

DISCUSSION

In an effort to obtain the most qualified consulting firm to assist with this process, a Request for Proposals was distributed to 26 consultants. Six firms responded to the RFP. Those firms and their proposed costs are as follows:

Mike Linares, Inc	Hogle-Ireland, Inc.	Wildan Engineering	The Ramsy Group	PMC	Western Economic Services, LLC
\$29,500	\$33,935	\$34,980	\$35,200	\$37,060	\$57,775

Although the RFP process is competitive, the City is not obligated to select the lowest bidder. Consequently, staff recommends the second lowest bidder, Hogle-Ireland, be selected to prepare the 2010-2015 Consolidated Plan. Although Hogle-Ireland's cost is above the cost of the lowest bidder, staff believes Hogle-Ireland to be the most qualified.

Hogle-Ireland, Inc. prepared the City's 2005-2010 Consolidated Plan. Hogle-Ireland also prepared the City's current Housing Element and was successful in negotiating with the State Department of Housing and Community Development to have the City's Housing Element expeditiously accepted by the State. Through the preparation of these two documents, staff has developed a solid working relationship with the principals of Hogle-Ireland. This foundation and the existing spirit of teamwork gives Hogle-Ireland a unique ability to prepare the Consolidated Plan quickly and efficiently.

Hogle-Ireland's familiarity with our current Consolidated Plan and our Housing Element give them an advantage in preparing the 2010 - 2015 Consolidated Plan. They are already well versed in the City's demographics, housing needs and community concerns. This existing knowledge of the City will allow their staff to quickly and efficiently prepare the Consolidated Plan.

FINANCIAL IMPACT

The cost to prepare the Five-Year Consolidated Plan as proposed by Hogle-Ireland is \$33,935. There are sufficient funds within the City's CDBG budget to provide for the payment of this contract.

RECOMMENDATION

It is recommended that the City Council:

- Approve the attached Consultant Agreement with Hogle-Ireland and authorize the City Manager to execute all related documents.



SUSAN EMERY
Community Development Director



By: Allison Mills
Senior Project Manger

Recommended for Approval



Matthew Fertal
City Manager

Attachment 1: Consultant Agreement

CONSULTANT AGREEMENT

Hogle-Ireland, Inc.

THIS AGREEMENT is made this _____ day of _____ 2009, by the **CITY OF GARDEN GROVE**, a California municipal corporation ("CITY") and **HOGLE-IRELAND, INC.** ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. CITY desires to utilize the services of the CONSULTANT to prepare a Five-Year Consolidated Plan and Annual Action Plan covering the period of July 1, 2010 to June 30, 2015.

The Consolidated Plan will serve multiple purposes by serving as (1) a strategy and action plan for carrying out and assessing performance of HUD-funded programs; (2) an opportunity to integrate into one document the planning and budgeting of various funds (local and non-local); and, (3) application for Federal funds under HUD's formula grant programs.

2. CONSULTANT is qualified by virtue of experience, training, and expertise to accomplish the services as indicated in this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** The term of the Agreement shall be for one year from the execution of this Agreement or the completion of work, whichever is later.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of tasks as set forth in Exhibit "A".
3. **Compensation.** CONSULTANT shall be compensated as follows:
 - 3.1 **AMOUNT NOT TO EXCEED.** Compensation under this Agreement shall not exceed Thirty Three Thousand Nine Hundred Thirty Five Dollars (\$33,935.00).
 - 3.2 **PAYMENT.** For additional work under this Agreement, written authorization by the City Manager will be required.
 - 3.3 **RECORDS OF EXPENSES.** CONSULTANT shall keep complete and accurate records of all costs and expenses incidental to services covered

by this Agreement. These records will be made available at reasonable times to CITY.

3.4 TERMINATION. CITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. Insurance Requirements.

4.1 COMMENCEMENT OF WORK. CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 WORKERS COMPENSATION INSURANCE. For the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable. CONSULTANT and all subcontractors shall provide a waiver of subrogation against CITY, its officers, officials, agents, employees, and volunteers.

4.3 INSURANCE AMOUNTS. CONSULTANT shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability in the amount of \$1,000,000 per occurrence; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
- (b) Automobile liability in the amount of \$1,000,000 combined single limit; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
- (c) Professional liability in the amount of \$1,000,000 per occurrence; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services

provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to city's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount, which may become due to CONSULTANT.
6. **Non-Discrimination.** CONSULTANT covenants that there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY's employees.
8. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by CITY unless disclosure is required by law.
10. **Ownership of Work Product.** All scripts, videos or other documents developed or received by CONSULTANT shall be the property of the CITY. Consultant shall provide City with copies of these items upon termination of this Agreement and upon payment to Consultant for same, however, in no event shall the payment to the Consultant exceed the maximum contract amount as identified in Section 3.1.
11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
12. **Correspondence.** All correspondence shall personally be delivered or mailed to the below-listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

Addresses of CITY and CONSULTANT are as follows:

Address of CITY is as follows:

(with a copy to):

City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840

Garden Grove City Attorney
11222 Acacia Parkway
Garden Grove, CA 92840

Address of CONSULTANT is as follows:

Hogle-Ireland, Inc
201 South Lake Avenue, Suite 308
Pasadena, CA 91101

13. **Consultant's Proposal.** This Agreement shall include CONSULTANT proposal or bid which shall be incorporated herein by reference (Exhibit "A"). In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
14. **Licenses, Permits, and Fees.** At its sole expense, CONSULTANT shall obtain all permits and licenses as may be required by this Agreement.
15. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should CONSULTANT discover any latent or unknown conditions

materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT's risk, until written instructions are received from CITY.

16. **Time of Essence.** Time is of the essence in the performance of this Agreement.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY Manager. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. CITY will deal directly with and will make all payments to CONSULTANT.
18. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
19. **Indemnification.** CONSULTANT agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONSULTANT agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT. The only exception to CONSULTANT responsibility to protect, defend, and hold harmless CITY, is due to the negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This Hold Harmless Agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.
20. **Modification.** This Agreement constitutes the entire Agreement between the parties and supersedes any previous Agreements oral or written. Any modification of this Agreement shall be executed by CITY and CONSULTANT.
21. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate Authorities of the CITY and CONSULTANT.
22. **California Law.** This Agreement shall be constructed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.

23. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.

24. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS THEREOF, these parties have executed this Agreement.

Date: _____

"CITY"
CITY OF GARDEN GROVE

By: _____
City Manager

APPROVED AS TO FORM:

Omar Sandoval, for
City Attorney

Date: 11-12-09

"CONSULTANT"
HOGLE- IRELAND, INC.

By: *Paul Ireland*

Title: President

Date: 11/24/09

If CONSULTANT is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to the CITY.

ATTESTED:

City Clerk

Date: _____