



# Council Agenda Report

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

Prepared by: Renée Neermann, Finance Manager

Reviewed by: Lisa Soghor, Assistant City Manager

Approved by: Steve McClary, Interim City Manager

Date prepared: May 7, 2021 Meeting date: May 24, 2021

Subject: Professional Services Agreement with Governmental Financial Services

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**RECOMMENDED ACTION:** Authorize the Mayor to execute an agreement with Governmental Financial Services (GFS) for assistance with audit preparation and bookkeeping and accounting services, including preparation of the Comprehensive Annual Financial Report and State Controller's Report of Financial Transactions.

**FISCAL IMPACT:** Funding for this agreement is included in the Proposed Budget for Fiscal Year 2021-2022 (Account No. 100-7054-5100-00).

**WORK PLAN:** This item was included as item 6 in the Adopted Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** GFS has been providing financial services to the City since 2001. GFS principal, Julie Matsumoto, a Certified Public Accountant, performs such tasks as audit preparation, general ledger maintenance and mandatory compliance reporting for the City. GFS has a strong background in governmental accounting services and provides similar services to many other local cities.

The accounting services provided to the City by GFS are in accordance with Governmental Accounting Standards Board (GASB) and Generally Accepted Accounting Principles (GAAP) standards, and cannot be performed with the current staffing level in the Finance Department. Staff recommends retaining the services of GFS to provide supplementary services and continuity to the department during the fiscal year-end and audit season. Additionally, GFS's long history of supporting the Finance Department provides invaluable institutional knowledge as the City continues to recover from the aftermath of the Woolsey Fire, responds to the COVID-

19 Pandemic and manages the funding and required reporting required by these disasters. GFS has submitted a proposal for this purpose that is acceptable to the City. Staff requests the City Council to authorize the agreement.

ATTACHMENTS:

Agreement with Governmental Financial Services

## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of May 24, 2021 by and between the City of Malibu (hereinafter referred to as the "City"), and Governmental Financial Services (hereinafter referred to as "Consultant").

The City and the Consultant agree as follows:

### RECITALS

- A. The City does not have the personnel able and/or available to perform the services required under this Agreement.
- B. The City desires to contract out for consulting services for certain projects relating to bookkeeping, accounting services and State Controller's Report of Financial Transactions.
- C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.
- D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, the City and the Consultant agree as follows:

**1.0 SCOPE OF THE CONSULTANT'S SERVICES.** The Consultant agrees to provide the services and perform the tasks set forth in the Scope of Work, attached to and made part of this Agreement, except that, to the extent that any provision in Exhibit A conflicts with this Agreement, the provisions of this Agreement govern. The Scope of Work may be amended from time to time by way of a written directive from the City, when also agreed upon in writing by Consultant. Consultant, at the Consultant's sole discretion, will determine whether or not Consultant is available to accept a City project.

**2.0 TERM OF AGREEMENT.** This Agreement will become effective on July 1, 2021, and will remain in effect for a period of three years from said date unless otherwise expressly extended and agreed to by both parties or terminated by either party as provided herein.

**3.0 CITY AGENT.** The City Manager, or his/her designee, for the purposes of this Agreement, is the agent for the City; whenever approval or authorization is required, Consultant understands that the City Manager, or his/her designee, has the authority to provide that approval or authorization.

**4.0 COMPENSATION FOR SERVICES.** The City shall pay the Consultant for its professional services rendered and costs incurred pursuant to this Agreement in accordance with the Scope of Work's fee and cost schedule. The cost of services shall be \$140 per hour for bookkeeping and accounting services and \$4,500 annually for State Controllers Report, for a total not to exceed \$46,500 per year as set forth in Exhibit A attached hereto. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager, or his/her designee.

4.1 The Consultant shall submit to the City, by no later than the 10<sup>th</sup> day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

**5.0 CONFLICT OF INTEREST.** The Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City which may be affected by the services to be performed by the Consultant under this Agreement. The Consultant further represents that in performance of this Agreement, no person having any such interest shall be employed by it.

5.1 The Consultant represents that no City employee or official has a material financial interest in the Consultant's business. During the term of this Agreement and/or as a result of being awarded this contract, the Consultant shall not offer, encourage or accept any financial interest in the Consultant's business by any City employee or official.

5.2 If a portion of the Consultant's services called for under this Agreement shall ultimately be paid for by reimbursement from and through an agreement with a developer of any land within the City or with a City franchisee, the Consultant warrants that it has not performed any work for such developer/franchisee within the last 12 months, and shall not negotiate, offer or accept any contract or request to perform services for that identified developer/franchisee during the term of this Agreement.

