



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE

Temporary Staffing Contract with Pacific Municipal Consultants

RECOMMENDED MOTION

Approve the First Amendment to Professional/Consulting Services Agreement with Pacific Municipal Consultants and Authorize the City Manager to execute the Amendment on behalf of the City

BACKGROUND

In July 2008 an Associate Planner position became vacant through a staff resignation. In order to assure continued processing of planning permits during the recruitment of a permanent Associate Planner, the City contracted with Pacific Municipal Consultants (PMC), a planning consulting firm for an interim planner. Due to an inadequate pool of qualified applicants following a personnel recruitment process in August 2008 and a second Associate Planner resignation in September 2008, the duration of the PMC planner's work was extended. On December 19, 2008 the PMC planner's work was completed.

FISCAL IMPACT

Section 3.30.520 of the *Municipal Code* requires City Council approval of professional or special service contracts greater than \$15,000. The contract signed by staff on July 28, 2008 with PMC was limited to a maximum compensation of \$15,000. To date, payments to PMC total \$14,660.56 for work completed through August 2008. Payments for work completed from September to mid-December 2008 have not been made pending City Council approval of a contract amendment. The outstanding balance is \$50,641.93. A portion of this amount will be off-set by the Department's salary savings for the vacant permanent Associate Planner positions.

In order to make remaining payments to PMC, City Council approval of a contract amendment is needed. A draft contract amendment signed by PMC is attached.

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RECOMMENDATION

Staff recommends that the City Council approve the First Amendment to Professional/Consulting Services Agreement with Pacific Municipal Consultants and authorize the City Manager to execute the Amendment on behalf of the City.

ATTACHMENTS:

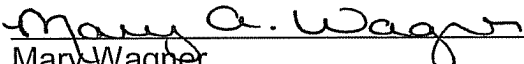
- 1. First Amendment to the Professional/Consulting Services Agreement with Pacific Municipal Consultants (Draft)
- 2. Professional/Consulting Services Agreement with Pacific Municipal Consultants

PREPARED BY:



Jeremy Graves, AICP
Community Development Director

REVIEWED BY:



Mary Wagner
City Attorney

REVIEWED BY:

Charlie Francis
Interim Finance Director

SUBMITTED BY:

Adam W. Politzer
City Manager

Personnel\Contract Employees\Interim Planner – Staff Report 02-01-09

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CITY OF SAUSALITO
PROFESSIONAL/CONSULTING SERVICES AGREEMENT -- AMENDMENT

In accordance with Section 5 (Amendments) of the Professional/Consulting Services Agreement dated July 28, 2008 between the CITY OF SAUSALITO, a municipal corporation. (hereinafter "City") and PACIFIC MUNICIPAL CONSULTANTS (PMC), a private corporation (hereinafter "Consultant") is amended as follows.

Section 2 (Responsible Individual) is amended to read,

"The individual directly responsible for the performance of the duties of Consultant is Brian J. Stanke. Consultant represents and warrants that the execution of this Agreement has been approved by Consultant and that person executing this Agreement on behalf of Consultant has the full authority to do so."

Section 3 (Work Schedule) is amended to read,

"Consultant shall provide City with the services described in Exhibit A on a full time (9/80 work schedule) basis from the original date of the Agreement through December 19, 2008. These provisions supersede the provisions listed in "Schedule" of Exhibit A"

Section 4 (Compensation) is amended to read,


"In consideration of the performance of the Work described in Section 1 pursuant to the schedule set forth in Section 3 as amended, Consultant shall be compensated in accordance with the fees (including reimbursement of mileage at the IRS mileage reimbursement rate from the Consultant's Oakland office to Sausalito City Hall) described in Exhibit A. City shall pay Consultant within thirty (30) days of a properly submitted and accurate invoice. Consultant shall not charge City for any administrative expenses or overhead, including without limitation, facsimile, and other/or any other expenses incurred by Consultant in connection with Consultant's provision of the Work, except as authorized by City. Consultant acknowledges and agrees that the compensation to be paid to Consultant under this Section 4 represents the full amount due and owing to Consultant in connection with performance of the Work. The total compensation authorized by this Agreement shall not exceed sixty-six thousand dollars (\$66,000.00), unless authorization for a greater amount is approved by the City Council."

