



City of Yamhill

A small taste of Oregon

AGENDA

CITY COUNCIL MEETING

Wednesday, October 26, 2022

4:30 P.M. SPECIAL MEETING

IN-PERSON with VIRTUAL OPTION

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86945416470?pwd=a092Mmsxc3ZaQlMxN01Gci9BLzN2QT09>

Passcode: 312213

Please use one of the following phone numbers:

(253) 215-8782 or (346) 248-7799

Webinar ID: 869 4541 6470

Passcode: 312213

When dialing in, *9 raises your hand.

1. **CALL TO ORDER** – Roll Call
2. **NEW BUSINESS**
 - A. Public Works
 - B. City Planner – *Interim Contract*
3. **ADJOURNMENT**

**PROFESSIONAL SERVICES AGREEMENT
CONSULTING CITY PLANNER SERVICES
BETWEEN
WALTER J. WENDOLOWSKI
AND
THE CITY OF YAMHILL, OREGON**

This AGREEMENT is made and entered into by and between Walter J. Wendolowski, ('CONSULTANT' herein) and City of Yamhill, a political subdivision of the State of Oregon ("CITY" herein).

ARTICLE 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT shall be to set forth responsibilities and to clarify the relationship between the CITY and the CONSULTANT. CONSULTANT shall supply professional services as herein described. In consideration for said services, the CITY shall pay the CONSULTANT such monies, and in such manner, as herein described.

ARTICLE 2. WHOLE AGREEMENT SUPERSEDING ANY PRIOR AGREEMENTS

This AGREEMENT is the complete and exclusive statement of the AGREEMENT between the parties relevant to the purpose described above and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject of this AGREEMENT. No modification of this AGREEMENT will be binding on either party except as a written addendum, signed by an authorized agent of each party.

ARTICLE 3. NONDISCRIMINATION

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this AGREEMENT on the grounds of sex, race, color, creed, marital status, age, or national origin. Any violation of this provision shall be considered a material violation of this AGREEMENT and shall be grounds for cancellation, termination, or suspension in whole or in part by the CITY.

ARTICLE 4. DUTIES AND RESPONSIBILITIES OF THE PARTIES

The parties shall perform services as described below:

- A. CONSULTANT Responsibilities
 - 1. CONSULTANT shall serve as the interim City Planner of the City of Yamhill.
 - 2. CONSULTANT shall perform the work as outlined in the attached Exhibit A.

- B. CITY Responsibilities
 - 1. CITY agrees to pay \$80 per hour for these services. This rate will be used through the end of June 2023. The CONSULTANT may propose adjusting the rate effective July 1, 2023, and in subsequent fiscal years. The CITY will be notified of any proposed rate change by April 1 of each year so the adjustment can be reflected in the Manager's proposed budget for the ensuing fiscal year.

2. CITY will reimburse CONSULTANT for major out-of-pocket expenses directly incurred in providing these services such as major printing projects, etc., if approved in advance by the CITY. The CONSULTANT will not invoice the CITY for normal day-to-day office expenses and printing, for travel expenses including mileage, and for long-distance telephone charges. CONSULTANT will charge for travel for one direction only. CONSULTANT will charge for lodging and necessary meals if it is necessary to stay overnight to carry out City business if approved in advance by the City Manager.
3. CITY shall review, process, and pay CONSULTANT's invoice within 30 days of receipt.
4. CITY shall designate a key contact person, and one or more secondary contact persons to be used when the primary contact is not available, through which all requests for services will come and with whom the activities of CONSULTANT will be coordinated.

ARTICLE 5. STANDARD OF SERVICES AND WARRANTY

The CONSULTANT agrees to perform his services with that standard of care, skill, and diligence normally provided by a professional individual in the performance of similar services. The CONSULTANT warrants that the recommendations, guidance, and performance of any person assigned under this AGREEMENT shall be in accordance with the professional standards and requirements of this AGREEMENT.

ARTICLE 6. INDEPENDENT AGENT

The CONSULTANT shall be an "independent agent." All persons employed to furnish services hereunder are employees of the CONSULTANT and not of the CITY. Further, the CITY shall not be liable for any of the CONSULTANT'S acts or omissions performed under this or other agreements to which the CONSULTANT is a party.

