



City of Palo Alto

City Council Staff Report

(ID # 10617)

Report Type: Consent Calendar

Meeting Date: 11/4/2019

Summary Title: Amendment to Lexington Planning Contract to Increase Not-to-Exceed Fee by \$114,440

Title: Approval of Amendment Number 4 to Contract Number S17165080 With Lexington Planning to add \$114,440 for an Amount Not to Exceed \$230,940 to Continue Work on Reviewing and Modifying Objective Standards for Title 18

From: City Manager

Lead Department: Planning and Development Services

Recommendation

Approve and authorize the City Manager or his designee to execute Amendment No. 4 to the existing agreement (S17165080) with Lexington Planning to:

- (1) increase compensation by \$114,440 for a total contract not-to-exceed amount of \$230,940 for an amendment to the scope for work related to compliance with SB 35; and,
- (2) extend the contract term to December 31, 2020.

Background

The City of Palo Alto submitted a 2019 SB 2 Planning Grants Program (PGP) grant application as described in the [Notice of Funding Availability](#) and Program Guidelines released by the Department of Housing and Community Development. The SB 2 application is noncompetitive grant application and is reviewed by the State on a rolling basis. One of the two projects submitted in the application is the "Objective Design and Development Standards for SB 35 and HAA." Recent housing legislation, such as Senate Bill No. 35 (SB 35) and the Housing Accountability Act (HAA), will enabled a streamlined review process for certain residential projects. Projects that meet affordability requirements and objective standards will be eligible for streamlined review. Such projects could only be reduced in density or denied based upon objective standards or specific adverse effects on health and safety. The Palo Alto Municipal Code Title 18 (Zoning) contains subjective standards and guidelines, including context-based

design criteria and architectural review standards that are not entirely objective. The City must identify and revise subjective guidelines to apply to qualifying ministerial housing projects.

Lexington Planning (the consultant) have provided consultant support to the Planning and Development Services Department since July 2016. Most recently, Lexington completed the Housing Work Plan, including the parking study associated with multi-family residential vehicle trips and parking demand. The existing contract includes Part Two of the Housing Work Plan. Part Two includes working on a 2019 Ordinance aligns with the priorities outlined in the Housing Work Plan that will require the consultant to review the zoning and municipal code and provide objectives, issues, options, and recommendations for changes.

Discussion

Since July 2016, Lexington Planning has provided implementation assistance for the Comprehensive Plan Update and other long-range planning projects. Given staff vacancies, the department relies on consultants to provide expertise in long range planning. In addition, Lexington Planning has extensive knowledge and work experience regarding SB 35 objective standards. The City has identified the consultant as the most qualified to handle the work within the scope. Lexington successfully handled an update to recent law and has work currently underway, which needs to be completed.

Staff requests Council's approval to amend the contract by extending it for one year and increasing the contract amount by \$114,440. The work would include prioritizing and identifying subjective guidelines in Title 18, revising these as needed to create objective standards, and refining design guidelines based on use and district type. The extensive scope includes presentations to the Architectural Review Board, Planning and Transportation Commission and City Council.

Under the existing contract, Lexington Planning works on an on-call basis, when the City needs consulting expertise. The amended scope would allow continuation of the Housing Work Plan, Part 2: 2019 Ordinance Work. The amended scope would also allow the City to finish work related to recent State law that began under the current contract. If the City finds it does not need work from this consultant, the consultant would not charge the City. The requested contract amendment and extension will continue that practice.

Resource Impact

Based on anticipated usage, the estimated cost of the one-year contract extension with Lexington Planning is \$114,440. When the City's SB 2 application is accepted, the State would reimburse the \$114,440 through a grant reimbursements process. There is sufficient budget in the Fiscal Year 2020 Adopted Operating Budget to cover the amount up front. No additional funding is required. If over the year, the City finds it needs less support, the City will not spend

the full amount in the contract.

Environmental Review

The actions recommended in this report are exempt from review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15061(b)(3). The actions would initiate a planning process and are not determinative of any specific outcome.

