



# TOWN OF FAIRFAX

## STAFF REPORT

### February 15, 2023

**TO:** Mayor and Town Council

**FROM:** Heather Abrams, Town Manager and David Woltering, Interim Director of Planning and Building Services

**SUBJECT:** Adopt Resolution Amending, Restating and Ratifying a Consultant Services Agreement with 4Leaf Inc. for Contract Planning Services

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**Note:** This item was continued from the February 1, 2023 Town Council meeting.

#### **RECOMMENDATION**

Adopt resolution authorizing the Town Manager to execute an Amended, Restated and Ratified Consultant Services Agreement with 4Leaf Inc. for Contract Planning Services

#### **BACKGROUND**

The Town of Fairfax has several important and time critical planning projects to complete and requires professional contract planning services to assist with these projects due to the ongoing staffing shortage in the Planning and Building Services Department. For example, the following major planning projects are in process: Sixth Cycle Housing Element Update; Short-Term Rental program implementation; Parklet program implementation; and Rent Stabilization and Just Cause Eviction program implementation. In addition, the current Interim Planning and Building Services Director is a retiree and has a limited number of hours he can work in any fiscal year. Aside from the Interim Director, the Department has no long-term planners, as other employees are focused on meeting Fairfax's current planning needs, such as processing development applications. The Council has also identified several long-term planning projects in its Strategic Plan that it would like to consider, and expert support is needed to bring these important tasks to completion.

Staff has reached out to Marin County Planning to see if employees are available on-loan, however, that department is also understaffed, and no personnel is currently available. The Town's expert recruiter has provided two rounds of recruitment for the Planning and Building Services Director; however, Fairfax is among several jurisdictions who have not yet been able to locate an appropriate person for this role. The County of Marin is currently recruiting for a Community Development Director, and several other jurisdictions are or have recently had open recruitments for similar positions.

#### **DISCUSSION**

Fairfax must have qualified planning staff to complete this important, complex, and time-sensitive work. Staff has identified a very strong contract services firm that can provide staff who have a broad range of experience in Planning, including long-range planning projects. The contract firm identified is 4Leaf Inc, which is well known and has highly qualified staff. 4Leaf's proposal and rate sheet are attached. This item was on the January Council Meeting Agenda, however, that meeting had to be canceled due to

storms and possible loss of electricity; this item was also on the February 1 Council Meeting Agenda, and was continued due to the length of the meeting. In order to keep the time critical projects going, the Town Manager established a very limited agreement with 4Leaf. Council now has the option to continue this work through the end of this fiscal year.

**FISCAL IMPACT**

Staff recommends setting a not to exceed amount of \$140,000 for this consulting Agreement.

**ATTACHMENT**

Resolution with Agreement

**RESOLUTION 23-\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING,  
RESTATING AND RATIFYING A CONSULTANT SERVICES AGREEMENT  
WITH 4LEAF INC FOR CONTRACT PLANNING SERVICES**

**WHEREAS**, the Fairfax Town Council has determined that it may benefit from 4Leaf Inc's contract planning services; and

**WHEREAS**, the Town of Fairfax presently has several important and time-sensitive Planning projects to be completed; and

**WHEREAS**, the Fairfax Town Council approved a large quantity of time-sensitive Planning Projects in Fiscal Year 2022-2023; and

**WHEREAS**, 4Leaf Inc has employees who can provide highly qualified contract planners to support furthering work on Fairfax's Planning projects.

**NOW, THEREFORE, BE IT HEREBY RESOLVED,**

1) the Consultant Services Agreement with 4Leaf Inc. for specified Planning Services for a not to exceed amount of \$140,000, with a term to extend to the end of this fiscal year, June 30, 2023 is hereby approved; and

2) this Consultant Services Agreement is an amended and restated version of an existing agreement between the Town of Fairfax and Consultant and by incorporating the initial agreement into this amended and restated agreement, the initial agreement is hereby ratified by the Town Council; and

3) 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; and

4) the extension of this Agreement will require formal action by the Town Council.

