



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: Raffi Boloyan,
Planning Manager

City Manager Approval: _____

TOPIC: GENERAL PLAN 2040 / DOWNTOWN PRECISE PLAN PROJECT MANAGER AGREEMENT AMENDMENT

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL PLANNING SERVICES WITH BARRY J. MILLER TO SERVE AS PROJECT MANAGER FOR GENERAL PLAN 2040 AND DOWNTOWN PRECISE PLAN

RECOMMENDATION:

Staff recommends that the City Council adopt the attached Resolution, authorizing the City Manager to sign the Second Amendment to the Professional Service Agreement (PSA) with Barry Miller to serve as Project Manager for the General Plan 2040 /Downtown Precise Plan.

EXECUTIVE SUMMARY:

As part of the City's General Plan update and Downtown Precise Plan, staff is seeking approval of a second amendment to the PSA to extend the contract with Barry Miller Consulting by one additional year (through June 30, 2021) and increase the total budget by \$75,000, from \$295,000 to \$370,000. One-third, \$25,000, of the \$75,000 budget increase would be a contingency, to cover unexpected costs/services that may arise during the public review phase of the Draft Plan.

The City has sufficient fund balance allocated in the General Plan Special Revenue account (Fund 218) to support this contract and budget amendment.

BACKGROUND:

On February 14, 2017, a Request for Qualifications (RFQ) for General Plan update project management was released, inviting planning firms/consultants to submit their statement of qualifications for consideration, to which the City received two submittals, and ultimately selecting the proposal from Barry J. Miller doing business as *Barry Miller Consulting*. On June 19, 2017, the City Council adopted Resolution No. [14357](#) approving a Professional Service Agreement (PSA) with Barry J. Miller, with a term of one year (through June 20, 2018), and two one year extensions (through June 20, 2020) and a total not-to-exceed budget of \$275,000.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

In February 2018, the City received a \$500,000 One Bay Area (OBAG) grant to prepare a Precise Plan for Downtown San Rafael for which the management was assigned to *Barry Miller Consulting*, in conjunction with the General Plan update. On July 15, 2019, the City Council adopted Resolution No. [14690](#), approving the first amendment to the PSA with Barry Miller to cover project management of the Downtown Precise Plan by increasing the budget by \$25,000 (from \$270,000 to \$295,000).

Over the past three years, extensive work has been performed on the preparation of the General Plan 2040, Downtown Precise Plan and the Environmental Impact Report (EIR) for both plans. While staff is very close to having a Draft General Plan and EIR ready for public release, the original schedule anticipated a release earlier in the year, with adoption by July 1, 2020. Several factors have impacted the original timeline of anticipated adoption by July 2020, including the addition of Downtown Precise Plan management to the scope of work and the disruptions caused by the COVID-19 pandemic. Therefore, work has proceeded at a slower pace than was forecast.

ANALYSIS:

The updated schedule anticipates release of the Plan during Summer 2020, with adoption hearings to follow. The goal is to achieve final approval this calendar year but, depending on review, it is possible that approvals could take place as late as Spring 2021. Given the current contract with Barry Miller expires June 30, 2020, a second amendment to the PSA is requested for one additional year (through June 20, 2021), in the amount of \$75,000 to cover continued services. The amendment would include \$50,000 for further work on the General Plan/ Downtown Precise Plan and a \$25,000 contingency in the event the need for supplemental services arises during the adoption process. Only the amount actually used would be spent, depending on the final, actual review and approval schedule. In addition, Mr. Miller has offered a reduction in the hourly billing rate from \$135/hour to \$125/hour, to support of the City's cost-reduction goals resulting from the recent pandemic

The scope of work performed during the extended time period will primarily cover tasks related to Plan adoption. This includes revisions to the Draft General Plan and Downtown Precise Plan, responses to comments on the EIR, production of the Final General Plan, Downtown Plan, and FEIR, and attendance at Board and Commission meetings, Council meetings, and other community meetings that may be scheduled during the adoption process.

FISCAL IMPACT:

Staff is requesting approval for a second amendment to the PSA. The increased funding of \$75,000 for the amendment to the Barry J. Miller PSA has already been appropriated from General Plan Special Revenue Fund (fund no. 218). This fund includes revenue for both the implementation of the current General Plan, as well as the General Plan update process. The current fund balance of the General Plan Special Revenue Fund is approximately \$1,359,111.

OPTIONS:

The City Council has the following options to consider regarding this matter:

1. Adopt the resolution as presented, approving the amendments to the PSA.
2. Adopt the resolution with modifications, revising all or a portion of the amendments to the PSA.
3. Do not adopt the resolution and reject all or a portion of the amendment to the PSA and direct staff to solicit additional proposals for the corresponding services.
4. Direct staff to return with additional information.

