



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Utilization of Consultant Services to Respond to EPA Compliance Order –
Actions required by April 15, 2009

RECOMMENDED MOTION:

1. Adopt a Resolution of the City Council of the City of Sausalito Approving the Third Amendment to the Professional/Consulting Services Agreement by and between the City, Sausalito Marin City Sanitary District and RMC Water and Environment to Perform Pump Station Assessment and Certification Work and Authorizing the City Manager to Execute the Amendment on behalf of the City and Appropriating the Necessary Funds; and
2. Adopt a Resolution of the City Council of the City of Sausalito Approving the Third Amendment to the Professional Services Agreement with West Yost Associates to prepare Sewer Condition Assessment Reports and Authorizing the City Manager to Execute the Amendment on behalf of the City and Appropriating the Necessary Funds.

SUMMARY

The Federal Environmental Protection Agency issued a Findings of Violation and Order for Compliance (the "Compliance Order"). Named in this document are the City of Sausalito (City), Sausalito Marin City Sanitary District (SMCSD), and Tamalpais Community Services District (TCSD). The Compliance Order requires that the agencies undertake various activities to reduce the number of sanitary sewer overflows both from the conveyance systems operated by the agencies and from the SMCSD treatment plant.

In response, A Sewage Spill Reduction Plan (the Plan) was prepared for the three agencies and submitted to the EPA on October 15, 2008. Additionally Flow Meters have been installed for collection system capacity assessment and Infiltration and Inflow hotspot detections. A Quarterly Sewer Overflow Response report was prepared and submitted.

The Compliance Order requires that the City evaluate its three pump station facilities by April 15, 2009. A report is to be prepared which: (1) documents the existing condition; (2) provides pump and pump station performance testing results; and (3) describes

plans to replace or upgrade deficient, obsolete, or inefficient facilities. RMC Water and Environment submitted a proposal to perform this work for Sausalito and SMCSD.

As set forth in the October 15, 2009 Sewage Spill Reduction Plan the City is required to submit a "Sewer Main Inspection and Condition Assessment Report" to the EPA on April 15, 2009. A sewer condition assessment was done for the City in 2001/02. The deliverable from this assessment was a condition rating for inspected sewer main segments (some segments could not accept a video camera) and copies of the video tapes. A narrative report of the 2001/02 assessment needs to be prepared for the EPA. The City received proposals from RMC Water and Environment and West Yost Associates for this work.

BACKGROUND

The Federal Environmental Protection Agency issued a Findings of Violation and Order for Compliance (the "Compliance Order"). Named in this document are the City of Sausalito (City), Sausalito Marin City Sanitary District (SMCSD), and Tamalpais Community Services District (TCSD). The Compliance Order requires that the agencies undertake various activities to reduce the number of sanitary sewer overflows both from the conveyance systems operated by the agencies and from the SMCSD treatment plant.

As required under the Compliance Order, a Sewage Spill Reduction Plan (the Plan) was prepared for the three agencies and submitted to the EPA on October 15, 2008. Additionally Flow Meters were installed on December 15, 2008 for collection system capacity assessment and Infiltration and Inflow hotspot detections. A Quarterly Sewer Overflow Response report was also prepared and submitted on January 15, 2009. By April 15, 2009 Sausalito is required to submit a Pump Station Report, Pump Station Certification and a Pump Station Maintenance/Rehabilitation Plan. Additionally, the Plan requires that the City submit a report documenting its Sewer Main Assessment completed in 2001/02.

In July the Council authorized the City Manager to execute an agreement with Sausalito Marin City Sanitary District and RMC Water and Environment to prepare a response to the October 15, 2008 deadlines specified in the EPA Compliance Order. The Sewage Spill Reduction Plan was prepared and submitted for the three agencies.

The RMC agreement has since been amended twice to enable installation of Flow Meters and for time extension for the installed flow meters.

Staff is proposing that the RMC agreement be amended a third time to authorize Pump Station Assessment required by the Compliance Order.

The City entered into a Professional Services Agreement with West Yost Associates to perform certain Sewer-Project Design Services. The Agreement was subsequently amended twice to extend the scope of services provided by West Yost. West Yost has proposed to prepare a Sewer Main Assessment in compliance with the requirements of the Plan.

ISSUES

PUMP STATION ASSESSMENTS AND REPORTING

Time: RMC has previous knowledge of Sausalito and SMCSD Pump Stations as a result of previous analysis projects. Staff believes that there is insufficient time to obtain consultant services from other vendors and still make that deadline. Punitive actions could be taken and increased regulation could be imposed if the deadline is missed. The Council Sewer Committee supports the idea of RMC working for the three named agencies to respond to the December 15, 2008 deadline.

