



Council Agenda Report

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

Prepared by: Rob DuBoux, Public Works Director/City Manager

Approved by: Steve McClary, City Manager

Date prepared: May 11, 2022 Meeting date: June 13, 2022

Subject: Amendment No. 3 to Professional Services Agreement with Woodward and Curran

RECOMMENDED ACTION: Authorize the Mayor to execute Amendment No. 3 to the Professional Services Agreement with Woodard and Curran in the amount of \$130,000 for a total not to exceed \$3,659,593 to provide additional cultural resources soil investigations for the Civic Center Water Treatment Facility (CCWTF) Phase Two project.

FISCAL IMPACT: No additional appropriation is required. Funding for this agreement is included in the Adopted Budget for Fiscal Year 2021-2022 in Account No. 310-9075-5100.00 (Civic Center Water Treatment Facility – Phase Two) through a funding agreement with HRL Laboratories.

WORK PLAN: This item was included as item 5a in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On August 12, 2019, the City entered into an agreement with Woodward and Curran to provide engineering design services for CCWTF Phase Two. During the early design phase of this project, it was discovered that additional design work was needed.

On March 22, 2021, Council approved Amendment No. 1 amended the scope of work to include additional geotechnical investigations, modifications of the initial design based upon comments from the Regional Board and additional structural design and permitting requirements requested by Caltrans. Woodard and Curran had to perform additional survey work to obtain easements, additional environmental work to amend the Environmental Impact Report. Woodard and Curran also needed to prepare and submit a Coastal Development Permit.

On August 9, 2021, Council authorized Amendment No. 2 amending the scope of work to prepare a new Historic Properties Identification Report (HPIR) that was consistent with the State guidelines at the request of the State Water Resources Control Board (SWRCB). During the City's State Revolving Fund (SRF) application review, the SWRCB cultural resources staff indicated that a new HPIR would be required. The new HPIR was not part of the original scope but is needed for the City to acquire the SRF loan.

In April 2022, the SWRCB informed the City that additional cultural resources soil investigations are needed to finalize the environmental mitigation measures for this project. These environmental mitigation measures are required for the SRF funding for this project. This amendment includes additional cultural resources soil investigations along the proposed wastewater collection pipeline alignment. The results of the soil investigations will finalize the cultural resource mitigation measures on this project and the funding agreement.

The proposed amendment also includes the elimination or reduction of the tasks included in the original scope of work. During the design of the CCWTF Phase Two, it was discovered that some of these tasks could be reduced or eliminated. Since the design of the project is complete, the cost savings from those items can be applied to the cost to perform the additional cultural resources soil investigations.

Staff recommends the City Council approve and authorize the Mayor to execute Amendment No. 3 with Woodard and Curran.

ATTACHMENTS: Amendment No. 3 to Agreement with Woodard and Curran

AMENDMENT NO. 3 TO AGREEMENT

THIS AMENDMENT NO. 3 TO AGREEMENT is made and entered in the City of Malibu on June 13, 2022, by and between the CITY OF MALIBU, hereinafter referred to as City, and Woodard and Curran, hereinafter referred to as Consultant.

The City and the Consultant agree as follows:

RECITALS

- A. On August 12, 2019, the City entered into an Agreement with Consultant for engineering design services for the Civic Center Water Treatment Facility Phase 2 (the "Agreement").
- B. On March 22, 2021 the City amended the Agreement to conduct further geotechnical testing, additional work to develop easements, make revisions to the treatment plant and wastewater collection system design, and additional work to submit and obtain a Coastal Development Permit.
- C. On August 8, 2021, the City amended the scope work to include updating the Historical Properties Identification Report as part of the City's State Revolving Fund (SRF) Loan.
- D. The desires to amend the Agreement to additional cultural resources soil investigations to finalize environmental mitigation measures as part of the SRF loan and reduce the scope of work on other various tasks, 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. Section 2.0 – Term of Agreement, of the Agreement, is hereby extended to August 12, 2023.
- 3. Section 4.0 – Compensation for Services, of the Agreement, is hereby amended as set forth in Exhibit B attached hereto.
- 4. 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.
- 5. All terms and conditions of the Agreement not amended by this Amendment No. 3 remain in full force and effect.

