

Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGEND ITEM

Meeting Date: May 18, 2021
To: Honorable Mayor and Honorable City Council Members
From: Joe Gaffney, City Engineer
Subject: Approval of Contract Amendment #1, Contract No. 2015-02, Agreement for City Engineering Consultant Services (Joseph G. Gaffney Civil Engineering)
Recommendation : By Resolution, Authorize the City Manager to Execute Contract Amendment
Funding: Currently Budgeted: X Yes _____ No _____ N/A

Net General Fund Cost:			
FY 20-21	Budgeted		\$30,000
Remainder of FY 20-21	Budget Amendment Request		\$15,000
FY 21-22	Budgeted		\$30,000*

*Contract proposed to be extended through December 31, 2021 (\$15,000).

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

This item is to request the City Council to approve a Resolution authorizing the City Manager to execute Contract Amendment #1 to Contract 2015-02, Agreement for City Engineering Consultant Services (Joseph G. Gaffney Civil Engineering) and approve budget amendment.

BACKGROUND:

On January 20, 2015, The City Council approved Contract 2015-02, Agreement for City Engineering Consultant Services (Joseph G. Gaffney Civil Engineering). That agreement provided for City Engineering services, including development review and construction inspection services, among other items.

Mr. Gaffney has acted as City Engineer since 2005, first as an employee of Green Valley Consulting Engineers, then as a part-time City employee, and, since 2015, as an independent consultant.

The current contract for Joe Gaffney expired January 1, 2020.

DISCUSSION:

The City requires a designated, licensed Civil Engineer to perform the various duties of City Engineer as required by statute. Mr. Gaffney has performed these duties since 2005, and it is desirable for the City that he should continue to do so through December 31, 2021.

In January 2021 the former Engineering Manager retired and since February 2001, Mr. Gaffney has taken on a more active role working with GHD Engineering Consultants to ensure that Engineering Department duties and responsibilities continue smoothly and without interruption. This active role has resulted in representing the City on the Groundwater Sustainability Agency Advisory Committee, the NPDES MS4 Co-Permittees group, and the

Subregional Wastewater Technical Advisory Committee Russian River Water Shed Association, Rule 20 PG&E projects, as well as routine engineering review of projects.

In best practices, it is proposed that in the new Fiscal Year 21-22, City staff will issue a request for qualifications for engineering services.

Mr. Gaffney previous experience as the City Engineer for Rohnert Park qualifies him to continue in his role as City Engineer for Sebastopol through the contract end date.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, public comment from interested parties following the publication and distribution of this staff report will be provided to the City Council as supplemental materials before or at the meeting. In addition, a consent calendar item may be requested to be removed from the consent calendar if a member of the Council or public requests to provide public comment on this item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

The approved Engineering Department budget for FY 20-21 included \$52,000 for engineer consultant services funded by the General Fund. As of March 2021, due to additional duties assumed from the former Engineering Manager, Mr. Gaffney's billings for City Engineer through the end of March 2021 totaled \$52,900. Based upon the workload through June 30, 2021, it is proposed a budget amendment of \$15,000 to cover May and June 2021 will be required to continue the duties of this position.

The City Engineer also invoices against deposit accounts. Deposit accounts are established for the prepayment of expenses related to development review, conceptual planning, or any other planning, reviews, inspections as deemed necessary by the city as well as invoices against capital project.

In summary, between various categories, the total cost thus far for Engineering services through March 2021 is \$102,960; with \$52,000 currently funded through the General Fund and the remainder through deposit accounts or capital improvement projects.

For the remainder of the year, staff is recommending a budget amendment in the amount of \$15,000 to cover services for April, May and June 2021. These were not funded in the current fiscal year budget. The agreed hourly compensation to Mr. Gaffney under the new consultant contract is \$115.00 per hour, an increase from the previous hourly rate of \$95.00 per hour. This increase is due to inflationary adjustments and increases in required insurance costs.

For FY 21-22, Engineering Consultant Services for General Fund is budgeted at \$30,000. As this proposed contract goes through December 31, 2021, it is proposed that this contract be budgeted from General Fund for \$15,000 with continued invoicing of deposit accounts as well as capital improvement projects. It is recommended that and requests for work over the project amounted in the Engineering General Fund account be reviewed in accordance with the City contracts purchasing policy and if in adherence with the policy can be reviewed and approved by the City Manager.

