



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

American's with Disabilities Act Transition Plan – Status Report

RECOMMENDED MOTION:

Accept Report, Provide staff direction on amendments to the agreement

SUMMARY

In June of 2008, the City Council was briefed on the status of the ADA (Americans with Disabilities Act) Transition Plan update. With that report was a request to amend the contract with Sally Swanson Architects to provide additional funds to develop a programs assessment that involved holding a training workshop followed by face to face interviews with Management Staff. The consultant's original proposal specified performing a programs assessment from a written survey. In June, the Council authorized the additional funds and stipulated that:

- 1) The work was to be completed by the end of December.
- 2) That the consultant was to be paid upon completing and delivering the transition plan
- 3) That the consultant would be penalized \$2,000/month for failing to meet the deadline.

The consultant has not agreed to these conditions due primarily to concerns that meeting the specified deadlines will require performance on the part of the City staff which is outside the consultants control. The consultant cannot compel the City to perform quickly. The consultant has offered a counter proposal.

The consultant has been asked to provide a status report on what has been done to date and has offered a counter proposal which is expected to enable the project to be completed.

Staff recommends that the Council consider the counter proposal and provide direction for further action.

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BACKGROUND

The Americans with Disabilities Act (ADA) was adopted in the early 1990's to prevent discrimination as a result of barriers to disabled persons. ADA requires cities to make reasonable accommodation to eliminate barriers. Developing and maintaining a transition plan is a first step to assure compliance.

In 1993 the City did an assessment of City Buildings and Parks to identify barriers that can be eliminated. The City also created some programs to improve communications for visually or audibly impaired persons. It appears that the 1993 Plan did not include a comprehensive assessment of City service programs. The 1993 review also did not include the assessment of City Parking lots, Marinship Park, Signalized intersections, the public bathrooms, or the sidewalk facilities in the Downtown areas (both Bridgeway and Caledonia). Court cases since 1990 have added the need to more thoroughly consider public spaces and service programs.

The City has faced legal challenges related to accessibility. A claim was filed against the City with regard to accessibility in and around the Vina Del Mar Park. Efforts are underway to correct deficiencies. In addition, the Federal Highway Administration, assisting the Justice Department, did a review of the Sausalito's compliance efforts. While some deficiencies were found, no formal enforcement action has been taken. The claim and the FHWA review highlighted a fact that standards and interpretations regarding ADA compliance have changed.

The City hired Sally Swanson Architects of San Francisco to update the Transition Plan in July of 2006 for \$43,000. Phase 1 facility (buildings, parks, parking lots, downtown street areas) surveys were completed and a database was created. An effort was made to do a programs assessment. The programs assessment effort has encountered challenges due to staff resource limitations. The consultant has not been able to adequately describe or assess City programs as a result of these limitations so the programs assessment and the full updated transition plan remains uncompleted. When the programs assessment is completed a Draft Transition Plan document can be finalized and then go through public review.

ISSUES

The original approach proposed to evaluate City programs relied on written self assessment using survey forms. These forms were distributed to City Department heads. This approach has not been successful. Despite efforts to get useable information, the survey forms could not be completed satisfactorily.

City staff met with the Consultant in May of 2007 to discuss getting the plan completed. The programs evaluation matter was discussed. The project budget had \$1,333.50 remaining. This amount is enough to compile a formal transition plan document and to hold two public hearings on the document.

The original work plan did not involve a program evaluation involving staff interviews. That would generate additional costs. In an effort to keep within the agreed budget and work plan, the City Engineer, agreed to prepare a draft programs description. The City Engineer has not been able to complete this task given other demands and staff vacancies.

In an effort to get this plan completed the City Engineer asked Sally Swanson Architects staff to prepare a cost estimate to complete the Programs component. The effort would provide City management staff training and orientation with regard to the ADA. This training coupled with face to face interviews is expected to enable the consultant to describe City service programs, enable identification of barriers, and enable the development of recommendations to increase accessibility.

The attached proposal is the response. They estimate \$10,000 to do the programs assessment, develop recommendations, and to develop model accommodation policies.

The Council approved the request with the following conditions:

- 1) The work was to be completed by the end of December.
- 2) That the consultant will be paid upon completing and delivering the transition plan
- 3) That the consultant would be penalized \$2,000/month for failing to meet the deadline.

These conditions were forwarded to Sally Swanson. They were rejected. The primary concern is that the completion date depended on action outside of the consultants control. The consultant has counter proposed. The Counter proposal is contained in the attached 9/19/2008 e-mail from Gul Bhatia of Sally Swanson.

Sally Swanson staff will provide a brief overview of their efforts to date.

FISCAL IMPACT

This work is estimated to cost \$10,000. This amount is budgeted in the Engineering Division Budget under professional services.

A purchase order requisition is not attached due to the uncertainty of the request. If approved a purchase order requisition will be prepared as quickly as feasible.

STAFF RECOMMENDATIONS

Accept the above status report.

Provide staff direction with regard to proceeding with additional work to complete the ADA Transition Plan.

ATTACHMENTS

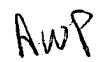
E-mail Scope change proposal
Agreement Addendum

PREPARED BY:

REVIEWED BY (Department Head):



Todd Teachout, City Engineer



for Vacant, Director of Public Work

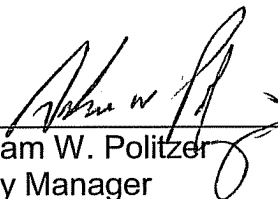
Reviewed by:

Reviewed by:

Mary Wagner, City Attorney

Louise Ho, Director of Finance

SUBMITTED BY:



Adam W. Politzer
City Manager

From: Gul Bhatia [mailto:gghatia@swanarch.com]
Sent: Friday, September 19, 2008 9:37 AM
To: Todd Teachout
Cc: Sally Swanson; Arfaraz Khambatta
Subject: Sausalito ADA Transition Plan

Hello Todd:

We have reviewed the amendment to the agreement and propose the following changes:

Fee breakdown is changed as follows:

Follow-up Interviews \$ 5,520.00
Prepare Report of Recommendations: \$1,380.00
Develop Model Policies \$3,100.00

Instead of billing at the end of every month, we propose to invoice the City after each phase of the work is completed and payment will be made to SSA within 30 days of the date of the invoice.