Attachments:

Attachment A: Lexington Revised Contract (PDF)

**AMENDMENT NO. 4 TO CONTRACT NO. S17165080
BETWEEN THE CITY OF PALO ALTO AND
JEAN EISBERG dba LEXINGTON PLANNING**

This Amendment No. 4 (this "Amendment") to Contract No. S17165080 (the "Contract" as defined below) is entered into as of October 28, 2019, by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and JEAN EISBERG dba LEXINGTON PLANNING, a sole proprietor, located at 2083 Vine Street, Berkeley, CA 94709 ("CONSULTANT"). CITY and CONSULTANT are referred to collectively as the "Parties" in this Amendment.

RECITALS

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of development of programs and plans to determine a framework for future development in Palo Alto, as detailed therein.

B. The Parties now wish to amend the Contract in order to extend the term and increase the compensation by \$114,440.00 from 116,500.00 to \$230,940.00 for additional work as specified in Exhibit "A" Scope of Services.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:

- a. **Contract.** The term "Contract" shall mean Contract No. S17165080 between CONSULTANT and CITY, dated July 15, 2016, as amended by:

Amendment No.1, dated April 4, 2017
Amendment No.2, dated March 7, 2018
Amendment No.3, dated December 17, 2018

- b. **Other Terms.** Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Section 2. TERM of the Contract is hereby amended to read as follows:

"SECTION 2. TERM. The term of this Agreement shall be from the date of its full execution through December 31, 2020 unless terminated earlier pursuant to Section 19 of this Agreement."

SECTION 3. Section 4. COMPENSATION of the Contract is hereby amended to read as follows:

“SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A” (“Basic Services”), and reimbursable expenses, shall not exceed Two Hundred Thirty Thousand Nine Hundred Forty Dollars (\$230,940.00). CONSULTANT agrees to complete all Basic Services, including reimbursable expenses, within this amount. The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.”

SECTION 4. The following exhibit(s) to the Contract is/are hereby amended or added, as indicated below, to read as set forth in the attachment(s) to this Amendment, which is/are hereby incorporated in full into this Amendment and into the Contract by this reference:

- a. Exhibit “A” entitled “SCOPE OF SERVICES”, AMENDED, REPLACES PREVIOUS.
- b. Exhibit “B” entitled “SCHEDULE OF PERFORMANCE”, AMENDED, REPLACES PREVIOUS.
- c. Exhibit “C” entitled “SCHEDULE OF RATES”, AMENDED, REPLACES PREVIOUS.

SECTION 5. Legal Effect. Except as modified by this Amendment, all other provisions of the Contract, including any exhibits thereto, shall remain in full force and effect.

SECTION 6. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)

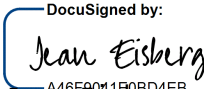
SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF PALO ALTO

**JEAN EISBERG dba LEXINGTON
PLANNING**

City Manager

DocuSigned by:

By: Jean Eisberg
Name: Jean Eisberg
Title: Principal

APPROVED AS TO FORM:

City Attorney or designee

Attachments:

- EXHIBIT "A": SCOPE OF SERVICES, AMENDMENT No. 4
- EXHIBIT "B": SCHEDULE OF PERFORMANCE, AMENDMENT No. 4
- EXHIBIT "C-1": SCHEDULE OF RATES, AMENDMENT No. 4

EXHIBIT “A” SCOPE OF SERVICES

As a consequence of CITY’S downtown, convenient transit and freeway access, great schools, employment opportunities, and desirable neighborhoods, the CITY is increasingly under pressure to grow and accommodate existing and new residents, workers, and visitors. At the same time, CITY as whole and the Planning and Community Environment Department specifically are in the midst of developing programs and plans to determine a framework for future development and ensure the continued livability of the city as a place to live and as a destination for work, shopping, entertainment, and recreation.

