



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Patricia Salazar, Senior Administrative Analyst

Reviewed by: Richard Mollica, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: January 21, 2021 Meeting date: February 8, 2021

Subject: Amendments to Agreements for Wireless Communication Facility Application Review Services

RECOMMENDED ACTION: Authorize the Mayor to: 1) Execute Amendment No. 1 to Agreement with Center for Municipal Solutions (CMS) for wireless communication facility application review services; and 2) Execute Amendment No. 1 to Agreement with HR Green Pacific, Inc. for wireless communication facility application review services.

FISCAL IMPACT: The services rendered by the Consultants will be funded by wireless communication facility application planning fees. For services not reimbursable by application fees, funding was included in the Adopted Budget for Fiscal Year 2020-2021 in Account No. 101-2001-5100 (Planning Professional Services).

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: On January 11, 2021, the City Council considered the agreements and directed staff to prepare amendments to the scope of work to include the following services: post-approval compliance, final inspections, radio frequency (RF) emissions and noise testing, and enforcement of unpermitted facilities. The scope of work contained in each agreement has been amended to reflect the Council's direction.

Mapping Existing Wireless Facilities

In addition to the aforementioned items, the Council also requested that mapping of existing wireless facilities also be added to the Consultants' scope of work. The exact

scope of work as well as the cost necessary to complete the work has not been determined. Since CMS does not provide this service, the task to prepare a proposal with options and associated costs for each option has been added to HR Green Pacific's scope of work. Once a proposal is prepared by HR Green Pacific, staff will present the proposal and the various mapping options to the City Council for its consideration.

SUMMARY: Staff recommends the Council approve the amendments to the agreements.

ATTACHMENTS:

1. Amendment No. 1 Agreement with CMS
2. Amendment No. 1 with HR Green Pacific, Inc.

AMENDMENT NO. 1 TO AGREEMENT

THIS AMENDMENT NO. 1 TO AGREEMENT is made and entered in the City of Malibu on February 8, 2021, by and between the CITY OF MALIBU, hereinafter referred to as City, and Center for Municipal Solutions (CMS), hereinafter referred to as Consultant.

The City and the Consultant agree as follows:

RECITALS

A. On January 11, 2021, the City entered into an Agreement with Consultant for consulting services to provide expert, technical, regulatory consultation, application review, and other assistance with wireless communication facility applications (the "Agreement").

B. The City desires to amend the Agreement to the scope of work to include post-approval compliance of wireless communication facility applications including final inspections, radio frequency (RF) emissions and noise testing, and enforcement of unpermitted facilities, and Consultant has submitted a proposal for this purpose that is acceptable to the City.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. Section 1.0 – Scope of the Consultant's Services, of the Agreement, is hereby amended as set forth in Exhibit A attached hereto.
2. The Parties agree that this Amendment will be considered signed when the signature of a party is delivered physically or by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.
3. All terms and conditions of the Agreement not amended by this Amendment No. 1 remain in full force and effect.

This Agreement is executed on _____, 2021, at Malibu, California, and effective as of February 8, 2021.

CITY OF MALIBU:

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney

CONSULTANT:

By: Robert C. Ross
Title: Director of Western Operations

EXHIBIT A
SCOPE OF SERVICES

Under the direction of the City, Consultant shall provide technical and regulatory advice to City concerning applications for telecommunications facilities as follows:

A. APPLICATION REVIEW

1. Wireless Siting Application Reviews

At the City's request and within Consultant's expertise as a wireless site application reviewer, Consultant will review wireless siting applications and provide the City with a written analysis as described below:

2. Memorandum/Memoranda Content

a. Incomplete Memorandum. Upon receipt of an application by the Consultant directly from the City, Consultant will evaluate and identify whether any items that are required in the City's wireless application are not completed by the applicant. If there are incomplete items, the Consultant will send the City an "Incomplete Memorandum" by email or an attachment to an email within:

i. nine (9) calendar days for an initial review of a wireless application that is submitted by the applicant as a small wireless facility; or

ii. twenty-one (21) calendar days for an initial review of a wireless application that are submitted by the applicant in a category that is not a small wireless facilities; or

iii. nine (9) calendar days for a resubmittal review of a wireless application that was deemed incomplete.

