

Outsourcing Petaluma Planning Department

Is It Better or Is It Easier?

SUMMARY

The 2022-23 Civil Grand Jury (GJ) received a citizen complaint regarding the outsourcing of the Planning Department responsibilities for the City of Petaluma (City) and the lack of transparency about outsourcing with the citizens of Petaluma. Outsourcing was chosen due to financial constraints that the City was experiencing in the 2008 financial downturn. The City Council was presented with the option to continue to provide planning services using an outside contractor rather than City employees. This option was seen at the time as a cost-saving measure that would allow the City to still provide basic services and to bring on planners as needed for development projects. The City decided to let its entire planning staff of 17 full-time equivalent (FTE) positions go. It issued a Request for Proposals (RFP) for planning services that resulted in three qualified responses. Consequently, it selected the Metropolitan Group, Inc. (M-Group). This action relieved the City of several staffing burdens: salaries, overhead costs of retirement, benefits, insurance, and payroll taxes, as well as recruitment and hiring costs. In 2018, M-Group had eight FTE employees working in the City planning department. Currently, there are 16 staff members listed on the planning department website directory.

The contract signed in 2009 required that M-Group would be evaluated the following year for its effectiveness. The initial concern was to make sure that the permit counter in the planning department was staffed for the public and developers' questions and to advise them on the codes affecting their projects. The Grand Jury did not find any evidence that M-Group was formally evaluated at the end of first year.

As the economy improved and development projects increased, M-Group was able to staff up to meet these new demands. The scope and number of positions increased as well. Over the past 14 years, the City has issued three contracts with four amendments exercising extension options. M-Group employees functionally have become the planning department.

The contracts for M-Group cover both base services (generally referred to as basic counter services) and cost recovery services. Job titles, as they appear in rate schedules in the contracts, are based on knowledge needed to perform a planning function. Over the years the job titles have changed as well as the hourly rates. There were initially five positions for the base level services and there are currently seven positions. For the cost recovery services there were five positions initially and there are currently eight positions. Hourly rates charged to the City have increased, since 2009, in a range between 9% and 51%. In estimating the hourly salaried rates for comparable positions in Permit Sonoma's planning division, the Grand Jury found that the hourly rates charged by M-Group are significantly higher.

We understand that a private enterprise must charge rates to meet their costs and realize a profit. However, this does raise the question of cost-benefit analysis and whether M-Group is the only option. Is this the best solution for the citizens of Petaluma? The City Council has authority for final approval on all development projects. The City Manager, as liaison to the City Council, has weekly meetings with the Special Projects Manager, an M-Group principal, who

oversees M-Group employees. Recently the City hired a full-time director of community development, the first position not contracted with M-Group. This position oversees planning, building, housing, and code enforcement.

Other cities in Sonoma County have outsourced planning functions as a cost-saving measure. In those cities, however, the functions outsourced have been for specific projects or time-limited projects. Petaluma is the only city that has used contract employees to staff an entire planning division for such a long time. This arrangement has continued for 14 years and has included numerous extensions. The Grand Jury could not find any formal evaluation process for determining the cost effectiveness of continuing to use the M Group before issuing any of the contract renewals.

The complainant reported to the Grand Jury that some citizens of Petaluma are frustrated with the planning process and feel that their issues are not being addressed. It is understandable that citizens might have this impression. The City Manager and City Council are responsible for citizens' concerns. However, it is M-Group employees who prepare the staff reports that decisions are based upon. During public meetings when M-Group employees present information, it may not be apparent to citizens that they are not City employees since they are not formally identified. The website on the City's planning department page does not indicate that the staff members are M-Group employees.

The City of Petaluma has the right to outsource department functions. However, it also has a fiscal responsibility to ensure that outsourcing is the best solution for Petaluma, be it long-term or short-term. The City also has a responsibility to be transparent with the citizens of Petaluma. Conducting cost-benefit analyses and performance reviews of contractors before renewing contracts would go a long way to achieve transparency as well as provide justification for continuing contract renewals.