In Witness Whereof, City and Consultant have executed this Amendment as of the ____ day of February 2009.

City of Sausalito

Consultant

Adam W. Politzer
City Manager



Philip O. Carter
President

Approved as to form:

Mary Anne Wagner
City Attorney

H:\Contract Employees\ Agreement-Interim Planner-Amendment

ATTACHMENT 1 481
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CITY OF SAUSALITO
PROFESSIONAL/CONSULTING SERVICES AGREEMENT

This PROFESSIONAL/CONSULTING SERVICES AGREEMENT, (this "Agreement") is made and entered into this 28th day of July, 2008, by and between the CITY OF SAUSALITO, a municipal corporation (hereinafter "City") and Pacific Municipal Consultants (PMC), a private corporation (hereinafter "Consultant").

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

Section 1. Scope of Work

Consultant shall provide City with the services described in Exhibit A which is attached hereto and incorporated herein by this reference as though set forth in full.

The duties and services required of Consultant under this Agreement and pursuant to this Section 1 are referred to throughout the remainder of this Agreement as "the Work."

Section 2. Responsible Individual. The individual directly responsible for the performance of the duties of Consultant is Philip O. Carter. Consultant represents and warrants that the execution of this Agreement has been approved by Consultant and that person executing this Agreement on behalf of Consultant has the full authority to do so.

Section 3. Work Schedule.

Consultant shall provide City with the services in accordance with the schedule described in Exhibit A.

Section 4. Compensation.

In consideration of the performance of the Work described in Section 1 pursuant to the schedule set forth in Section 3, Consultant shall be compensated in accordance with the fees (including mileage reimbursement) described in Exhibit A. City shall pay Consultant within thirty (30) days of a properly submitted and accurate invoice. Consultant shall not charge City for any administrative expenses or overhead, including without limitation, facsimile, and other/or any other expenses incurred by Consultant in connection with Consultant's provision of the Work, except as authorized by City. Consultant acknowledges and agrees that the compensation to be paid to Consultant under this Section 4 represents the full amount due and owing to Consultant in connection with performance of the Work. The total compensation authorized by this Agreement shall not exceed fifteen thousand dollars (\$15,000.00), unless authorization for a greater amount is approved by the City Council.

ATTACHMENT 2
(6 PAGES)

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Section 5. Amendments.

In the event City desires to retain Consultant for the performance of additional services, or wishes to delete any services in connection with this Agreement, specifications of such changes and adjustments to compensation due Consultant therefore shall be made only by written and signed amendment to this Agreement.

Section 6. Independent Contractor - Subcontractors.

It is specifically understood and agreed that in the making and performance of this Agreement, Consultant is an independent contractor and is not and shall not be construed to be an employee, common law employee, agent or servant of City. The consultant shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding and Social Security. Consultant acknowledges and agrees that he/she is not entitled to the benefits of civil service status and/or the rights and privileges enjoyed by civil service employees and Consultant hereby waives any and all claims to such rights and/or privileges.

Section 7. Consultant's Responsibility.

It is understood and agreed that Consultant has the professional skills necessary to perform the Work, and that City relies upon the professional skills of the Consultant to do and perform the Work in a skillful and professional manner in accordance with the standards of the profession. Consultant thus agrees to so perform the Work.

Acceptance by City of the Work, or any of it, does not operate as a release of the Consultant from such professional responsibility. It is further understood and agreed that Consultant has reviewed in detail the scope of the work to be performed under this Agreement and agrees that in his professional judgment, the Work can and shall be completed for the fees within the amount set forth in Section 3 of this Agreement.

Section 8. Hold Harmless and Indemnification.

Consultant shall indemnify, defend and save City, its officers, elected and appointed officials, employees, contractors and agents harmless from and against any and all liability, claims, suits, actions, damages and/or causes of action of any kind arising out of any bodily injury, personal injury, property damage or in violation of any federal, state or municipal law or ordinance or other cause in connection with the activities of Consultant, or on account of the performance or character of the Work or otherwise related to its performance of this Agreement to the extent that any such liability, claims, suits, actions, damages and/or causes of action arises out of the intentional, negligent or willful misconduct of the Consultant.