This Agreement is executed on _____, at Malibu, California, and effective as of June 13, 2022.

CITY OF MALIBU:

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, 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: Scott Goldman
Title: Sr. Principal, Woodard and Curran

Exhibit A

Scope of Services | Amendment No. 3

April 29, 2022

City of Malibu
Civic Center Water Treatment Facility Phase 2

BACKGROUND

In February 2022, the City received approval from City Council for an eight month extension of the Assessment District formation deadline for the CCWTF Phase 2 Project (Project). The new deadline to form the Phase 2 Assessment District is February 2023. As a result, advertisement of the two CCWTF expansion bid packages were also delayed by eight months. The bid packages are expected to be re-advertisement in October 2022. During the eight month delay, Woodard & Curran and its subconsultants will continue completing the additional cultural resources work required for SWRCB approval of the SRF loan application and additional document preparation as part of the Caltrans permitting process.

This Amendment No. 3 request addresses the out-of-scope work required for the SRF loan, Caltrans permit, and additional project management services anticipated through the eight month delay period. As part of Amendment No. 3, we are requesting the contract completion date for Woodard & Curran's Professional Services Agreement (Agreement) with the City for the Project be extended from August 12, 2022 to March 31, 2023.

Background information on the additional work for the SRF loan, Caltrans permit acquisition, and project management is provided below.

SRF Loan

A Historic Properties Identification Report (HPIR) is being required for the CCWTF Phase 2 Project (Project) as a condition of the SRF Loan. Woodard & Curran's cultural resources subconsultant, SWCA, has been working with the State Water Resources Control Board's (SWRCB) staff on development of the HPIR. Based on the background research performed for the HPIR, the SWRCB cultural resources staff have identified the need for subsurface geoarchaeological investigations to assess whether archaeological / cultural historic artifacts and deposits are present within the Project construction zone that could be adversely affected, so that an appropriate mitigation plan can be developed, pursuant to Section 106 of the NHPA. Subsurface testing would occur in the two areas that have been designated as potentially culturally sensitive:

1. Area 1 – Encompassing Adamson House and Surfrider Beach to the south, Pacific Coast Highway, and Serra Road to the north.
2. Area 2 – Encompassing the intersection of Malibu Road and Malibu Colony Road

Subsurface geoarchaeological investigations would consist of hollow-stem auger borings drilled by the Project Geotechnical Engineer (Yeh and Associates). Woodard & Curran's cultural resources subconsultant, SWCA will provide archaeological monitors and tribal monitors during drilling activities in accordance with SWRCB requirements. Six locations have been proposed by SWCA in Area 1 and two locations in Area 2. Approval of the testing plan by the SWRCB is still pending. All testing locations are on either private, County, or State property and will require right-of-entry agreements to perform the

work. The number and locations of borings might need to be adjusted depending on comments from the SWRCB and time required to obtain right-of-entry agreements.

Following the completion of the Final HPIR and subsurface geoarchaeological investigations, the SWRCB will negotiate a Memorandum of Agreement (MOA) with the SHPO that will establish the requirements for the Historic Properties Treatment Plan (HPTP). This Amendment No. 3 includes the preparation of the HPTP by SWCA and the SWRCB and SHPO review and approval process. The full scope of work for the HPTP can not be known until the SWRCB and SHPO have approved the HPIR and the subsurface geoarchaeological investigations have been completed. The HPTP scope of work included herein was based on the best available information at this time including recent discussions with the SWRCB.

Caltrans

Woodard & Curran and its subconsultant, Kimley-Horn, have led the effort to apply for and obtain a Caltrans encroachment permit for proposed Project pipeline construction in Caltrans right-of-way. Caltrans has requested the following documents that were not included in the current scope of work:

1. Design Support Decision Document (DSDD)
2. Storm Water Data Report (SWDR)

This Amendment No. 3 includes the additional design services required to complete the DSDD and SWDR as part of the Caltrans permit acquisition process.

