

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

|  |                             |
|--|-----------------------------|
| To: Matthew J. Fertal  | From: Susan Emery           |
| Dept: City Manager   | Dept: Community Development |
| Subject: AWARD OF A CONTRACT TO SCOTT FAZEKAS & ASSOCIATES, INC. (SFA) TO PROVIDE PLAN CHECK CONSULTING SERVICES |                             |
| Date: July 8, 2014   |                             |

OBJECTIVE

The purpose of this report is to request that the City Council award a contract to Scott Fazekas & Associates, Inc. (SFA) to provide plan check consulting services.

BACKGROUND/DISCUSSION

The Building Services Division is responsible for providing construction plan review services in order to ensure the safety of building occupants within homes, work places, and other buildings constructed within Garden Grove. The review of construction plans is critical to providing the level of safety expected at the earliest and most cost effective time, when the project is still on paper.

Plan review activity has continued to such an extent that it remains necessary to employ two consultants for plan review activity in order to stay within acceptable turn around time frames. With the local economy slowly recovering, development activity is steadily picking up, and the demand for review services for complex construction projects on an "as-needed" basis is necessary to enable the City to respond quickly and effectively during peak periods of plan review activity.

Staff solicited six (6) requests for proposals to plan check consulting firms. As a result, six (6) consultants submitted a proposal to the City. A panel consisting of three (3) staff members from different departments rated the proposals on the basis of qualifications, work plan, and references. Based on the evaluation results, Scott Fazekas & Associates, Inc. (SFA) is rated as one of the highest firms.

The following is a summary of the ratings:

| Company                            | Rater A | Rater B | Rater C | TOTAL |
|------------------------------------|---------|---------|---------|-------|
| Scott Fazekas & Associates, Inc.   | 96      | 98      | 94      | 288   |
| CSG Consultants, Inc.              | 94      | 95      | 93      | 282   |
| Bureau Veritas North America, Inc. | 75      | 95      | 93      | 263   |
| Saberi & Associates, Inc.          | 79      | 94      | 83      | 256   |
| Willdan Engineering                | 70      | 91      | 90      | 251   |
| Melad & Associates                 | 66      | 78      | 78      | 222   |

AWARD OF A CONTRACT TO SCOTT FAZEKAS & ASSOCIATES, INC. (SFA) TO  
PROVIDE PLAN CHECK CONSULTING SERVICES

JULY 8, 2014

Page 2

FINANCIAL IMPACT

Funding is provided entirely with the plan review fees.

RECOMMENDATION

It is recommended that the City Council:

- Award a contract to Scott Fazekas & Associates, Inc. (SFA) to provide plan check consulting services, in the amount, not to exceed \$250,000 for FY 2014-2015, with an option to extend said agreement for three (3) additional one-year period, for a total performance period of four (4) years;
- Authorize the City Manager to execute the professional services agreement on behalf of the City and to make minor modifications as appropriate; and
- Authorize the City Manager to sign amendments to the said agreement for three (3) additional one-year periods, provided sufficient funds are available for each extension.



SUSAN EMERY  
Community Development Director



*for* By: Alana Cheng  
Sr. Administrative Analyst

Attachment: Consultant Agreement (SFA)

**Recommended for Approval**



**Matthew Ferial**  
City Manager

## **CONSULTANT SERVICES AGREEMENT**

**THIS AGREEMENT** is made this 8th day of July, 2014, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **Scott Fazekas & Associates, Inc.**, referred to as "CONSULTANT".

### **RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove COUNCIL AUTHORIZATION, DATED July 8, 2014.
2. CITY desires to utilize the services of CONSULTANT to provide the agreed upon services as described below.
3. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

### **AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement shall be for period of one (1) year commencing **July 8, 2014 and continuing through July 7, 2015**, with an option to extend said agreement additional three (3) years, for a total performance period of four (4) years. Option years shall be exercised one (1) year at a time, at the sole option of the CITY. This agreement may be terminated by either party without cause. In such event, the CITY will compensate CONSULTANT for work performed to date in accordance with proposal, which is attached as Exhibit A, and is hereby incorporated by reference. CONSULTANT is required to present evidence to support performed work.
2. **Services to be Provided.** CONSULTANT shall provide Plan Check Services as listed in Exhibit A for the Building Services Division of Community Development. The Scope of Work is attached as Exhibit A, and is incorporated herein by reference. The Scope of Work and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONSULTANT shall be compensated as follows:
  - 3.1 AMOUNT: Total Compensation under this agreement shall not exceed (NTE) amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00), per year, payable in arrears and in accordance with proposal in Exhibit A.