These dynamics coalesce into a heavier workload for CITY staff and an opportunity for CONSULTANT to provide support and advance a variety of long-range policies initiatives. Detailed work plans shall be prepared on a project-by-project basis, Consultant tasks generally shall include:

- Research, analysis, report writing, and presentations to staff, boards, commissions, city council and citizen or stakeholder groups.
- Prepare for and attend in-person meetings with staff, consultants, elected, appointed and others as needed.
- Participate in regular project update meetings remotely or in person as determined appropriate
- Strategize and conduct public outreach and engagement
- Conduct survey analysis, data collection, case study review and analysis
- Engage peers and professional contacts and planning organizations to identify and customize best practices for relevant planning policies and programs
- Facilitate project and program implementation
- Provide guidance and support to city planners and long-range planning-related projects
- Review and process development applications from filing to conclusion

AMENDMENT NO.1 SCOPE OF SERVICES

TASK ORDER #2: PROJECT MANAGEMENT OF THE DOWNTOWN DEVELOPMENT CAP EVALUATION, PHASE 2

This task order describes the project understanding, work plan, timeline, and fee proposal for project management of the Downtown Development Cap Evaluation, Phase 2.

WORK PLAN

Task 1: Review and Provide Feedback on Reports

- A. Cursory review of Phase 1 reports:
 - Development Capacity, Market and Financial Feasibility Assessment, and Preliminary Policy Concepts
 - Development Trends, Parking, and Traffic
 - Street Intercept Survey Report
- B. Detailed review of draft Phase 2 reports:
 - Residential Analysis
 - Active Use Analysis
 - Downtown Basement Conversion Study
- C. Coordination with staff and consultants
 - Coordinate with City staff on comments and map changes
 - Provide comments to Dyett & Bhatia/EPS
- D. Review final reports to ensure that all comments have been addressed and provide consultants with any final comments

Deliverables: (1) Comments/mark-ups on the Residential Analysis; (2) Comments/mark-ups on the Active Use Analysis; (3) Comments/mark-ups on the Downtown Basement Conversion Study

Task 2: Study Sessions

- A. Planning & Transportation Commission Study Sessions (2)
 - Prepare staff reports and packet materials to present Phase 2 reports at three meetings
 - Coordinate with community members and consultants
- B. City Council Study Sessions (2)
 - Prepare staff reports and packet materials to present Phase 2 reports at three meetings
 - Coordinate with community members and consultants

Deliverables: (1) Staff reports and brief hearing presentations for each decision-maker meeting. (Scope assumes that Dyett & Bhatia/EPS will prepare and deliver the bulk of the presentations.)

AMENDMENT NO. 3 SCOPE OF SERVICES

CONSULTANT will complete the following general tasks. A draft timeline of activities is identified in the sequence and timeline section below.

PART 1: 2018 Ordinance

1. **Zoning Options.** Provide objectives, issues, options, and recommendations for the zoning changes identified in the work plan. This task includes iterations (memos) to discuss with City staff and staff reports to be reviewed by the Planning and Transportation Commission through a series of meetings.
2. **Outreach.** In addition to decision-maker meetings, community outreach will be conducted through two sets of tasks:
 - A. **Conduct informal community outreach efforts, including with developers and architects (i.e., stakeholder interviews) to solicit feedback on proposed zoning changes. Approximately 15 stakeholders would be contacted.**
 - B. **Conduct one community meeting where the public may discuss and ask questions regarding the Draft Ordinance. This task assumes that City staff will be responsible for meeting logistics, noticing, publicity, and printing. CONSULTANT will be responsible for developing an agenda, format, and summary of the meeting.**
3. **Zoning Ordinance Framework.** Provide a framework for zoning changes identified in the form of memos to the City Attorneys' Office.
4. **Draft Ordinance.** Work with Planning staff and the City Attorneys' office to develop specific zoning language for decision-makers' consideration. Review of and contributions to draft ordinance.
5. **Study Sessions/Hearings.** Develop staff reports and related attachments for Planning & Transportation Commission, Architectural Review Board, and City Council study sessions and hearings. Attend and present at up to 10 decision-maker meetings.
6. **Conceptual Site Analysis.** Analyze recent projects and conduct yield analyses on opportunity sites to determine back-of-the-envelope net changes on individual sites based on the changes identified in task 1 above. This task will primarily be for internal use to test assumptions and aid in discussions with stakeholders (see subtask 3A). Task includes coordination with urban designers to create site massing models on individual sites. This scope does not include a complete analysis of all sites in the Downtown study area or Cal Ave. area.