SCOPE OF WORK

The scope of work included in Amendment No. 3 is summarized below. The compensation schedule is included under Exhibit B.

Task 1 Data Collection, Surveying, Inspection, and Review

1.3 SUBSURFACE UTILITY INVESTIGATION

Woodard & Curran and its potholing subconsultant, C-Below, had completed potholing work in City right-of-way and Malibu Colony Road, and was in the process of obtaining a Caltrans encroachment permit for the planned potholes on Pacific Coast Highway. In February 2022, the City directed Woodard & Curran's to forgo the planned potholing work in Pacific Coast Highway and credit the remaining potholing budget under Task 1 (approximately \$10,000) to help cover the additional work needed to satisfy the requirements of the SRF Loan (see Compensation Schedule in Exhibit B).

Task 2 Project Management, Quality Control/Quality Assurance, and Stakeholder Engagement

Woodard & Curran's Project Management scope of work under the current contract terminated with the completion of the bid packages in February 2022. Amendment No. 3 includes the following additional Project Management and Assessment District formation support services during the eight month delay until the bid packages are re-advertised in October 2022:

2.1 PROJECT PROGRESS REPORTS AND SCHEDULE

Woodard & Curran will prepare and submit monthly and quarterly progress reports to the City for an additional eight months until October 2022. These reports will continue to include:

- Monthly Progress Report - A narrative progress report of specific accomplishments during the reporting period, project decision log, status of milestones/deliverables, and work scheduled for the next reporting period.
- Cost Report - A report that shows the current period and accumulated expenditures to date by task, the approved not to exceed fee, remaining fee, percent completion, and a comparison of the latter two to show variation.
- Invoices - Invoices by task, showing hourly expenditures to the task level and by individual.
- Quarterly Progress Report - A narrative progress report of specific accomplishments during the quarter, status of milestones/deliverables, and a budget status summary.

Deliverables:

Monthly Progress and Quarterly Reports and Invoices (electronic copies via email)

2.2 PROJECT STATUS AND PDT MEETINGS

Woodard & Curran will prepare for and conduct two (2) project status and project design team (PDT) meetings with City staff during the eight month bid advertisement delay between February and October 2022.

2.3 PROJECT MANAGEMENT

During the eight month schedule extension, Woodard & Curran will provide project management to lead and coordinate project team, communicate information, perform the work, produce deliverables, and to control project costs and schedule performance. Woodard & Curran will prepare and manage subconsultant contracts. Woodard & Curran will conduct monthly or as-needed teleconference meetings with subconsultants to maintain communication and coordination.

2.7 ASSESSMENT DISTRICT ENGINEER MEETINGS AND COORDINATION

The City will assist the assessment district engineer as requested by the City, including responding to questions and attending meetings with the assessment district engineer team. Woodard & Curran will provide technical support and design documentation related to the Phase 2 facilities.

Woodard & Curran will prepare for and attend meetings with the assessment district engineer as requested by the City to support the formation of the assessment districts. This will include presenting treatment plant, wastewater collection system, and recycled water distribution system design information and costs in support of the assessment district formation.

Task 3 Wastewater Treatment Plant, Wastewater Sewer and Recycled Water Systems Expansion, Preliminary Design

3.3 RIGHT OF WAY ENGINEERING

As requested by the City, Woodard & Curran and its survey subconsultant, Chris Nelson & Associates, will remove the remaining right-of-way / easement acquisition services from their scope of work and apply the remaining budget (approximately \$15,000) as a credit against the additional work needed to satisfy the requirements of the SRF Loan (see Compensation Schedule in Exhibit B).

