



TOWN OF FAIRFAX

STAFF REPORT

July 12, 2022

Continued Adjourned Meeting (from July 6, 2022)

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager
Janet Coleson, Town Attorney

SUBJECT: Adopt Resolution Authorizing the Town Manager to Execute an Agreement with Interwest Consulting for Public Works Consulting Services

RECOMMENDATION

Adopt resolution authorizing the Town Manager to execute an agreement with Interwest Consulting for Public Works Consulting Services.

BACKGROUND

The Town of Fairfax has approximately \$5.8 million in needed capital improvement projects to complete and requires professional public works consulting services to assist with these projects due to the ongoing staffing shortage in the Public Works Department.

DISCUSSION

Staff has identified a very strong consulting firm that can provide staff who have a variety of experience in Public Works. The consulting firm identified is Interwest, which is well known and has a variety of highly qualified staff, a number of whom are local to Marin County. Interwest's proposal and rate sheet are attached.

FISCAL IMPACT

Staff recommends setting a not to exceed amount of \$98,800 for this consulting agreement.

ATTACHMENT

Resolution with Agreement

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH
INTERWEST CONSULTING
FOR PUBLIC WORKS CONSULTING SERVICES**

WHEREAS, the Fairfax Town Council has determined that it may benefit from Interwest Consulting's services; and

WHEREAS, the Town of Fairfax has a number of important and timely Public Works projects to be completed; and

WHEREAS, the Fairfax Town Council approved a budget for approximately \$5.8 million in Capital Improvement Projects in Fiscal Year 2022-2023; and

WHEREAS, Interwest Consulting has approximately 400 employees who can provide highly qualified consultants to support Fairfax's Public Works projects; and

NOW, THEREFORE, BE IT HEREBY RESOLVED,

1) the Professional Services Agreement with Interwest Consulting is hereby approved; and

2) the Town Manager is authorized to execute said Agreement with such technical amendments as may be deemed appropriate by the Town Manager and Town Attorney.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax, held in said Town on the 6th day of July 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Stephanie Hellman, Mayor

Attest: _____
Michele Gardner, Town Clerk

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Fairfax, California, as of July 6, 2022, by and between the Town of Fairfax, a municipal corporation (the "TOWN") and Interwest Consulting Group Incorporated, ("CONSULTANT"), who agree as follows:

1. SERVICES. Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide to the TOWN the services described in Exhibit "A," which consists of the proposal submitted by CONSULTANT. CONSULTANT shall provide said services at the time, place, and in the manner specified in Exhibit "A."
2. PAYMENT. TOWN shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement. CONSULTANT shall submit all billings for said services to the TOWN in the manner specified in Exhibit "B."
3. FACILITIES AND EQUIPMENT. CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. GENERAL PROVISIONS. The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control.
5. INSURANCE REQUIREMENTS. The insurance requirements set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.
6. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

EXECUTED as of the day first above-stated.

Town of Fairfax, a municipal corporation

By: _____

CONSULTANT

By: Paul Meschino, Vice President Interwest Consulting Group Inc.

EXHIBIT “A”

SCOPE OF SERVICES

CONSULTANT shall provide project management services as described in the attached Scope of Work.

CONSULTANT will assist the TOWN in administering these projects. To the extent that the Town identifies additional projects during the term of this Consultant Services Agreement, CONSULTANT will provide additional assistance to the TOWN.

This Agreement and Scope of Services may be amended by mutual consent between the TOWN and CONSULTANT.

If there are any inconsistencies between CONSULTANT’s proposal and this Agreement, the provisions of this Agreement shall control.

