



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt a Resolution Authorizing the City Manager to Execute a Contract for professional services to Pacific Municipal Consultants (PMC) for Contract CDBG Program Administration Services

MEETING DATE: February 7, 2007

PREPARED BY: Community Improvement Manager

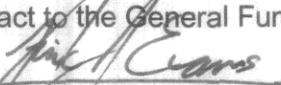
RECOMMENDED ACTION: Adopt a Resolution Authorizing the City Manager to Execute a Contract for professional services to Pacific Municipal Consultants (PMC) for Contract CDBG Program Administration Services

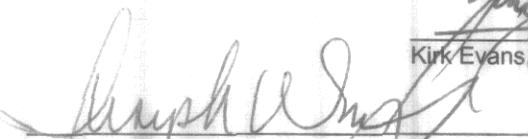
BACKGROUND INFORMATION: Administration of the Community Development Block Grant (CDBG) Program is a function of the Community Development Department - Community Improvement Division. A need has been identified for additional staffing in order to assist with the day to day administration of the program and to provide specific expertise to handle certain regulatory requirements that have been encountered. This need is best served by contracting with a consulting agency that has personnel with the experience in management of CDBG programs and all applicable regulatory requirements.

We have entered into an interim contract for professional services with PMC since September of 2006, with a limit not to exceed \$19,900, to perform time sensitive duties related to CDBG administration. This professional service has proven to be critical and is needed to continue on a part-time basis. Therefore, a formal, full contract should be approved by the City Council. As noted in the attached Agreement for Professional Services; the hourly rate for the program manager level of consultant services we seek is \$90/hr. We anticipate 8 to 20 hours per week of service.

FISCAL IMPACT: \$720 to \$1800 per week varying with work flow. For the remainder of the 2006/07 fiscal year, we expect the cost of these professional services to be approximately \$30,000.

FUNDING AVAILABLE: These services are funded through the CDBG Program. There will be no impact to the General Fund.

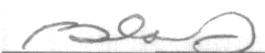

Kirk Evans, Budget Manager


Joseph Wood
Community Improvement Manager

Concurred: 
Randy Hatch
Community Development Director

Attachments

RH/jw/kjc

APPROVED: 
Blair King, City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1 PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into as of _____, 2007, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and PACIFIC MUNICIPAL CONSULTANTS, (hereinafter "CONSULTANT").

Section 1.2 Purpose

CITY selected the CONSULTANT to render certain professional services to the CITY.

CITY wishes to enter into an agreement with CONSULTANT to perform those services as set forth in the Scope of Services attached hereto as Exhibit A and incorporated by this reference. CONSULTANT acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 Scope of Services

CONSULTANT, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A, attached and incorporated by this reference.

Section 2.2 Time for Commencement and Completion of Work

CONSULTANT shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONSULTANT shall submit to CITY such reports, diagrams, drawings and surveys as may be indicated in the Scope of Services.

CONSULTANT shall not be responsible for delays caused by the failure of CITY staff or agents to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project from which the Scope of Services is required shall not be counted against CONSULTANT's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONSULTANT shall remain in contact with reviewing

agencies, if any, and make all efforts to review and return all comments received therefrom.

Section 2.3 Meetings

CONSULTANT shall attend meetings as indicated in the Scope of Services.

Section 2.4 Staffing

CONSULTANT acknowledges that CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONSULTANT, unless otherwise agreed to by CITY in writing. CITY shall be notified by CONSULTANT of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel in CITY's sole discretion and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT represents that it has thoroughly investigated and considered the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONSULTANT represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required for CONSULTANT to practice its profession, and that CONSULTANT shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be impose against CITY under this Agreement.

Section 2.5 Subcontracts

CITY acknowledges that CONSULTANT may subcontract certain portions of the Scope of Services to subconsultants as specified and identified in Exhibit A. Should any subconsultants be replaced or added after CITY's approval, CITY shall be notified within ten (10) days and said subconsultants shall be subject to CITY's approval prior to initiating any work under the Scope of Services. CONSULTANT shall remain fully responsible for the complete and full performance of services performed by subconsultants and shall pay the fees and costs incurred by all such subconsultants.

ARTICLE 3 **COMPENSATION**

Section 3.1 Compensation

CONSULTANT's compensation for all work under this Agreement shall conform to the provisions of Fee Proposal, attached hereto as a Exhibit B and incorporated by this reference.

CONSULTANT shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONSULTANT shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable.

Section 3.3 Costs

The fees shown on Exhibit B include all reimbursable costs required for the performance of the individual work tasks by CONSULTANT and/or subconsultant and references to reimbursable costs located on any other fee schedule(s) shall not apply. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in writing by CITY.

CONSULTANT charge rates are attached and incorporated with Exhibit B. The charge rates for CONSULTANT shall remain in effect and unchanged for the duration of this Agreement unless approved in writing by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with

this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4 **MISCELLANEOUS PROVISIONS**

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees or in the engagement of any subconsultants on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 Responsibility for Damage

CONSULTANT shall indemnify and save harmless the City of Lodi, the City Council, elected and appointed Boards, Commissions, all officers and employees or agents from any suits, claims or actions brought by any person or persons for or on account of any injuries or damages sustained or arising from the services performed under this Agreement, but only to the extent caused by the negligent acts, errors or omissions of the CONSULTANT and except those injuries or damages arising out of the active negligence of CITY or its agents, officers or employees.

Section 4.3 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or employee of CITY shall be personally responsible for any liability arising under this Agreement.