- 3.2 Payment. For work under this Agreement, payment shall be made per monthly invoice submitted by CONSULTANT.
- 3.3 Records of Expenses. CONSULTANT shall keep complete and accurate records of payroll costs, travel and incidental expenses. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY and CONSULTANT shall each have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination to the other party. If the Agreement is terminated, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance requirements.**

- 4.1 COMMENCEMENT OF WORK. CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 Workers Compensation Insurance. For the duration of this Agreement, CONSULTANT and all sub-consultants shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONSULTANT shall maintain the following insurance for the duration of this Agreement:
  - (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.
  - (b) Automobile liability in an amount of \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.

- (c) Professional liability in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate; Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier

**An On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

- 5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of any

default or breach by CITY, or for any amount, which may become due to CONSULTANT.

6. **Work to be Performed by the City.** The City shall perform the work as outlined in Exhibit B.
7. **Service Level Goals.** The CONSULTANT agrees to provide adequate resources to achieve the following service delivery goals for timely performance of the work over which the CONSULTANT has decision authority.

The turnaround times will be as follows:

|                |             |
|----------------|-------------|
| Initial Review | 10 workdays |
| Rechecks       | 5 workdays  |

Service level goals are subject to modification upon mutual agreement of CONSULTANT and CITY.

8. **Consultant Performance Documentation.** The CONSULTANT shall note on the plan review correspondence to the City:
  - a. The day of the week and date the plans were received;
  - b. The day of the week and the date the initial plan review was completed;
  - c. The day of the week and date the applicant's designee was notified that the initial plan review was completed; and
  - d. The calculated number of work days to complete the initial plan review.
9. **Final Decision Authority.** The City's Building Official shall have final decision authority over the results of plan review activity by the CONSULTANT and all work performed by the CONSULTANT shall be to the satisfaction of the Building Official.

In instances where a permit applicant takes exception to the CONSULTANT's interpretation of the regulations, the Building Official shall render the final decision.

10. **Non-Discrimination.** CONSULTANT covenants that there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

11. **Independent Consultant.** It is agreed to that CONSULTANT shall act and be an independent consultant and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
12. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
13. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by the CITY.
14. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of the CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
15. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest, or appearance of conflict of interest, in performance of this Agreement.
16. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
  - a. (Address of Consultant)  
 Scott Fazekas & Associates, Inc.  
 9 Corporate Drive, Suite 200  
 Irvine, CA 92606-5173
  - b. (Address of City) (With a copy to):  
 City of Garden Grove Garden Grove City Attorney  
 11222 Acacia Parkway 11222 Acacia Parkway  
 Garden Grove, CA 92840 Garden Grove, CA 92840
17. **CONSULTANT'S PROPOSAL.** This Agreement shall include CONSULTANT'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
18. **Licenses, Permits, and Fees.** At its sole expense, CONSULTANT shall obtain a **Garden Grove Business License**, all permits, and licenses as may be required by this Agreement.
19. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has

investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.

20. **Time of Essence.** Time is of the essence in the performance of this Agreement.
21. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONSULTANT. CITY will deal directly with and will make all payments to CONSULTANT.
22. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
23. **Indemnification.** To the fullest extent permitted by law, CONSULTANT defends, and holds harmless the CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorney's fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONSULTANT, CONSULTANT's agents, officers, employees, sub-consultants, or independent contractors hired by CONSULTANT in the performance of the Agreement. The only exception to CONSULTANT's responsibility to protect, defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a



limitation upon the amount of indemnification to be provided by the CONSULTANT.

24. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual agreements executed by the CITY and CONSULTANT.
25. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and CONSULTANT.
26. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.

\\ \\

(Agreement Signature Block On Next Page)

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: \_\_\_\_\_

**"CITY"  
CITY OF GARDEN GROVE**

By: \_\_\_\_\_  
**City Manager**

**ATTESTED:**

\_\_\_\_\_  
**City Clerk**

Date: \_\_\_\_\_

**"CONSULTANT"  
Scott Fazekas & Associates, Inc.**

By: Scott R. Fazekas

Name: Scott R. Fazekas

Title: President/CFO

Date: 6-11-14

Tax ID No.: 33-0711166

If CONSULTANT is a corporation, a Corporate Resolution and/or Corporate Seal are required. If a partnership, Statement of Partnership must be submitted to CITY.