GLOSSARY

- **Cost-Benefit Analysis:** Compares the costs and benefits of a decision to determine if it should go forward.
- **Cost Recovery Services:** The cost of planning department services provided to complete a project that are recovered by fees collected from the developer.
- **FTE:** Full-time equivalent, a term used to identify employee work hours, e.g., 1.0 FTE is full time, usually 40 hours per week, and .5 FTE is part time working 20 hours per week.
- **Organizational Memory:** Also known as institutional memory, the knowledge accumulated by employees from past experiences that resides within the organization that can be used to make decisions.
- **Outsourcing:** The practice of hiring a third party to perform tasks, handle operations and/or provide services for the company, organization, or government.
- **PSA:** Professional Services Agreement is a contract for services requiring specialized knowledge and skill and usually requiring a license, certification, or registration.
- **RFP:** A Request for Proposal is an announcement of a project that describes it and solicits bids from qualified contractors to provide contract services.

- **SOW:** Scope of Work, a detailed explanation of the work that will be performed under a PSA and usually includes timelines for completing a project.
- **Transparency:** Being open, honest, and straightforward about policies followed, decision-making and operations.

BACKGROUND

This Grand Jury investigation began with a multifaceted citizen complaint about the City’s outsourcing of the planning department to M-Group, a private company. M-Group provides planning services to numerous Bay Area cities and counties. The complaint was received by the Grand Jury in December 2022. In 2009, the City of Petaluma issued the RFP to secure a private firm as a contractor to provide services and planning functions for the City. They received 12 proposals, narrowed the field to three candidates, and selected M-Group. The citizen complaint alleges that, as the result of the authority granted in the M-Group contract, both the City and its citizens have lost control of the planning process.

The complainant’s main concerns are:

- Conflicts of interest may exist between M-Group, which is purportedly pro development, and the City of Petaluma.
- Citizens of Petaluma may or may not be aware that M-Group is processing their planning and construction needs rather than employees of the City.
- The City has given up primary control of construction planning and has ignored citizen input in the process.
- Over time, modifications and extensions of the contract have given over more control to the M-Group.

METHODOLOGY

The Grand Jury conducted interviews with one current city official, two former city officials, a person at M-Group working at the City, and the complainant. We reviewed M-Group contracts and amendments covering 2009 to 2023. The Grand Jury researched the original RFP, many planning documents, newspaper and informational website articles, agenda item staff reports, letters from concerned citizens, records, and planning commission and city council video archives. Additionally, the complainant submitted a large trove of documented research to support the complaint and it was thoroughly reviewed. To determine the extent to which outsourcing is employed by other cities and counties, specifically in California, the Grand Jury researched the pros and cons of this practice.

DISCUSSION

Why the City of Petaluma Issued an RFP to Outsource the Planning Department

In 2008 a recession hit the U.S. and the City of Petaluma was in dire financial straits. Due to the lack of the development projects and budgetary constraints, the City had to eliminate permanent positions in the planning department by laying off 17 people. They could not sustain the salaries and benefits for the existing staff of the department. After reviewing the options, in

May 2009 the City decided to issue an RFP seeking a private firm to provide contract services on a cost recovery basis. Of the 12 proposals received, three were chosen for the staff review process and M-Group ranked highest. According to the Agenda Bill on July 20, 2009, requesting City Council to direct the City Manager to execute a contract with the M-Group, as it was selected for “their understanding of the City’s needs, cost recovery strategy, experience providing planning services throughout the Bay Area, and depth of staff available to support increases in Petaluma’s current workload.”

Outsourcing Government Functions

Government outsourcing to private companies is the practice of contracting out services or functions that are traditionally performed by government employees. Outsourcing can achieve higher levels of efficiency and speed at lower fixed operating costs. Government outsourcing is often used to reduce costs, increase efficiency, and improve the quality of services. For Petaluma, in a time of serious financial crisis in 2008, outsourcing offered the way to keep the doors open in the planning department. As outsourcing has become popular, both private and public sectors have learned that oversight and transparency are critical to desired outcomes if outsourcing is to serve the community’s needs. The City of Petaluma would benefit from improving transparency.

Outsourcing government functions is not new to Sonoma County. Several cities have outsourced work based upon immediate needs. A good example was seen at the County of Sonoma when Permit Sonoma outsourced their permitting functions to West Coast Code Consultants, Inc. The County opened a temporary permitting center in trailers outside of Permit Sonoma to speed the processing of rebuilding permits for the thousands of homes lost in the 2017 wildfires. Outsourcing in this case was expeditious, efficient, and provided the County with the resources to handle the volume of permits.