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to execute the second amendment to the PSA for professional planning services with Barry J. Miller.

ATTACHMENTS:

1. Resolution authorizing City Manager to sign Second Amendment to PSA for Barry J. Miller.
2. Draft Second Amendment to PSA with Barry J. Miller with Exhibit A: Proposal dated June 1, 2020

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT FOR
PROFESSIONAL PLANNING SERVICES WITH BARRY J. MILLER TO SERVE AS PROJCT
MANAGER FOR GENERAL PLAN 2040 AND DOWNTOWN PRECISE PLAN.**

WHEREAS, on June 19, 2017, the City Council adopted Resolution No. 14397, authorizing the execution of an Agreement between the City of San Rafael and the Barry J Miller for professional planning services to serve as Project Manager for the General Plan 2040. The Agreement was subsequently executed and established a maximum billing cap of \$270,000 and a term of July 1, 2017 through June 30, 2020, subject to a review and extension after each year of the term; and

WHEREAS, the City of San Rafael has twice exercised the option in the Agreement to extend the term by one (1) year and the current expiration date is June 30, 2020; and

WHEREAS, in February 2018, the City of San Rafael received a \$500,000 One Bay Area (OBAG) grant to prepare a Precise Plan for Downtown San Rafael (City Council Resolution No. 14469), for which the management was assigned to Barry J. Miller, in conjunction with the General Plan update; and

WHEREAS, on July 15, 2019, the City Council adopted Resolution No. 14690, approving the first amendment to the PSA with Barry J. Miller to cover project management of the Downtown Precise Plan by increasing the budget by \$25,000 (from \$270,000 to \$295,000); and

WHEREAS, the originally anticipated completion date for the General Plan 2040 and Downtown Precise Plan was July 2020, but this will not be achieved due to greater time, effort and outreach required to complete tasks to date, and the recent COVID-19 pandemic impacts. Therefore, there is a need for additional time and budget for **CONTRACTOR** to complete the project; and

WHEREAS, Barry J. Miller has submitted an updated scope of work, budget and billing rate to cover the additional services necessary to complete the project, including: a) an increase to term of the agreement by one (1) year (through June 30, 2021), b) a reduction of the billing rate from \$135/hr. to \$125/hr., and c) an increase to the total budget of an additional \$75,000 (from \$295,000 to \$370,000), including a \$25,000 contingency to cover additional work, revisions or tasks that may arise during the unpredictable public review process; and

WHEREAS, the City of San Rafael has appropriated sufficient funds in the General Plan Special Revenue Fund # 218 for FY 2020/21 to support the second amendment to the Agreement to include the additional work by Barry J. Miller needed in connection with the General Plan 2040 and Downtown Precise Plan;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby authorizes the City Manager to execute a Second Amendment to the

Professional Services Agreement with Barry J. Miller, in a form approved by the City Attorney, to extend the term of agreement by one (1) year, through June 30, 2021, and increase the maximum budget by \$75,000, including a \$25,000 contingency, from \$295,000 to \$370,000.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 6th day of July 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**SECOND AMENDMENT TO AGREEMENT FOR
PROFESSIONAL PLANNING SERVICES**

This Second Amendment to Agreement for Professional Planning Services (“Second Amendment”) is made and entered into as of the ____ day of ____ 2020, by and between the CITY OF SAN RAFAEL (hereinafter "CITY"), and BARRY J. MILLER (hereinafter "CONTRACTOR").

WHEREAS, on June 19, 2017, **CITY** and **CONTRACTOR** entered into an Agreement for Professional Planning Services pursuant to which **CONTRACTOR** agreed to provide services as Project Manager for the **CITY’S** General Plan 2040 (the “Agreement”). The Agreement provided for a maximum contract amount of \$270,000 and a term of July 1, 2017 through June 30, 2020, subject to annual review and extension after each year of the term; and

WHEREAS, **CITY** has twice approved extensions to the Agreement and it is now due to expire on June 30, 2020; and

WHEREAS, in February 2018, **CITY** received a \$500,000 One Bay Area (OBAG) grant to prepare a Precise Plan for Downtown San Rafael (City Council Resolution No. 14469), for which the project management was assigned to **CONTRACTOR**, in conjunction with the General Plan update; and

WHEREAS, on July 15, 2019, pursuant to City Council approval, the parties entered into a First Amendment to the Agreement to include **CONTRACTOR’S** additional services for project management of the Downtown Precise Plan, and increasing the total compensation under the Agreement by \$25,000 (from \$270,000 to \$295,000); and

