:


ADELA P. GONZALEZ, City Clerk, Secretary

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF SOLEDAD, THE SOLEDAD REDEVELOPMENT AGENCY AND
URBAN FUTURES, INC.**

THIS AGREEMENT for consulting services is made by and between the **City of Soledad , Soledad Redevelopment Agency** ("City/Agency") and **Urban Futures, Inc.** ("Consultant") (together referred to as the "Parties") as of **January 7, 2009** (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City/Agency the services described in the Scope of Work attached as Exhibit A , and incorporated herein, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on **January 6, 2010**, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City/Agency's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City/Agency, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from Agency of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.
- 1.5 **Public Works Requirements.**

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Section 2. COMPENSATION. City/Agency hereby agrees to pay Consultant a sum not to exceed Seventy-Five-Thousand Dollars (\$75,000.00), notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City/Agency shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from Agency to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City/Agency in the manner specified herein. Except as specifically authorized by City/Agency in writing, Consultant shall not bill City/Agency for duplicate services performed by more than one person.

Consultant and City/Agency acknowledge and agree that compensation paid by City/Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City/Agency therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City/Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City/Agency when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City/Agency. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City/Agency, if applicable.

2.2 **Monthly Payment.** City/Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City/Agency shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 **Final Payment.** City/Agency shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City/Agency of a final invoice, if all services required have been satisfactorily performed.

2.4 **Total Payment.** City/Agency shall pay for the services to be rendered by Consultant pursuant to this Agreement. City/Agency shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City/Agency shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 **Hourly Fees.** Hourly fees are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 **Payment upon Termination.** In the event that the City/Agency or Consultant terminates this Agreement pursuant to Section 8, the City/Agency shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City/Agency shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City/Agency shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City/Agency employees and reviewing records and the information in possession of the City/Agency. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City/Agency. In no event shall City/Agency be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City/Agency of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City/Agency. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City/Agency. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident.

In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City/Agency and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an occurrence basis, and not on a claims-made basis.
- b. City/Agency, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant
- c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City/Agency, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City/Agency, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- d. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City/Agency.

4.3 Professional Liability Insurance.

4.3.1 **General requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 **Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City/Agency for review prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City/Agency with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City/Agency does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City/Agency reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City/Agency for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City/Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City/Agency, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City/Agency guaranteeing

payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the consultant, its employees, agents, and subcontractors.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies City/Agency may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City/Agency may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City/Agency may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

Consultant shall indemnify, defend with counsel acceptable to City/Agency, and hold harmless City/Agency and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City/Agency.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days, to the tender of any claim for defense and indemnity by the City/Agency, unless this time has been extended by the City/Agency. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City/Agency, may be retained

by the City/Agency until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type to express or implied indemnity against the Indemnities.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City/Agency, Consultant shall indemnify, defend, and hold harmless City/Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City/Agency.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City/Agency. City/Agency shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City/Agency shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City/Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City/Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City/Agency and entitlement to any contribution to be paid by City/Agency for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant Not an Agent.** Except as City/Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City/Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City/Agency to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City/Agency is bound by the terms of such fiscal assistance program.

7.4 **Licenses and Permits.** Consultant represents and warrants to City/Agency that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City/Agency that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City/ Agency.

7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 **Termination.** City/Agency may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 90 days' written notice to City/Agency and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City/Agency, however, may condition payment of such compensation upon Consultant delivering to City/Agency any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City/Agency in connection with this Agreement.

8.2 **Extension.** City/Agency may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City/Agency grants such an extension, City/Agency shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City/Agency shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 8.4 **Assignment and Subcontracting.** City/Agency and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City/Agency for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City/Agency and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City/Agency's remedies shall included, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City/Agency would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City/Agency. Consultant hereby agrees to deliver those documents to the City/Agency upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City/Agency and are not necessarily suitable for any future or other use. City/Agency and Consultant agree that, until final approval by City/Agency, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City/Agency under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City/Agency or as part of any audit of the City/Agency, for a period of 3 years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Monterey or in the United States District Court for the Northern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City/Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City/Agency official in the work performed pursuant to this Agreement. No officer or employee of City/Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City/Agency. If Consultant was an employee, agent, appointee, or official of the City/Agency in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this

