

# Council Agenda Report

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

Prepared by: Reva Feldman, Assistant City Manager

Approved by: Jim Thorsen, City Manager

Date prepared: January 26, 2016 Meeting date: February 8, 2016

Subject: Short-term Residential Rentals

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**RECOMMENDED ACTION:** 1) Review suggestions from staff on enforcement options for regulating short-term residential rentals; and 2) Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Solid Waste Solutions (SWS) for on-call monitoring services of short-term residential rentals.

**FISCAL IMPACT:** In Fiscal Year 2014-2015, the City collected \$1.2 million in Transient Occupancy Tax (TOT) from hotels and motels and \$700,000 in TOT from short-term residential rentals. Changes to the City's existing TOT regulations could impact future revenue.

Funding for Amendment No. 1 to the Professional Services Agreement with SWS was not included in the Adopted Budget for Fiscal Year 2015-2016. The amount that will need to be expended, if any, is currently unknown. At this time, staff is recommending that any necessary adjustments to the Adopted Budget for costs associated with the services provided be done as part of the next quarterly fiscal update.

**DISCUSSION:** On November 9, 2015, the Council discussed short-term residential rentals and directed staff to return to Council with options on how to enhance the City's oversight of short-term rental properties to ensure compliance with the Malibu Municipal Code.

There are 150 properties that are registered as short-term rentals in Malibu and are remitting TOT on a regular basis. In April 2015, Airbnb began collecting and remitting TOT for properties in the City that were rented through its website; this includes approximately 100-150 properties, some of which are also registered directly with the City.

The vast majority of the short-term rentals in the City do not generate complaints or MMC violations. When a short-term rental property has generated complaints related to potential MMC violations, the City has had success in resolving these matters by reaching out directly to each property owner to ensure violations do not continue.

If a property owner fail to address MMC violations, the City moves forward with citation and prosecution. Under the City's code these properties can be cited and fined for violating the City's noise, special events, parking, nuisance, and other ordinances.

MMC Chapter 8.24 defines the City's noise ordinance. This section bars a number of specific types of noise and also provides that "[n]o person shall make, or cause or suffer, or permit to be made upon any premises owned, occupied or controlled by such person, any unnecessary noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time, or place as to occasion unnecessary discomfort to any persons within the neighborhood from which the noises emanate or which interfere with the peace and comfort of the residents or their guests, or the operators or customers in places of business in the vicinity, or which may detrimentally or adversely affect such residences or places of business."

MMC Chapter 17.48 assures the provision of adequate off-street parking facilities for residential properties. MMC Chapter 5.34 also limits the number of special events that may be held at a property, such as weddings or parties, and allows the City to condition such events to minimize impacts on neighboring properties.

One issue unique to short-term rental properties is that alleged violations of the MMC are most likely to occur at night or on weekends when City staff is generally not available to document or cite violations. While the Sheriff's Department is available at all times to respond to complaints, having additional resources available will help ensure prompt response, documentation, and action. It will also help identify short term rental properties that have not registered with the City and/or are not paying the TOT owed pursuant to MMC Chapter 3.24.

Staff recommends approving Amendment No. 1 to the Professional Services Agreement with SWS to provide on-call monitoring services of short-term rentals. SWS already provides film permitting services for the City. Because SWS is already providing these services to the City, they are able to be on call on a 24-hour basis and respond to complaints regarding noise, parking or other issues.

When SWS receives a complaint related to a short-term rental property violating the MMC, they will investigate and document the situation. If further action is required, SWS will either handle the complaint immediately or contact the Los Angeles County Sheriff's Department for enforcement. SWS will provide the City with a report of all complaints

Department for enforcement. SWS will provide the City with a report of all complaints which the City can review to ensure that property owners who are renting their properties for short-term rental purposes are complying with all applicable City laws.

If the reports show a pattern of violations, the City can use that information to evaluate the nature of the violations and whether additional resources are needed to address them. SWS's documentation will provide a responsive and independent evaluation of these situations by identifying and detailing whether a violation is occurring or if the property is in compliance. It is anticipated that property owners will be more likely to comply with the MMC as property owners will quickly learn that the City is available to address these issues at all hours.

ATTACHMENTS: Amendment No. 1 to Professional Services Agreement with SWS

**AMENDMENT NO. 1 TO AGREEMENT**

THIS AMENDMENT NO. 1 TO AGREEMENT is made and entered in the City of Malibu on this 8th day of February 2016, by and between the CITY OF MALIBU, hereinafter referred to as the "City", and Solid Waste Solutions, Inc., hereinafter referred to as the "Consultant".

The City and the Consultant agree as follows:

**RECITALS**

A. On January 12, 2015, the City entered into an Agreement with Consultant for film permit processing and management services. (the "Agreement").

B. The City desires to amend the Agreement Scope of Services to include on call services for the monitoring of short term residential rental properties. Consultant has submitted a proposal for this purpose that is acceptable to the City (Exhibit A).

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. Section 4.0 – Compensation for Services, of the Agreement, is hereby amended in accordance with the Scope of Work attached hereto.
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 this \_\_\_\_\_, at Malibu, California, and effective as of \_\_\_\_\_.