ARTICLE 7. INDEMNIFICATION

- A. The CONSULTANT shall save harmless and indemnify the CITY, its City Councilors, employees, and agents for any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees arising out of or resulting from negligent performance or of failure to perform the obligations of the AGREEMENT.
- B. The CITY, its City Councilors, employees, and agents shall save harmless, indemnify, and defend the CONSULTANT for any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from actions by the City Council, Planning Commission, or Staff which are appealed or challenged in the Judicial system.

ARTICLE 8. NON-ASSIGNMENT

No portion of nor any interest in this AGREEMENT may be assigned to a third party without the express and prior approval of the CITY. It is understood and agreed the CONSULTANT will subcontract portions of the scope of work to qualified subcontractors working under the direct supervision of the CONSULTANT.

ARTICLE 9. CONSULTANT'S EMPLOYEES AND SUBCONTRACTORS

- A. Payment for Labor or Material - CONSULTANT shall make payment promptly, as due, to all persons supplying to CONSULTANT labor or material for the prosecution of the work provided for in this contract. (ORS 279.312)
- B. Contributions to the Industrial Accident Fund - CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT incurred in the performance of this contract and shall ensure that all subcontractors pay those amounts due from the subcontractors. (ORS 279.312)
- C. Income Tax Withholding- CONSULTANT shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- D. Payment of Claims by the City- If CONSULTANT fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONSULTANT or a subcontractor by any person in connection with this contract as the claim becomes due, the City may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to CONSULTANT pursuant to this contract. The City's payment of a claim under this Paragraph shall not relieve CONSULTANT or consultant's surety, if any, from responsibility for those claims. (ORS 279.314)
- E. Workers Compensation - CONSULTANT is a subject employer that will comply with ORS 656.017. CONSULTANT warrants that all persons engaged in contract work and subject to the Oregon workers compensation law are covered by a workers compensation plan or insurance policy that fully complies with Oregon law. CONSULTANT shall indemnify the City for any liability incurred by the City as a result of CONSULTANT'S breach of the warranty under this Paragraph. (ORS 279.320)

ARTICLE 10. CHANGES

Any change in the terms of this agreement will require written approval by both the CITY and CONSULTANT.

ARTICLE 11. OWNERSHIP OF WORK PRODUCT

All work products of the CONSULTANT which result from this AGREEMENT are the exclusive property of the CITY.

ARTICLE 12. TERMINATION OF AGREEMENT

This AGREEMENT shall end on June 30, 2023, and may be terminated under one of the following conditions:

- A. Immediately with written mutual agreement of both parties. Termination under this provision may be immediate. CITY will pay CONSULTANT for all fees and expenses incurred through the date of termination.

- B. With 30 days' notice with written notice of termination by one party. CITY will pay CONSULTANT for all fees and expenses incurred through the date of termination.

ARTICLE 13. SURVIVAL

The terms, conditions, representations, and all warranties contained in this AGREEMENT shall survive the termination or expiration of this AGREEMENT.

The CONSULTANT and the CITY hereby agree to all provisions of this AGREEMENT.

FOR THE CONSULTANT:

Signature Date

Printed Name Title

FOR THE CITY:

Signature Date

Printed Name Title

EXHIBIT A
SCOPE OF SERVICES

- A. Current Planning Services - Managing all planning and related applications including helping the staff to process the application and hearing preparations, development of staff reports and recommendations, presentations at public hearings advising the Planning Commission and City Council, follow-up with appropriate orders and ordinances. Working with citizens and staff with planning related questions.

- B. Long Range Planning Projects - Preparations of reports, studies, codes, and plans as needed and requested by the City. Assist with logistics, schedule, and specific reequipments such as noticing.

- C. Consultation and Advocacy - Assisting the Staff, Commission, and Council on general planning issues. Representing the City with state and county and other agency officials relative to planning issues. Provide other professional services including organizational development, training, facilitation, and general consultation as requested.