



DATE: November 20, 2013

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT: **APPROVAL OF AN AMENDED PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BLAZENSKI IN AN AMOUNT NOT TO EXCEED \$8,000 TO SERVE AS INTERIM FINANCE DIRECTOR**

**SYNOPSIS**

Staff recommends the City Council approve Amendment 1 in an amount not to exceed \$8,000 to the professional services agreement with Michael Blazenski to serve as Interim Finance Director and authorize the City Manager to execute the amendment.

**BACKGROUND**

On June 18, 2013, the City Manager entered into a professional services agreement with Michael Blazenski to serve as Interim Finance Director pending recruitment for the permanent Finance Director position. The City Manager's authorized expenditure limit is \$50,000. Although the recruitment for the permanent Finance Director position has been completed, there is a need for Mr. Blazenski to spend additional time for an effective transition period, thus exceeding the \$50,000 authorized limit.

**ANALYSIS**

The recruitment for a permanent Finance Director has been completed. However, due to a series of unique circumstances, the recruitment was slightly delayed. Mr. Blazenski has agreed to continue to serve as Interim Finance Director though the completion of the recruitment and a short transition period. As a result, the \$50,000 limit of the Professional Services Agreement will be exceeded by an amount not to exceed \$8,000.

**FISCAL IMPACT**

The current payment to Mr. Blazenski is less than the fully burdened costs associated with the Finance Director position. Therefore, there are adequate funds to pay the additional amount not to exceed \$8,000.

**COMMISSION OR COMMITTEE REPORT**

Not applicable.

**CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

Staff recommends the City Council approve Amendment 1 in an amount not to exceed \$8,000 to the professional services agreement with Michael Blazenski to serve as Interim Finance Director and authorize the City Manager to execute the amendment.

PREPARED AND SUBMITTED BY:



\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



Attachment:

1. Amendment 1
2. Professional Services Agreement

**CITY OF OCEANSIDE**  
**AMENDMENT NO. 1 TO**  
**PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: Interim Finance Director**

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "Amendment") is made and entered into this 20<sup>th</sup> day of November, 2013, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Michael Blazenski, hereinafter designated as "CONSULTANT."

**RECITALS**

WHEREAS, City and CONSULTANT are the parties to that certain Professional Services Agreement dated June 18, 2013, hereinafter collectively referred to as the "Agreement", wherein CONSULTANT agreed to provide certain services to the City as set forth therein;

WHEREAS, the City Manager's Office is in need of continued services of an Interim Finance Director;

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications increasing the contract by an amount not to exceed \$8,000.

**AMENDMENT**

**NOW, THEREFORE, as set forth herein, the parties hereto do mutually agree that the Agreement shall be amended as follows:**

1. **SCOPE OF WORK.** Services will continue as specified in the Agreement.
2. **COMPENSATION.** Total compensation for all work performed in accordance with this amendment shall not exceed \$8,000. Hourly billing rates specified in the Agreement shall remain in effect.
3. Except as expressly set forth in this Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

**Interim Finance Director**

**SIGNATURES.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONSULTANT and the CITY.

IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Amendment to be executed by setting hereunto their signatures on the dates set forth below.

INTERIM FINANCE DIRECTOR

CITY OF OCEANSIDE

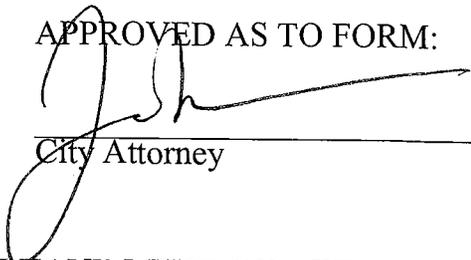
By:   
Michael Blazenski

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

Date: 11/14/2013

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

APPROVED AS TO FORM:

  
City Attorney

**NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Diego }

On Nov 14 2013 before me, Elizabeth S. Hedrick, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Michael Blazenski  
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Elizabeth S. Hedrick  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

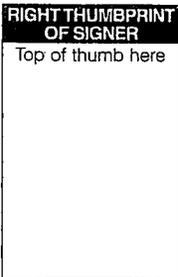
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

COPY

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

**PROJECT: INTERIM FINANCE DIRECTOR**

THIS AGREEMENT, dated JUNE 18, 2013 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Michael Blazenski hereinafter designated as "CONSULTANT."

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The project is more particularly described as follows: Provide Interim Finance Director services to manage overall functions of Finance Department until a permanent Director is hired. This appointment shall not exceed 960 hours, nor shall it exceed the compensation set forth in Section 6 of this Agreement. This interim appointment is made by the governing body of the City pursuant to authority delegated to the City Manager.
2. **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the CITY. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply with such provisions, and provide certification of such compliance as a part of this Agreement.
4. **LIABILITY INSURANCE.**
  - 4.1. CONSULTANT shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and

## Interim Finance Director

employees, performed in connection with this Agreement including but not limited to premises and automobile.

4.2 CONSULTANT shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance  
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance  
(bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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\*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.

4.4 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4.5 All insurance companies affording coverage to the CONSULTANT pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.

## Interim Finance Director

- 4.6 CONSULTANT shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 4.7 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing, at minimum, a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.
- 4.9 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.
5. **CONSULTANT'S INDEMNIFICATION OF CITY.** To the greatest extent allowed by law, CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or wrongful acts or conduct of the CONSULTANT, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONSULTANT'S indemnification shall include any claims by CALPERS against the City. CONSULTANT'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

## Interim Finance Director

6. **COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$ 75.50 per hour not to exceed a total of \$50,000.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the CITY. CONSULTANT shall obtain approval by the CITY prior to performing any work that results in incidental expenses to CITY.

7. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the CITY as determined by the City.
8. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
9. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

10. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.
11. **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party. If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.

**Interim Finance Director**

12. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures on the dates set forth below.

[NAME OF CONSULTANT]  
By: *[Signature]*  
Name/Title

CITY OF OCEANSIDE  
By: *[Signature]*  
City Manager

By: MICHAEL M. BLAZEWSKI  
Name/Title  
553-60-0460  
Employer ID No.

APPROVED AS TO FORM:  
*[Signature]*  
City Attorney

**NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.**