

# *City of Brisbane*

## *Agenda Report*

**TO:** Honorable Mayor and City Council

**FROM:** William Prince, Community Development Director

**DATE:** July 3, 2006

**SUBJECT:** Contract for Urban Design Services for Sierra Point

**RECOMMENDATION:**

Approve a contract with FTB to perform urban design services for Sierra Point, culminating in an update to the Sierra Point Design Guidelines.

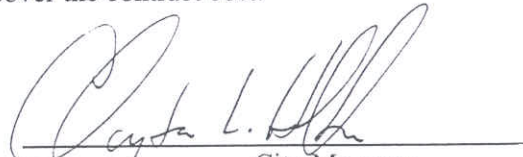
**BACKGROUND:**

On June 19, 2006 the City Council received a presentation from Greg Tung of FTB regarding a proposed work plan for urban design services at Sierra Point. The intent is to strengthen the public realm at Sierra Point and coordinate pending and future development to achieve this goal. The City Council expressed its support for the work scope, and authorized staff to initiate a contract with FTB.

**FISCAL IMPACT:**

As was discussed at the June 19, 2006 meeting, the contract cost (\$95,792) will be split, with the property owners (Opus, UPC, and Diamond Investments) paying 5/6 of the cost and the City covering the remaining 1/6 of the cost. The City's cost share is \$15,965. The contract will not be executed until such time as all participating parties have deposited funds to cover the contract cost.

  
Community Development Director

  
City Manager

Attachments:  
Contract with FTB

## AGREEMENT FOR PROFESSIONAL SERVICES

**THIS AGREEMENT**, dated \_\_\_\_\_ is made by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and Freedman Tung & Bottomley ("Consultant").

### RECITALS

A. City desires to retain Consultant to perform urban design services for Sierra Point, including an update to the Sierra Point Design Guidelines ("the Project").

B. Consultant represents that Consultant is specially trained, experienced, and qualified to provide such professional services and is willing to do so pursuant to the terms and conditions of this Agreement.

### AGREEMENT

1. **Scope of Services.** Subject to the direction and approval of City through its staff that City may provide from time to time, Consultant shall perform the Phase 1 services described in Exhibit A attached hereto and incorporated herein by reference.

2. **Time of Performance.** The services of Consultant shall commence upon the execution of this Agreement and shall be satisfactorily completed in accordance with the time schedule set forth in Exhibit A attached hereto and incorporated herein by reference.

3. **Responsible Personnel.** The personnel acting on behalf of Consultant primarily responsible for performance of the services hereunder shall be as set forth in Exhibit A.

4. **Compensation.** As compensation for all services to be performed by Consultant under this Agreement, Consultant shall be paid the amounts set forth in Exhibit A attached hereto and incorporated herein by reference. In no event shall Consultant's total compensation exceed the sum of \$95,792 without additional authorization from City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to City at the time of payment.

5. **Method of Payment.** Consultant shall submit billings to City describing in detail the work performed for which payment is requested, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. Billings shall be submitted monthly, or at such other time as agreed upon between City and Consultant. City shall pay Consultant no later than 45 days after submission of an invoice to the City.

6. **Maintenance and Inspection of Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, time cards, and other records or documents relating to charges for services or expenditures charged to City, for a



minimum of three (3) years from the date of final payment to Consultant under this Agreement and shall make the same available to City or its authorized representatives for inspection and audit, at any time during regular business hours, upon written request by City. The right of inspection shall include the right to make extracts and copies.

7. **Assignment and Subcontracts.** Consultant acknowledges that Consultant's special skill and expertise is a material consideration for City entering into this Agreement. Consultant shall not assign, subcontract or delegate to any other party the performance of any services to be rendered by Consultant under this Agreement without the prior written approval of City. If City consents to any subcontracting of work, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor.

8. **Ownership of Documents.** All plans, studies, documents and other writings prepared by and for Consultant in the course of performing its services under this Agreement, except working notes and internal documents, shall become the property of City upon payment to Consultant for such work, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request. Consultant shall retain the right to display completed product in their promotional materials.

9. **Independent Contractor.** Consultant is, and at all times shall remain, an independent contractor, and not an agent, officer or employee of City. As such independent contractor, neither Consultant nor any of its agents or employees shall be entitled to any salary, fringe benefits, worker's compensation, retirement contributions, sick leave, insurance or other benefit or right connected with employment by City, or any compensation other than as provided in this Agreement. Consultant shall have no power or authority to bind City to any contract or otherwise to incur any obligation or liability for, or on behalf, or in the name of City.

10. **Licenses.** Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required of Consultant to practice its profession. Consultant shall, at its sole cost and expense, keep and maintain such licenses, permits, qualifications, insurance and approvals in full force and effect at all times during the term of this Agreement. Consultant shall maintain a City of Brisbane business license.

11. **Compliance with Laws.** Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations in connection with the performance of its services under this Agreement.

12. **Employment Eligibility.** At the request of City, (Contractor/Consultant) shall furnish to City copies of Employment Eligibility Verifications (INS Form I-9) or other evidence satisfactory to City showing that any or all persons providing services under this Agreement for on behalf of (Contractor/Consultant) are eligible to be employed in the United States. In the event (Contractor/Consultant) is unable or unwilling to provide the employment eligibility verification within ten (10) days after City's request, City may require the immediate removal from the (job/project) of such workers as specified by City,