

REPORT TO CITY COUNCIL

DATE: FEBRUARY 9, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, CITY ENGINEER

SUBJECT: REQUEST TO APPROVE AN EXTENSION TO THE AGREEMENTS RELATED TO THE MALIBU CREEK WATERSHED BACTERIA TMDL COMPLIANCE MONITORING PROGRAM

On September 11, 2006, the Regional Water Quality Control Board approved the Malibu Creek Watershed Bacteria TMDL Compliance Monitoring Plan (CMP). The preparation of the plan was a collaborative effort amongst the watershed agencies (Cities of Calabasas, Westlake Village, Hidden Hills, Malibu, and Thousand Oaks; Counties of Los Angeles and Ventura, and Caltrans), and was a requirement of the Malibu Creek and Lagoon Bacteria Total Maximum Daily Load (TMDL), which became effective January 24, 2006. At the request of the Regional Board staff, monitoring began March 11, 2008.

At the City Council meeting on February 13, 2008, Clean Lakes, Inc., was awarded an agreement to provide professional water quality monitoring services for the CMP. Some of the services being provided include weekly water sampling at the eleven sites, maintaining the data base, and preparing weekly and monthly reports as required in the CMP. The agreement is currently set to expire on February 18, 2011. Staff is satisfied with the work product from Clean Lakes, Inc., and will continue to meet the requirements of the CMP. As such, staff is recommending that the agreement with Clean Lakes, Inc., be extended through February 18, 2013.

The agreement's scope of work will remain the same as previously approved, but there is a proposed 1.6% increase in collection fees beginning in the second year, and a 5% increase in lab fees beginning in year one of the extension. The breakdown of the proposed total annual costs for the contract extension are as follows:

	CURRENT	YEAR 1	YEAR 2
Collection Fees	\$61,081.81	\$61,081.00	\$62,059.00
Lab Fees	\$46,800.00	\$48,984.00	\$48,984.00
Total Costs	\$107,881.81	\$110,065.00	\$111,043.00

Since the compliance monitoring plan is inclusive of many agencies, an agreement was executed to provide fair share of the contract based on land area, plus a 15% management fee which is covered collectively by all of the watershed agencies to the lead city providing management of

the compliance monitoring program. The City's fair share is 15.3% due to the City of Thousand Oaks and County of Ventura participating in a separate compliance monitoring program.

On December 12, 2007, the City Council authorized staff to take the lead on administering the CMP utilizing a combination of City staff and consultants. At the time of the approval it was understood the lead city would rotate between agencies every three years. As a result of discussions with other agencies, it has been requested the City of Agoura Hills remain the lead agency for the next two years. Staff supports this request since the management fee collected from the agencies reduces the net fiscal impact to the City. In concert with staff providing management of the monitoring program, the City entered into an agreement with the participating agencies on February 13, 2008. The current agreement is set to expire on March 10, 2011, unless extended for two years with the approval by all participating agencies. This report requests the City Council's authorization to (1) extend the agreement extension for Clean Lakes, Inc.; (2) allow staff to continue overseeing the compliance monitoring program; and (3) approve the agreement extension with the participating agencies for an additional two years.

The proposed agreement amendments have been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff respectfully recommends the City Council:

1. Approve an extension of the agreement with Clean Lakes, Inc. for professional services related to the Malibu Creek Watershed Bacteria TMDL Compliance Monitoring Program, through February 18, 2013.
2. Authorize staff to take the lead on compliance monitoring efforts for the Malibu Creek Watershed Bacteria TMDL Compliance Monitoring Program for an additional two years.
3. Authorize the Mayor to sign the agreement extension with the participating agencies on behalf of the City Council.

