

COPY

MOTION

**MOTION TO APPROVE PROFESSIONAL SERVICE AGREEMENT FOR  
FERRY TERMINAL STUDIES – (CHS CONSULTING CORPORATION)**

Motion Approved by Board of Port  
Commissioners at their Regular  
Meeting on January 24, 2007

Rita F. Artist  
Executive Assistant

BOARD OF PORT COMMISSIONERS  
PORT OF REDWOOD CITY

AGENDA SHEET

**SUBJECT:**  
MOTION TO APPROVE PROFESSIONAL SERVICE  
AGREEMENT FOR FERRY TERMINAL STUDIES - (CHS  
CONSULTING CORPORATION)

**DATE:** January 24, 2007  
**ITEM NO.:** V-A  
**Submitted by:** Michael J. Giari

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<u>AGENDA CLASSIFICATION</u>		<u>PROGRAM AREA</u>
<input type="checkbox"/> Policies	<input type="checkbox"/> Leases	<input type="checkbox"/> General Operations
<input type="checkbox"/> Finance	<input type="checkbox"/> Construction	<input type="checkbox"/> Marine Terminal Operations
<input type="checkbox"/> Legal	<input type="checkbox"/> Maintenance	<input type="checkbox"/> Yacht Harbor Operations
<input type="checkbox"/> Personnel	<input checked="" type="checkbox"/> Agreement	<input type="checkbox"/> Property Management
		<input checked="" type="checkbox"/> Administration

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BACKGROUND

At the request of the Redwood City Council, the Port in 2006 agreed to take the lead in planning a ferry terminal and working with the Water Transit Authority (WTA) and other agencies to start ferry service in Redwood City. Based on input from WTA, one of the tasks was to finalize the ferry terminal location and complete the planning and environmental studies that would lay the groundwork for preparing an EIR/EIS for this project.

Port staff met with Michael Fajans, principal in CHS Consulting Group. Mr. Fajans completed a Redwood City ferry terminal site analysis for the Port in 2000. He has also done transportation planning for other water transit projects and has worked with the WTA. He reviewed studies and reports on other Port projects and the City's Bayfront Visioning Study which had been done since his initial terminal site analysis. He visited the Port and the terminal sites to assess their current conditions. He offered to put together a team of experts and submit a proposal that would complete the next phase of ferry terminal planning studies.

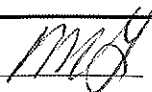
The proposed study will include a terminal location analysis, environmental assessment, and preliminary design/cost for the new terminal. Using planning parameters established by the WTA for terminals and Redwood City specific environmental issues, the terminal site location will be evaluated and finalized. Many terminal planning criteria favor the Westpoint Slough site and it will be evaluated in further detail in terms of water depth, dredging, possible conflicts with commercial/recreational vessel traffic, road access and parking.

A conceptual level design will be prepared for the land and water facilities. The concept of building the landside facilities in phases as ferry ridership grows will be applied. At least two alternatives will be evaluated for the waterside terminal, dock ramp configurations that extend into Westpoint Slough and a configuration which runs parallel to shore. Cost estimates will be made for the alternatives. Architectural renderings will present an image of the preferred alternative. Included in the scope of work for CHS and its team is a presentation to a joint meeting of the Port commission and City Council to present the terminal study results and receive public input.

The terminal study will be prepared in five months. The agreement with CHS Consulting is for the performance of the scope of work and completion of the report for a fixed price of \$121,510. There is funding in the FY07 Port Budget for this study.

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Executive Director's Approval



Date



**AGREEMENT**

**SITE ASSESSMENT AND DESIGN STUDY  
Redwood City Ferry Terminal**

**(CHS Consulting Group)**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2007, by and between the **PORT OF REDWOOD CITY**, a municipal corporation of the State of California, ("Port"), and **CHS Consulting Group** of Berkeley, California ("Consultant");

**WITNESSETH:**

**WHEREAS**, Port desires to conduct a site analysis, environmental assessment, and preliminary design study (the Project) in connection with the Redwood City Ferry Terminal; and

**WHEREAS**, in connection with the Project, the Port requires professional services; and

**WHEREAS**, Consultant represents that it possesses the experience, and is qualified to perform the aforesaid services for the Project.

**NOW, THEREFORE**, the parties hereto agree as follows:

1. **CONSULTANT'S SERVICES**. Consultant shall perform consulting services described on Consultant's proposal dated January 3, 2007, marked Exhibit "A," attached hereto and incorporated by this reference (the "Proposal").

2. **COMPENSATION; EXPENSES; PAYMENT**. Port shall compensate Consultant for all services described in the Proposal and related services and for all costs and expenses associated thereto (including, but not limited to, payment to third party consultants and fees) as a fixed price contract for the sum of One

Hundred Twenty-One Thousand Five Hundred Ten Dollars and 00/100 (\$121,510.00).