Task 4 Final Design (90%, 100% Plans, and Final Contract Package, Specifications, and Estimates)

4.2 WASTEWATER SEWER COLLECTION SYSTEM – ADDITIONAL HDD DESIGN SERVICES

During the completion of the final design plans and specifications, Woodard & Curran's trenchless subconsultant, Brierley Associates, provided additional trenchless design services for the 1,700 foot horizontal directional drill (HDD) on Malibu Canyon Road that were not included in the original scope of work. The additional HDD design support involved incorporating updated geotechnical investigation findings into the HDD Design Report and calculations (appendix to the specifications), HDD Design Plans, and Technical Specification Section.

4.6 CALTRANS PROCESSING AND PERMITTING

Woodard & Curran and Kimley-Horn will prepare a Design Support Decision Document (DSDD) in support of retaining the current sidewalk width of 5 feet on the Malibu Lagoon Bridge. As per the communication we have received from Caltrans, they anticipate this to be a streamlined process indicating a District level review, no Headquarters review, and a concise DSDD with a faster approval timeline. This scope of work assumes up to two (2) rounds of comments.

Woodard & Curran and Kimley-Horn will prepare a Storm Water Data Report (SWDR) for the project to submit to Caltrans. We anticipate the SWDR to be a short-form per Caltrans requirements. Any supporting documents such as detailed cost estimates and exhibits will be provided by Woodard and Curran. This scope of work assumes up to two (2) rounds of comments.

Task 5 Independent Constructability Review

Under Amendment No. 3 as requested by the City, Woodard & Curran's scope and fee associated with Task 5 – *Independent Constructability Review* will be removed from the project and the Task 5 fee of \$41,585 applied as a credit against the additional work needed to satisfy the requirements of the SRF Loan (see Compensation Schedule in Exhibit B).

Task 6 Additional Tasks

6.1 CALIFORNIA CLEAN WATER SRF LOAN/GRANT APPLICATION

6.1.1 SUBSURFACE GEOARCHAEOLOGICAL INVESTIGATIONS AND MONITORING

Woodard & Curran and SWCA will coordinate with SWRCB to obtain approval for the proposed subsurface geoarchaeological investigation plan consisting of up to six borings locations in Area 1 and up to two boring locations in Area 2. Woodard & Curran will coordinate with the impacted property owners to obtain right-of-entry agreements for the drilling work. Right-of-entry agreements are required for the single proposed boring on LA County Department of Beaches and Harbors property (Area 1), the five proposed borings on the privately-owned Serra Road (Area 1), and the single proposed boring on the privately-owned Malibu Colony Road (Area 2). The second boring in Area 2 is located within City right-of-way on Malibu Road, which will not require a right-of-entry agreement.

Geotechnical Engineer, Yeh and Associates, will perform the hollow-stem auger borings at up to six locations in Area 1 and two locations in Area 2, including obtaining the necessary drill permits, utility

designating / USA coordination, traffic control, and disposal of removed soil. Yeh and Associates will develop and submit boring logs that classify the encountered soil.

SWCA will provide an archaeological monitor and tribal monitor to accompany the geotech and drillers and make observations, in accordance with SWRCB requirements. The archaeological and tribal monitors will observe cores for the presence of shell midden deposits, dark feature soil, and sediments indicative of archaeological deposits (i.e., anthropogenic soils) and inspect excavated sediments for archaeological materials, as well as exposed subsurface sediments for evidence of archaeological artifacts. All work will be documented and photographed. Should archaeological materials be encountered during geotechnical coring, the materials will be thoroughly documented and returned to the bore hole prior to filling, unless otherwise directed by SWRCB.

The monitors will complete a daily log documenting geoarchaeological coring activities and observations, including equipment type, location of excavations, soil conditions, and disturbances. The monitor will be overseen by an SWCA Principal Investigator who meets the criteria established by the Secretary of Interior's Professional Qualifications Standards in archaeology.

6.1.2 GEOARCHAEOLOGICAL ASSESSMENT REPORT

SWCA will prepare a technical report that summarizes the methods and results of the geoarchaeological investigations and monitoring, along with background information relevant to the environmental and regulatory settings. The technical report will follow the guidelines of the *Secretary of the Interior's Standards for Archaeological Documentation* (NPS 1983) and will be consistent with the State of California Office of Historic Preservation's *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (OHP 1990).