Other cities in Sonoma County have used or currently use M-Group’s services, including Cotati, Sebastopol, and Rohnert Park. However, none of these cities have outsourced their planning services entirely nor on such a long-term basis as has Petaluma.

Oversight of private sector contractors who fill government jobs must be monitored and evaluated for the expected efficiencies and cost savings that led to the outsourcing. Without regular oversight, government can become too comfortable with the arrangement. Citizens should rightfully question outsourcing if it is not continually evaluated and justified. Is a fully outsourced planning department the best solution for Petaluma? Would a combination of specialist contract employees and FTE City employees be a better option? Fourteen years have passed since the City initially contracted with M-Group and the Grand Jury has been unable to identify any formal cost-benefit analysis of their performance. This is information that might address the questions posed here. A comparative analysis of a planning department staffed by City employees versus contractors would provide useful information for both the City and the public in order to determine the most appropriate plan.

In a transparent government, citizens have access to information about activities, decisions, and policies. This includes access to public records, open meetings, and other forms of communication between the government and the public. Transparency allows citizens to hold their government accountable for its actions. The City has not demonstrated full transparency in their continuation of contracting with M-Group for the past 14 years. There is no evidence of any effort to open a new RFP or reinstitute any FTEs, with the exception of the recent hire of a director of community development. The Grand Jury was unable to find any forum or process for community input on M-Group's performance. Moreover, there is no way for the citizens of Petaluma to know that the staff they encounter in the planning department are employees of M-Group because they do not formally identify themselves as such.

One of the downsides to long-term outsourcing is the loss of organizational memory. Organizational memory is the accumulated knowledge built on past experiences and is used in decision making. With the elimination of 17 FTE positions in the planning department, organizational memory was certainly lost. M-Group employees working in the planning department are subject to dual assignments and reassignments outside of the City of Petaluma, which may result in loss of organizational memory in the department. In regard to retention of organizational memory, the FTE employee model may have an edge. The Bureau of Labor Statistics reported in September 2022, that full time local government employees tend to stay in their positions longer (6.8 years) than their counterparts in the private sector (3.7 years).

M-Group Contract History

M-Group has had three Professional Services Agreements (PSAs) with the City, including optional extensions and several amendments that have extended the contracts and included changes in terms. Below are descriptions of the two categories of services that M-Group has been contracted to provide to the City's planning department.

Base Level Planning Services: These services are primarily clerical and include permit processing, advice, and information for the public. These services are currently performed by administrative analyst/permit technician, assistant planner, associate planner, senior planner, deputy planning manager, and planning manager. These services are billed at different hourly rates for each position. The City budgets a fixed amount for base services each year in the M-Group PSAs (see Base Services Compensation in contract table below).

Cost Recovery Services: These services are limited to technical and professional services for development projects. They are performed by planning manager, deputy planning manager, senior planner, associate planner, assistant planner, administrative analyst/permit technician, and historic preservation specialist. These services include zoning variances, environmental impact studies, traffic studies, historic preservation, and infrastructure planning. Costs for these services are provided on an as-needed basis and vary depending on how many staff hours and what specialized services are required. These services are paid by developers' fees, not by the City of Petaluma. Costs for M-Group services are recovered from the permit applicant fees. The first PSA entered into on July 1, 2009, provided a rate schedule in the Scope of Work (SOW) that

defined two categories: Base level services with five positions and their hourly rates, and cost recovery services with five positions and their hourly rates. On July 21, 2010, the first amendment was executed and included a revised rate schedule for six positions each in the two categories with increases to the hourly rates. The second amendment, executed on July 31, 2012, included another revised SOW.

On July 23, 2013, a second PSA was entered into and provided a SOW that defined two categories: Base level services with five positions and their hourly rates and cost recovery services with six positions and their hourly rates. A first amendment to the second PSA was executed on August 1, 2016, and included a revised SOW that retained the same categories but added some more positions to the rate schedule.