June 20, 2022



SCOPE OF WORK

On-Call Services

Public Works, Project Management, and Development Plan Review

Interwest Consulting Group shall provide a variety of anticipated and requested services required by the Town of Fairfax in Public Works approximately 15-20 hours/week for an anticipated duration of 3 months. Interwest can also perform additional tasks within the Consultant's area of expertise as requested and approved by the Town Manager. Services generally will include:

- Executive Team meeting attendance
- Town Council staff report preparation as requested
- Town Council meeting attendance as requested
- Planning Commission meeting attendance as requested
- Technical and Policy Review and response to:
 - Regional, State and Federal funding programs
 - Issues requiring engineering review/analysis/recommendations
 - Outside agency and industry questions/issues
 - General Correspondence
- Technical review of outside Agency reports/studies
- Development conditions, subdivision map (tentative and final) and general plan checking services
- Capital Improvement Program delivery support
- Grant Funding application preparation
- Traffic Engineering
- Town Engineer and Surveyor support
- Work with the Town Attorney in the preparation of ordinances and agreements
- Prepare and issue consultant Requests for Proposal, select and manage consultants and assure compliance with design standards and funding source requirements
- Provide services to support other Town Departments as requested such as administrative, Planning, and Parks

Interwest's personnel shall be deemed to be agents of the Town while performing such services, provided such services are within the scope of work authorized by this Contract. Specific scope of work can be provided for individual task orders upon request. The rates for services are shown on the attached sheet. These rates will be billed against the not to exceed amount deemed by the Town.

Our key staff includes dozens of technical professionals and support personnel as needed.

If you need more information, please do not hesitate to contact me at 916.842.1069 or by email at troschen@interwestgrp.com.



Theron Roschen, PE
Municipal Services Manager

EXHIBIT “B”

PAYMENT

1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed \$98,800, which shall be paid on a time and materials basis.

Consultant fees are invoiced at the hourly rates described in the attached rate sheet. Travel expenses, including tolls and mileage at IRS rates are billed at cost without markup.

Other fees, costs, expenses and rates as described in the PROPOSAL (Exhibit A). In the event of any inconsistency between the terms of this Exhibit “B” and the PROPOSAL, the terms of this Exhibit “B” shall control.

2) Payment shall be made to CONSULTANT on a time and materials basis, and CONSULTANT shall submit monthly invoices to the Town Manager, Town of Fairfax, 142 Bolinas Rd., Fairfax, CA 94930, for the same.

3) Any additional meetings or work required beyond that set forth in Exhibit “A” shall be mutually agreed to by the TOWN and CONSULTANT, and shall be billed on a time and materials basis to the Town Manager, Town of Fairfax, 142 Bolinas Rd., Fairfax, CA 94930,

Billing Rates

Beginning July 01, 2023 and annually thereafter, the hourly rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the "CPI") for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.



CLASSIFICATION

HOURLY BILLING RATE

Engineering

City Engineer/Land Surveyor	195
Public Works Director.....	190
Project Manager	185
Traffic Engineer	175
Supervising Engineer	175
Senior Engineer	165
Engineering Associate III.....	135
Engineering Associate II.....	125
Engineering Associate I/LSIT	115
Senior Engineering Technician.....	115
Engineering Technician III	105
Engineering Technician II	95
Engineering Technician I	85
Student Trainee.....	40
Grading Plans Examiner.....	150

Administrative

Management Analyst II.....	110
Management Analyst I.....	100
Senior Administrative	90
Administrative III	80
Administrative II	70
Administrative I	60

EXHIBIT "C"

GENERAL PROVISIONS

1) INDEPENDENT CONSULTANT. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of TOWN. TOWN shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, TOWN shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to TOWN that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT's profession. CONSULTANT represents and warrants to TOWN that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT's obligations pursuant to this Agreement.

4) CONSULTANT NOT AN AGENT. Except as TOWN may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of TOWN in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind TOWN to any obligation whatsoever.

5) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that TOWN, in its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from TOWN of the desire of TOWN for the removal of such person or persons.

7) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices its profession. All products which CONSULTANT delivers to TOWN pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT's profession. TOWN shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

8) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by the TOWN at its discretion upon written notification to CONSULTANT. CONSULTANT is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and incomplete products up to the date of receipt of written notice to cease work shall become the property of TOWN.