PART 2: 2019 Ordinance

1. **Zoning Options.** Provide objectives, issues, options, and recommendations for the zoning changes identified in the work plan for the 2019 Ordinance, to be prepared by others.

2. Draft Ordinance. Work with Planning staff and the City Attorneys' office to develop specific zoning language for decision-makers' consideration. Review of and contributions to draft ordinance.

PART 3: BMR Economic Analysis

1. Project Management. The City of Palo Alto is considering updating its BMR program to potentially increase the inclusionary requirement on for-sale development, and impose a new inclusionary requirement on rental development. The City contracted Strategic Economics to analyze the financial feasibility of these policies. CONSULTANT will contribute to this effort through the following tasks:
 - Help to manage consultant tasks, including data gathering, direction, and assumptions.
 - Review and edit draft deliverables.
 - Contribute to potential policy changes.

PART 4: Downtown CAP

1. Scoping and Budgeting. Explore issues and options related to development of a coordinated area plan for Downtown.
 - Develop a draft scope of work for a CAP, including key issues to be addressed and major deliverables.
 - Develop a budget estimate.

AMENDMENT NO. 4 SCOPE OF SERVICES

CONSULTANT will complete the following general tasks.

Task 1: SB35 Checklists

Review eligibility and submittal requirements checklists, already drafted by City staff. Revise as needed based on coordination with Planning and other department staff members and to ensure consistency with State law. The submittal requirements and any public notification requirements should be codified in the Zoning Ordinance or cross-referenced if adopted by resolution.

Task 2: Title 18 Code Review

Review Title 18 sections where residential is permitted or conditionally permitted and subsections affecting residential or residential mixed-use projects. Focus on district regulations addressing design and development standards, parking requirements, performance standards, and context-based design criteria. CONSULTANT will review all code sections listed below with a focus on development regulations, parking, and performance standards; SUBCONSULTANT will focus on design standards and context-

based design criteria. The deliverable will be an informal redline annotated version of the existing code to be discussed with staff. This review will include the following code subsections. (Additional code sections may be added if they fit within the identified fee or may be addressed on a time and materials basis.)

- 18.10 Low Density Residential (R-E, R-2 and RMD) Districts
- 18.12 R-1 Single-Family Residence District
- 18.13 Multiple Family Residential (RM-20, RM-30 and RM-40) Districts
- 18.16 Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts
- 18.18 Downtown Commercial (CD) District
- 18.20 Office, Research and Manufacturing (MOR, ROLM, RP and GM) Districts
- 18.23 Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts
- 18.30 Combining Districts:
 - 18.30(A) Retail Shopping (R) Combining District Regulations
 - 18.30(B) Pedestrian Shopping (P) Combining District Regulations
 - 18.30(C) Ground Floor (GF) Combining District Regulations
 - 18.30(J) Affordable Housing (AH) Combining District Regulations
 - 18.30(K) Workforce Housing (WH) Combining District Regulations
- 18.34 Pedestrian and Transit Oriented Development (PTOD) Combining District Regulations
- 18.40 General Standards and Exceptions:
 - 18.40.130 Landscaping
 - 18.40.180 Retail Preservation
- 18.52 Parking and Loading Requirements
- South of Forest Area (SOFA) design guidelines and development standards (Chapters 4 and 5)

Task 3: Coordination with City Staff

Regularly check in with long-range and current planning staff, through phone calls and in-person meetings, to identify issues and options for developing objective standards and to review draft ordinance changes.