RECOMMENDATION:

By Resolution, authorize the City Manager to approve Amendment No. 1 to Contract 2015-02, Agreement for City Engineering Consultant Services (Joseph G. Gaffney Civil Engineering) and approval of a budget amendment.

Attachments:

Resolution

Original Master Agreement

Amendment No. 1 to Contract 2015-02

RESOLUTION NO. _____

RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE
AMENDMENT NO. 1 TO CONTRACT NO 2015-02
CITY ENGINEER SERVICES
in the City of Sebastopol, Sonoma County, California

WHEREAS, the City of Sebastopol requires certain City Engineer services; and

WHEREAS, Joseph G Gaffney Civil Engineering has provided those services since 2015; and

WHEREAS, the existing Contract No. 2015-02 expired on January 1, 2020; and

WHEREAS, the cost estimates for the engineering service for the remainder of FY20-21 \$15,000; and

WHEREAS, for FY 21-22, Engineering Consultant Services for General Fund is budgeted at \$30,000; and

WHEREAS, as this proposed contract goes through December 31, 2021, it is proposed that this contract be budgeted from General Fund for \$15,000 with continued invoicing of deposit accounts as well as capital improvement projects.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to execute Amendment No. 1 to Contract No. 2015-02, Agreement for City Engineering Consultant Services (Joseph G. Gaffney Civil Engineering) for services through December 31, 2021.

The above and foregoing Resolution was duly passed, approved and adopted at a meeting by the City Council on the 18th day of May 2021, by the following vote:

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____

Mayor Una Glass

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Larry McLaughlin, City Attorney

**CITY OF SEBASTOPOL
CONTRACT NO. 2015-01-01
AGREEMENT FOR ENGINEERING CONSULTING SERVICES
Joseph G. Gaffney Civil Engineering**

THIS AGREEMENT, made and entered into this 1st day of January, 2015 by and between the City of Sebastopol, a municipal corporation located in the County of Sonoma, State of California, hereinafter referred collectively to as "CITY" and **Joseph G. Gaffney**, Sole Proprietor with principal offices at 7498 Burton Avenue, Rohnert Park, CA 94928, hereinafter referred to as "CONSULTANT",

WITNESSETH

WHEREAS, CITY has the need for City Engineering services; and

WHEREAS, CITY desires to contract for such services with a private consultant; and

WHEREAS, CONSULTANT is experienced in providing such services for municipal corporations and possesses the proper experience and background to carry out the duties involved; and

WHEREAS CITY wishes to retain CONSULTANT for the performance of said services;

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

CITY, pursuant to the authority set forth at Government Code Section 36505, does hereby appoint CONSULTANT, in a contractual capacity, to perform the following services on an "on call, as needed" basis, in accordance with the terms and conditions hereinafter set forth;

The type of Engineering or other services to be provided include:

CITY ENGINEERING SERVICES

- 1) **GENERAL** - CITY does hereby appoint CONSULTANT the City Engineer effective January 1, 2015.
- 2) **ADMINISTRATIVE DUTIES** - CONSULTANT shall perform the following duties when directed:
 - a) Attend City Council, Planning Commission and other meetings.
 - b) Attend staff level meetings with CITY staff, public officials, community leaders, developers, contractors and the general public.
 - c) Review and comment on planning programs and land development controls.

- d) Recommend regulations and ordinances pertaining to engineering matters.
- e. Provide technical advice to CITY personnel assigned to public works activities.
- f. Advise the CITY as to engineering and construction financing available from other governmental agencies and, when so directed, prepare and initiate application for such funding.
- g. Establish working relationships and coordination with other public agencies, County Departments and private utilities involving engineering matters affecting CITY.

