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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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**Date Issued:** February 12, 2009

**IBA Report Number:** 09-07

**Redevelopment Agency Meeting Date:** February 17, 2009

**Item Numbers:** 2 & 3

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# SEDC Consulting Contract Amendments

## OVERVIEW

On Tuesday, February 17, 2009 the Redevelopment Agency will be asked to consider amending two existing consultant contracts for services to be provided to the Southeastern Economic Development Corporation (SEDC). The consultants and scope of services to be provided include:

**BRG Consulting, Inc.**

The scope of services includes general environmental services and project planning and management for projects located in the SEDC area. The initial agreement was approved by the Agency Executive Director on November 9, 2007 for an amount not to exceed \$200,000. If the first amendment is approved, the contract will increase to an amount not to exceed \$500,000.

**Keyser Marston Associates, Inc.**

The scope of services includes additional economic and real estate consulting services as needed in SEDC project areas. The initial agreement was approved on March 27, 2007 for an amount not to exceed \$360,000. If the first amendment is approved, the contract will increase to an amount not to exceed \$702,000.

Both of these amendments, if approved, would enable SEDC to continue to move forward with projects that are of critical interest to the community. It should be noted that each of the consultants have extensive histories with specific SEDC projects. However, after review of the Memorandums provided to the Redevelopment Agency related to the requests for amendments, the ***IBA recommends that SEDC management provide the Redevelopment Agency Board with additional information on the process***

*used to initially select the two consultants.* This request is in light of the recent concerns related to the selection of consultants expressed in Macias Consulting Group's September 10, 2008 Performance Audit of SEDC Operations.

## FISCAL/POLICY DISCUSSION

In their September 10, 2008 Performance Audit of SEDC, Macias included recommendations to address concerns related to the selection of consultants. These recommendations were based on a review of SEDC contracts for consultant services for Fiscal Years 2003-2007. The recommendations included:

- Making the consultant selection process more transparent.
- Documenting consultant need in files.
- Documenting consultant selection as Sole Source or Competitive.
- Disclosing all new consultant contracts, including contract extensions, to the SEDC board.

On November 14, 2008 SEDC's Interim Chief Administrator, Brian Trotier, responded to the Macias's Performance Audit. In his response, Mr. Trotier wrote that SEDC agreed with the recommendations for improving the selection of consultants. Specifically, he stated:

“SEDC agrees and plans to overhaul its consultant selection process to include new policies and procedures governing the justification for using consultants, competitive selection of consultants, limitation on the use of sole source consultants, limitation on the term for consultants' agreements, limitations on renewing or extending consultants' agreements beyond the initial term without approval by the Board of Directors (BOD), disclosure of all new consultant contacts to the BOD and the public, and monthly updates to the BOD by the President on consultant activity and progress toward completion of a project.”

SEDC staff has indicated that they are currently in the process of preparing and adopting updated procedures for the hiring of consultants. *The IBA recommends that until internal procedures are developed, SEDC should use the City's policies and procedures for hiring consultants.*

### **Status of Implementation of Macias Recommendations**

On January 12, 2009 the City Auditor provided his review of SEDC's responses to the audit recommendations and raised several issues for Audit Committee consideration. In response to a request from the Audit Committee, in early January the IBA released a report on recommendations for strengthening Redevelopment Agency (RDA) oversight of SEDC and implementing the Performance Audit recommendations through revisions to the obsolete operating agreement between the RDA and SEDC. On January 26, 2009, the Audit Committee reviewed and discussed the IBA's report and obtained input from

the Mayor's Office. Also at this meeting the Audit Committee requested the City Attorney's Office to provide a legal opinion regarding the role and responsibilities of the RDA given the non-profit governance structure of SEDC. Pending the receipt of the legal opinion, the Audit Committee is expected to hear this item again on February 23<sup>rd</sup> and develop recommendations regarding the operating agreement for Rules Committee consideration in March.

## CONCLUSION

The IBA is aware of the balance that SEDC is trying to maintain by moving forward with projects while working to address deficiencies with their operating procedures. To not approve these consultant amendments could have a substantial negative impact on agency projects. However, given the history of SEDC and the concerns raised by Macias, and in an abundance of caution, the IBA recommends the following:

- ***SEDC provide the Redevelopment Agency Board information on the initial processes used to select BRG and Keyser Marston. If the selection process that was used deviated from the City's standard contracting procedures then this should be noted. This information should be provided prior to the February 17<sup>th</sup> Redevelopment Agency Board Meeting.***

It is important that before the Redevelopment Agency Board considers amendments to existing contracts, assurances should be provided to the Board that the initial selection processes for the consultants followed the City's standard contracting procedures. ***The IBA also recommends that until internal procedures are developed for the hiring of consultants, SEDC should follow the City's policies and procedures.***

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