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 1st day of February 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Chance Cutrano, Mayor

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk

## Exhibit A to Resolution

### AMENDED AND RESTATED CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT, amending, restating and ratifying a prior Agreement dated January 18, 2023, is made at Fairfax, California, as of February 1, 2023, by and between the Town of Fairfax, a municipal corporation (the "TOWN") and 4Leaf 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: \_\_\_\_\_  
Heather Abrams, Town Manager

CONSULTANT

By: \_\_\_\_\_  
Kevin J. Duggan, President, 4Leaf Inc.

## **EXHIBIT “A”**

### **SCOPE OF SERVICES**

CONSULTANT shall provide contract planning services in accordance with the Proposal from CONSULTANT, dated 01/04/23, in support of the accompanying Town of Fairfax Contract Planner Scope of Work.

CONSULTANT will assist the TOWN in administering planning 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.



**4LEAF, INC.**

ENGINEERING . CONSTRUCTION MANAGEMENT  
PLAN CHECK . BUILDING INSPECTION . PLANNING

## Planning Services

**DATE:** 01/04/23  
**4LEAF JOB #:** TBD  
**PROPOSAL #:** 5138  
**AGENCY:** **Town of Fairfax**  
**PRINCIPAL:** Michael Renner, CBO  
**PM:** Dan Hortert, AICP

ITEM: I PLANNING SERVICES	4LEAF PERSONNEL	TOTAL HOURS	HOURLY FEE	ESTIMATED TOTAL
Planning Services	Dan Hortert, AICP	768	\$180	\$138,240
<b><i>Preliminary Subtotal of Services provided by 4LEAF</i></b>				<b><i>\$138,240</i></b>
<b><i>Total Preliminary Estimated Fees (NTE)</i></b>				<b><i>\$138,240</i></b>

Estimate is seeking an Agreement to provide Senior-Level Planning Services to the Town of Fairfax. Work will be performed on a time and materials basis.

**Task #1:** 4LEAF will provide a Principal Planner to provide Senior Planner duties to the Town of Fairfax. Our assigned personnel will be available to the City for 32 hours per week and can perform services on-site or remote as needed. To begin, this work will be for 32 hours per week for 24 weeks beginning February or March 2023, until the end of the fiscal year on 6/30/2023. We understand that the Town is potentially interested in extending these services for the next two (2) years-- however, in this Task Order we have only included services for 24 weeks. Should an extension be requested, we will submit a modified Task Order for the Town's review. Reimbursables (airfare, lodging, rental car, etc.) will be at cost +20%. Please see 4LEAF's Fee Schedule for other terms and conditions.



## **FEE SCHEDULE**

### **FY2023-2024 FEE SCHEDULE & BASIS OF CHARGES**

#### **FOR THE TOWN OF FAIRFAX**

**All Rates are Subject to Basis of Charges**

#### **Planning**

Principal-in-Charge.....	\$225/hour
Planning Director.....	\$210/hour
Principal/Planning Manager.....	\$180/hour
Housing Policy Director.....	\$195/hour
Senior Planner.....	\$160/hour
Associate Planner.....	\$135/hour
Assistant Planner.....	\$100/hour
Planning Technician.....	\$92/hour

#### **Building**

Chief Building Official.....	\$175/hour
Structural Plan Review Engineer.....	\$160/hour
Non-Structural Plans Examiner.....	\$120/hour
Certified Access Specialist (CASp) Inspector.....	\$170/hour
Certified Access Specialist (CASp) Plans Examiner.....	\$170/hour
Senior Combination Building Inspector (Building Inspector III).....	\$145/hour
Commercial Building Inspector (Building Inspector II).....	\$115/hour
Residential Building Inspector (Building Inspector I).....	\$98/hour
Permit Manager.....	\$120/hour
Senior Permit Technician.....	\$100/hour
Permit Technician.....	\$88/hour
Clerk/Administrator.....	\$70/hour
Civil Plan Review (Grading, Improvement Plans).....	\$170/hour
Inspector of Record.....	\$160/hour
DSA Class 1 / OSHPD A Inspector.....	\$165/hour
DSA Class 2 / OSHPD B Inspector.....	\$130/hour
DSA Class 3 / OSHPD C Inspector.....	\$115/hour
GoFormz Software.....	\$50/user monthly