3) DEVELOPMENT REVIEW

- a) Perform the statutory functions of City Engineer pertaining to the review and checking of land divisions.
- b) Review tentative maps and other submittals for land divisions for proposed developments and make recommendations as to engineering matters.
- c) Check all improvement plans for facilities under the jurisdiction of CITY.
- d) Establish performance, labor and material bond amounts, when required, and require the posting of such securities and other development fees within the proper time sequence of such development review.
- e) Provide field observation as a City Official during the construction of such improvements by private developers and at the proper time recommend notices of completion and acceptance of the work.
- f) Provide such necessary and related functions as are the normal practice of the CITY in the City Engineering review of private developments.
- g) Review and approve the Determination Worksheets and subsequent submittals made in connection with any project that triggers the requirements of the City's Storm Water Low Impact Development ordinance (SMC 15.78).

4) PUBLIC WORKS AND ENGINEERING PERMITS AND INSPECTION

- a) As a City Official, provide on an as-needed basis assistance to Engineering and Public Works staff in processing and approving Encroachment and Grading permits and other engineering related matters at the public counter.
- b) As a City Official, receive and process public work permit applications.
- c) As a City Official, provide construction observation of permit work within City streets, easements and rights of way, or other public lands.

5) CAPITAL PROJECTS

- a) Preliminary Engineering: Assist the City staff and City consultants in the preparation of alternatives analyses, preliminary layouts, surveying, geotechnical services, and estimates of probable cost.
- b) Permits: Assist the City in obtaining approvals and permits from various agencies, including CALTRANS, Regional Water Quality Control Board, US Army Corps of Engineers, CA Department of Fish and Game, etc.
- c) Construction Documents: Review and approve engineering calculations and designs, plans, specifications, cost estimates, and contract bidding documents prepared by others.

- d) **Bidding Assistance:** Assist the City with technical support during bidding phase for public contracts, attend pre-bid conferences and job walks, perform construct-ability review of other firms or own plans and specifications, prepare addenda, analyze bids, and recommend award.
 - e) **Construction Support/Construction Management:** Attend pre-construction conferences; monitor construction schedule, visit construction site as required for progress and quality of work evaluation. Assist City with interpretation of the plans and specifications, analysis of changed conditions, development of corrective action, review of shop drawings and other submittals, and the review and negotiation of change orders.
- 6) **OTHER MISCELLANEOUS SERVICES** - CITY may from time-to-time have the need for other services not specifically listed in this agreement for which CONSULTANT has the necessary experience and capabilities to provide. CITY, may authorize CONSULTANT to perform such selected services on an as-needed basis.
- 7) **RECORDS** All records produced by CONSULTANT during the course of your work under this agreement are and at all times shall remain the property of the CITY. CONSULTANT shall assemble these records in an orderly fashion and store same, for at least three years, in a mutually agreed upon location so that they may be reasonably available to the public or to the officials of CITY as required. Copies of records shall be provided to the City from time to time, as requested.
- 8) **TERMINATION** - This Agreement may be terminated at will by either party with or without cause upon 30 days written notice.
- 9) **GENERAL CONDITIONS**
- a) CITY shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person employed by CONSULTANT performing services hereunder for CITY.
 - b) All documents, including but not limited to plans and specifications, prepared by CONSULTANT are instruments of services, only. They are not intended nor represented to be suitable for reuse on extensions of this project or any other project. Any reuse without specific permission by CONSULTANT shall be at the users sole risk. CITY hereto agrees to save, keep and hold harmless CONSULTANT from all damages, costs or expenses in law and equity including costs of suit and attorneys fees resulting from such reuse.
 - c) CONSULTANT agrees to save, keep, hold harmless and indemnify CITY and its officers, and employees from all damages, in law and equity caused by any negligent act or omission to act on the part of CONSULTANT or any of its officers, employees or subcontractors. CITY shall save, keep, hold harmless indemnify CONSULTANT from all damages suffered in the performance of the authorized by this Agreement that are not the result of wrongful acts of the CONSULTANT, its officers, employees or subcontractors.

d) 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, his agents, representatives, or employees. Refer to Exhibit "A", INSURANCE REQUIREMENTS FOR CONSULTANTS (REMIF), attached hereto and thereby made a part of this contract.

