

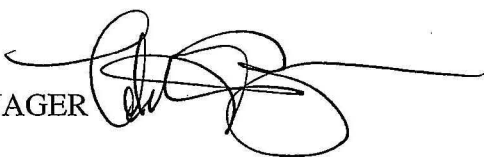


MEETING DATE: 6/20/05
ITEM NO. 10

COUNCIL AGENDA REPORT

DATE: JUNE 14, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: ADOPT RESOLUTION AUTHORIZING TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH LINHART PETERSEN POWERS AND ASSOCIATES (LP2A) FOR BUILDING PERMIT PLAN CHECK AND INSPECTION CONSULTANT SERVICES.

RECOMMENDATION:

Adopt the attached Resolution authorizing the Town Manager to enter into an agreement with LP2A for building permit plan check services and inspection consultant services.


BACKGROUND:

The Town entered into the original consultant contract with LP2A in July 1999. On June 30, 2005, the fourth amendment to the original contract will expire. The Town Purchasing Guidelines indicate that service contracts which run longer than 3 -5 years should be evaluated to ensure the Town is receiving high quality services at competitive rates. The LP2A contract has been extended the maximum allowed by the purchasing guidelines; therefore, a new contract needs to be adopted. The Town needs to retain consultant plan check and engineering services due to the defunding of the plan check engineer position. This contract is unique in that all costs are borne by applicants and no costs to the Town are incurred.

DISCUSSION:

LP2A has been providing Building Division plan check services to the Town for five years and provides both code and structural engineering review of building permits. LP2A is able to provide in-house plan checking services along with the typical outside services. The in-house review helps reduce plan-check times for small and less complicated projects. Informal surveys were conducted

(Continued on Page 2)

PREPARED BY: BUD LORTZ, 
DIRECTOR OF COMMUNITY DEVELOPMENT DEPARTMENT

Reviewed by: PS Assistant Town Manager OK Town Attorney _____ Clerk Administrator
_____ Finance ✓ Community Development Revised: 6/14/05 4:17 pm

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MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION AUTHORIZING TOWN MANAGER TO ENTER INTO
AN AGREEMENT WITH LP2A FOR BUILDING PERMIT PLAN CHECK AND
INSPECTION CONSULTANT SERVICES

June 14, 2005

with three plan check consultants CSG consultants Inc, Harris & Associates, and HAFFA International. Through Staff experience, discussions with other municipalities, and these informal surveys, staff has determined that LP2A provides high quality service to our customers at competitive rates. Only one other firm contacted was able to provide in-house plan check services. Staff believes that LP2A has the experience and specific Town knowledge to provide the best service to Town staff and Town applicants. Staff is extremely satisfied with the working relationship with LP2A and feels that they are currently the best fit for the Town. At the end of this two-year contract, staff will issue a formal request for qualifications and proposals to re-evaluate service and costs.

CONCLUSION:

Staff recommends that the Council accept the staff recommendations noted above.

ENVIRONMENTAL ASSESSMENT:

This is not a project as defined under CEQA.

FISCAL IMPACT: None.

ATTACHMENTS:

- 1) Draft Resolution

BNL:AG:mdc

cc: Kenneth C. Peterson, LP2A, 6088 Sunol Blvd, Ste 100, Pleasanton, CA 94566

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RESOLUTION 2005-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AUTHORIZING TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH LINHART
PETERSEN AND POWERS AND ASSOCIATES FOR BUILDING PERMIT PLAN CHECK
AND INSPECTION CONSULTANT SERVICES.**

WHEREAS, Town Council desires to continue to utilize consultant services for Building Permit Plan Check & Inspection; and

WHEREAS, due to the exceptional service and expert knowledge; qualifications and experience required to provide these services noted, and the inability of the Town to provide these services due to lack of professional staff, the Town desires to contract with Linhart Petersen Powers and Associates to provide Building Permit Plan Check and Inspection Services.

RESOLVED, by Town Council that TOWN OF LOS GATOS enter into an agreement with Linhart Petersen Powers and Associates to provide Building Permit Plan Check and Inspection Services. This agreement is titled Agreement for Building Permit Plan Check and Inspection Consultant Services - Exhibit A; and

FURTHER RESOLVED, by the Town Council that Town Manager is authorized and directed to execute the attached agreement Building Permit Plan Check and Inspection Consultant Services in the name and in behalf of TOWN OF LOS GATOS.

PASSED AND ADOPTED at a regular meeting of the Town Council/Redevelopment Agency of

the Town of Los Gatos, California, held on the th day of June , 2005, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is entered into this _____ day of June, 2005, by and between the Town of Los Gatos, State of California, herein called the "Town", and, LINHART PETERSEN POWERS and ASSOCIATES, engaged in providing BUILDING PERMIT PLAN CHECK AND INSPECTION services herein called the "Consultant".