Attachment: First Amendment to Agreement with Clean Lakes, Inc.
Agreement Extension with the Participating Agencies

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT: Clean Lakes, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Attn: Thomas Moorhouse
Vice President

CONSULTANT'S ADDRESS: 31320 Via Colinas, Unit 114
Westlake Village, CA 91362

CITY'S ADDRESS: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301
Attn: City Manager

PREPARED BY: Kelly Fisher

COMMENCEMENT DATE: February 18, 2011

TERMINATION DATE: February 18, 2013

CONSIDERATION: Contract Price
Not to Exceed: \$221,108

FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT (“Amendment”) is made and entered into as of the 18th day of February, 2011, by and between the City of Agoura Hills, a municipal corporation (“City”) and Clean Lakes, Inc. (“Consultant”) and with respect to the following recitals:

A. On February 13, 2008, the City and Consultant entered into that certain Agreement entitled “Agreement with the City of Agoura Hills and Clean Lakes, Inc. for Professional Monitoring Services” in the amount of \$108,000 (“Agreement”).

B. Both parties agree to extend the term of Agreement, which commenced February 18, 2008, and is set to terminate on February 18, 2011.

C. Such extension shall be at the amended price of \$110,065.00 for the first year extension (2011-2012), and \$111,043.00 (2012-2013) for the second year extension, for a total Agreement contract price of \$329,108.00. A revised Exhibit B is attached.

D. Such extension shall be subject to the same conditions as set forth in the original agreement which commenced on February 18, 2008.

E. The City and Consultant now wish to modify the Agreement to extend the term of the Agreement by two additional years.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL BENEFITS, PROMISES, COVENANTS, AND CONDITIONS HEREINAFTER CONTAINED, THE PARTIES, DO AGREE HEREBY AS FOLLOWS:

SECTION 1. Section 1 of the Agreement is hereby amended to read as follows:

“**1. TERM.** This Agreement shall commence on February 18, 2008, and shall remain and continue in effect until February 18, 2013 or upon completion of all tasks described herein related to the Malibu Creek Total Maximum Daily Load Compliance Monitoring, whichever is sooner, unless sooner terminated pursuant to the provisions of this Agreement.”

SECTION 2. Section 2 of the Agreement is hereby amended to read as follows:

“**2. City’s Obligations.**

a) “The City agrees to pay Consultant monthly, in accordance with the payment rates and schedules and terms set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. The First Amendment amount shall not exceed two hundred twenty one thousand and one hundred and eight dollars (\$221,108) for additional TMDL monitoring work for a total Agreement amount of three hundred twenty nine thousand and one hundred and eight dollars (\$329,108).”

The City shall not pay to Consultant a total amount exceeding \$329,108 unless additional payment is approved as provided in this Agreement.

b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

c) The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement as approved by the City Council. Any additional work in excess of the additional ten percent (10%) amount shall be approved by the City Council.

d) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Consultant shall provide receipts on all reimbursable expenses in excess of fifty dollars (\$50) in such form as approved by the Director of Finance.”

SECTION 3. Exhibit “B” of the Agreement is amended as attached hereto and incorporated herein by this reference as though set forth in full.

SECTION 4. All other provisions of the Agreement remain unchanged.

SECTION 5. The Recitals are incorporated herein as though set forth in full.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

CITY OF AGOURA HILLS

Harry Schwarz
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig A. Steele,
City Attorney

Clean Lakes, Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

[*Signatures of Two Corporate Officers Required]

07-LA-1, PM 46.8/47.2
07-LA-23, PM 6.9/8.9
07-LA-101, PM 29.3/38.19
07-VEN-23, PM 0.0/3.29
07-VEN-101, PM 0.0/1.1

**MALIBU CREEK BACTERIA TMDL
COORDINATED MONITORING PLAN IMPLEMENTATION
FIRST AMENDMENT TO
CALTRANS AGREEMENT NO. 07-4824
EA 910204**

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO CALTRANS AGREEMENT NO. 07-4824 ("FIRST AMENDMENT"), made and entered into by and between the CITY OF MALIBU, a municipal corporation ("MALIBU"), the CITY OF CALABASAS, a municipal corporation ("CALABASAS"), the CITY OF WESTLAKE VILLAGE, a municipal corporation ("WESTLAKE VILLAGE"), the CITY OF HIDDEN HILLS, a municipal corporation ("HIDDEN HILLS"), the COUNTY OF LOS ANGELES, a political subdivision of the State of California ("LA COUNTY"), the STATE OF CALIFORNIA, through its Department of Transportation ("CALTRANS") (all of the aforementioned are hereinafter collectively referred to as "PARTICIPATING AGENCIES"), and the CITY OF AGOURA HILLS, a municipal corporation ("AGOURA HILLS").

