



# Council Agenda Report

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

Prepared by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 9, 2020 Meeting date: September 29, 2020

Subject: Amendment to Professional Services Agreement for Wireless Permit Application Reviews

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**RECOMMENDED ACTION:** Authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement with Telecom Law Firm PC (Consultant) for expert technical and regulatory consultation, advice and other assistance with wireless permit application reviews.

**FISCAL IMPACT:** The services rendered by the Consultant are funded by wireless communication application planning fees. Funding was included in the Adopted Budget for Fiscal Year 2020-2021 in Account No. 101-2001-5100.00 (Planning Professional Services) for services not reimbursable by application fees,

**WORK PLAN:** This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021. This is part of normal staff operations.

**DISCUSSION:** On May 22, 2017, to ensure that the City is in compliance with Federal<sup>1</sup> and State<sup>2</sup> laws, the Council approved a two-year term agreement with the Consultant for expert technical and regulatory consultation, advice and other assistance with wireless permit application reviews. These services assist City staff in assessing technical aspects of applications, such as analysis of “significant gaps” in the applicant’s

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<sup>1</sup> Spectrum Act – Title IV, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 {47 U.S.C. 1455}; On December 17, 2014, the FCC adopted regulations implementing Section 6409, codified at 47 C.F.R. Section 1.40001, which took effect on April 9, 2015. The regulations were intended to clarify which types of WCF projects are covered by the Spectrum Act.

<sup>2</sup> State Law SB 1627 codified as Government Code Section 65850.6 and 65964 adopted in 2006; Assembly Bill 57 (Quirk), effective January 1, 2016, a new State statute codified Government Code Section 65964.1 (see <http://bit.ly/1Rcnlpb>), which deems approval of all applications for new sites after 150 days and all collocations note covered under the FCC’s rules after 90 days.

service, feasible alternative locations and/or design, and whether the applicant proposed the “least intrusive means” to achieve its technical objectives.

After a two-year period, staff and the Consultant restructured the scope of work and fee schedule and agreed to enter into a new agreement for a one-year term. On September 23, 2019, the Council approved a one-year term agreement with the Consultant. The agreement expired this month and at this time, staff is recommending the Agreement be extended for an additional two years. The City has a separate agreement with Telecom Law Firm for preparation of the City’s updated wireless communications facility ordinance.

The Consultant is an industry leader with over 50 years of combined experience including assisting the City Attorney’s Office with previous WCF permit applications and the cities of Calabasas, Thousand Oaks, and Simi Valley.

Pursuant to Malibu Municipal Code Section 2.56130 (Competitive Bidding — Exceptions), the City did not solicit a Request for Proposals for services due to the highly specialized services provided by Telecom Law Firm PC.

ATTACHMENT: Amendment No. 1 to Professional Services Agreement with Telecom Law Firm PC

**AMENDMENT NO. 1 TO AGREEMENT**

THIS AMENDMENT NO. 1 TO AGREEMENT is made and entered in the City of Malibu on September 29, 2020, by and between the CITY OF MALIBU, hereinafter referred to as City, and Telecom Law Firm PC, hereinafter referred to as Consultant.

The City and the Consultant agree as follows:

**RECITALS**

A. On September 23, 2019, the City entered into an Agreement with Consultant for expert technical and regulatory consultation, advice and other assistance with wireless communication facilities application review (the "Agreement").

B. The City desires to amend the Agreement to extend the term of agreement, 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 2.0 – Term of Agreement, of the Agreement, is hereby extended to September 23, 2022.
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 \_\_\_\_\_, 2020, at Malibu, California, and effective as of September 23, 2020.

CITY OF MALIBU:

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REVA FELDMAN, City Manager

ATTEST:

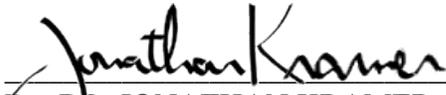
\_\_\_\_\_  
HEATHER GLASER, Acting City Clerk  
(seal)

APPROVED AS TO FORM:

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

\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

CONSULTANT:

  
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By: DR. JONATHAN KRAMER, ESQ.  
Title: President