WHEREAS, the originally anticipated completion date for the General Plan 2040 and Downtown Precise Plan was July 2020, but this will not be achieved due to greater time, effort and outreach required to complete tasks to date, and the recent COVID-19 pandemic impacts. Therefore, there is a need for additional time and budget for **CONTRACTOR** to complete the project; and

WHEREAS, the **CONTRACTOR** has submitted an updated scope of work, budget and billing rate dated June 1, 2020, to cover the additional services necessary to complete the project, as provided in Exhibit A to this Second Amendment, including: a) an extension of the term of the Agreement by one (1) year (through June 30, 2021); b) the reduction of **CONTRACTOR’S** billing rate from \$135/hr. to \$125/hr. during the extended term; and c) increasing the total contract amount by \$75,000 (from \$295,000 to \$370,000), including a \$25,000 contingency to cover additional work, revisions or tasks that may arise during the unpredictable public review process; and

WHEREAS, the **CITY** has appropriated sufficient funds in the General Plan Special Revenue Fund # 218 for FY 2020/21 to support the amendment of the Agreement to include the additional work by **CONTRACTOR** needed to complete the General Plan 2040 and Downtown Precise Plan;

AGREEMENT

NOW, THEREFORE, the parties hereby agree to amend the Agreement, as amended on July 15, 2019 by the First Amendment, as follows:

1. Section 2 of the Agreement, entitled “DUTIES OF CONTRACTOR” is hereby amended to include the additional services described in **CONTRACTOR’S** June 1, 2020 letter attached as Exhibit A to this Second Amendment and incorporated herein by reference.
2. Section 4 of the Agreement, entitled “COMPENSATION”, is hereby amended to read in its entirety as follows (amendments noted in ~~strike thru~~/underline format):

4. COMPENSATION.

For the performance of services pursuant to this Agreement, **CONTRACTOR** shall bill for services on a “time and material” basis, as work is needed by **CITY**. **CONTRACTOR’S** billing rate shall be \$135 an hour through June 30, 2020 and then \$125 an hour for the period July 30, 2020 through June 30, 2021. Any reimbursable expenses shall be billed at cost, with no administrative mark-up. Notwithstanding the foregoing, **CONTRACTOR’S** compensation hereunder shall be subject to the following not-to-exceed limits:

- A. **CONTRACTOR’S** monthly billings shall not exceed \$7,500 in any given calendar month, excluding reimbursable expenses, without prior approval in writing by the PROJECT MANAGER.
- B. **CONTRACTOR’S** billings during the term of this Agreement, and during any subsequent extension of the term hereof, shall not exceed \$90,000 per year, excluding reimbursable expenses, without prior approval by the Project Director, provided that in no event shall **CONTRACTOR’S** total compensation of this contract, over the ~~three (3)~~ year period four (4) year period shall be ~~\$270,000-\$370,000~~, excluding reimbursable expenses. The total compensation limit includes a \$25,000 contingency reserved to cover additional work, research or revisions that arise during the public review process. The need for the use of the contingency shall be requested by the CONTRACTOR and approved by the PROJECT MANAGER, prior to performing the work.
- C. Reimbursable expenses for purposes of this Agreement shall include, but not be limited to: reproduction costs, graphics preparation, supplies and materials necessary for performing tasks, etc.

Payment will be made monthly upon receipt by PROJECT MANAGER of itemized invoices submitted by **CONTRACTOR**.

3. Section 5 of the Agreement, entitled “TERM OF AGREEMENT” is hereby amended to read in its entirety as follows (amendments noted in ~~strike thru~~/underline format):

5. TERM OF AGREEMENT.

The services to be performed under this Agreement shall commence on July 1, 2017 and shall continue ~~for one (1) year~~ through June 30, ~~2018~~ 2021, unless earlier terminated as provided in Section 6 of this Agreement. ~~Upon mutual agreement of the parties, and subject to the approval of the City Manager, this Agreement may be extended for up to two (2) additional one (1) year terms, provided that such no such extension shall increase the total compensation authorized in Section 4 of this Agreement.~~

4. Except as specifically amended herein, all of the other sections, provisions, terms and obligations of the Agreement for Professional Planning Services, executed on June 19, 2017 and amended on July 15, 2019, shall remain valid and shall be in force with the execution of this Second Amendment.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the day, month and year first above written.