WITNESSETH

WHEREAS, on July 31, 2008 the PARTICIPATING AGENCIES and AGOURA HILLS entered into that certain Agreement entitled, "Malibu Creek Bacteria TMDL Coordinated Monitoring Plan Implementation Caltrans Agreement No. 07-4824"

WHEREAS, the Agreement is set to expire on March 10, 2011, as provided in paragraph f of Section 4 of the Agreement.

WHEREAS, the PARTICIPATING AGENCIES and AGOURA HILLS desire to enter into this First Amendment to extend the Agreement by one two-year term pursuant to paragraph f of Section 4 of the Agreement.

WHEREAS, the PARTICIPATING AGENCIES and AGOURA HILLS desire to revise Exhibit A to the Agreement to incorporate Year 4 (2011-2012) and Year 5 (2012-2013) contract and management costs.

WHEREAS, the PARTICIPATING AGENCIES and AGOURA HILLS desire and intend for all other terms and conditions of the Agreement to remain in effect for the term of this AMENDMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the PARTICIPATING AGENCIES and AGOURA HILLS and of the promises herein contained, it is hereby agreed as follows:

SECTION 1. Paragraph f of Section 4 of the Agreement is hereby amended to read as follows:

“f. This Agreement shall be effective on the date of the last party’s signature and shall terminate on March 10, 2013, except as provided herein and in paragraph g of Section 4 of this Agreement. Further, this Agreement may be extended in two (2) year increments with the written approval of all the representatives of the PARTICIPATING AGENCIES and AGOURA HILLS.”

SECTION 2. Exhibit “A” of the Agreement is hereby amended by adding thereto the items set forth on Attachment “A” to this Amendment, which is attached hereto and incorporated herein as though set forth in full.

SECTION 3. Except for the changes specifically set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this FIRST AMENDMENT to be executed on their behalf by their respective officers, duly authorized, as follows:

Dated: _____

COUNTY OF LOS ANGELES,

ATTEST:

By _____
Chair, Board of Supervisors

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of
the County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

Dated: _____

CITY OF MALIBU

By _____
Jim Thorsen, City Manager

ATTEST:

By _____
Lisa Pope, City Clerk
(seal)

APPROVED AS TO FORM:

By _____
Christi Hogin, City Attorney

Dated: _____

CITY OF WESTLAKE VILLAGE,
a municipal corporation

By _____
Ned Davis, Mayor

ATTEST:

Beth Schott, City Clerk

APPROVED AS TO FORM:

Terence Boga, City Attorney

Dated: _____

CITY OF AGOURA HILLS

By _____
Harry Schwarz, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

Dated: _____

CITY OF CALABASAS

By _____
James Bozajian, Mayor

ATTEST:

Robin Parker, City Clerk

APPROVED AS TO FORM:

By: _____
Michael G. Colantuono, City Attorney

Dated: _____

CITY OF HIDDEN HILLS

By _____
Larry G. Weber, Mayor

ATTEST:

Cherie L. Paglia, City Clerk

APPROVED AS TO FORM:

Roxanne M. Diaz, City Attorney

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By _____
Will Kempton, Director

By _____
Douglas R. Failing
District Director

Dated: _____

APPROVED AS TO FORM:

By _____
Attorney

CERTIFIED AS TO FUNDS:

By _____
District Budget Manager

CERTIFIED AS TO FINANCIAL TERMS AND CONDITIONS:

By: _____
Accounting Administrator

ATTACHMENT "A"