Scope: The amendment work scope is attached. The data collection and reporting is expected to meet the Compliance Order requirement for Pump Station Assessment. RMC will continue to assess City and SMCSD facilities in a coordinated fashion. TCSD has chosen another consultant who is knowledgeable of that agency's facilities. SMCSD operates and maintains Sausalito's three pump stations under contract. RMC is proposing to do the work on a time and materials basis. The cost estimate for these services is \$42,506.

RMC or another Consultant: Professional services contracts are awarded on qualifications rather than solely price. Engineering services are included in the definition of professional service pursuant to Sections 3.30.020 and 3.30.500 – 3.30.520 of the Sausalito Municipal Code. Nonetheless costs do factor into decisions to hire qualified consultants. Staff believes that RMC is highly qualified to do the work and has provided a superior effort in the past. RMC's track record is being determined at this time with regard to budget management. RMC did propose to perform a 2 year work scope. Staff does not believe at this point that granting RMC a contract for that long of a period will be cost effective for the City.

CONDITION ASSESSMENT

The City received two proposals for condition assessment by report deadline

RMC for \$24,701

West Yost for \$19,050

Both firms are qualified. At the moment West Yost has a better understanding of City Sewer Assessment Information due to past efforts.

FISCAL IMPACT

None to the General Fund.

The Pump Station Assessment has an estimated cost of \$42,506. Funds are recommended to come from the Sewer Fund. Approving this amendment to the RMC Agreement creates a funding authorization to RMC that totals \$197,961 (\$70,701 for 10/15/2008 Deadline Report, \$64,754 for First Amendment, \$20,000 for Second Amendment, \$42,506 for Third Amendment) to respond to the EPA Order deadlines. The 2009 Budget included a Supplemental request of \$100,000 to respond to the EPA Order. Approving this flow metering work continues to exceed the Supplemental request budget amount. Staff recommends that additional appropriation amounts come from Sewer Fund reserves.

Failure to fund these efforts could result in fines in excess of Compliance Order implementation costs and could result in the loss of control of the sewer enterprise.

RMC has indicated their ability and willingness to separately account for costs for efforts exerted on each agencies behalf. Costs to the City for its compliance effort are not expected to subsidize TCSD or SMCSO compliance efforts.

West Yost Amendment Collection System Assessment is estimated to have a cost of \$19,050. Funds are recommended to come from the Sewer Fund. Approving this amendment to the West Yost Agreement creates a funding authorization total of \$197,961 (\$27,728 for Sewer Design 10%, \$173,706 for First Amendment for Sewer Design 100%, \$30,000 for Second Amendment for Drainage Assessment, \$ 19,050 for Third Amendment to Report regarding Sewer Assessment). The EPA Compliance Cost Component is \$19,050.

The total cost authorized for EPA Compliance is \$155,455 (100% RMC Effort). Approving the requests in this report adds \$61,566 (\$42,506 – RMC, \$19,050 – West Yost) for a total of \$217,011. The 2009 Budget included a Supplemental request of \$100,000 to respond to the EPA Order. Approving these Amendment continues to exceed the Supplemental request budget amount. Staff recommends that additional appropriation amounts come from Sewer Fund reserves.

STAFF RECOMMENDATIONS

Staff recommends that the Council:


1. Adopt a Resolution of the City Council of the City of Sausalito Approving the Third Amendment to the Professional/Consulting Services Agreement by and between the City, Sausalito Marin City Sanitary District and RMC Water and Environment to Perform Pump Station Assessment and Certification Work and Authorizing the City Manager to Execute the Amendment on behalf of the City and Appropriating the Necessary Funds; and

2. Adopt a Resolution of the City Council of the City of Sausalito Approving the Third Amendment to the Professional Services Agreement with West Yost Associates to prepare Sewer Condition Assessment Reports and Authorizing the City Manager to Execute the Amendment on behalf of the City and Appropriating the Necessary Funds.