RECITALS

- A. The Town desires to continue to utilize the Consultant's services for Building Permit Plan Check and Inspection.
- B. Due to the exceptional service and expert knowledge; qualifications and experience required to provide these services noted, and the inability of the Town to provide these services due to lack of professional staff, the Town desires to contract with Linhart Petersen Powers and Associates to provide Building Permit Plan Check and Inspection Services.
- C. The Consultant represents and affirms that it is qualified and willing to perform the desired work pursuant to this Agreement.

AGREEMENTS

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

- 1. Scope of Services. The Consultant shall provide the following services listed in the Consultant's Scope of Services, attached hereto as Exhibit "A" and by reference incorporated herein, and the services listed below:
 - A. As needed by the Town, provide building permit plan checks services, including, but not limited to:
 - Providing initial plan check comments on submitted applications and plans,
 - Providing resubmittal plan check comments on revised plans.
 - Providing written copies of initial and resubmittal plan check comments.
 - B. When needed by the Town, conduct investigations, special studies, and prepare reports regarding building permit plan check issues.
 - C. As requested by the Town, provide copies of work products of all comments, reports, and studies prepared for the Town.
 - D. On an ongoing "as needed basis", Consultant shall review and comment plans submitted to the Town of Los Gatos Development Review Committee (DRC). On an "as needed basis", Consultant shall attend weekly DRC meetings and provide written deficiency comments regarding the submittal DRC applications.

- E. Town may from time-to-time have the need for other services not specifically listed in this document for which Consultant has the necessary experience and capabilities to provide. Town may authorize Consultant to perform such selected services on an "as needed basis".

2. Time of Performance. The services of the Consultant are to commence upon the execution of this Agreement (July 1, 2005) and end on June 30, 2007. Issuance of a Town purchase order with the completion date of June 30, 2006 will be issued upon approval of Agreement. Should the Town not renew the Agreement, the award and authorization of the Agreement shall automatically expire. The Town shall give the Consultant at least thirty (30) days notice, prior to the cancellation or expiration of the Agreement
3. Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
4. Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
5. Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.
6. Compensation. Compensation for each task shall not exceed the amount in the Consultant's Schedule of Fees (attached hereto as Exhibit "B" and incorporated by reference herein) or as noted in Consultant's Schedule of Rates (attached hereto as Exhibit "C" and incorporated by reference hereto). Payment shall be based upon Town approval of each task.
7. Billing. Billing shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall reference the Town's purchase order number and be addressed as follows:

Invoices:

Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95030

Statements:

Town of Los Gatos
Attn: Finance Department
P.O. Box 655
Los Gatos, CA 95030

8. Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
9. Project Manager. The Project Manager for the Consultant for the work under this Agreement shall be either Kenneth C. Petersen or Susan O'Brien. The Project Manager for the Town for the work under this Agreement shall be Anthony Ghiossi.
10. Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
11. Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

To Town: Bud N. Lortz
Director of Community
Development
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95032

Telephone: (408) 354-6874
FAX: (408) 354-7593

To Consultant: Kenneth C. Petersen
Susan O'Brien
Linhart Petersen Powers
and Associates
6088 Sunol Blvd., Ste 100
Pleasanton, CA 94566

Telephone: (925) 226-1320
Toll Free: (800) 340-4644
FAX: (925) 218-1970
Email: susan@lp2a.com

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

12. Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations

under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement.

Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

13. Conflict of Interest. Consultant understands that its professional responsibilities is solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
14. Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.
15. Insurance.
 - A. Minimum Scope of Insurance:
 - i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
 - ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

B. General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

C. All Coverages: Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

D. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

16. Indemnification. The Consultant shall save, keep and hold harmless indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.
17. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
18. Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
19. Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than thirty days written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement pursuant to paragraph 6 hereto, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
20. Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
21. Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
22. Entire Agreement. This Agreement, including Exhibits A, B and C, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date indicated on page one.

Town of Los Gatos. by:

Linhart Petersen Powers and Associates, by:

Debra J. Figone, Town Manager

Signature

Date: _____

Print Name

Recommended by:

Pamela Jacobs, Assistant Town Manager

Title

Date: _____

Date: _____

Approved as to Form:

Orry P. Korb, Town Attorney

Date: _____

ATTEST:

Town of Los Gatos, Los Gatos, California

Marlyn Rasmussen, Clerk Administrator

Date: _____

EXHIBIT A

SCOPE OF SERVICES

PLAN REVIEW SERVICES

Plan Review: LP²A will perform plan reviews to check plans for compliance with the California Building Laws as generally found in Title 24 Parts 2, 3, 4, 5, 6, 8 and 12 including structural, fire/life safety, disabled access, and energy conservation requirements — as amended by Jurisdiction.