**APPROVED AS TO FORM:**

[Signature]  
Garden Grove City Attorney

6/17/14  
Date



**WORK TO BE PERFORMED BY "CONSULTANT"  
AND COMPENSATION**

**A. Plan Review Services Scope of Work**

1. Perform traditional preliminary plan review consultations in CONSULTANT's main office by meetings or by telephone.
2. Perform traditional plan review of submitted plans to determine compliance with CITY adopted:
  - California Building Code
  - California Residential Code
  - California Plumbing Code
  - California Mechanical Code
  - California Electrical Code
  - California Energy Code
  - California Green Building Standards Code
3. Provide the applicant's designee and the CITY a typed list of items needing clarification or change to achieve conformance with the above regulations.
4. Perform all necessary liaison with the applicant's designee, by telephone, FAX, mail, email, or meeting in CONSULTANT's main office, and perform all necessary rechecks to achieve conformance to the regulations.
5. Perform all necessary liaison with the Building Official or his designee, by mail, email, telephone, FAX, or in CONSULTANT's main office, to insure compliance with all applicable State and local codes and to insure compliance with local policy interpretations.
6. Perform plan reviews of revisions to plans that have previously been approved for permit issuance.
7. Perform extra work when requested in writing by the CITY.
8. Attend meetings related to proposed building projects at the request of the Building Official at locations other than CONSULTANT's office.

**B. Compensation for Plan Review Services:**

1. Compensation for each full plan under Section A. 1-5 reviewed shall be 70% of the established plan check fee as calculated per the City of Garden Grove Master Fee Resolution for each building plan checked. The construction valuation shall be as determined by the City of Garden Grove or as mutually agreed upon by the CITY and CONSULTANT. The value shall include all proposed construction as defined in Section 109 of the California Building Code, 2013 edition and Section R108 of the California Residential Code, 2013 edition as adopted by the City of Garden Grove.

Plan check fee for repetitive identical buildings shall be as noted above for the first, or basic building and 15% of the established plan check fee as calculated per the City of Garden Grove Master Fee Resolution for each additional building checked.

A minimum fee of \$200.00 per project would be charged for small projects.

Compensation for only structural plan reviews is reduced to 40% of the established plan check fee as calculated per the City of Garden Grove Master Fee Resolution.

The single fee includes up to two (2) rechecks, plan check conferences with the applicant and /or City staff at the CONSULTANT'S office, the review of plans initially found to be incomplete, and the transmission of plans back to the jurisdiction. When it is found and agreed to by the CITY and CONSULTANT that the scope of plan review activity has been substantially altered, an additional fee may be charged. Additional services outside the main scope of review would be charged at a rate of one hundred dollars (\$100) per hour or as mutually agreed upon based on the salary rate of the employee.

2. Compensation for work performed under Section A.6. shall be calculated as reflected in #1 above or shall be based on CONSULTANT'S current Labor Rates Schedule. The method of calculating compensation for each such plan reviewed shall be as agreed to by the Building Official and CONSULTANT.

## **EXHIBIT B**

### **A. The CITY shall perform the following work:**

1. Arrange shipping one set of plans and documents to the CONSULTANT'S office. Shipping cost shall be paid by the CONSULTANT.
2. Obtain from the applicant, at the time of the project submittal, the necessary items to allow plan review to be completed in the shortest overall time frame. Necessary items include, but are not limited to, complete plans, construction specifications, soil reports, Title 24 energy calculations, structural calculations, the name and address and telephone number of the applicant's designated contact person and similar items that may be unique to a particular project.
3. Provide the valuation for the proposed construction or instruct the CONSULTANT to calculate the valuation in accordance with Exhibit A, B.1.
4. Provide the CONSULTANT with copies of any CITY ordinances that modify the regulations listed in Exhibit A, A.2.
5. Collect sufficient plan check fees or deposits from project applicants to ensure the CITY will not suffer a loss if the applicant decides to abandon the permit process after the CONSULTANT has completed the initial plan check.

### **B. Extra Work:**

The CONSULTANT shall not perform extra work without written authorization from the Building Official or authorized City Representative.