TOWN OF FAIRFAX
STAFF REPORT

To: **Mayor, Members of the Town Council**

From: **Jim Moore, Director of Planning & Building Services**

Date: **September 5, 2012**

Subject: **Renewal of Planning Consulting Contract with LAK Associates, LLC**

RECOMMENDATION

Approve the ***Personal Services Agreement*** consulting contract (attached as **Exhibit 1**) with LAK Associates, LLC for approximately a one year period ending on June 30, 2013.

BACKGROUND

On August 1st of this year the Town Council adopted the FY 2012-13 Budget: within which $70,000 was allocated for "Outside Consulting Services" in the Planning Department budget.

DISCUSSION

Renewal of this contract will allow for services related to the:

- Implementation of the newly adopted Town of Fairfax 2010-30 General Plan (GP); the
- Updating the Zoning Ordinances to bring them into compliance with the new 2010-30 GP;
- Development of affordable senior and workforce housing; creation of a Town Center Plan through a public participatory process; and, for
- Contract planner services on specific permit applications with the Town - augmenting staffing within the Department of Planning & Building Services – particularly on CEQA related matters.

These activities are described in the ***Scope of Services*** within the attached ***Personal Services Agreement***.

FISCAL IMPACT

Consultant compensation is itemized in the ***Compensation to Consultant*** within the attached ***Personal Services Agreement***. The services described shall be provided on a time and materials basis.

ATTACHMENTS

Exhibit 1 - Personal Services Agreement with LAK Associates, LLC.

AGENDA ITEM # 11

PERSONAL SERVICES AGREEMENT
TOWN OF FAIRFAX

THIS AGREEMENT is made and entered into this 5th day of September, 2012, by and between the Town of Fairfax (hereinafter referred to as "Town") and LAK Associates, LLC (hereinafter referred to as "Consultant").

RECITALS:

WHEREAS, Town desires to retain the services of Consultant to conduct planning studies and/or services, and

WHEREAS, Consultant is qualified by virtue of experience, training, education and expertise to provide such services.

NOW, THEREFORE, Town and Consultant mutually agree as follows:

Section 1. Scope of Work.

Consultant shall conduct special studies and/or services as described in Exhibit "A" or as described in subsequent task orders approved in writing by the town manager. Task orders shall include a description of the work to be provided, the project schedule, an estimate of the number of Consultant hours, a fee budget for the task and a payment schedule.

Consultant warrants that all of its services shall be performed in a competent, professional and satisfactory manner and in accordance with the prevalent standards of its profession.

Section 2. Term.

This Agreement shall commence on September 5, 2012 and continue until June 30, 2013, or until terminated as provided in Section 14 herein.

Section 3. Compensation.

3.1 Rate Schedule.

Consultant shall be compensated for services performed pursuant to this Agreement in the amount set forth in Exhibit "B" which is attached hereto and incorporated herein by this reference.

In addition, the total amount invoiced for each task order shall not exceed the fee budget established in any approved work order unless authorized by written amendment to the task order.

No expenses of Consultant shall be chargeable to the Town without the prior written approval of Town.

3.2 Method of Payment.

Payment shall be made in compliance with the terms of the payment schedule set forth in the approved task order.

3.3 Records of Expenses.

Consultant shall keep complete and accurate records of all costs and expenses incidental to

services covered by this Agreement. These records will be made available at all times to Town.

Section 4. Independent Contractor.

It is agreed that Consultant shall act and be an independent contractor and not an agent or employee of Town and shall obtain no rights to any benefits which accrue to those agencies' employees.

Section 5. Limitations upon Subcontracting and Assignment.

Consultant shall not contract with any other entity to perform the services required without written approval of the Town. This Agreement may not be assigned, voluntarily or by operation of law, without the prior written approval of the Town following consultation with the Steering Committee. If Consultant is permitted to subcontract any part of this Agreement, Consultant shall be responsible for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and Town. All persons engaged in the work will be considered employees of Consultant. Town will deal directly with and will make all payments to Consultant.

Section 6. Changes to Scope of Work.

Changes in the Scope of Work may occur from time to time, within the general framework of the Scope that has already been outlined. In the event of a change which exceeds the general framework as outlined in the Scope of Work as set forth in Section 1, the Parties hereto shall execute an addendum to this Agreement setting forth with particularity all terms of the new agreement, including but not limited to any additional Consultant's fees.