Task 4: Issues & Options Memo

Based on review of Title 18 in Task 2 and preliminary feedback from City staff in Task 3, prepare a memo outlining the key issues and options. The memo will highlight areas of subjectivity in the existing code and identify options and recommendations where existing language should be strengthened into standards and clarified with graphics,

and/or where new standards may be warranted. SUBCONSULTANT will address issues and options related to the context-based design criteria, reorganizing design guidelines, and graphic communication. This memo will be discussed and revised with City staff as part of Task 3 and then presented to the ARB in Task 5 to help prioritize and draft the ordinance.

Task 5: Architectural Review Board Meetings (3)

Work with the ARB over three meetings to confirm key issues, prioritize standards and design guidelines for modifications, and review the draft ordinance changes.

CONSULTANT will prepare staff reports, attachments, and presentations for each meeting.

- Meeting 1: Project overview; review Issues & Options Memo; listen to feedback ARB: what is working, what is not working, priorities for standards
- Meeting 2: Review and feedback on preliminary draft ordinance components and preliminary graphics
- Meeting 3: Review and feedback on draft of Ordinance, graphics and Architectural Checklist

Task 6: Draft Ordinance

Prepare redline changes and new or modified standards for Title 18, including development regulations, parking, design, and performance standards. Revise existing and develop new objective standards from the subjective context-based design criteria. This scope assumes that the City Attorney's office will be responsible for preparation of the draft and final ordinance, with significant input from consultants.

Task 7: Objective Standards and Guidelines Graphics and Architectural Checklist

Consolidate and revise context-based design criteria to identify design standards and design guidelines by district and/or housing type. Prepare zoning graphics to complement existing and/or new text standards in the Ordinance. Develop a Design Standards and Guidelines Architectural Checklist for development proposals and staff review. The budget estimates the hours needed to prepare and revise graphics in response to staff and decision-maker feedback. However, a contingency budget is identified for additional rounds of review or graphics preparation beyond the base scope.

Task 8: Planning & Transportation Commission Meetings (2)

Present ARB recommendation to the PTC over two meetings. CONSULTANT will prepare staff reports, attachments, and presentations for each meeting.

Task 9: City Council Meetings (2)

Present ARB/PTC recommendation to the City Council over two meetings (first and second reading). CONSULTANT will prepare staff reports, attachments, and presentations for each meeting.

EXHIBIT “B”**SCHEDULE OF PERFORMANCE****AMENDMENT NO. 1**

Task	Timeline for Completion
1-A: Review Phase 1 reports	Completed
1-B: Review draft Phase 2 reports	<i>Residential Analysis: February - March 2017</i> <i>Active Use Analysis and Basement Study: March - April</i>
1-C: Coordination/feedback to consultants	<i>Residential Analysis: March - April 2017</i> <i>Active Use Analysis and Basement Study: April - May</i>
1-D: Final review	<i>Residential Analysis: June 2017</i> <i>Active Use Analysis and Basement Study: July 2017</i>
2-A: Planning & Transportation Commission	<i>Residential Analysis: July 2017</i> <i>Active Use Analysis and Basement Study: August 2017</i>
2-B: City Council Study Session	<i>Residential Analysis: July 2017</i> <i>Active Use Analysis and Basement Study: August 2017</i>

AMENDMENT NO. 3

Task	Timeline for Completion
<i>PART 1: 2018 Ordinance</i>	
Zoning Options (Memos and Discussion with Staff)	March – April 2018
Stakeholder Outreach	May – June 2018
PTC Study Session to Review Council Objectives for Housing Work Plan	March 14, 2018 (Meeting #1)
PTC Study Sessions to Review 2018 Zoning Options	April 25, 2018 (Meeting #2) May 30, 2018 (Meeting #3) August 29, 2018 (Meeting #4) September 26, 2018 (Meeting #5)
Community Meeting	June, 28 2018
Architectural Review Board Meeting (Open Space Standards)	September 20, 2018 (Meeting #6)
Zoning Ordinance Framework	July - August 2018
Planning & Transportation Commission Hearing	October 10, 2018 (Meeting #7)