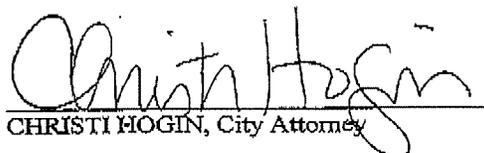
CITY OF MALIBU:

\_\_\_\_\_  
JIM THORSEN, City Manager

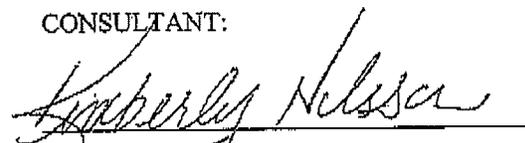
ATTEST:

\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
CHRISTI HOGIN, City Attorney

CONSULTANT:

  
\_\_\_\_\_  
By: Kimberly Nilsson  
Title: President



November 17, 2015

Reva Feldman, Assistant City Manager  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265

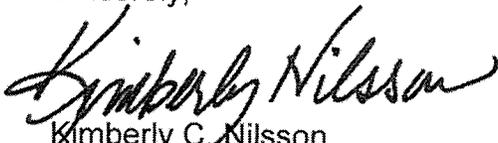
Subject: Short Term Residential Rentals: On Call Monitoring

Dear Reva,

Attached please find the scope of work and costs associated with the request for Solid Waste Solutions, Inc. (SWS) to provide on call services for the monitoring of short term residential rental properties. Attached to this proposal is a On Call procedure and checklist for your review.

We would like to thank you in advance for your continued confidence in our firm. It is our goal to provide professional, cost effective service to our clients.

Sincerely,

  
Kimberly C. Nilsson  
President

  
Lars J. Nilsson  
Treasurer

Attachment



Exhibit A: Scope of Services

**Solid Waste Services:** SWS will provide on call monitoring of residential rental properties in the City of Malibu. Services shall include, but not be limited to the following:

1. Public contact telephone number: SWS will provide a telephone number that is monitored 24 hours a day, 7 days a week and is available to the public for calling when they experience problems relative to short term rental properties. That number is (805)732-9433.

(Please note that the number listed here is also used on the notices that are distributed for film permits.)

2. On Call Monitoring: Once contacted by a resident SWS will provide a staff member to do a site visit as soon as feasible to the property that the complaint was received about.
3. On Call Monitor Checklist: SWS will report on what they see, hear, etc. and evaluate if the Los Angeles County Sheriff need to be called. Observations will be recorded on the On Call Monitor Checklist.
4. On Call completion: SWS will submit to the City the completed checklist, copies of any photos taken and a summary e-mail regarding the site visit.
5. SWS will bill the City monthly based on time expended and mileage driven. Rates are included in Exhibit B.



Exhibit B: Compensation

Contract Compensation as defined in Exhibit A: Scope of Work shall be billed at the billing rates listed below.

**Fee Schedule  
For Short Term Residential Rental  
On Call Monitor Services**

**Standard Billing Rates November 2015**

Professional Staff	Hourly Rate
On-Call Monitoring	\$63.00/hour
2015 IRS Mileage Reimbursement:	\$0.575/mile

*Note: Cost of living adjustment of up to 3% as provided by the City of Malibu will be included after 12 months.*



## Short Term Residential Rental On Call Monitor Procedure

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1. Receive problem call, begin On Call Monitor Checklist form.
2. Leave from work or home to go to the site. Log time and odometer mileage.
3. Arrive at site and evaluate problem. Take notes on the checklist form of existing situation. Take photos if they will assist the situation.
4. Call the Los Angeles county Sheriff for noise, parking and occupancy violations.
5. Complete the reporting form.
6. Return to work or home, log odometer reading and time.
7. Provide checklist to Kimberly ASAP. The next business day.
8. Scan the checklist form and send an e-mail to the City of Malibu summarizing the call, include the checklist form.



Short Term Residential Rental  
On Call Monitor Checklist

Date: \_\_\_\_\_

Monitor: \_\_\_\_\_

Departure Time (Office/Home): \_\_\_\_\_

Starting Odometer Reading: \_\_\_\_\_

Caller Name: \_\_\_\_\_

Call Time: \_\_\_\_\_

Caller Address: \_\_\_\_\_

**Residential Location Problems**

Rental Location: \_\_\_\_\_

Noise:

Parking:

Occupancy:

Trash:

Problems: \_\_\_\_\_

\_\_\_\_\_

Observations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Sheriff Phone Number: 818-878-1808      Called:       Time: \_\_\_\_\_

Sheriff Action: \_\_\_\_\_

\_\_\_\_\_

Return Time (Office/Home): \_\_\_\_\_

Ending Odometer Reading: \_\_\_\_\_

Monitor Signature: \_\_\_\_\_

**MMC8.24.050 Prohibited Acts.**

- A. Unnecessary Noise – Loud, boisterous or unusual noise disturbance, commotion or vibration, sirens, and alarms.
- B. Radios, Phonographs (record players, stereo) etc. from 10:00pm – 7:00am
- C. Bands or orchestral rehearsals from 10:00pm – 7:00am
- D. Engines, motors & mechanical devices near residential districts from 10:00pm – 7:00am
- E. Loading and unloading boxes, and crates from 10:00pm – 7:00am
- F. Construction – no work 7:00pm – 7:00am, before 8:00am or after 5:00pm on Saturday. No work Sunday