CITY OF SAN RAFAEL

CONTRACTOR

JIM SCHUTZ, City Manager

By: _____

Name: _____

Title: _____

ATTEST:

LINDSAY LARA, City Clerk

APPROVED AS TO FORM:

ROBERT F. EPSTEIN, City Attorney

Exhibit A: Letter from Barry Miller Re: Extension of Contract with Barry Miller, FAICP, with San Rafael General Plan 2040: Scope of Work for July 1, 2020 forward, dated June 1, 2020,

EXHIBIT A



June 1, 2020

Raffi Boloyan, Planning Manager
City of San Rafael Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

Re: Extension of Contract with Barry Miller, FAICP

Dear Raffi:

My contract with the City of San Rafael is scheduled to expire on June 30, 2020. While we are very close to having a Draft General Plan and EIR ready for public release, the original schedule anticipated a release earlier in the year, with adoption by July 1, 2020. As a result of several factors, including the addition of Downtown Precise Plan management to the scope of work and the disruptions caused by the COVID-19 pandemic, work on the Plan has proceeded at a slower pace than was forecast.

We are now anticipating release of the Plan during Summer 2020, with adoption hearings in the Fall. Accordingly, I am requesting an extension of my contract for one year, and a budget supplement not to exceed \$75,000 to cover continued services. The budget supplement would include \$50,000 for further work on the General Plan/ Downtown Precise Plan and a \$25,000 contingency in the event that the need for supplemental services arises during the adoption process. Please note that in support of the City's cost-reduction goals, I am reducing my rate by \$10/hour for the duration of the project.

The scope of work performed during the extended time period will primarily cover tasks related to Plan adoption. This includes revisions to the Draft General Plan and Downtown Precise Plan, responses to comments on the EIR, production of the Final General Plan, Downtown Plan, and FEIR, and attendance at Board and Commission meetings, Council meetings, and other community meetings that may be scheduled during the adoption process.

It has been a pleasure working with the City of San Rafael, and it's exciting to contemplate the release and adoption of the Plan in the months ahead. Thank you for your consideration.

Best regards,

A handwritten signature in cursive script that reads "Barry J Miller".

Barry Miller, FAICP

EXHIBIT A

San Rafael General Plan 2040 Scope of Work for July 1, 2020 forward for Barry Miller, FAICP

Task 1: Plan Publication

- A. *Draft General Plan.* Barry Miller will make necessary edits to Admin Draft General Plan 2040 to incorporate final changes and Staff comments. He will prepare the formatted Public Review Draft General Plan, including finalized maps, photos, and graphics. He will coordinate final review/ screencheck of the document as well as publication and notification of appropriate parties upon its release.
- B. *Draft EIR.* Barry Miller will coordinate release of the Public Review Draft EIR, including relaying edits and revisions to the Admin Draft EIR to the consultant preparing that document. He will work as the staff point of contact for filing notices related to that document, and initiating the public review process.
- C. *Draft Downtown Precise Plan.* Barry Miller will coordinate revision of the Admin Draft Downtown Precise Plan. He will work with City staff, General Plan Steering Committee members, the consultant team, and City commissions and stakeholders to identify necessary edits prior to publication of the document as a Public Review Draft.

Task 2: Plan Adoption

This task includes all work conducted between the time the General Plan, Downtown Precise Plan, and EIR are released and the point where they are adopted. Barry will continue to serve as Project Manager and represent the General Plan team during this process. This task includes attendance at all public meetings, preparation of staff reports and resolutions, and revisions to the Plan. Again, close coordination with members of the consultant team will be necessary, particularly during tasks such as Planning Commission and City Council hearings and the preparation of responses to comments.

The specific sub-tasks include:

- Managing communication about the Plan, including organizing and attending Plan-related meetings between the release of the Public Draft and the hearings

EXHIBIT A

- Working as a liaison between Fehr and Peers, Community Development, and Public Works during the update of the traffic mitigation fee (included in Fehr and Peers' scope as a task to be completed early in the adoption process)
- Responding to questions about the Plan, and collecting comments
- Preparing Plan addenda and identifying proposed changes to the Draft document to reflect public comment. More than one Plan addenda may be prepared as the adoption process transpires.
- Preparing responses to EIR comments, in collaboration with the EIR consultant
- Attending Planning Commission and City Council adoption hearings
- Attending other Commission hearings to provide briefings on the Plan and gather input
- Preparing resolutions and staff reports supporting Plan adoption

Task 3: Revisions to Document and Production of Final Plan

This task will take place after the City Council adopts the Plan. Barry Miller will prepare a Final General Plan which incorporates edits made through the public hearing process. This will involve flowing the Plan Addendum into the General Plan and finalizing all graphics and photographs.

Task 4: Project Management

Project management tasks include participation in regular team meetings and City staff meetings, project management conference calls, tracking of budget, monitoring the performance of other contractors, and general administrative duties related to the project.