Woodard & Curran and SWCA will submit this report to SWRCB and the City of Malibu for approval. It is assumed that SWCA will respond to three rounds of consolidated comments, one from each reviewing entity. A final version of the report will be provided to the South Central Coastal Information Center (SCCIC) for its permanent record.

All cultural resources that may be encountered during geoarchaeological borings will be recorded on California Department of Parks and Recreation (DPR) series 523 site update forms as a continuation of previously recorded sites CA-LAN-264 or CA-LAN-1417, as appropriate.

6.1.3 MEETINGS WITH SWRCB AND TRIBAL CONSULTATION SUPPORT

Woodard & Curran and SWCA will prepare for and conduct meetings with the SWRCB cultural resources staff throughout the subsurface testing and reporting phases. A total of 4 meetings with SWRCB staff is included, two of which have already occurred. Woodard & Curran and SWCA will also continue to provide support for tribal consultation after the completion of the subsurface testing and reporting phases as needed to support the project. For the purposes of this Amendment No. 3, it is assumed that no more than 20 hours of additional Woodard & Curran labor and 32 hours of additional SWCA labor will be required for tribal consultation support and meetings with SWRCB regarding cultural review of the SRF application.

6.1.4 DRAFT AND FINAL HISTORIC PROPERTIES TREATMENT PLAN (HPTP)

Following the completion of the Final HPIR and subsurface geoarchaeological investigations, the SWRCB will negotiate a Memorandum of Agreement (MOA) with the SHPO that will establish the requirements for the Historic Properties Treatment Plan (HPTP). This Amendment No. 3 assumes the

following level of effort for preparation of a HPTP in accordance with SWRCB guidelines and Section 106 of the NHPA:

Preparation of the Draft HPTP:

The HPTP will be an inclusive, stand-alone document that will be used to guide treatment and mitigation of historic properties that will or may be affected by the project. Typically, HPTPs are extensive documents that include all necessary background and procedural information for implementing the treatment measures agreed upon in the Section 106 MOA. Some of the contents (e.g., background information, regulatory context, and archaeological site details) can be derived from existing documents, including the HPIR, which has been developed under the current contract and is in review with the SWRCB as of April 2022, but most of the HPTP content needs to be developed and tailored to the specific purpose of the HPTP. As a specific, tailored document, HPTPs need to be prepared by senior staff, including a Principal Investigator and project manager who meet the Secretary of the Interior (SOI) Professional Qualification Standards (PQS) in archeology.

We assume the HPTP will include, minimally:

- A Scope and Purpose, which details the background for the need for an HPTP and its relationship to the MOA;
- Project Background and Anticipated Adverse Effects, which essentially is a summary of the project and anticipated adverse effects to historic properties;
- Expanded Legal and Regulatory Contexts that pertain to assessment and resolution of adverse effects, tailored to the specific project and resources;
- Native American participation, which details consultation efforts and tribal input/concerns;
- Description, background (e.g., prior and current research), and National Register summaries of adversely affected historic properties. This likely would be required for both LAN-264 and LAN-1417;
- Environmental, Prehistoric and Ethnographic Contexts;
- A detailed Research Design;
- Proposed Treatment of Adverse Effects, which may include:
 - A detailed monitoring plan specifying when monitoring will be required, monitoring procedures, participation of tribal representatives, stop work and communication protocols, expectations, collection, analysis, and reporting requirements.
 - A full data recovery plan that would be implemented upon discovery of intact archaeological deposits, including full details of the field, laboratory, and reporting effort.
- Protocols for mitigation of Unanticipated Adverse Effects, which could include provisions for discovery and treatment of human remains;
- Curation provisions and execution of a curation agreement for recovered archaeological materials;
- Reporting Requirements of the HPTP;
- References Cited;
- Detailed Maps/Figures/Appendices.