Section 4.4 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.5 Insurance Requirements for CONSULTANT

CONSULTANT shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect CONSULTANT and any subcontractor performing work covered under this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from CONSULTANT'S operations under this Agreement, whether such operations be by CONSULTANT or by any subcontractor

or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMMERCIAL GENERAL LIABILITY

\$1,000,000 Bodily Injury -

Ea. Occurrence/Aggregate

\$1,000,000 Property Damage -

Ea. Occurrence/Aggregate

or

\$1,000,000 Combined Single Limits

2. COMMERCIAL AUTOMOBILE LIABILITY

\$1,000,000 Bodily Injury - Ea. Person

\$1,000,000 Bodily Injury - Ea. Occurrence

\$1,000,000 Property Damage - Ea. Occurrence

or

\$1,000,000 Combined Single Limits

NOTE: CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage.

A copy of the certificate of insurance with the following endorsements shall be furnished to CITY:

(a) Additional Named Insured Endorsement

Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents and Employees as additional named insureds insofar as work performed by the insured under written Agreement with CITY. (This endorsement shall be on a form furnished to CITY and shall be included with CONSULTANT'S policies.)

(b) Primary Insurance Endorsement

Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

(c) Separation of Insured's Clause

The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(d) Notice of Cancellation or Change in Coverage Endorsement

This policy may not be canceled by the company without 30 days' prior written notice of such cancellation to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241, except as to a 10-day notice for non-payment of premium

- (e) CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810, et seq.). "Claims made" coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

Section 4.6 Worker's Compensation Insurance

CONSULTANT shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of CONSULTANT'S employees employed to perform work hereunder and, if any work is sublet, CONSULTANT shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. In case any class of employees engaged in hazardous work under this Agreement is not protected under the Worker's Compensation Statute, CONSULTANT shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241.

Section 4.7 Time of the Essence

Time is of the essence in the performance of this Agreement.

Section 4.8 Successors and Assigns

CITY and CONSULTANT each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONSULTANT shall not assign or transfer any interest in this Agreement

without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.9 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or in three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
Blair King, City Manager
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

To CONSULTANT: Pacific Municipal Consultants
Philip O. Carter, President
10461 Old Placerville Road, Suite 110
Sacramento, CA 95827

Section 4.10 Cooperation of CITY

CITY shall cooperate fully in a timely manner in providing relevant information that it has at its disposal relevant to the Scope of Services.

Section 4.11 CONSULTANT is Not an Employee of CITY

It is understood that CONSULTANT is not acting hereunder in any manner as an employee of CITY, but solely under this Agreement as an independent contractor.

Section 4.12 Termination

CITY or CONSULTANT may terminate this Agreement by giving the other party at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONSULTANT shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONSULTANT shall immediately suspend all work under this Agreement and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONSULTANT with third parties in reliance upon this Agreement.

Section 4.13 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.14 Captions

The captions of the sections and subsections of this Agreement are for the convenience of the parties hereto only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.15 Integration and Modification

This Agreement represents the entire integrated agreement between CONSULTANT and CITY; supersedes all prior negotiations, representations, or Agreements, whether written or oral, between the parties; and may be amended only be written instrument signed by CONSULTANT and CITY.

Section 4.16 Applicable Law and Venue

This Agreement shall be governed by the laws of the State of California. Venue for any court proceeding brought under this Agreement will be with the San Joaquin County Superior Court.

Section 4.17 Attorney's Fees

In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.18 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.19 Authority

The undersigned hereby represent and warrant that they are authorized by the parties they purport to represent to execute this Agreement.

Section 4.20 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer tapes or cards, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all such documents during CONSULTANT'S regular business hours. Upon termination or

completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) days.

CITY agrees to indemnify, defend and hold CONSULTANT harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were prepared.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

By _____
RANDI JOHL
CITY CLERK

By _____
BLAIR KING
CITY MANAGER

APPROVED AS TO FORM:

CONSULTANT
PACIFIC MUNICIPAL CONSULTANTS

By _____
D. STEPHEN SCHWABAUER
CITY ATTORNEY

By: _____
Phillip O. Carter
Its: President

AGREEMENT FOR PROFESSIONAL SERVICES

EXHIBIT A SCOPE OF SERVICES

CONSULTANT will provide a comprehensive approach to administering the City's CDBG projects, in coordination with the Urban County. Specific tasks include the following:

- Reconciling the City's program finances with those on record with the Urban County;
- Documenting and ensuring that federal regulations, including Davis-Bacon prevailing wage requirements, were met on past projects and will be met on all current and future projects;
- Completing requirements associated with relocation assistance for all currently funded projects, namely the Salvation Army project, and any future projects in order to allow for the projects to proceed in a timely manner;
- Providing general assistance to the City in managing its CDBG program and expending funds in a timely manner, including attending regularly scheduled monthly meetings and any other meetings that may arise in the course of administering the program.

The CONSULTANT will provide approximately 30 to 40 hours per week of assistance. Once projects are on track to be completed, the City may consider a contract to provide on-going CDBG program administration for around 20 hours per week.

AGREEMENT FOR PROFESSIONAL SERVICES

EXHIBIT B **COMPENSATION**

The CONSULTANT will bill on a time and materials basis.

The billing rates for the staffing services provided are as follows:

Technical Advisor	\$125/hr
Program Manager/Grants Specialist	\$90/hr
Associate Planner	\$80

RESOLUTION NO. 2007-20

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
A PROFESSIONAL SERVICES CONTRACT WITH
PACIFIC MUNICIPAL CONSULTANTS FOR
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAM ADMINISTRATION SERVICES

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Contract with Pacific Municipal Consultants for Community Development Block Grant Program administration services at a cost not to exceed the amount of \$1,800 per week.

Dated: February 7, 2007

I hereby certify that Resolution No. 2007-20 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 7, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL
City Clerk