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by Consultant to Port, which billing shall include an itemized statement of the time spent, a describing by task and labor category or cost/expense items billed.

**3. ADDITIONAL SERVICES.** In the event Port desires the performance of additional services not otherwise included within the services described in Exhibit "A," such services shall be authorized by written task order approved in advance of the performance thereof by the Port Executive Director (for task orders up to \$20,000 in the aggregate) or by the Port's Board of Commissioners by motion duly made and carried for task orders above the Port Executive Director aggregate monetary limit for the approval of task orders. Such task order shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by a written task order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

**4. ASSIGNABILITY.** Neither Consultant nor Port shall subcontract, assign, sell, mortgage, hypothecate or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

5. **STATUS**. In the performance of services hereunder, Consultant shall be, and is, an independent contractor, and shall not be deemed to be an employee or agent of Port.

6. **PERFORMANCE STANDARDS**. In performing services hereunder, Consultant shall adhere to the standards generally prevailing for the performance of expert environmental consulting, engineering, and design services similar to those to be performed by Consultant hereunder.

7. **DOCUMENTS**. All documents, plans, drawings, renderings, and other papers (collectively, the "Documents") or copies thereof, as finally rendered, prepared by Consultant pursuant to the terms of this Agreement, shall, upon preparation and delivery to Port, become the property of Port.

8. **SCHEDULE**. Consultant shall generally adhere to the schedule set forth in Exhibit A; provided, that Port shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees.

Consultant acknowledges the importance to Port of Port's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule. Port understands, however, that Consultant's performance must be governed by sound environmental assessment and engineering practices.

9. **TERM; TERMINATION.** (a) The term of this Agreement shall commence upon the date first hereinabove written and shall expire upon completion of performance of services hereunder by Consultant.

(b) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice thereof not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, Port shall compensate Consultant for services rendered, and reimburse Consultant for costs and expenses incurred, to the date of termination. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of Port to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to Port hereunder.

10. **RECORDS.** Consultant shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by Consultant hereunder. Said records shall be available to Port for review and copying during regular business hours at Consultant's place of business or as otherwise agreed upon by the parties.

11. **HOLD HARMLESS.** Consultant hereby agrees to defend, indemnify, and save harmless Port, its Commissioners, the City of Redwood City ("City") and their respective boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature,

kind or description, which may be brought against, or suffered or sustained by, Port, its Commissioners, City, its Council, and their respective boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortious act or omission, or willful misconduct of Consultant, its officers, employees or agents in the performance of any services or work pursuant to this Agreement.

The duty of Consultant to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require Consultant to indemnify Port, its Commissioners, City, its Council, and their respective boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

**12. INSURANCE.** Consultant shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to Consultant's services to be performed hereunder covering Port's risks in form subject to the approval of the Port Attorney. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<b><u>Insurance Category</u></b>	<b><u>Minimum Limits</u></b>
Workers' Compensation	statutory minimum.
Employer's Liability	\$1,000,000 per accident for bodily injury or disease.

Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage.
Automobile Liability	\$1,000,000 per accident, \$2,000,000 aggregate for bodily injury and property damage (coverage required to the extent applicable to Consultant's vehicle usage in performing services hereunder).
Professional Liability	\$1,000,000 per claim and aggregate.

Concurrently with the execution of this Agreement, Consultant shall furnish Port with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after Port shall have received written notification of cancellation or reduction in coverage by first class mail;
- (b) Providing that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability (cross liability endorsement);
- (c) Naming the Port of Redwood City, its Council, officers, boards, commissions, employees, and agents, as additional insureds; and
- (d) Providing that Consultant's insurance coverage shall be primary

insurance with respect to Port, its Council, officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by Port for itself, its Council, officers, boards, commissions, employees, or agents shall be in excess of Consultant's insurance and not contributory with it.

**13. COVENANT AGAINST CONTINGENT FEES.** Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, Port shall have the right to annul this Agreement without liability, or at Port's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**14. NOTICES.** Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant to:

Michael Fajans  
CHS Consulting Group  
1911 Yolo Avenue  
Berkeley, CA 94707

and, in the case of Port, to:

Port Manager  
Port of Redwood City  
675 Seaport Boulevard  
Redwood City, CA 94063

15. **PARAGRAPH HEADINGS**. Paragraph headings as used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first hereinabove written.

**PORT OF REDWOOD CITY**, a municipal corporation of the State of California

By: \_\_\_\_\_  
Michael J. Giari, Port Manager

ATTEST:

\_\_\_\_\_  
Port Secretary

CHS CONSULTING GROUP

By: \_\_\_\_\_  
(Title)