Agreement. Consultant understands that, if this Agreement is made in violation of Government Code § 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City/Agency for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **Contract Administration.** This Agreement shall be administered by Adela P. Gonzalez, City Manager/Executive Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

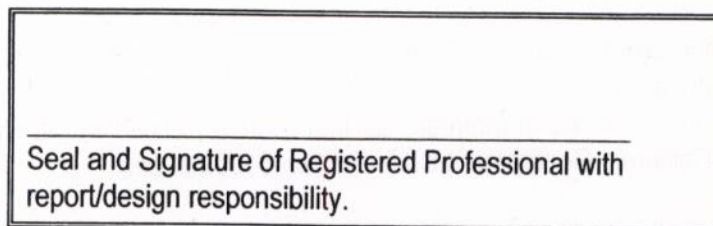
10.10 **Notices.** Any written notice to Consultant shall be sent to:

Urban Futures, Inc.
Marshall F. Linn, President
3111 N. Tustin Street, Ste. 230
Orange, CA 92865

Any written notice to Agency shall be sent to:

City of Soledad
AND
Soledad Redevelopment Agency
Adela P. Gonzalez, City Manager/Executive Director
248 Main Street
Soledad, CA 93960

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



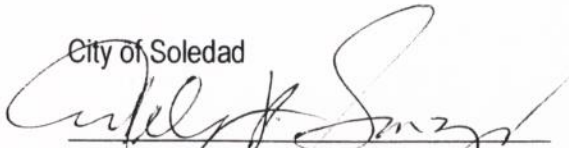
10.12 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as **Exhibits A** represents the entire and integrated agreement between City/Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]


The Parties have executed this Agreement as of the Effective Date.

City of Soledad




Adela P. Gonzalez, City Manager

AGENCY
Soledad Redevelopment Agency




Adela P. Gonzalez, Executive Director

CONSULTANT
Urban Futures, Inc.



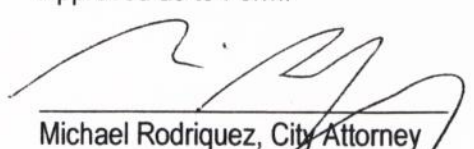
Marshall F. Linn, President

Attest:



Adela P. Gonzalez, Secretary

Approved as to Form:



Michael Rodriguez, City Attorney

EXHIBIT A
SCOPE OF SERVICES

A. PROFESSIONAL REDEVELOPMENT CONSULTING SERVICES

Urban Futures, Inc. ("UFI") is a "full-service" redevelopment, economic development and housing programs consulting firm. Without the use of any sub-consultants, UFI is capable of providing all of the services specified herein. The following scope of services includes, but is not limited to, the types of professional redevelopment consulting services that UFI may potentially provide the City of Soledad and/or the Soledad Redevelopment Agency (the "City/Agency"), as staff may request:

1. Assist and advise staff with respect to planning, urban design, land-use, development strategies, fiscal feasibility, funding/financing strategies and deal structuring for potential development projects and/or programs;
2. Participate in formal and informal planning and project management discussions, negotiations and presentations with staff, developers, owners, architects, community officials, other local government agencies and others, as appropriate, with respect to development projects and/or programs specified by the City/Agency;
3. Create, administer and assist the City/Agency with its community outreach and/or participation efforts;
4. Prepare any needed environmental documentation;
5. Assist in evaluating the physical and fiscal feasibility of any public assistance requests (i.e., pro forma analysis) that may be received by any prospective developer;
6. Assist in developing and implementing marketing strategies to retain, expand and attract businesses to increase employment opportunities and tax ratables;
7. To the extent that any public assistance is contemplated by any prospective developer, assist in developing clear and easy to understand options;
8. To the extent that any public assistance is contemplated by any prospective developer, devise options that emphasize that any direct public assistance should be limited to those tax-ratables generated by the project, be performance based and be tied to the concept of feasibility wherein both parties share in project financial benefits;
9. To the extent that any public assistance is contemplated by any prospective developer, devise options which emphasize to the maximum extent feasible that any indirect public assistance should be limited to either regional or area benefiting public infrastructure;
10. To the extent that any public assistance is contemplated by any prospective developer, devise options which emphasize that any assistance for public infrastructure should include to the maximum extent feasible the use of alternative fiscal resources, e.g., a community facilities district;
11. Estimate the tax ratables that a projected development may generate (i.e., property taxes, tax increments, sales taxes, transient occupancy taxes, etc.);
12. Assist and advise staff with respect to low- to moderate-income housing projects and/or programs;

