



## City Council Staff Report

Date: March 15, 2017 UNFINISHED BUSINESS

Subject: APPROVAL OF AMENDMENT NO. 3 IN THE AMOUNT OF \$50,000 TO PROFESSIONAL SERVICES AGREEMENT NO. A6132 WITH MICHAEL FONTANA AND ASSOCIATES FOR ON-CALL FACILITY CONSTRUCTION OWNER REPRESENTATIVE SERVICES

From: David H. Ready, City Manager

Initiated by: Engineering Services Department

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### SUMMARY

Approval of Amendment No. 3 to Agreement No. 6132 allows the City to retain the services of Michael Fontana and Associates as the Owner's Representative on behalf of the City associated with the Downtown Revitalization Project and Downtown Palm Springs Park Project, with an additional budget of \$50,000.

### RECOMMENDATION:

- 1) Approve Amendment No. 3 to Agreement No. 6132 increasing the contract amount by \$50,000, for a total not to exceed \$175,000, with Michael Fontana and Associates for On-Call Facility Construction Owner Representative Services; and
- 2) Authorize the City Manager to execute all necessary documents.

### BACKGROUND:

On February 12, 2014, the City Manager approved a Professional Services Agreement with Michael Fontana and Associates (Agreement No. A6132) for a maximum of \$25,000 to provide on-call Owner's Representative services for the Downtown Revitalization Project. Pursuant to this Agreement, Michael Fontana acts on behalf of the City Manager as the City's "Owner's Representative" in various meetings with the developer, contractors and engineers associated with the Downtown Revitalization Project, providing expertise in construction management, cost estimating, budgeting, and project scheduling in a manner which seeks to advocate for the City's interests. Additionally, Mr. Fontana reviews expenditures from the "public escrow" account associated with the project to ensure compliance with the City's partnership Agreement with the developer.

ITEM NO. 4.B.

The nature of the Agreement is for on-call, as-needed services, so the amount of the Agreement was unspecified because the number and type of capital projects requiring the Consultant's services throughout the duration of the term of the Agreement was unknown. The initial budget under the Agreement was established with the understanding that additional funding would need to be added once the Downtown Revitalization Project was fully underway.

On October 1, 2014, the City Council approved Amendment #1 to the Agreement increasing the budget by \$50,000 for Owner's Representative Services associated with the Downtown Revitalization Project.

On October 21, 2015, the City Council approved Amendment #2 to the Agreement increasing the budget by \$50,000 for Owner's Representative Services associated with the Downtown Revitalization Project.

Staff has prepared Amendment #3 that authorizes \$50,000 additional budget for these services for the core activity of constructing the public improvements and preparing the infrastructure for the Downtown Palm Springs Park. The new maximum contract total is \$175,000.

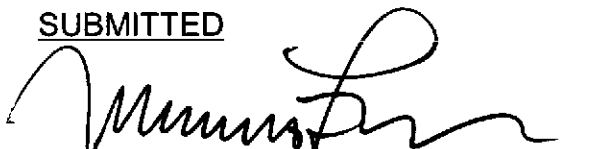
ENVIRONMENTAL IMPACT:

The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

FISCAL IMPACT:

Sufficient funds are available in the Measure J Capital Fund, Account No. 260-4500-59464 for Amendment No. 3 in the amount of \$50,000.

SUBMITTED



Marcus L. Fuller, MPA, P.E., P.L.S.  
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.  
City Manager

Attachments:

1. Amendment No. 3

# **ATTACHMENT 1**

**AMENDMENT NO. 3  
TO AGREEMENT NO. A6132  
ON-CALL FACILITY CONSTRUCTION OWNER REPRESENTATIVE SERVICES**

THIS THIRD AMENDMENT TO Agreement No. 6132 for consulting services, (herein "Amendment") made and entered into on the \_\_\_ day of \_\_\_\_\_, 2017, by and between CITY OF PALM SPRINGS, a California charter City and municipal corporation, (herein "City"), and Michael Fontana and Associates, (herein "Consultant"), is hereby amended as follows:

**RECITALS**

WHEREAS, City and Consultant entered into that certain Professional Services Agreement No. A6132 ("Agreement"), as dully amended from time to time, for "On-Call" Facility Construction Owner Representative Services for a variety of future construction projects, including the Public Improvements constructed as part of the Downtown Revitalization Project (hereinafter the "Project"); and

WHEREAS, the parties wish to amend the Agreement to extend the services to be provided by Consultant pursuant to the Agreement.

**AGREEMENT**

In consideration of the promises and covenants contained in this Amendment and other good and valuable consideration, the City and Consultant agree:

Section 1. The Agreement expressly stated that the maximum contract amount of the Agreement was undefined, and was subject to the number and type of capital projects requiring the Consultant's services throughout the duration of the term of the Agreement, if any. Consultant's compensation was to be limited to the amount identified on each separate, individually authorized Task Order corresponding to a project requiring the services of the Consultant. The Project is currently under active construction, and the City has concurrently proceeded on the design development of the Downtown Palm Springs Park (City Project No. 15-07), requiring the Consultant's additional services.

Section 2. By approval of this Amendment, the City Council hereby authorizes the approval of an Individual Task Order (Purchase Order) in the additional amount of Fifty Thousand Dollars (\$50,000), for a new cumulative maximum amount of One Hundred Seventy Five Thousand Dollars (\$175,000), sufficient to cover the cost of required services (pursuant to Schedule "D") necessary for the completion of the Downtown Revitalization Project, subject to the remaining term of the Agreement.

Section 3. Full force and effect: Except as otherwise previously modified herein, all other provisions of the Agreement shall remain in full force and effect.

Agreement No. 6132  
Amendment No. 3  
Page 2

IN WITNESS WHEREOF, the parties have executed and entered into this Amendment as of the date first written above.

ATTEST:

CITY OF PALM SPRINGS,  
a California charter city and municipal  
corporation

By: \_\_\_\_\_  
Kathleen D. Hart  
Interim City Clerk

By: \_\_\_\_\_  
David Ready  
City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Douglas Holland  
City Attorney

MICHAEL FONTANA AND ASSOCIATES

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name/Title