<b>PLAN REVIEW COST STRUCTURE</b>	<b>NOTES</b>
<b>Plan Review Percentage:</b> 65% <i>(Inclusive of all disciplines except Fire and Civil which are billed on an hourly basis)</i> <b>Hourly Plan Review:</b> \$120 Non-Structural Review \$160 Structural Review	Fee includes: <ul style="list-style-type: none"> <li>➤ Initial review and two (2) rechecks. Hourly charges apply after three (3) or more rechecks.</li> <li>➤ Shipping, courier, and electronic service.</li> </ul>



**Code Enforcement**

Code Enforcement Director.....	\$180/hour
Code Enforcement Manager .....	\$165/hour
Senior Code Enforcement Officer.....	\$110/hour
Code Enforcement Officer II .....	\$100/hour
Code Enforcement Officer I.....	\$90/hour
Code Enforcement Officer .....	\$80/hour

**Fire**

Fire Protection Engineer (FPE).....	\$205/hour
Fire Prevention Officer .....	\$155/hour
Fire Plans Examiner .....	\$145/hour
Fire Inspector II.....	\$125/hour
Fire Inspector I.....	\$115/hour

**Project Management**

Project Manager .....	\$195/hour
Principal-in-Charge .....	\$275/hour

**Engineering, Public Works Inspection, & Construction Management (Prevailing Wage)**

Civil Plan Review (Grading, Improvement Plans) .....	\$170/hour
Traffic Engineer.....	\$225/hour
Construction Manager.....	\$156/hour
Certified Access Specialist (CASp) Inspector (Regular time) .....	\$155/hour
Certified Access Specialist (CASp) Inspector (Nighttime) .....	\$179/hour
Certified Access Specialist (CASp) Inspector (Overtime).....	\$287/hour
Certified Access Specialist (CASp) Plans Examiner.....	\$155/hour
Public Works Inspector (Regular Time) .....	\$144/hour
Public Works Inspector (Nighttime).....	\$162/hour
Public Works Inspector (Overtime) .....	\$195/hour
Public Works Inspector Apprentice.....	\$92/hour

**BASIS OF CHARGES**

Rates are inclusive of “tools of the trade” such as forms, telephones, and consumables.

- All invoicing will be submitted monthly.
- Staff Augmentation work (excluding plan review) is subject to 4-hour minimum charges unless stated otherwise. Services billed in 4-hour increments.
- Most plan reviews will be done in 10 business days or less and 5 business days or less for re-checks. This is not inclusive of holidays or the day of the pick-up of plans.
- Expedited reviews will be billed at 1.5x the plan review fee listed in the fee schedule. Return time will be within seven (7) days of receipt of the plans from the Town.
- Plan review of deferred submittals & revisions will be billed at the hourly rates listed.





- All plan review services will be subject to a \$250.00 minimum fee if percentage-based fee or 2-hour minimum charge if hourly rates apply.
- Larger complex plan reviews can be negotiated to achieve the best possible pricing.
- All plan review services will be subject to 2-hour minimum fee.
- All plan review services are billed on a percentage basis and includes the initial review and 2 rechecks.
  - Plan reviews will be billed on an hourly basis only after the initial review and 2 rechecks unless otherwise agreed upon on a case-by-case basis.
  - Fire and Civil Reviews are billed on an hourly basis and are not included in our plan review percentage.
- 4LEAF assumes that these rates reflect the FY2023-2024 contract period. 3% escalation for FY2025-2026, and FY2027-2028 is negotiable per market conditions.
- Overtime and Premium time will be charged as follows:

- Regular time (work begun after 5AM or before 4PM)	1 x hourly rate
- Nighttime (work begun after 4PM or before 5AM)	1.125 x hourly rate
- Overtime (over 8-hour M-F or Saturdays)	1.5 x hourly rate
- Overtime (over 8 hours Sat or 1 <sup>st</sup> 8-hour Sun)	2 x hourly rate
- Overtime (over 8 hours Sun or Holidays)	3 x hourly rate
- Overtime will only be billed with prior authorization of the Director or other designated Town personnel.
- All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.
- Mileage driven during the course of Inspections will be charged at cost plus 20%.
- Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.
- Client shall pay attorneys' fees, or other costs incurred in collecting delinquent amounts.
- Client agrees that 4LEAF's liability will be limited to the value of services provided.
- In accordance with California's Meal Break and Rest Break Law requirements, Client will be billed one (1) additional hour per day at the regular rate for each missed meal or rest break due to Client-directed tasks or requirements. Client should allow 4LEAF's non-exempt, hourly employees the opportunity to take their entitled rest and meal breaks during each work shift.