The third and current PSA, executed in 2018, is a five-year contract that is scheduled to terminate in July 2023; however, there are three additional one-year extensions that can be executed to renew the contract. Per the contract, these extensions are initiated by a letter of request from M-Group sent 45 days before the expiration of the contract. The City has sole discretion to determine if the contract is renewed by extension. This contract introduced a new category of services, Special Projects, that are described as rezoning and related to the Public Art Committee and Public Works CEQA reviews. An additional position, historic preservation specialist, was introduced with this contract under cost recovery services. An administrative analyst/permit technician position was added to base level services.

The contracts with M-Group only reflect the approved compensation for base level services and do not include the reimbursement for cost recovery services, which is substantial. For example, in 2013, once the financial crisis subsided and development projects increased, the annual development fees were \$630,344 and the annual cost recovery expenses were \$617,812, with M-Group being the greatest expense for billable hours. The Grand Jury was only able to locate data regarding the total annual fees collected for development projects for 2013.

The history of these contracts is presented in the table below. The total compensation is not stated in the contracts, rather it is presented as payment for time billed per the SOW hourly rate schedule. The only reference to actual budgeted funds for compensation are in the agenda items brought to City Council with recommendation for approval of the contract. That amount reflects the estimated base level services that will be required during the term of the contract. All cost recovery services are paid to M-Group for time billed and are not presented as a budgeted amount in the agenda items since these costs are recovered by the developers' fees and not paid by the City.

Contract	Date	Termination date	Extensions	Base Services Compensation
PSA 1	7/21/09	7/31/10	Up to three years	FY 09/10 \$40,000
PSA Amendment #1	7/21/10	7/31/12 (Two-year contract)	Extended two years with revised Scope of Work (SOW) and rate Schedule	FY 10/11 \$75,000
				FY 11/12 \$75,000
PSA Amendment #2	7/31/12	7/31/13	Extended one year	FY 12/13 \$75,000
PSA 2	7/23/13	7/31/16 (three-year contract with revised SOW & Rate Schedule)	Up to two years	FY 13/14 \$100,000
				FY 14/15 \$100,000
				FY 15/16 \$100,000
PSA Amendment #1	8/1/16	7/31/17	Extended one year	FY 16/17 \$100,000
PSA Amendment #2	7/31/17	7/31/18	Extended one year	FY 17/18 \$100,000
PSA 3	8/1/18	7/31/23 (five-year contract with revised SOW and Rate Schedule)	Up to three years	FY 18/19 to FY 22/23 \$220,000

The Pros and Cons of the City of Petaluma Outsourcing the Planning Department to M-Group

The Grand Jury realizes that the City of Petaluma decided to outsource their planning services to a private company to continue serving their citizens. The decision proved successful, as many projects were completed in the early contracts with M-Group. However, it appears that this early success has led to an assumption that outsourcing to M-Group is the only solution to staffing a planning department. This assumption has not been tested by any formal analysis presented to the City Council, nor any presentation to the City Council of alternative options.

Certainly, outsourcing is easier for a government as the amount of time, energy, and expense required to recruit, hire, train, and retain fulltime employees can be daunting, especially in a fiscal crisis. Hiring fulltime specialists as employees for rare or infrequent projects is nearly impossible.

The ability to staff up or staff down as needed is a great benefit to management. There is a place for reasoned outsourcing, however, the City of Petaluma owes its citizens a thorough review of outsourcing that weighs the pros and cons as outlined in the table below.

Pros of Outsourcing	Cons of Outsourcing
<ul style="list-style-type: none"> • Flexibility and immediate availability of professional services. • Availability of specialists. • Eliminates the costs of recruitment and hiring, and costs related to payroll taxes, benefits, and retirement. • Eliminates time and costs related to human resources issues. • Cost savings are realized depending on the terms and outcomes of the contract. 	<ul style="list-style-type: none"> • Citizens unaware that outside contractors staff the planning department. • Loss of organizational memory as contractors are repositioned more frequently than fulltime employees. • Higher fees for developers as they are based on cost recovery model. • Higher rent or property taxes due to development cost increases. • Loss of long-term city employment opportunities. • Employee loyalty lies with M-Group, and not with the City, even though they are considered staff for the City . • M-Group contractors who are owners in the company are working as city staff which could present a conflict of interest.