9) PRODUCTS OF CONSULTING. All products of the CONSULTANT provided under this Agreement shall be the property of the TOWN.

10) INDEMNIFY AND HOLD HARMLESS.

a) If this AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and CONSULTANT is a design professional, as defined in California Civil Code § 2782.8(b)(2), CONSULTANT shall hold harmless, defend and indemnify the TOWN, its officers, agents, employees, and volunteers from and against all third party claims, damages, losses, and expenses including attorneys' fees to the extent arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, except where caused by the active negligence, sole negligence, or willful misconduct of the TOWN.

b) If this AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or CONSULTANT is not a design professional as defined in subsection (a) above, CONSULTANT shall indemnify, defend, and hold harmless the TOWN, its officers, agents, employees and volunteers from all third party claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the TOWN, its officers, agents, employees or volunteers.

c) It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code, except that CONSULTANT shall have the right to defend any claim for which indemnification is sought under this Section 10. Any person or entity seeking indemnification under this Section 10 shall promptly report the matter to CONSULTANT such that defense of the matter is not compromised.

d) Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

11) PROHIBITED INTERESTS. No employee of the TOWN shall have any direct financial interest in this Agreement. This Agreement shall be voidable at the option of the TOWN if this provision is violated.

12) LOCAL EMPLOYMENT POLICY. The TOWN desires wherever possible, to hire qualified local residents to work on Town projects. Local resident is defined as a person who resides in Marin County. The TOWN encourages an active affirmative action program on the part of its contractors, consultants, and developers. When local projects require, subcontractors, contractors, consultants and developers will solicit proposals from qualified local firms where possible.

13) FEDERAL REQUIREMENTS. If federal funds are involved in this Agreement, CONSULTANT shall comply with the federal requirements in Exhibit "E". As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked, to provide no more frequently than monthly, a report which lists the employee's name, job class, hours worked, salary paid, city of residence, and ethnic origin.

14) CONSULTANT NOT A PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §§ 87200 et seq. CONSULTANT conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the TOWN or any TOWN official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any TOWN decision beyond these conclusions, advice, recommendation, or counsel.

EXHIBIT “D”

INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

1) MINIMUM SCOPE AND LIMITS OF INSURANCE

a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b) Automobile Liability coverage (Form CA 00 01 with Code 1 – any auto) with minimum limits of \$1,000,000 per accident for bodily injury and property damage.

c) Workers’ Compensation insurance, if required by the State of California and Employers’ Liability insurance, each in the amount of \$1,000,000 per accident for bodily injury or disease.

2) INDUSTRY SPECIFIC COVERAGES

The following insurance is also required.

- Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of \$1,000,000 per occurrence.

3) INSURANCE PROVISIONS

a) DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by the TOWN. At the option of the TOWN, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the TOWN, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

b) The general and automobile liability policies (and if applicable, pollution liability, garage keepers liability and builder’s risk policies) are to contain, or be endorsed to contain, the following provisions:

- i) The TOWN, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; or

automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the TOWN, its officers, officials, employees or volunteers.

- ii) For any claims other than workers compensation coverage, related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the TOWN, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the TOWN, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
- iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the TOWN, its officers, officials, employees or volunteers.
- iv) The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the TOWN.
- vi) The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONSULTANT's policy limits of coverage.

c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the TOWN.

d) VERIFICATION OF COVERAGE. CONSULTANT shall furnish the TOWN with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the TOWN or on forms equivalent to CG 20 10 11 85 subject to TOWN approval. All insurance certificates and endorsements are to be received and approved by the TOWN before work commences. At the request of the TOWN, CONSULTANT shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

e) SUB-CONTRACTORS. CONSULTANT shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of CONSULTANT to verify existence of sub-contractor's insurance shall not relieve CONSULTANT from any claim arising from sub-contractors work on behalf of CONSULTANT.