13. As necessary, prepare "Financial Information Summary" reports as required by Section 33433 of the California Community Redevelopment Law ("CCRL", Health and Safety Code Section 33000, *et seq.*);
14. As necessary, prepare "Benefit Finding" reports as required by Section 33445 of the California Community Redevelopment Law ("CCRL", Health and Safety Code Section 33000, *et seq.*); and/or
15. Provide any other service that staff may direct.

B. Short-Term Downtown Economic Revitalization Strategy

Consistent with and in specific furtherance of Section A, Professional Redevelopment Consulting Services, of this Exhibit A, UFI will assist staff with the following:

1. Develop a short-term economic revitalization strategy for the retention, expansion and attraction of commercial businesses that will sustain and enhance the fiscal viability of Downtown Soledad. In recognition of the changes in Soledad's commercial market place resulting from existing and proposed community and/or regional serving shopping centers, UFI will identify practical ways of identifying and facilitating investment by commercial businesses that are either complementary with or fill an existing gap in Downtown Soledad's marketplace niche. To facilitate a better understanding of Downtown Soledad's marketplace niche, UFI will prepare a strengths, weaknesses, opportunities and threats ("SWOT") analysis. Further, the strategy will include a component specifying viable operational methods and funding source availability, which in addition to governmental resources shall identify private sources including assistance that may be available through major retailers within Soledad's marketplace.
2. Assist staff in conducting a series of community stakeholder's meetings. Community stakeholders include property owners, business owners, Chamber of Commerce, residents and others identified by staff. The purpose of these meetings is to obtain stakeholder input with respect to the SWOT analysis and receive "sounding-board" feedback on the efficacy of the strategy's findings and the feasibility of its implementation and funding methods. It is anticipated that at least four (4) meetings will be required of which at least two (2) will be directed at the general community. The actual number of meetings may differ depending on community needs.

Schedule of Performance

UFI will provide professional redevelopment consulting services to the City/Agency on an as needed and on call basis. As applicable, a schedule of performance will be developed for each activity and agreed to by the parties. It is anticipated that the short-term economic revitalization strategy for Downtown Soledad will be prepared over an approximately four to six month period. The actual length of the process will be dependent on the number and timing of the community stakeholder's meetings.

Professional Services Fee

Due to the vagaries associated with any "on-call and as-needed" services program, UFI proposes to carry out the "Scope of Services" on an actual time and materials basis (only for requested work) to be billed against a specific purchase order or budget authorization level. With respect to the City/Agency, UFI recommends the initial fiscal year 2008-09 allocation be set in an amount commensurate with the City's/Agency's anticipated workload. UFI's Professional Service Rate Schedule is as follows:

President	\$ 225.00
Managing Principals	\$ 195.00
Principals	\$ 170.00
Principal Planners	\$ 120.00
Senior Planners	\$ 95.00
Financial Analysts	\$ 95.00
Planners	\$ 85.00
Associate Planners	\$ 75.00
Assistant Planners	\$ 65.00
Technicians	\$ 55.00
Clerical	\$ 45.00

These rates will remain constant through June 30, 2009 and are subject to change thereafter. Costs for telephone, e-mail and facsimile expenses, postage and incidental photocopying are included within the above noted Professional Service Rate Schedule. The Professional Service Rate Schedule does not include out-of-pocket expenses that may be incurred during the accomplishment of the Scope of Work. Out of pocket expenses include, but are not limited to all other necessary materials, supplies, services, printing, electronic data files, travel, etc. All out-of-pocket expenses shall be charged on an actual cost basis, plus 10%

All of UFI costs are subject to the overall financial limit specified in Section 2, Compensation, of this Agreement.