Comment Lists and Plans Delivery: Plan reviews result in typed lists of comments which refer to specific details and drawings, and reference applicable code sections. LP²A will transport plans and comments to Jurisdiction in person, via FAX, and/or reliable overland carrier. Overnight delivery is available at no additional cost. Depending on the Jurisdiction's preferred process, LP²A will provide plan check comments and perform rechecks directly with the (1) Jurisdiction, or (2) the applicant/designer, returning approved documents to the Jurisdiction after the plan review process is completed.

Turn-Around Schedules: Plan reviews will generally be completed / returned to Jurisdiction within approximately ten (10) working days of the date the plans are received by LP²A. Other turnaround schedules will be accommodated at request of Jurisdiction. Large, unusually complex plan reviews may require up to a fifteen (15) day turn-around.

Technical Support: When mutually agreed between the Jurisdiction and LP²A as vital to project success, LP²A staff will attend pre-construction or pre-design meetings, field visits upon request, and provide support for field inspection personnel *on an as-needed basis*.

INSPECTION SERVICES

LP²A will provide building inspector(s) as requested by the City. The scope of inspection services to be provided will be defined listed below or as defined uniquely for each project or as determined by LP²A and the Jurisdiction. Inspector(s) will report directly to the City Building Official or other person designated by the City for all project-related work.

In general, the inspection services to be provided may include, but are not limited to, field observation of all construction activity, preparation of daily reports, review of submittals and other duties as assigned.

EXHIBIT B SCHEDULE OF FEES

Building Plan Review Fees

Fees for comprehensive plan reviews, performed at LP²A offices, will be equal to time-and-materials basis at the rates set forth in Exhibit C, attached hereto; or an amount for each project plan check equal to eighty percent (80%) of the 1997 UBC plan check fee using valuation based on the most recent valuations published by ICC for normal, full building plan checks.

The above fee covers all services associated with the typical plan review, including:

- Delivery of design documents to the jurisdiction.
- First, second, and third quick reviews, if necessary, to approve projects
- Pre-application, pre-construction, or additional meeting attendance that is necessary for unusual or complex projects.

Partial Plan Reviews for Building Departments

Structural-only plan review fees will be fifty percent (50%) of the plan review fees as calculated per the jurisdiction. Special project fees (e.g., plumbing / mechanical / electrical-only, URM) can be based on a percentage of the plan review fee, hourly rate or other fee methods mutually agreeable to both parties.

Other Potential Fee Types for Building Departments

For projects where percentage fees are not applicable, or for plan review projects requiring services far exceeding the normal expectations, the attached hourly rate listed in LP²A's Schedule of Rates will be used.

Inspection Fees for Building Departments

On-site field inspection related support services are performed on an hourly fee basis as listed in the attached Personnel Charges. Overtime hours are assessed at an additional twenty-five percent (25%) of the hourly rate. When requested by the jurisdiction, LP²A will provide transportation for inspection services per current IRS rate per mile within the jurisdiction.

EXHIBIT C SCHEDULE OF RATES

Personnel Charges – Plan Review and Inspection Services

<u>Personnel Description</u>	<u>Hourly Billing Rate</u>
Principal	\$150
Supervising Plan Review Engineer/Associate	\$125
Senior Plan Review Engineer/Architect	\$115
Plan Review Engineer/Architect	\$95
Senior Plans Examiner	\$85
Plans Examiner	\$75
Permit Technician	\$55
Code Enforcement Officer	\$75
Clerical Support	\$50
Supervising Inspector	\$110
Senior Inspector/Project Manager	\$95
Inspector II	\$85
Inspector I	\$75

Travel and Mileage (for client requested meetings) T & M
Overtime Services 25% of Above Rates Shown

These rates are effective from July 1, 2005 through June 30, 2006. Overtime will be charged at 125% of the standard hourly rates. No overtime will be charged without prior authorization by client.

Reimbursable Expenses

Reimbursable expenses shall include, but not be limited to, the following:

Mileage	(Per current IRS rate)
Domestic Travel Per Diem	(\$50/day plus lodging)
Outside Consultants	(at cost plus 15%)
Other Direct Project Expenses	(at cost plus 15%) including:
<ul style="list-style-type: none"> • Public transportation, charter, or rental • Printing, graphics, photography, and reproduction • Rental or purchase of special equipment and materials • Long distance telephone and special shipping 	

*** Hours for inspections in excess of 8 hours (per day) will also be billed as overtime at the rate shown above.*

When inspection overtime is requested (on days when inspector has not already performed inspections on the site), inspection overtime services will be provided in 4-hour minimum segments. When the inspection overtime services (on days when inspector has not previously performed inspection on the site) are in excess of 4 hours they will be billed as an eight hour day.