In addition, the hourly rates should be corrected as follows:

Principal \$ 225.00
Project Director \$ 185.00
Project Manager \$ 160.00
Technical Support \$ 75.00

We also realize that the Council does not wish to release payments to SSA until the entire project is completed and the Final Plan submitted. We would like to propose presenting the council with a memo explaining the reason for the current status of the project; we believe that SSA has wrongfully been held accountable for the delays on and/or non-completion of this project. We would also like to clarify for the record that SSA has provided services as described in the original \$40,000.00 contract and that the addendum to that original scope was requested by the City.

We want to finish the Sausalito Transition Plan and bring this project to completion. If you are in agreement, we can incorporate the changes in the contract and execute the same.

GUL BHATIA
Vice President Finance

Sally Swanson Architects, Inc.
490 Post Street, Suite 830,
San Francisco, CA 94102
Tel: 415.445.3045 Ext.113
Fax: 415.445.3055

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(Agreement Amendment as Approved by Council 6/24/2008)

This **FIRST AMENDMENT TO PROFESSIONAL/CONSULTING SERVICES AGREEMENT**, (this "Amendment") is made and entered into this 24th day of June, 2008, by and between the **CITY OF SAUSALITO**, a municipal corporation (hereinafter "City") and **SALLY SWANSON ARCHITECTS, INC.** (hereinafter "Consultant").

RECITALS

The following Recitals are a substantive part of this Agreement:

- A. City and Consultant entered into a Professional/Consulting Services Agreement dated as of July 25, 2006 (the "Agreement"). Pursuant to the Agreement, the Consultant provides the City with certain services related to compliance with the Americans with Disabilities Act and other disabled access requirements and regulations.
- B. The City wishes to utilize Consultant to provide certain services towards developing model policies based on the findings of the City's self-evaluation of programs, activities and services in addition to the services currently being provided.
- C. City and Consultant desire to enter into this Amendment to include the provision of such services.

In consideration of the mutual promises contained herein, the parties hereto agree as follows:

Section 1. Scope of Work

Section 1 of the Agreement is hereby amended to provide that in addition to the services set forth in Exhibit A of the Agreement Consultant shall also provide City with the following services which shall be included in the definition of the "Work":

Developing model policies – e.g. accommodation request policy, training procedures, etc. based on the findings of the City's self-evaluation of programs, activities and services; and follow up interviews with the respondents to the self-evaluation questionnaire within each City department – i.e. Administration, Library, Community Development, Police, Fire, Public Works, Parks and Recreation

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Section 2. Schedule

Section 3 of the Agreement is amended to specify that the entire Scope of Work shall be completed by December 22, 2008.

Section 3. Compensation.

Section 4 of the Agreement is amended to provide that in consideration of the additional Work to be performed by the Consultant as set forth in Section 1 of this Amendment Consultant shall be compensated in an amount not to exceed \$10,000 as follows:

| | |
|------------------------------------|-------------------|
| Follow-up Interviews and | |
| Prepare Report of Recommendations: | \$6,900.00 |
| Develop model policies: | <u>\$3,100.00</u> |
| | \$10,000.00 |

Consultant shall invoice the City upon completion of said scope of work.

In addition, the hourly rates for additional services are modified as follows:

| | |
|------------------|----------|
| Principal | \$225.00 |
| Project Director | \$ 75.00 |

The City shall impose a penalty of \$2,000 per month in the event that the scope of work is not completed within the specified deadline.

Section 4. Effect on Agreement.

Except as expressly set forth herein, the terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the Agreement and this Amendment, the terms of this Amendment shall control.

Section 5. Entire Agreement; Conflicts.

This Amendment and the Agreement contain the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise specified herein, no prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Amendment and the Agreement shall not be modified or altered except in writing signed by both parties.

In Witness Whereof, City and Consultant have executed this Amendment as of the date first written above.

City of Sausalito

Consultant

By: Adam W. Politzer
Its: City Manager

By: _____
Its: _____

approved as to form:

Mary Anne Wagner
City Attorney

(Amendment if Council agrees to Consultants request)

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Section 2. Schedule

Section 3 of the Agreement is amended to specify that the entire Scope of Work shall be completed by December 22, 2008.

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Section 3. Compensation.

Section 4 of the Agreement is amended to provide that in consideration of the additional Work to be performed by the Consultant as set forth in Section 1 of this Amendment Consultant shall be compensated in an amount not to exceed \$10,000 as follows:

| | | |
|-------|------------------------------------|-------------------|
| Phase | | |
| 1 | Follow-up Interviews | \$ 5,520.00 |
| 2 | Prepare Report of Recommendations: | \$1,380.00 |
| 3 | Develop Model Policies | <u>\$3,100.00</u> |
| | | \$10,000.00 |

Consultant shall invoice the City after each phase of the work is completed and payment will be made to SSA within 30 days of the date of the invoice.

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City of Sausalito

Consultant

By: Adam W. Politzer
Its: City Manager

By: _____
Its: _____

approved as to form:

Mary Anne Wagner
City Attorney