

# MEMORANDUM

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: CITY MANAGER CYNTHIA ALAMILLO**

**RE: AGREEMENT WITH CARTER MACNICHOL**

**DATE: MAY 29, 2020**

## **RECOMMENDED ACTION:**

Motion to approve the agreement with Carter MacNichol for Project Manager services.

## **BACKGROUND INFORMATION**

One of the City Council Goals for 2020 is to “Implement the plan to relocate City Hall and related City services to the Underhill Plaza property”. However, during the state of emergency due to COVID-19, the City was not able to move forward with this project.

To continue the discussions in a manner that is effective and efficient, it is recommended to work with a Project Manager that can contribute time and experience to the project. I engaged in conversations with Carter MacNichol to explore the possibility of working with him in the new City Hall project. Carter has vast experience in project management and financing strategies for civic projects. He has worked for public, private, and nonprofit clients.

Carter and his firm, Shiels Oblatz Johnsen, Inc., agreed to work with the City for a six-month period (May 15, 2020 – December 31, 2020) at no charge. This opportunity comes as the firm received a grant to support projects like ours. Attached is the proposed agreement and Carter’s bio.

In addition to enhancing the process and community outreach for the new City Hall, Carter will create a comprehensive and efficient project timeline. Having a detailed timeline will help navigate the process and would also provide valuable information that would allow Council to make decisions on any interim fixes to the ‘cottage’ City Hall. While the ‘cottage’ City Hall has been used efficiently by staff, it has been challenging to practice social distancing and the need for a new City Hall to support day-to-day operations still exists.

Staff recommend the approval of the agreement.

# AGREEMENT FOR OWNER REPRESENTATIVE SERVICES

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the **CITY OF MANZANITA** ("Owner") and **SHIELS OBLETZ JOHNSEN INC.**, an Oregon Corporation ("SOJ").

## RECITALS

- A. Owner desires to pursue a development project on the property they own at Division Street N and Manzanita Avenue in Manzanita, Oregon. The Project includes construction of a new City all building and associated site improvements (the "Project").
- B. Owner desires to procure the services of an Owner's Representative to provide services related to the Project and has determined that SOJ has the necessary expertise to perform the requested services.
- C. Owner and SOJ desire to agree to the terms under which such services will be performed.

## AGREEMENT

1. **Scope of Work.** SOJ shall be responsible for executing the Scope of Work attached as Exhibit A. Additional phases for design and construction may be authorized by an amendment to this agreement.
2. **SOJ's Responsibilities**
  - 2.1. SOJ shall perform its duties and produce the required work products in a sound, expeditious and professional manner.
  - 2.2. SOJ has designated Carter MacNichol as lead Project Manager for the Project. Mr. MacNichol may be assisted by one or more SOJ project assistants and project managers as required to complete the Scope of Work.
3. **Owner Responsibilities**
  - 3.1. Provide information necessary and relevant to SOJ regarding Owner's requirements for the Project.
  - 3.2. Provide timely responses to requests for information, reviews or approvals made by SOJ.
  - 3.3. Owner, at its own cost, shall enter into mutually acceptable agreements with other professional consultants and contractors as needed, including, but not limited to, architect, engineers, and general contractors.
  - 3.4. Owner, at its own cost, shall provide legal services and other services necessary to support the work undertaken as provided herein.
4. **Compensation.** SOJ shall perform all the services outlined in Exhibit A on a time and materials basis at the rates set forth in the Exhibit B. The Estimated Maximum Compensation authorized under this Agreement shall be \$00.00, as outlined in Exhibit B. The parties may amend the agreement to increase compensation for future phases. Compensation, if any, shall be paid to SOJ monthly within 30 days of receipt of an invoice by Owner. Compensation for future phases, if any, shall be based on the sum of the following:

4.1. **Direct Salary Costs.** SOJ shall be compensated on an hourly basis for the services performed under Section 1 above in accordance with the fee schedule attached hereto as Exhibit B and by reference made a part of this Agreement.

4.2. **Reimbursable Expenses.** SOJ shall be reimbursed for the reasonable cost of reimbursable expenses and direct costs incurred. Direct expenses will be billed at actual cost, as follows:

Printing and Copying (in-house):     \$.15/page

Postage:                                     at cost

Mileage (Current IRS Rate):             \$.54/mile

5. **Billings and Payments.**

5.1. **Billings.** SOJ shall submit a monthly invoice identifying the total cost of services performed and reimbursable expenses incurred during the previous month.

5.2. **Payments.** Owner will make payment within thirty (30) days of receipt of invoice.

6. **Time of Performance.** Time is of the essence of this Agreement. This Agreement shall be effective on May 15, 2020 and, subject to Section 13 below, shall terminate on December 31, 2020 unless amended pursuant to this Agreement.

7. **Documents.** All technical documents, reports, memoranda and other materials prepared under this Agreement shall become the property of Owner for its on-going use without consultation or approval of SOJ.