ATTACHMENTS

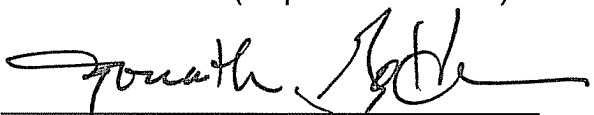
- 1) Resolution authorizing RMC Third Amendment to Professional Services Agreement
- 2) Resolution authorizing West Yost Third Amendment to Professional Services Agreement
- 3) RMC Third Amendment to Professional Services Agreement
- 4) West-Yost Third Amendment to Professional Services Agreement
- 5) Excerpts from RMC 12/12/2008 Proposal (Pump Station Assessment Portion, Only)
- 6) West Yost 2/9/2009 Proposal for Sewer System Condition Assessment

PREPARED BY:



Todd Teachout, City Engineer

REVIEWED BY (Department Head):



Jonathon Goldman,
Director of Public Works

Reviewed by:



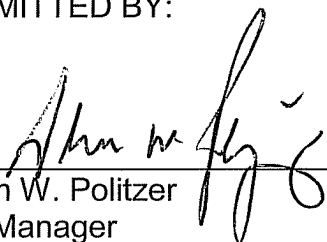
Mary Wagner, City Attorney

REVIEWED BY



Charlie Francis,
Acting Finance Director

SUBMITTED BY:



Adam W. Politzer
City Manager

RESOLUTION ___-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
APPROVING THE THIRD AMENDMENT TO THE PROFESSIONAL/CONSULTING
SERVICES AGREEMENT BETWEEN THE CITY OF SAUSALITO, THE SAUSALITO-
MARIN CITY SANITARY DISTRICT AND RMC WATER AND ENVIRONMENT FOR
SEWER SYSTEM CONDITION ASSESSMENT AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY AND
APPROPRIATING THE NECESSARY FUNDS**

WHEREAS, the City of Sausalito together with Sausalito Marin City Sanitary District entered into a Professional/Consulting Services Agreement with RMC Water and Environment (the "Agreement") to perform certain activities required under the EPA Notice of Violation and Order for Compliance, Docket No.: CWA-309(a)-08-031 amended November 24, 2008 (the "Compliance Order") which were submitted to the EPA on October 15, 2008; and

WHEREAS, the Agreement was subsequently amended twice to enable installation of Flow Monitors and to extend the time frame for the monitors to remain in place; and

WHEREAS, performing Pump Station Assessment activity is necessary to comply with Compliance Order; and

WHEREAS, the cost to perform Pump Station Assessment activity is estimated to be \$42,506; and

WHEREAS, failure to perform Pump Station Assessment could jeopardize the City's ability to comply with requirements within the Compliance Order.

NOW, THEREFORE, the City Council of the City of Sausalito hereby resolves as follows:

1. The Third Amendment to the Professional/Consulting Services Agreement between the City of Sausalito and Sausalito Marin City Sanitary District on one hand and RMC Water and Environment on the other in an amount not to exceed \$42,506 is hereby approved and the City Manager is authorized to execute the Amendment on behalf of the City.
2. \$42,506 is appropriated from Sewer Fund Reserves to fund said Third Amendment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the 24th day of February, 2009, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:

Mayor, City of Sausalito

ATTEST:

City Clerk

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RESOLUTION ___-09

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
APPROVING THE THIRD AMENDMENT TO THE PROFESSIONAL SERVICES
AGREEMENT WITH WEST YOST ASSOCIATES TO PREPARE SEWER
CONDITION ASSESSMENT REPORTS AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY AND
APPROPRIATING THE NECESSARY FUNDS.**

WHEREAS, the City of Sausalito entered into a Professional Services Agreement with West Yost Associates for Sewer Engineering Services which was subsequently amended twice to extend the scope of services; and

WHEREAS, in accordance with the EPA Notice of Violation and Order for Compliance, Docket No.: CWA-309(a)-08-031 amended November 24, 2008 a Sewage Spill Reduction Plan (the "Plan") was prepared and submitted to the EPA on October 15, 2008; and

WHEREAS, the Plan requires that the City submit a report documenting its Sewer Main Assessment completed in 2001/02 to the EPA by April 15, 2009;

WHEREAS, West-Yost prepared a "Proposal for Review and conversion of the City's 2002 Sewer System Condition Assessment to NASSCA PACP;" and

WHEREAS, the cost to prepare Sewer Condition Assessment Reports is estimated to be \$19,050; and

WHEREAS, failure to prepare Sewer Condition Assessment Reports could jeopardize the City's ability to comply with requirements within the EPA Order for Compliance.