REVISED EXHIBIT "A" TO AGREEMENT

EXHIBIT A: COST SHARING PERCENTAGES

Agency	Jurisdictional Land Acres	Percent Share	Contract Cost	Management Fee	Agency Annual Total
FIRST YEAR (2008 to 2009)					
County of Los Angeles	19,890	58.72%	\$59,575.58	\$9,336.13	\$68,911.71
State of CA, Dept of Trans. (Caltrans)	342	1.01%	\$1,024.38	\$160.53	\$1,184.91
Agoura Hills	5,178	15.29%	\$15,509.42	\$2,430.49	\$17,939.91
Calabasas	4,279	12.63%	\$12,816.69	\$2,008.51	\$14,825.20
Westlake Village	3,540	10.45%	\$10,603.20	\$1,661.63	\$12,264.83
Malibu	536	1.58%	\$1,605.46	\$251.59	\$1,857.05
Hidden Hills	105	0.31%	\$314.50	\$49.29	\$363.79
SECOND YEAR (2009 to 2010)					
County of Los Angeles	19,890	58.72%	\$61,044.19	\$9,466.47	\$70,510.66
State of CA, Dept of Trans.(Caltrans)	342	1.01%	\$1,049.63	\$162.77	\$1,212.40
Agoura Hills	5,178	15.29%	\$15,891.75	\$2,464.42	\$18,356.17
Calabasas	4,279	12.63%	\$13,132.63	\$2,036.55	\$15,169.19
Westlake Village	3,540	10.45%	\$10,864.58	\$1,684.83	\$12,549.41
Malibu	536	1.58%	\$1,645.03	\$255.10	\$1,900.14
Hidden Hills	105	0.31%	\$322.25	\$49.97	\$372.23
THIRD YEAR (2010 to 2011)					
County of Los Angeles	19,890	58.72%	\$63,709.45	\$9,502.88	\$73,212.32
State of CA, Dept of Trans. (Caltrans)	342	1.01%	\$1,095.46	\$163.40	\$1,258.85
Agoura Hills	5,178	15.29%	\$16,585.60	\$2,473.90	\$19,059.50
Calabasas	4,279	12.63%	\$13,706.02	\$2,044.38	\$15,750.40
Westlake Village	3,540	10.45%	\$11,338.94	\$1,691.31	\$13,030.25
Malibu	536	1.58%	\$1,716.86	\$256.09	\$1,972.94
Hidden Hills	105	0.31%	\$336.32	\$50.17	\$386.49
FOURTH YEAR (2011 to 2012)					
County of Los Angeles	19,890	58.72%	\$64,635.16	\$9,695.27	\$74,330.43
State of CA, Dept of Transportation	342	1.01%	\$1,111.37	\$166.71	\$1,278.08
Agoura Hills	5,178	15.29%	\$16,826.59	\$2,523.99	\$19,350.58
Calabasas	4,279	12.63%	\$13,905.17	\$2,085.78	\$15,990.95
Westlake Village	3,540	10.45%	\$11,503.69	\$1,725.55	\$13,229.25
Malibu	536	1.58%	\$1,741.80	\$261.27	\$2,003.07
Hidden Hills	105	0.31%	\$341.21	\$51.18	\$392.39
FIFTH YEAR (2012 to 2013)					
County of Los Angeles	19,890	58.72%	\$65,209.49	\$9,781.42	\$74,990.91
State of CA, Dept of Transportation	342	1.01%	\$1,121.25	\$168.19	\$1,289.44
Agoura Hills	5,178	15.29%	\$16,976.10	\$2,546.42	\$19,522.52
Calabasas	4,279	12.63%	\$14,028.73	\$2,104.31	\$16,133.04
Westlake Village	3,540	10.45%	\$11,605.91	\$1,740.89	\$13,346.80
Malibu	536	1.58%	\$1,757.28	\$263.59	\$2,020.87
Hidden Hills	105	0.31%	\$344.24	\$51.64	\$395.88