Conceptual Site Analysis	October - November 2018
City Council Hearings	November 26, 2018 (Meeting #8) December 2018 (Meeting #9) (Meeting #10, if necessary)
<i>PART 2: 2019 Ordinance</i>	
Zoning Options (Memos and Discussion with Staff)	May – August 2019
Draft Ordinance Contributions	August – December 2019
<i>PART 3 BMR Economic Analysis</i>	
Project Management	May 2018 – March 2019
<i>PART 4 Downtown CAP</i>	
Scoping & Budgeting	October – December 2018

AMENDMENT NO. 4

Task	Timeline for Completion
Title 18 Code Review	September – October 2019
Coordination with Staff	October – December 2019 March 2020 July 2020
Issues & Options/Draft Ordinance Prep ARB Meetings	December 2019-March 2020
Ordinance Revisions ARB Recommendation PTC Meeting PTC Recommendation	April 2020-September 2020 April 2020 May 2020 July 2020
First Reading Second Reading	August 2020 September 2020

EXHIBIT "C-1"
SCHEDULE OF RATES

Jean Eisberg, Principal: \$155

AMENDMENT NO. 3

Task	Hours	Fee	% Complete
<i>PART 1: 2018 Zoning Ordinance</i>			
1: Zoning Options	0	0	100%
2: Outreach			
2-A: Stakeholder Meetings	0	0	100%
2-B: Community Meeting	0	0	100%
3: Zoning Ordinance Framework	0	0	100%
4: Draft Ordinance	12	1,860	20%
5: Study Sessions & Hearings (10) incl. staff report, presentation, attendance			
5-A: PTC/ARB Meetings (7)	12	1,860	85%
5-B: Council Meetings (3)	36	5,580	0%
6: Conceptual Site Analysis	14	2,170	0%
<i>PART 2: 2019 Zoning Ordinance</i>			
1: Zoning Options	44	6,820	0%
2: Draft Ordinance	40	6,200	0%
<i>PART 3: BMR Economic Analysis</i>			
1: Project Management	32	4,960	20%
<i>PART 4: Downtown CAP</i>			
1: Scoping & Budgeting	12	1,860	0%
<i>Reimbursable Expenses (Travel, Printing, etc.)</i>		690	
Total	202	32,000	

AMENDMENT NO. 4

	Lexington Planning		Raimi & Associates				Total
	Jean Eisberg (@\$155/hr)		Chris Sensenig (@\$180/hr)	Intermediate Planner (@\$140/hr)	Simran Malhotra (@\$225/hr)	Subtotal	
Task	Hours	Fee	Hours	Hours	Hours	Fee	Fee
1: SB35 Checklists	4	620	0	0	0	0	620
2: Title 18 Code Review	40	6,200	16	0	2	3,330	9,530
3: Coordination with City Staff	20	3,100	20	0	0	3,600	6,700
4: Issues & Options Memo	48	7,440	16	0	2	3,330	10,770
5: ARB Meetings (3)	72	11,160	36	0	0	6,480	17,640
6: Draft Ordinance	60	9,300	40	0	2	7,650	16,950
7: Graphics and Architectural Checklist	4	620	60	80	6	23,350	23,970
8: PTC Meetings (2)	40	6,200	0	0	0	0	6,200
9: City Council Meetings (2)	32	4,960	0	0	0	0	4,960
<i>Reimbursables (Travel, Printing, etc.)</i>		468				450	918
<i>Office Expenses</i>						1,432	1,432
Subtotal	320	50,068	188	80	12	49,622	99,690
Contingency (Add'l Meetings or Tasks)	40	6,200	40	40	6	8,550	14,750
Total (with Contingency)	360	56,268	228	120	18	58,172	114,440