CONCLUSION

The City of Petaluma has been outsourcing the planning functions to M-Group for 14 years and additional extensions of M-Group’s services are available to the City under the current PSA. Based upon the history of the contracts, the City will likely execute an extension to the present PSA that terminates on July 31, 2023. Outsourcing is a viable strategy for staffing positions that are difficult to recruit and retain within government entities. However, the City has extended the outsourcing of all planning functions and positions, including basic services, until recently, when they hired an FTE community development director. The Grand Jury was unable to find any evidence that the City has ever conducted formal cost-benefit analyses or performance reviews of the M-Group contracts. The information provided by these analyses would be informative to the public and might present an incentive for restoring some of the planning functions to FTE positions with the City of Petaluma.

The Grand Jury is concerned that a planning department that is entirely staffed by contracted employees might create a potential for conflict of interest. The M-Group’s cost-recovery services generate considerable billable hours that pay for their employees as well as provide a profit to the company. Proactive measures, such as greater transparency as to why the 16 positions in the Planning Department are outsourced to M-Group, would provide important information to the community.

While the Grand Jury did not find any evidence of an existing conflict of interest with the M-Group, we recognize that the perception of a potential conflict could still exist among members of the public. M-Group is in the business of urban planning and design, which has been

conflated with being pro-development. Since the M-Group employees prepare the agenda items and reports on proposed projects that come before the City Council for approval, and the council members consider these reports when making their final decisions, a potential perceived conflict of interest could arise. Any perception of conflict of interest, even if not an actual conflict, could erode trust with members of the public.

As this investigation was completed, the Grand Jury found that there are several lingering issues questions that we would like the City of Petaluma to address.

- Has the Petaluma City Council ever considered issuing a new RFP to determine if other companies can offer comparable professional services?
- What prevents the City Council from issuing a new RFP?
- Why is there no cost-benefit analysis completed before each contract is issued?
- Why is there no formal and discoverable process for the City Manager to evaluate M-Group performance?
- Has the City Council ever discussed or analyzed the possibility of hiring City employees for the planning department as part of a hybrid model in which employees could provide base services and contractors could provide specialized services for projects that are beyond the scope of the department?
- Is the City confident that there is no possibility that conflicts of interest exist with M-Group serving as the planning department and if so, how has that been analyzed and determined?

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. The City of Petaluma has continued to contract with M-Group for the past 14 years and has failed to conduct a formal performance review, cost-benefit analysis, or new RFP to determine if the level of costs can be improved.
- F2. The amount of money flowing from the City to M-Group has increased over the life of the contracts due to the increase in development activity and M-Group's rate increases. The City has failed to provide a cost-benefit analysis justifying the continuing issuance of contracts.
- F3. The City has failed to conduct a cost-benefit analysis to determine if base level services could be filled with City employees and reduce overall costs.
- F4. The City of Petaluma recently hired a director of community development, demonstrating an interest in increasing oversight, however, the City has failed to consider hiring FTE employees in base level services positions.
- F5. The City has failed to require M-Group employees working in the planning department to wear identifying badges or logos that would inform the public that they are interacting with contractors and not City employees.
- F6. The City has failed to require M-Group employees working in the planning department to include the M-Group logo or company name in their email signatures.

F7. The City has failed to identify persons listed on the Planning Directory located on the City's website as M-Group employees.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By December 31, 2023, the City completes a cost-benefit analysis of using a private firm versus employees to staff the planning department. (F1, F2, F3, F4)
- R2. By no later than March 1, 2024, the City opens an RFP for planning services and considers a combination of city employees and private contractors to staff the planning department. (F1, F3)
- R3. By September 30, 2023, the City requires M-Group to provide badges or logos to their employees that identify them as M-Group employees. (F5)
- R4. By August 31, 2023, the City requires M-Group to direct their employees to include their firm's logo and or name in their email signature. (F6)
- R5. By August 31, 2023, the City includes an M-Group designation on each staff listing under the planning staff directory on the website. (F7)
- R6. By December 31, 2023, the City conducts a formal survey of the citizens of Petaluma to better understand their awareness and understanding of the outsourcing of the planning department and their experiences interacting with M-Group employees. (F5, F6, F7)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- Petaluma City Council (R1 through R6)

INVITED RESPONSES

- City Manager, City of Petaluma (R1 through R6)

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