### **BASIS OF CHARGES – PREVAILING WAGE**

- Rates shown assume the projects will require compliance with California Prevailing Wage rate requirements and assumes the Client will be filing a PWC-100 Form to the California Department of Industrial Relations (DIR) for the projects.
- Rates for prevailing wage categories are subject to annual escalations in accordance with the bi-annual wage determinations from the California DIR.
- Per the new requirements being enforced under SB 854 and because it is assumed that a PWC-100 Form will be filed by the Client to the CA DIR for each project, 4LEAF is required to notify an authorized Apprenticeship Committee through submittal of a DAS-140 form. We are then required to make an official request to an authorized Apprenticeship Committee for an apprentice by submitting a DAS-142 form. We are not assured the apprenticeship committee will be able to provide a suitable / qualified apprentice for the project. Per the apprenticeship requirements, the hours worked by the apprentice must be in a ratio of 1:5 for apprentice to journeyman hours. 4LEAF will not know the labor classification of the Public Works Apprentice until an Apprentice is dispatched to the site; therefore, the rates for the five Periods listed



under the California DIR's Wage determination for Building Construction Inspector were used to determine the range of hourly rates for Public Works Inspector Apprentice.

- Pre-approved Overtime and Premium hours for labor categories subject to Prevailing Wage requirements will be charged per the following:
  - *Nighttime (work begun after 4PM or before 5AM)* *1.125 x hourly rate*
  - *Overtime (over 8 hour M-F or Saturdays)* *1.35 x hourly rate*
  - *Overtime (over 8 hours Sat or 1<sup>st</sup> 8 hour Sun)* *1.85 x hourly rate*
  - *Overtime (over 8 hours Sun or Holidays)* *2.35 x hourly rate*
- All invoicing will be submitted monthly.
- All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.
- Project-related mileage for inspections will be billed at the allowable IRS Rate.
- Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.
- Client shall pay attorneys' fees, or other costs incurred in collecting delinquent amounts.
- Client agrees that 4LEAF's liability will be limited to the value of services provided.
- In accordance with California's Meal Break and Rest Break Law requirements, Client will be billed one (1) additional hour per day at the regular rate for each missed meal or rest break due to Client-directed tasks or requirements. Client should allow 4LEAF's non-exempt, hourly employees the opportunity to take their entitled rest and meal breaks during each work shift.

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# Daniel J. Hortert, MCP, AICP

## Director of Planning/Community Development Director

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### Experience

25+ years

### Core Competencies

Technical Plan and Compliance Review  
Project Management  
Policy Development and Administration  
Technical Writing and Presentations

### Education

University of Cincinnati (1996-1998),  
Master of Community Planning  
(MCP)

University of Southern California  
(1993- 1996), BS Planning and  
Development (BS PLDV)

Grossmont Community College (1991-  
1993), AA General  
Studies/Architecture

### Certificates & Achievements

American Institute of Certified Planners  
#016957 (7/2001)

International Code Council certifications  
(7) for residential and commercial  
construction

Plan2040 Comprehensive Plan

Doña Ana County, NM

CNU27 Charter Award Winner

### Professional Affiliations

American Institute of Certified  
Planners (2001-Present)

American Planning Association  
(1993-Present)

California Chapter (Current Chapter  
International Economic Development  
Council (2012-Present)

International City/County  
Management Association # 749050

### Experience Summary

Daniel has over 25 years of Planning and Development services experience including 20 as a public servant for municipalities with populations ranging from 3,500 to over 3.5 million. Daniel's experience covers a range of municipal functions including Planning Director, Senior Planner, Planning Manager/Principal Planner, and Community Development Department Director for public and private sector agencies. He is experienced in land development, construction, community engagement/education, project management, project budget control and oversight, residential, commercial, and industrial site planning and compliance review, and entitlements from single-lots to large complex master planned communities.