8. **Nature of Services to be Provided.** With the exception of any services provided by sub-consultants furnishing professional services, the parties mutually agree that SOJ is strictly providing expert services and is not retained under this Agreement to practice as, and shall not be held to the standards and requirements of, an Architect under ORS 671.010 -671.220 or Engineer under ORS 672.002 - 672.325, or any other profession licensed or regulated by the State of Oregon.

9. **Amendment.** This Agreement may be amended upon mutual written consent of the parties.

10. **Additional Services.** Owner may, from time to time request changes in the scope of the services of the Project Manager to be performed hereunder. Such changes, including any increase or decrease in the amount of the SOJ's compensation or the duration of the Agreement, which are mutually agreed upon by and between Owner and the Project Manager, shall be incorporated in written amendments to the Agreement.

11. **Future Services.** The parties acknowledge that Owner may choose to issue a Request for Proposals for services similar to services provided by SOJ under this agreement if the Owner moves forward with final design and construction of the Project. If such a Request for proposals is issued, SOJ will be eligible to submit a proposal and participate in the competitive selection process.

12. **Arbitration.** In an effort to resolve any conflicts that arise during the course of this Agreement, Owner and SOJ agree that disputes arising between them arising out of or relating to this Agreement shall be submitted to binding arbitration unless the parties mutually agree otherwise.

13. **Termination for Convenience.** Either party may terminate this Agreement any time by giving ten (10) days advance notice in writing to the other party specifying the date of termination. If the Agreement is terminated as provided herein, SOJ shall be paid for work performed to the date of termination.
14. **Hold Harmless.** In the event of termination of this agreement by Owner, Owner will release, defend and indemnify SOJ, its officers, agents and employees from any claims arising out of or related to the use by Owner or any other party of any work properly performed by SOJ as determined by generally recognized standards of project management in the industry.
15. **Personnel.** SOJ has secured, or will secure, at his own expense, all personnel required in performing the services under this Agreement. SOJ shall fully compensate all such personnel and withhold all amounts required by law.
16. **Subcontracting.** Except as described in this Agreement, the services covered by the Agreement may not be subcontracted without the prior written consent of Owner.
17. **Insurance.** SOJ shall maintain, at its sole cost, at all times during the term of this Agreement, the insurance coverage set forth below: (i) a commercial liability policy with products liability, bodily injury and property damage liability, of not less than \$1.0 million per occurrence; and (ii) an errors and omissions policy of not less than \$2.0 million per occurrence; and (iii) automobile liability for hired and non-owned automotive equipment with a limit of liability of not less than \$1.0 million per occurrence.
18. **Assignability.** SOJ shall not assign interest in the Agreement, and shall not transfer any interest in the same (whether by assignment or notation) without the prior written approval of Owner, provided, however, that claims for money due or to become due to SOJ from Owner under this Agreement may be assigned to a bank, trust company, or other financial institution, or to a Trustee in a Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to Owner.
19. **Confidentiality.** SOJ shall use Confidential Information of Owner only for the purpose of performing SOJ's obligations under this Agreement. SOJ shall not disclose any Confidential Information of Owner to any other person or entity except (i) to SOJ's employees who have a need to know the Confidential Information in order to perform services for Owner under this Agreement, or (ii) to members of the project team hired to work on the Project to the extent that such members need to know Confidential Information in order to carry out their respective duties. "Confidential Information" means any nonpublic information provided by Owner to SOJ, or that is otherwise obtained by or on behalf of SOJ, in connection with the performance by SOJ of the services contemplated by this Agreement. Without limiting the foregoing, Confidential Information includes any existing agreements to which Owner is a party, Owner's strategy, plans and timing with respect to the Project, and the status and selection of project team members.

20. **Notices.** Any notice, request, demand, approval or consent to be given hereunder shall be in writing and shall be deemed to have been given when mailed or emailed to the other party as follows or at such other address which either party may designate to the other party in writing:

If to Owner:

**Cynthia Alamillo**  
City Manager  
City of Manzanita  
543 Laneda Avenue  
P.O. Box 129  
Manzanita, OR 97130  
[calamillo@ci.manzanita.or.us](mailto:calamillo@ci.manzanita.or.us)

If to SOJ:

**SHIELS OBLETZ JOHNSEN, INC.**  
Attention: Carter MacNichol  
1140 SW 11th Avenue, Suite 500  
Portland, OR 97205  
[carter@sojpdx.com](mailto:carter@sojpdx.com)

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as of the date first herein above written.

**OWNER**

**SOJ**

**CITY OF MANZANITA**

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Cynthia Alamillo, City Manager

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Francesca Gambetti, Managing Director  
Shiels Oblatz Johnsen, Inc.