NOW, THEREFORE, the City Council of the City of Sausalito hereby resolves as follows:

1. The Third Amendment to the Professional Services Agreement between City of Sausalito and West Yost Associates in an amount not to exceed \$19,050 is hereby approved and the City Manager is authorized to execute the Amendment on behalf of the City.
2. \$19,050 is appropriated from Sewer Fund Reserves to fund said First Amendment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the 24th day of February, 2009, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:

Mayor, City of Sausalito

ATTEST:

City Clerk

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This **THIRD AMENDMENT TO PROFESSIONAL/CONSULTING SERVICES AGREEMENT**, (this "Amendment") is made and entered into this ___ day of January, 2009, by and between the **CITY OF SAUSALITO**, a municipal corporation (hereinafter "City") and **WEST YOST ASSOCIATES, 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 June 10, 2008 (the "Agreement"). Pursuant to the Agreement, the Consultant provides the City with certain services related to Sewer Project Design Services – Phase 1. The Agreement was subsequently amended twice to expand the scope of services.
- B. In accordance with the EPA Notice of Violation and Order for Compliance, Docket No.: CWA-309(a)-08-031 amended November 24, 2008 a Sewage Spill Reduction Plan (the "Plan") was prepared and submitted to the EPA on October 15, 2008.
- C. The Plan requires that the City submit a report documenting its Sewer Main Assessment completed in 2001/02 to the EPA by April 15, 2009;
- D. Consultant prepared a "Proposal for Review and conversion of the City's 2002 Sewer System Condition Assessment to NASSCA PACP."
- E. The City wishes to utilize Consultant to provide additional engineering services as outlined in the attached Scope of Work in addition to the services currently being provided.
- F. 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 Services set forth in "Proposal for Review and Conversion of the City's 2002 Sewer Condition Assessment to NASSCO PACP" to be attached as Exhibit C.

Section 2. Schedule

Section 3 of the Agreement is amended to specify that the entire Scope of Work shall be completed by April 15, 2009.

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 \$250,484 (\$27,728 originally, First Amendment of \$173,706, Second Amendment of \$30,000, Third Amendment of \$19,050) without additional authorization.

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

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This **THIRD AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES** (this "Third Amendment") is made and entered into this _____ day of February, 2009, by and between the **SAUSALITO-MARIN CITY SANITARY DISTRICT** (hereinafter SMCSD), and **CITY OF SAUSALITO**, (hereinafter "City") (from time to time SMCSD and CITY may be referred to as "agency" and together as "Agencies") on one hand, and **RMC WATER AND ENVIRONMENT** (Tax I.D. No. 94-3295096) (hereinafter referred to as "RMC", and together with the Agencies, the "Parties") on the other.

RECITALS

The following Recitals are a substantive part of this Second Amendment:

- A. Parties entered into a Professional/Consulting Services Agreement dated as of July 23, 2008 (the "Agreement"). Pursuant to the Agreement, the RMC provides the Agencies with certain services related to preparing a response to USEPA Compliance Order CWA-309(a)-08-031 amended November 24, 2008 (the "Compliance Order").
- B. The Parties agreed to a First Amendment to the Agreement dated as of November 25, 2008 for certain additional services related to Flow Metering installation services as proposed by RMC in *Sewage Spill Reduction Action Plan Docket No. CWA-309(a)-08-031* dated October 2008 and described in detail in said First Amendment.
- C. The parties entered into a Second Amendment to the Agreement to extend the time frame for Flow Metering services.
- D. Performing Pump Station Assessment activity is necessary to comply with the Compliance Order.
- E. The Agencies and RMC desire to enter into this Third Amendment to include the provision of such services.

WITNESSETH:

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

1. Provision A.5 PAYMENT in Exhibit "A" to the Agreement is hereby amended to increase RMC's total authorized budget under COMPENSATION to \$197,961. The incremental budget for the additional Pump Station Assessment Services under this Third Amendment of \$42,506. The City of Sausalito's incremental budget authorized with the Professional Services Agreement with SMCSD and RMC was \$70,701. The incremental budget authorized under the First Amendment was \$64,754. Incremental Budget authorized under the Second Amendment was \$20,000.

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2. The additional services under this Third Amendment are described in Exhibit A.
3. 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, the First Amendment and this Second Amendment, the terms of this Third Amendment shall control.
4. This Third Amendment, Second Amendment, the First 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 Third Amendment and the Agreement shall not be modified or altered except in writing signed by both parties.

IN WITNESS WHEREOF, Agencies and RMC have executed this Third Amendment on the date first written above:

"SMCSD"
SAUSALITO-MARIN CITY SANITARY
DISTRICT

By:

Robert A. Simmons, General Manager

ATTEST:

"CITY" - CITY OF SAUSALITO

BY:

Adam W. Politzer, City Manager

ATTEST:

Debbie Pagliaro, Deputy City Clerk

APPROVED AS TO FORM:

By:

Mary Anne Wagner, City Attorney

"RMC"

By:

Stephen Clary, P.E., Vice President

By:

Gisa Ju, P.E., Vice President

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