The primary source of uncertainty with the scope of work for the HPTP concerns the specific treatment and mitigation measures for the resources, which have not been identified by the SWRCB as of April 2022. The SWRCB will determine the required contents of the HPTP after the completion of the subsurface geoarchaeological investigations.

Revisions to the Draft HPTP and Final HPTP:

As an attachment to the legally binding MOA, the execution of which signifies conclusion of the Section 106 process, we anticipate the HPTP will be subject to numerous rounds of revision and edits. This will involve input from the signatories to the MOA, which most likely will include SWRCB, SHPO, and consulting Native American tribes, the City of Malibu and any other interested parties. Each round of agency review typically requires extensive time (up to 30 days in the case of SHPO), and there may be as many five or six review cycles, in some cases. Because it is difficult at this point to estimate the level of effort to revise the HPTP in response to consulting party comments, this amendment is budgeted based on an assumption of three rounds of revisions. This budget includes time for response to comments and revisions to the draft HPTP, and preparation/delivery of the final document.

Ongoing Agency Coordination:

The final details of the HPTP will be developed through consultation, as noted above, and the contents of the HPTP likely will change as consultation proceeds. This will require multiple meetings with SWRCB and possibly other stakeholders, both initially during preparation of the first draft of the HPTP, and during subsequent revisions to the HPTP. This amendment assumes up to 24 hours for two SWCA staff and two Woodard & Curran staff to attend agency coordination meetings.

Deliverables

- *Draft HPTP, version 1 – delivered electronically*
- *Draft HPTP, versions 2-3 – delivered electronically*
- *Final HPTP – delivered electronically*

Assumptions

- *The number of draft versions of the HPTP will not exceed three, with one final version.*
- *No field work, site visits, or other travel will be required for the HPTP.*
- *All agency meetings will occur via phone or video conference.*
- *Hard copies of the draft and final HPTP will not be required.*
- *SWRCB will prepare the Section 106 MOA.*



EXHIBIT B - COMPENSATION SCHEDULE

Fee Estimate

City of Malibu

April 29, 2022

Civic Center Water Treatment Facility Phase 2 | Amendment No. 3

	Original Contract Fee	Amendment No. 1 Fee (Executed 03/2021)	Amendment No. 2 Fee (Executed 08/2021)	Current Contract Fee	Amendment No. 3 Fee	New Contract Fee
Task 1: Data Collection, Surveying, Inspection, and Review	\$ 293,931	\$ -	\$ -	\$ 293,931	\$ (10,000)	\$ 283,931
Task 2: Project Management, Quality Control/Quality Assurance, and Stakeholder Engagement	\$ 449,065	\$ 8,666	\$ -	\$ 457,731	\$ 21,808	\$ 479,539
Task 3: Wastewater Treatment Plant, Wastewater Sewer and RW Systems Expansion, Preliminary Design	\$ 1,192,328	\$ 314,457	\$ -	\$ 1,506,785	\$ (15,000)	\$ 1,491,785
Task 4: Final Design (90%, 100% Plans, and Final Contract Package, Specifications, and Estimates)	\$ 900,197	\$ 98,618	\$ -	\$ 998,815	\$ 30,308	\$ 1,029,123
Task 5: Independent Constructability Review	\$ 41,585	\$ -	\$ -	\$ 41,585	\$ (41,585)	\$ -
Task 6: Additional Design Tasks	\$ 122,452	\$ 61,067	\$ 47,227	\$ 230,746	\$ 144,469	\$ 375,215
TOTAL FEE	\$ 2,999,558	\$ 482,808	\$ 47,227	\$ 3,529,593	\$ 130,000	\$ 3,659,593

1. The individual hourly rates include salary, overhead and profit.
2. Specialty subconsultants will be billed at actual cost plus 10%.
3. Other direct costs (ODCs) such as reproduction, delivery, mileage (rates will be those allowed by current IRS guidelines), and travel expenses, will
4. Woodard & Curran reserves the right to adjust its hourly rate structure and ODC markup at the beginning of the calendar year for all ongoing