## **6.0 GENERAL TERMS AND CONDITIONS.**

**6.1 Termination.** Either the City Manager or the Consultant may terminate this Agreement, with or without cause, by giving the other party ten (10) days written notice of such termination and the effective date thereof. Upon cancellation, the City will pay the Consultant for services performed to the date of termination.

6.1.1 In the event of such termination, all finished or unfinished documents, reports, photographs, films, charts, data, studies, surveys, drawings, models, maps, or other documentation prepared by or in the possession of the Consultant under this Agreement shall be returned to the City.

6.1.2 If the Consultant or the City fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant or the City violate any of the covenants, agreements, or stipulations of this Agreement, the Consultant or the City shall have the right to terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date of such termination.

**6.2 Non-Assignability.** The Consultant shall not assign or transfer any interest in this Agreement without the express prior written consent of the City.

**6.3 Non-Discrimination.** The Consultant shall not discriminate as to race, creed, gender, color, national origin or sexual orientation in the performance of its services and duties pursuant to this Agreement, and will comply with all applicable laws, ordinances and codes of the Federal, State, County and City governments.

**6.4 Insurance.** The Consultant shall submit to the City certificates indicating compliance with the following minimum insurance requirements no less than one (1) day prior to beginning of performance under this Agreement:

6.4.1 Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective employees.

6.4.2 Automobile liability insurance. Consultant shall maintain automobile insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including for any owned, hired, non-owned or rented vehicles, in an amount not less than \$100,000 combined single limit for each accident.

6.4.3 Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and consultant agrees to maintain continuous coverage through a period no less than three years after completion of the service required by this agreement.

Each such policy of insurance shall:

- 1) Be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California or which is approved in writing by City.
- 2) Specify it acts as primary insurance.
- 3) Contain a clause substantially in the following words: "It is hereby understood and agreed that this policy shall not be canceled nor materially changed except upon thirty (30) days prior written notice to the City of such cancellation or material change."
- 4) Cover the operations of the Consultant pursuant to the terms of this Agreement.

**6.5 Indemnification and Limitations of Liability.** The Consultant agrees to obtain insurance (see 6.4 above) by which to defend, indemnify, protect and hold harmless, the City, its elected and appointed boards, officers, officials, employees, agents and volunteers from and against any and all claims, demands, lawsuits, defense costs, civil penalties, expenses, causes

of action, and judgements at law or in equity, or liability of any kind or nature which the City, its elected and appointed boards, officers, officials, employees, agents and volunteers may sustain or incur or which may be imposed upon them arising out of Consultant's negligence, wrongful act, or omission in performance of the services set forth in this Agreement, only up to the amount of insurance coverage set forth in paragraph 6.4 herein above.

**6.6 Compliance with Applicable Law.** The Consultant and the City shall comply with all applicable laws, ordinances and codes of the federal, state, county and city governments, including, without limitation, Malibu Municipal Code Chapter 5.36 Minimum Wage.

**6.7 Independent Contractor.** This Agreement is by and between the City and the Consultant and is not intended, and shall not be construed, to create the relationship of agency, servant, employee, partnership, joint venture or association, as between the City and the Consultant.

6.7.1. The Consultant shall be an independent contractor, and shall have no power to incur any debt or obligation for or on behalf of the City. Neither the City nor any of its officers or employees shall have any control over the conduct of the Consultant, or any of the Consultant's employees, except as herein set forth, and the Consultant expressly warrants not to, at any time or in any manner, represent that it, or any of its agents, servants or employees are in any manner employees of the City, it being distinctly understood that the Consultant is and shall at all times remain to the City a wholly independent contractor and the Consultant's obligations to the City are solely such as are prescribed by this Agreement.

**6.8 Copyright.** No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

**6.9 Legal Construction.**

6.9.1 This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

6.9.2 City and Consultant and their counsels have reviewed and revised this Agreement jointly. This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

6.9.3 The article and section, captions and headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

6.9.4 Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

**6.10 Counterparts.** This Agreement may be executed in counterparts and as so executed shall constitute an agreement which shall be binding upon all parties hereto.

**6.11 Files.** All files of the Consultant pertaining to the City shall be and remain the property of the City. The Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement. Consultant shall not distribute information gained during preparation of any work product to anyone unless directed by the City.

**6.12 Waiver.** Waiver by a party hereto of any term, condition or covenant of this Agreement shall not constitute the waiver of any such term, condition or covenant hereof. City will not be liable to Consultant for any indirect, special, or consequential damages, including lost profits or revenue, arising from or relating to this agreement, regardless if the City was advised of the possibility of such loss or damage. In no event will the City's liability for direct damages arising from or related to this agreement, for any cause whatsoever, and regardless of the form of action, whether in contract or tort, exceed the amounts paid to Consultant by the City under this agreement.