EXHIBIT A

**Scope of Services  
Owner Representative Services  
City of Manzanita – City Hall Project**

Duration: May 15, 2020 – December 31, 2020

1. Review Project background information.
2. Assist Owner with evaluation of alternative project development solutions.
3. Assist Owner with development of a project delivery approach, including architect selection, contractor selection and selection of other third-party consultants as needed. Assist with drafting RFP's, contracts and other related project delivery documents.
4. Assist Owner with development of funding strategy for Project. Research potential financing sources and provide summaries for Owner review.
5. Conduct regular Owner Meetings to communicate Project issues, decisions and seek approval of critical Project documents. Prepare and promptly distribute minutes of the Owner Meetings.
6. Prepare for and attend Owner's City Council, committee, or community meetings as requested. Assist Owner with community outreach efforts.
7. Assist Owner with development of preliminary and final budgets for all aspects of the work.
8. Assist Owner with development of a project schedule. To include a short-term schedule (through 2020) and longer project design and construction schedule.

EXHIBIT B

*Shiels Oblatz Johnsen, Inc.*  
**Summary Fee Estimate for  
 City of Manzanita - City Hall Project**

Dates		5/15/2020 - 12/31/2020			
Duration		32 Weeks			
Staff	Hourly Rate	Estimated Hours	Estimated Fee	Donated Fee	Total Fee
Carter MacNichol, Sr Project Manager	\$225	120	\$27,000	\$27,000	\$0
Project Manager	\$185	25	\$4,625	\$4,625	\$0
Est. Reimbursable Expenses			\$0	\$0	\$0
<b>CONTRACT AMOUNT</b>					<b>\$0</b>

## Carter MacNichol Bio

Carter is a long time Oregon resident. He recently stepped down after 24 years as President and Managing Director of Shiels Oblatz Johnsen, Inc., a Portland based project management and development consulting firm. In addition to managing the business, he spends his time on project management, design management, and development and financing strategy for complex mixed use, residential, commercial and civic projects for public, private and nonprofit clients. Carter has been involved in the management of the financing, design and construction of many landmark Portland projects. Representative projects include:

Museum Place Apartments/Safeway: Developer for \$24 million, 140 unit multi-family tower with 40,000 SF Safeway Store

Portland Streetcar System: Project Director for \$200 million modern streetcar system

Mercy Corps Headquarters: Development and Project Manager; \$37 million world headquarters

Pioneer Courthouse Square: Senior project manager, \$10 million renovation

Gladys McCoy Health Department Headquarters: Principal in charge for \$85 million headquarters for Multnomah County Health Department

Prior to joining Shiels Oblatz Johnsen, Carter was Director of Real Estate Management and Development at Port of Portland and Project Manager for the Portland Development Commission where he was responsible for recruitment of new businesses to Portland Metropolitan Area. Prior to this, Carter was a sixth grade school teacher.

Mr. MacNichol is active in the community and currently serves on the boards for Western Rivers Conservancy, Oregon for Climate Action (Treasurer), Oregon Business for Climate (President) and Transition Projects. He has held many Board leadership positions with Portland area organizations including The Nature Conservancy of Oregon, Portland Community Land Trust, Children's Museum, Oregon Zoo Foundation and the I Have A Dream Foundation.

Carter earned his Bachelors of Science degree in Elementary Education at Lewis & Clark College and a Masters of Business Administration from Atkinson School of Management at Willamette University.



**CARTER MACNICHOL**  
*Shiels Obletz Johnsen, Inc.*

**EDUCATION:** MBA, Atkinson School of Management, Willamette University, 1981  
B.S., Elementary Education, Lewis & Clark College, 1976

**EXPERIENCE:** 1993-Present: Shiels Obletz Johnsen, Inc. Emphasis on project management, pre-development planning, and development and financing strategy for nonprofit, residential, commercial and industrial development. Mr. MacNichol served as Managing Director of the company for 24 years. Significant projects include acting as developer of Belmont Dairy and Museum Place mixed-use affordable housing projects; Project Director for the Portland Streetcar system and, Development and Project Manager for the Mercy Corps World Headquarters.

1985-1993: Director, Real Estate Management and Development, Port of Portland. Member of Executive Leadership team. Responsible for development, management and marketing of Port's five industrial parks.

1981-1985: Project Manager, Portland Development Commission. Led design and implementation of City of Portland Business Development Program.

1976-1980: Sixth grade classroom teacher. Oregon City School District, Oregon City, Oregon.

**COMMUNITY INVOLVEMENT**

2020 - Present	Board Member, Transition Projects Inc.
2019 – Present	Founding Board Member, President, Oregon for Climate Action
2018 – Present	Founding Board Member and Treasurer, Oregon Business for Climate
2017 – Present	Board Member, Western Rivers Conservancy
1988 - 2016:	Trustee /Past Chair, Oregon Chapter, The Nature Conservancy
2010 - 2015:	Member Oregon Zoo Bond Program Oversight Committee
2012 - 2015:	Member, Citizen Oversight Committee, Portland Arts Tax
2008 -2014:	Member, Portland Housing Advisory Commission
2013:	Member, Governor’s Task Force on Public/Private Partnership Financing Alternatives

Other Representative Board Participation:

- Portland Community Land Trust (Founding Board Chair)
- Children’s Museum (Board Chair)
- Oregon Zoo Foundation
- I Have a Dream Foundation