Daniel has extensive experience administering and managing regulatory document preparation including creating and updating land development ordinances, comprehensive and general plans, traditional and form-based coding, development agreement negotiations, and residential and commercial design guidelines. His recent planning assignments on behalf of 4LEAF include the cities of Sausalito, Larkspur, Pinole, Greenfield, and Jackson County, OR.

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### Select Professional Experience

#### 4LEAF, Inc. - City of Larkspur & City of Sausalito Community Development Director

Daniel oversaw the Community Development Department for the cities of Larkspur and Sausalito, which included managing the Planning, Building, and Code Enforcement scopes. Additional responsibilities included providing information to the public regarding zoning regulations and permit procedures, active project proposals, and permit and property records.

#### 4LEAF, Inc. - City of Greenfield, CA Principal Planner

Daniel was responsible for coordinating the development of the Community Development Policy & Procedure Guidelines for the department. Additional work included cannabis policy, development and cannabis deposit accounts, and development process flowcharts.

**4LEAF, Inc. - City of Pleasant Hill, CA**

**Contract Project Planner**

- Acted as project manager for five development applications.
- Client liaison to commissions, boards, and council.
- Performed design and compliance review with City standards.
- Tentative Maps.
- Master Sign Programs.
- General and Specific Plan Development/Amendments.
- Researched and assisted with grant funding application (SB 2).

**4LEAF, Inc. - City of Pinole, CA**

**Contract Planning Manager**

- Supervised Planning, Building, Code Enforcement, and Permit staff.
- Administered General Plan/Specific Plans, Zoning/Subdivision Ordinances, Design Guidelines, and CEQA Compliance.
- Advised at various councils, boards, commissions, and elected officials on planning-related issues
- Served as liaison and performed functions in support of the Planning Commission including project review, staff reports, recommendations, resolutions, and conditions of approval.
- Provided customer service to the public, internal and external departments, and agencies.
- Provided environmental reviews for development projects.

**Doña Ana County, NM**

**Economic Development Manager/Director/Senior Planner**

**8/2011 - 1/2019**

- Oversaw County Economic Development functions.
- Promoted, expanded, and retained business operations county-wide.
- Processed and administered Local Economic Development Act (LEDA) applications/contracts.
- Worked with area agencies to bring economic prosperity to each region.
- Directed Community Development Department consisting of 40+ employees including Current and Advance Planning, Building Services, Geographic Information/Mapping, Grants and Administration, and Animal Control/Code Enforcement Divisions.
- Fostered and encouraged team atmosphere amongst Community Development divisions as well as other county departments and external agencies/organizations.
- Developed department and County policies related to the efficiency of daily operations.

**RBF Consulting - Phoenix and San Diego Offices**

**Senior Planner/Associate/Project Manager**

**6/2005 - 9/2010**

- Successfully managed a variety of commercial and residential development project applications.
- Routinely interacted with City/County staff on submittal of complex planning projects.
- Coordinated various internal/external disciplines to ensure complete submittal packages.
- Managed complex planning studies, development applications, and reviewed proposals.

- Reviewed and processed complex general, master, and comprehensive plan amendments, rezoning requests, annexations, site plans, minor and major subdivision plats, CEQA compliance (CA only) including assisting with EIRs, Initial Studies, and Categorical Exemptions, and a Coastal Permit in Del Mar, San Diego County.
- Developed project budgets, verified contract expenditures and compliance.
- Conducted research and prepared reports on land use, physical, social, and economic issues.
- Provided professional planning assistance to member communities on varied land use projects.
- Performed field inspections.