Section 7. Familiarity with Work.

By executing this Agreement, Consultant warrants that it has investigated the work to be performed and is capable of performing that work.

Section 8. Time of Essence.

Time is of the essence in the performance of this Agreement.

Section 9. Compliance with Law.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local government.

Section 10. Conflicts of Interest.

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services contemplated by this Agreement.

Section 11. Copies of Work Product.

All reports, if any, shall be submitted in electronic reproducible format.

Section 12. Ownership of Documents.

All drawings and/or reports, information, data and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential to the extent permitted by law, and Consultant agrees that they shall not be made available to any individual or organization without prior written consent of the Town. All such reports, information, data, and exhibits shall be the property of the Town and shall be delivered to the Town upon demand.

Section 13. Insurance.

Consultant shall provide evidence of automobile insurance coverage reasonably acceptable to the Town prior to commencing work.

Section 14. Termination.

Town shall have the right to terminate this Agreement by giving thirty (30) days' advance written notice of termination to Consultant. Consultant shall be entitled to full payment for services performed prior to the effective date of termination

Section 15. Notice.

All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process:

To Town:
James M. Moore
Director of Planning and Building Services
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

To Consultant:
Larry Kennings
LAK Associates, LLC
3030 Bridgeway, Suite 103
Sausalito, CA 94965

Section 16. Attorneys' Fees.

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary

disbursements in addition to any other relief to which he may be entitled.

Section 17. Dispute Resolution.

In the event of a dispute arising between the parties regarding performance or interpretation of this Agreement, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service ("JAMS").

Section 18. Entire Agreement.

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

TOWN OF FAIRFAX

By: _____
Judy Anderson, Interim Town Manager

By: _____
James M. Moore, Planning Director

CONSULTANT

By: _____
Larry Kennings
LAK Associates, LLC

EXHIBIT "A"

SCOPE OF SERVICE

LAK Associates, LLC will provide the follow professional consulting services to the

Town of Fairfax, under the direct supervision of the Director of Planning and Building Services and/or his or her designee.

LAK Associates, LLC consulting services to the Town will include the following:

A. Assisting with the implementation of the newly adopted 2010-30 General Plan; including staffing the General Plan Implementation Committee (GPIC) on an as needed basis, and assisting staff with the production of affordable housing units as prescribed in the newly adopted 2010 Housing Element.

B. Updating the Town of Fairfax Zoning Ordinance in order to bring in into compliance with the newly adopted 2010-30 General Plan – as required by law. This work includes retaining and managing sub-consultants if necessary to complete the update.

C. Providing contract planner services for processing specific applications for the Town on a case by case basis. This work includes amending the Good Earth Market - Conditions of Approval; for Application Number #11-09. Fees for such work will be invoiced to applicants by the Town on a monthly basis.

D. Providing contract planning services per subsequent task orders approved in writing by the town manager. Task orders shall include a description of the work to be provided, the project schedule, an estimate of the number of Consultant hours, a fee budget for the task and a payment schedule.

EXHIBIT "B"

COMPENSATION TO CONSULTANT

The services described in Exhibit "A" shall be provided on a time and materials basis.

Billings will be submitted by LAK Associates, LLC to the Town on a monthly basis, with payments due within twenty (20) days or receipt of the consultant's invoice.

Fees to LAK Associates, LLC will be based on the following fee schedule:

PERSONNEL

Project Manager / Senior Planner	$150/hour
Associate Planner	$125/hour
Drafting / AutoCAD / Graphic	$85/hour
Administration	$75/hour
Miscellaneous Labor	$60/hour

REIMBURSABLES

The following are reimbursable expenses in addition to the consultant's compensation that include actual expenditures made by the consultants for the project:

- Cost of printing or duplication of drawings, specifications, reports and cost estimates.
- Postage and delivery charges.
- Fees for local licenses and permits required to perform professional services.
- Fees for consultant services and subcontractors retained with approval of client.

TRAVEL

Travel, lodging, and out of pocket expenses for authorized travel that is part of the contract. Vehicle travel will be billed at $0.55 per mile, plus tolls and parking fees. Travel time billed at hourly "administration" rate.