10) **NOTICES** - For purposes hereof, unless otherwise provided in writing by the parties hereto, the address of the CITY and the proper person to receive any notice on the CITY'S behalf is:

Larry McLaughlin, City Manager/Attorney
City of Sebastopol
7120 Bodega Avenue
Sebastopol, CA 95472

For the purposes hereto, unless otherwise provided in writing by the parties hereto, the address of CONSULTANT and the proper person to receive any notice on the CONSULTANT'S behalf is:

Joseph G. Gaffney Civil Engineering
7498 Burton Avenue
Rohnert Park, CA 94957

11) **ARBITRATION** - All claims, disputes, and other matters in question between the parties to this AGREEMENT, or breach thereof, may be decided by arbitration in accordance with the then-most current rules of the American Arbitration Association, if the parties mutually agree.

12) MISCELLANEOUS

- a) The titles used in this agreement are for general reference only and are not a part of the Agreement.
- b) This Agreement shall be interpreted as though prepared by both parties.
- c) Any provision of this agreement held to violate any law shall not invalidate the remainder of this Agreement.
- d) This Agreement shall be interpreted under the laws of the State of California.

13) **TERM OF AGREEMENT** – This Agreement shall remain in effect for an initial term of 5 (five) years. Extensions of the agreement may be made upon mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized officers the day and year first above written in this Agreement.

CITY OF SEBASTOPOL



Larry McLaughlin, City Manager

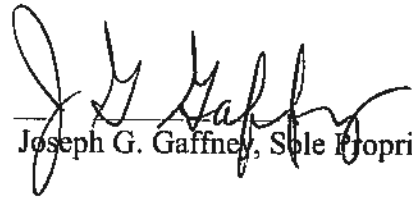
Approved as to Form:



Larry McLaughlin, City Attorney

CONSULTANT

Joseph G. Gaffney Civil Engineering



Joseph G. Gaffney, Sole Proprietor

**AMENDMENT NO. 1
TO MASTER AGREEMENT 2015-01-01
FOR ENGINEERING CONSULTING SERVICES
TO EXTEND TERM OF AGREEMENT
Joseph G. Gaffney Civil Engineering**

Parties hereto entered into a Master Agreement for Consulting Services on January 1, 2015, with an initial term of 5 (five) years. The agreement expired on January 1, 2020.

Section 13, Term of Agreement, provides that “Extensions of the agreement may be made upon mutual agreement of the parties hereto”.

The City therefore desires to extend the term of the above-referenced Master Agreement for two years. Therefore, the new termination date for this agreement shall be **December 31, 2021**, unless extended by mutual agreement of the parties.

Consultant shall provide the required insurance and endorsements as amended and shown in Exhibit A.

Billing rate increase from \$95.00 per hour to **\$115.00 per hour**.
Remainder of FY 20-21 May 2021 - June 2021 Not to Exceed \$15,000
FY 21-22 July 2021- December 2021 Not to Exceed \$15,000

All of the terms and conditions of Master Agreement 2015-01-01 are hereby incorporated by reference and made a part of this contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized officers on the dates indicated below.

CITY OF SEBASTOPOL

CONSULTANT

Joseph G. Gaffney Civil Engineering

Larry McLaughlin, City Manager

Joseph G. Gaffney

Date:_____

Date:_____

EXHIBIT A

INSURANCE REQUIREMENTS FOR CONSULTANTS

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, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1187) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the consultant's profession.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage **including operations, products and completed operations, as applicable**. If Commercial General Liability Insurance 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.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions liability: \$2,000,000 per occurrence.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. **The City of Sebastopol, its officers, officials, employees and volunteers** are to be covered as insureds as respects liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. The Workers Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its

officers, officials, employees and volunteers for losses paid under terms of this policy which arise from the work performed by the named insured.

4. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- 6. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.**

Acceptability of Insurers

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 City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All original, signed certificates and endorsements are to be received and approved by the City prior to City's approval of the contract and commencement of work. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subconsultants

Consultant agrees to include with all subconsultants in their subcontract the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subconsultant's work. Subconsultants hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under the Contract Documents. Subconsultant further agrees to include these same provisions with any Sub-subconsultant. A copy of the contract indemnity and insurance provisions will be furnished to the Subconsultant upon request. The Consultant shall require all sub-consultant to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Consultant will provide proof of compliance to the City.