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Section 9. Insurance.

Consultant shall take out and maintain during the life of the Contract: (a) Comprehensive General Liability and Automobile Liability insurance in an amount not less than \$1,000,000 combined single limit applying to bodily injury, personal injury and property damage; (b) professional liability insurance in the amount of \$1,000,000 per claim and \$1,000,000 aggregate; and (c) workers compensation insurance in the amount required by law.

The general and automobile liability insurance policy(ies) are to contain, or be endorsed to contain, the following provisions:

The City, its officers, elected and appointed officials, employees, contractors and agents must be named as a Named Insured under the liability coverage afforded with respect to the work being performed under the Agreement.

Section 10. Nondiscrimination.

There shall be no discrimination against any employee who is employed in the Work, or against any applicant for such employment because of race, religion, color, sex or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Section 11. City Personnel Conflict of Interest.

No officers, member, or employee of City and no member of the governing body of City who exercises any functions or responsibilities in the review, approval of the undertaking or carrying out of the project, shall participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which she is, directly or indirectly interested; nor shall any such officer, member or employee of City have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 12. Consultant Conflict of Interest.

Consultant covenants that she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder. Consultant further covenants that in the performance of this Agreement, no persons having any such interest shall be employed.

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Section 13. Assignment.

Consultant shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of City.

Section 14. Ownership of Documents.

Consultant agrees that all documents produced in the performance of this Agreement shall be the sole property of the City including all rights therein of whatever kind and whether arising from common or civil law or equity. The Work shall be used solely for the project for which it was originally intended and Consultant shall not be held liable for any re-use of the City-owned Work for purposes outside this Agreement.

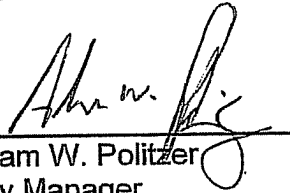
Section 15. Termination.

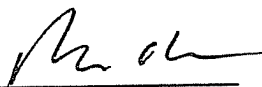
City may terminate this Agreement at any time without reason stated or written notice. If the Agreement is terminated by City as provided herein, Consultant shall be paid for all time expended on behalf of the Work under the terms of this Agreement, less any charges against Consultant as otherwise provided herein, up to the effective date of termination.

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


City of Sausalito

Consultant


Adam W. Politzer
City Manager


By: Philip D. Carter
Its: President

Approved as to form:


Mary Anne Wagner
City Attorney
Personnel Agreement-Interim Planner

PW 4/8/8

EXHIBIT A

**Scope of Services
Schedule
Fees**

EXHIBIT A

Scope of Services

PMC shall provide the City of Sausalito the services of Brian Stanke, Assistant Planner, to provide contract planning staff services to the City's Planning Department. Such services shall include, but not be limited to:

1. Processing discretionary permits
2. Meeting with applicants
3. Providing Planning counter services
4. Writing staff reports
5. Writing Initial Studies/Negative Declarations
6. Attendance and/or presentations at Public Hearings
7. Other miscellaneous planning department duties as assigned

The services provided will be as directed by the Community Development Director. PMC staff provided shall be subject to the approval of the City.

Schedule

PMC shall provide the services on a full time basis at the current 9/80 work schedule used by the City's Planning Department. Services shall begin as of the date of execution of this agreement, upon written authorization of the City, whichever comes first, and will continue until September 1, 2008 unless otherwise authorized by a written amendment between the parties, extending the term.

Fees

PMC shall be compensated on a time and materials basis for the services provided under this agreement at the rate of \$75.00 per hour. Mileage will be charged at the Federal IRS mileage reimbursement rate.

Additional planning staff services may be provided upon the request of the City's Community Development Director or other authorized City representative at an hourly rate which shall be agreed upon between both parties.

Additional Terms

It is understood and agreed that PMC's employees are not "employees-for-hire", but are provided as a part of professional services to serve a specific purpose for a temporary period. Should the City wish to hire for permanent employment an employee of PMC within this Agreement period or for a period of one year after services are completed, City shall contact PMC in writing and make such a request. PMC shall work with City regarding equitable compensation for the hiring of said employee.

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