b. Project Memorandum:

Once an application is determined by the City or deemed by law to be complete, Consultant will:

i. identify the regulatory classification under which the project should be processed (i.e., Section 6409(a); Small Wireless Facility; major modification; new site; etc.); and

ii. discuss design matters, if any, that may reduce the impact of the proposed site configuration;

iii. evaluate time, place, and manner considerations for wireless sites located in the Public Right of Way;

v. assess the planned compliance with federal radio frequency exposure guidelines established by the Federal Communications Commission, and;

vi. determine any other wireless site-related issues that Consultant, in its experience and opinion, believes to be relevant or helpful to the City's review of the wireless application.

3. **Memorandum Revision:** Consultant shall, at the City's option, without an additional fee, Consultant shall prepare one revision or follow-up to the Incomplete or Project Memorandum. All additional revisions or follow-ups are charged on an hourly basis.

4. Consultation Time:

- i. Consultant will provide consultation by telephone and/or through e-mail with the City per project at no additional cost for the flat fee portion of any project.
- ii. For any project where hourly charges apply (i.e., after the flat fee portion of a project), hourly fees for consultations via telephone and/or email will apply.

It is understood by the parties that every wireless project is unique as to location and design, and some projects may not proceed all the way to an approval or denial, or the project at a given location may be moved by an applicant to a different location necessitating an entirely new project review under a separate fee.

B. POST-APPROVAL COMPLIANCE

As requested by City Council, Consultant shall conduct final inspections of wireless communications facilities, observe post-construction onsite RF survey, conduct noise testing as necessary for compliance with City noise ordinance and conditions of approval, assist in bringing facilities into compliance, and assist in the preparation and monitoring of Certificates of Completion for completed facilities.

C. ATTENDANCE OF MEETINGS

As requested by the City, Consultant will attend in-person meetings subject to Consultant's availability. Meeting attendance includes travel time from Consultant's office to and from the City. Meeting attendance is billed at the hourly rates in this Agreement.

D. GENERAL CONSULTING SERVICES

At the City's request, Consultant will engage with the City in regards to any non-privileged communications within the competence of Consultant as determined by Consultant in any form on a time available basis of Consultant, and invoiced on an hourly basis (including travel time from Consultant's office to and from the City if necessary).

[END OF EXHIBIT A]

AMENDMENT NO. 1 TO AGREEMENT

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The City and the Consultant agree as follows:

RECITALS

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B. The City desires to amend the Agreement to the scope of work to include preparation of a proposal for mapping of existing wireless facilities and post-approval compliance of wireless communication facility applications including final inspections, radio frequency (RF) emissions and noise testing, and enforcement of unpermitted facilities, and Consultant has submitted a proposal for this purpose that is acceptable to the City.

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CITY OF MALIBU:

MIKKE PIERSON, Mayor

ATTEST:

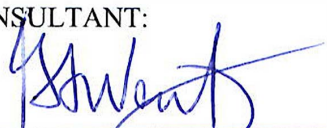
HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney

CONSULTANT:



By: George A. Wentz
Title: Vice President

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C. ATTENDANCE OF MEETINGS

As requested by the City, Consultant will attend in-person meetings subject to Consultant's availability. Meeting attendance includes travel time from Consultant's office to and from the City. Meeting attendance is billed at the hourly rates in this Agreement.

D. MAP EXISTING FACILITIES

Consultant shall prepare a proposal with multiple options to map existing wireless communication facilities within the City. The proposal will be provided to the City Council for its consideration and approval.

E. GENERAL CONSULTING SERVICES

At the City's request, Consultant will engage with the City in regards to any non-privileged communications within the competence of Consultant as determined by Consultant in any form on a time available basis of Consultant, and invoiced on an hourly basis (including travel time from Consultant's office to and from the City if necessary).

[END OF EXHIBIT A]

Consultant: GAW