**6.13 Mitigation of Damages.** In all such situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

**6.14 Partial Invalidity.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**6.15 Attorneys' Fees.** The parties hereto acknowledge and agree that each will bear his/her or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

**6.16 Entire Agreement.** This Agreement constitutes the whole agreement between the City and the Consultant, and neither party has made any representations to the other except as expressly contained herein. Neither party, in executing or performing this Agreement, is relying upon any statement or information not contained in this Agreement. Any changes or modifications to this Agreement must be made in writing appropriately executed by both the City and the Consultant.

**6.17 Notices.** Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

<b>CITY:</b>	<b>CONSULTANT:</b>
City Manager	Julie Matsumoto
City of Malibu	Governmental Financial Services
23825 Stuart Ranch Road	3972 Barranca Parkway
Malibu, CA 90265-4861	Suite J-411
TEL (310) 456-2489 x 224	Irvine, CA 92606
FAX (310) 456-2760	TEL (949) 533-2189

**6.18 Warranty of Authorized Signatories and Acceptance of Facsimile or Electronic Signatures.** Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract 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.

**7.0 GENERAL TERMS AND CONDITIONS. (City and Consultant initials required at EITHER 7.1 or 7.2)**

**7.1 Disclosure Required.** By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a “consultant” for the purposes of the California Political Reform Act because Consultant’s duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18700.3(a) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City’s Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City’s Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials \_\_\_\_\_  
Consultant Initials \_\_\_\_\_

**7.2 Disclosure not Required.** By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18700.3(a) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.

City Initials \_\_\_\_\_  
Consultant Initials JM

This Agreement is executed on \_\_\_\_\_, 2021, at Malibu, California, and effective as of July 1, 2021.

CITY OF MALIBU:

\_\_\_\_\_  
PAUL GRISANTI, Mayor

ATTEST:

\_\_\_\_\_  
KELSEY PETTIJOHN, Acting City Clerk  
(seal)

CONSULTANT:

Julie Matsumoto  
By: JULIE MATSUMOTO, Principal

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE  
\_\_\_\_\_  
JOHN COTTI, Interim City Attorney



# Governmental Financial Services

April 9, 2021

Ms. Lisa Soghor  
Assistant City Manager  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265-4861

Dear Ms. Soghor:

At your request, we are providing this proposal for Governmental Financial Services (GFS) to continue providing accounting assistance to the City of Malibu (City) for the period beginning July 1, 2021 through June 30, 2024. The annual contract maximum will be \$46,500.

We anticipate providing services in the following areas:

Fixed-rate project, charged at \$4,500 annually:

- Preparation of the State Controller's Report of Financial Transactions

Hourly services, charged at \$140 per hour:

- Annual assistance in closing the general ledger, including schedule preparation for the auditors; assignments for specific tasks will be coordinated with finance department staff and may include journal entry preparation.
- Preparation of a draft of the following sections of the annual financial statements for auditor review: government-wide statements, fund statements, and notes to the financial statements.
- Assistance in preparing the MD&A, transmittal letter, and portions of the statistical section for the annual financial statements.
- Assistance with basic accounting tasks for general ledger maintenance.
- Assistance with recording complex financing transactions such as issuance or refinancing of debt, land acquisitions or donations, and transactions related to assessment or community facilities districts.
- Other specific tasks as requested by the City.

All work performed by GFS is as requested and directed by the City. GFS does not guarantee that all work requested by the City will be able to be performed within the contract maximum, and GFS will halt providing services once that \$46,500 contract maximum has been reached, unless written documentation is received from the City authorizing work beyond the contract maximum.

Ms. Lisa Soghor  
Accounting Assistance Proposal  
April 9, 2021  
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The scope of services does not include making any management-type decisions, and both parties agree that the scope of services does not fall within the requirements for filing an annual conflict of interest statement.

The following areas of services are specifically excluded from this proposal:

- Investing or advice regarding investments
- Evaluation of internal controls
- Attestation services
- Supervision of staff and related performance documentation
- Approval or authorization of any entry or transaction

Services will be provided primarily by Julie Matsumoto although other GFS staff may provide some assistance. Work will be performed onsite at the City and offsite at our business location, and hours will vary from week to week depending upon the workload. Monthly invoices will be submitted listing the type of services provided, and payment is due within 30 days of the invoice date.

Thank you for providing us the opportunity to present this proposal. We would be pleased to provide any additional information or answer any questions you may have regarding our proposal.

Very truly yours,

GOVERNMENTAL FINANCIAL SERVICES



Julie Matsumoto  
Principal