**Town of Chino Valley, AZ**

**Planning Manager/Director**

**3/2003 - 6/2005**

- Oversaw Development Services Department including recruitment and staff evaluation.
- Developed organization-wide and department-wide goals, objectives, policies, and procedures.
- Reviewed and approved ministerial/minor application submittals (lot-splits, R-O-W dedications).
- Prepared division/department operations budget including revenues, expenditures, and staffing.
- Ensured that Town Boards and Commissions were fully informed on application submittals.
- Lead Planner during General Plan and Unified Development Ordinance rewrites.
- Lead author of the Town's Property Maintenance Code.
- Reviewed and approved all departmental reports and presentations to ensure that local state and federal regulations were complied with.
- Prepared grant applications for AZ Growing Smarter funding, procured two grants (\$10,000/\$2,500 for the 2003 General Plan Amendment).

**Cranberry Township, PA**

**Planner/Code Enforcement Officer**

**1/2000 - 3/2003**

- Managed multiple residential and commercial development project applications including building plan review, site plan review, approval of building plans, all aspects of residential and commercial site and structural inspections.
- Facilitated developer negotiations and drafted agreements for large development projects.
- Performed code enforcement duties for compliance with Township regulations including inspection, citation, and fines/court.
- Prepared written and oral reports for Township Boards and Commissions.

**Butler Township, PA**

**Planner/Regulations Inspector**

**8/1998 - 1/2000**

- Managed residential and commercial development project applications (Zoning and Subdivisions).
- Performed code enforcement duties.
- Performed residential and commercial building plan reviews.

## **Town of Fairfax Contract Planner Scope of Work**

### **Overview**

The Town of Fairfax is seeking to employ a Contract Planner for a limited term position for an anticipated period of approximately two years. The individual should have in depth experience in current and long-range urban planning with an emphasis in housing program implementation and administration. The Town Council has recently adopted programs related to Short-term Rentals, Rent Stabilization, and Just Cause Evictions. In addition, the Town is in the process of updating its Housing Element and Safety Element of its General Plan as mandated by State law. The position will receive general supervision from the Town's Planning and Building Services Director, with a primary work emphasis in the following areas: 1) to support both efforts to adopt the Town's Housing Element and Safety Element as well as to implement programs and initiatives in the eventually adopted Housing Element and, 2) support the establishment of the Town's Rent Stabilization and Just Cause Evictions program. While these are the primary areas of work anticipated for this position, other related work may be assigned.

### **Essential Duties, Tasks and Responsibilities**

- Research, analyze, develop, and administer housing programs;
- Have computer and technical proficiencies to help implement and administer online registration of program participants;
- Interpret and communicate to co-workers and the public adopted programs;
- Analyze and apply Federal, State, and local regulations to new and existing programs and projects;
- Prepare and administer Requests for Qualifications, Requests for Proposal and/or contracts or agreements for public and private development and professional or technical services;
- Manage and facilitate the work of consultants;
- Represent the department at meetings of neighborhood, community and/or policy groups;
- Plan, schedule, and assign work;
- Prepare a wide variety of reports, memoranda, and correspondence;
- Provide information to landlords, tenants, developers, financial institutions, and others;
- Prepare and present information to policy making bodies and other Boards, committees, and/or community groups as required;
- Track funding commitments;
- Maintain an awareness of community needs and political issues as they relate to the assignment;
- Have strong interpersonal, written, and verbal communication skills.

## **Qualifications**

*Knowledge of:* Urban and Regional planning principles and practices; State of California Housing laws and programs; municipal zoning and building laws and practices; principles of supervision; time management techniques; computer proficiency; and project management techniques.

*Ability to:* Problem solve; take initiative; facilitate positive outcomes; be a team player; be organized; communicate clearly, both verbally and in writing; and take direction.

*Experience and Education:* Any combination equivalent to experience and education that could provide the required knowledge and abilities would be qualifying. Examples of obtaining the required knowledge and abilities would be: *Experience* – Sufficient years' experience working in a housing or similar program or in an urban planning, architecture or development environment, or in a federal or state assistance program, to demonstrate possession of the required knowledge and abilities: *Education* – Equivalent to a bachelor's degree from an accredited college or university in planning, architecture, public administration, or a related field.

## **EXHIBIT “B”**

### **PAYMENT**

1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed \$140,000, 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 are 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,



## 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. The term of this Agreement is through the end of the current fiscal year, ending June 30, 2023.

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.