

**AMENDMENT NO. 2
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
MINTIER HARNISH, LP**

PREAMBLE

This agreement ("Amendment No. 2") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Mintier Harnish, a California Limited Partnership (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and Between the City of Santa Clara, California, and Mintier Harnish, LP", dated November 10, 2017 (the "Original Agreement");
- B. The Agreement was previously amended by Amendment No. 1, dated August 27, 2019, and is again amended by this Amendment No. 2. The Agreement and previous amendment are collectively referred to herein as the "Agreement as Amended"; and
- C. The Parties entered into the Original Agreement for the purpose of having Contractor prepare a comprehensive Zoning Code update, and the Parties now wish to amend the Agreement as Amended to extend the termination date and expand the time and funding dedicated to remaining tasks in the Scope of Services for preparation of the Zoning Code update.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Section 5 of the Agreement as Amended, entitled "Term of Agreement," is hereby amended to revise the termination date of the Agreement to December 31, 2021.
- B. That Exhibit A of the Agreement as Amended, entitled "Revised Scope of Services," is hereby appended with the attached "Remaining Tasks," dated May 5, 2020.
- C. That Exhibit B of the Agreement as Amended, entitled "Revised Fee Schedule," is hereby appended with the attached "Appendix to Schedule of Fees," dated May 12, 2020.

2. TERMS

All other terms of the Agreement as Amended which are not in conflict with the provisions of this Amendment No. 2 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Agreement as Amended and this Amendment No. 2, the provisions of this Amendment No. 2 shall control.

3. COUNTERPARTS

This Amendment No. 2 may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 2 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

Approved as to Form:

Dated:

6/29/2020



BRIAN DOYLE
City Attorney



DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

MINTIER HARNISH, LP
a California Limited Partnership

Dated: 06/24/2020

By (Signature):

Name: Jim Harnish

Title: Principal/Owner

Principal Place of Business Address: 1415 20th Street
Sacramento, CA 95811

Email Address: Jim@MintierHarnish.com

Telephone: (916) 446-0522

Fax: (916) 446-7520

"CONTRACTOR"

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Santa Clara Zoning Code Update

Remaining Tasks

May 5, 2020

Task 1. The Consultants will review and discuss with City staff the City Attorney comments on Preliminary Draft Articles 6, 7, and 8. The Consultants will then revise Articles 6, 7, and 8 for City staff review.

Task 2. The Consultants will revise selected Articles, as necessary, to incorporate City staff generated provisions, including short-term rentals and telecommunications. The Consultants will incorporate the revisions into the Screencheck Public Review Draft Zoning Code (Task 4).

Task 3. The Consultants will prepare objective multifamily residential design standards based on design standards prepared as a part of the El Camino Real Specific Plan and submit to City staff for review. Following City staff review, the Consultants will revise the design standards and incorporate them into the Screencheck Draft Article 4 (Task 4).

Task 4. The Consultants will revise all articles based on City staff review. The Consultants will prepare a Screencheck Draft Public Review Zoning Code for City staff review.

Task 5. Following City staff review of the Screencheck Public Review Draft Zoning Code, the Consultants will prepare the Public Review Draft Zoning Code.

Task 6. The Consultants will prepare for and attend one City Council or Joint Planning Commission/City Council meeting to present the Public Review Draft Zoning Code.

Task 7. Following public review, the Consultants will incorporate all revisions to the Public Review Draft Zoning Code directed by the City Council and City staff. The Consultants will then prepare a Screencheck Final Zoning Code for City staff review.

Task 8. Based on City staff comments, the Consultants will prepare the Final Zoning Code.

Task 9. The Consultants will participate in weekly coordination calls with City staff. The Consultants will prepare monthly progress reports as a part of the project invoices and manage the Project schedule and budget.

**Appendix to Schedule of Fees
May 12, 2020**

SANTA CLARA ZONING CODE UPDATE	Mintier Harnish						Jacobson & Wack			TOTAL COSTS
	HARNISH Project Director	B. GIBBONS Project Manager	M. GIBBONS Planner	Support	SUBTOTAL HOURS	SUBTOTAL COSTS	JACOBSON Principal	SUBTOTAL HOURS	SUBTOTAL COSTS	
PHASES										
Task 1: Revise Prelim Draft Articles 6, 7, & 8 based on CAO comments	4	8			12	\$2,260	20	20	\$4,000	\$6,260
Task 2: Incorporate short-term rentals and telecommunications	4	12	12		28	\$4,620	4	4	\$800	\$5,420
Task 3: Prepare objective multifamily design standards	4	12	16		32	\$5,180	4	4	\$800	\$5,980
Task 4: Revise all Articles based on staff review (Screencheck)	8	16	24		48	\$7,880	16	16	\$3,200	\$11,080
Task 5: Prepare Public Review Draft Zoning Code.	4	8	12		24	\$3,940	8	8	\$1,600	\$5,540
Task 6: Attend City Council (or Joint Commission Council) meeting	8	8	8		24	\$4,280	12	12	\$2,400	\$6,680
Task 7: Prepare Screencheck Final Zoning Code.	8	12	24		44	\$7,200	16	16	\$3,200	\$10,400
Task 8: Prepare Final Zoning Code	4	8	12		24	\$3,940	8	8	\$1,600	\$5,540
Task 9: Project Management (weekly calls, invoicing, budget mgt.)	24	32		32	88	\$14,040	24	24	\$4,800	\$18,840
Subtotal	68	116	108	32	324	\$53,340	112	112	\$22,400	\$75,740
TOTAL										
Total Hours	68	116	108	32	324	-	112	112	-	-
2020 Hourly Billing Rates (subject to change every January 1st)	\$225	\$170	\$140	\$100	-	-	\$200	-	-	-
Labor Subtotals	\$15,300	\$19,720	\$15,120	\$3,200	-	\$53,340	\$22,400	-	\$22,400	\$75,740
Direct Expenses (e.g., printing, travel)						\$1,500			\$1,000	\$2,500
Remaining Funds of Amend. No. 1 (as of 3/31/2020)										(\$27,800)
TOTAL COST OF AMENDMENT NO. 2 TASKS						\$54,840			\$23,400	\$50,440
REVISED CONTINGENCY										\$25,000
TOTAL VALUATION OF AGREEMENT AS AMENDED										\$323,690

1) This represents a total cost based on the provided scope of work.

2) The distribution of hours between staff categories and tasks are an estimate. While the total costs will not change, the distribution of hours/costs may vary depending on actual execution.



Agenda Report

20-576

Agenda Date: 6/23/2020

REPORT TO COUNCIL

SUBJECT

Action on Amendment No. 2 to the Agreement with Mintier Harnish, LP, for preparation of the Zoning Code Update and Approval of Related Budget Amendment [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

BACKGROUND

The City is in the process of the first comprehensive update of the City's Zoning Code since its original adoption in 1969. The City completed a competitive RFP process in 2017 and selected Mintier Harnish to provide consulting services to support the comprehensive Zoning Code Update including technical assistance and production of the updated Zoning Code document. The City entered into an Agreement with Mintier Harnish on November 10, 2017, and first amended the Agreement on August 20, 2019, to expand the scope of services in response to changes in State law and additional community input.

DISCUSSION

While the consultant's work performance to date is consistent with the approved scope and terms of the original Agreement, as amended, the hours budgeted for the proposed project scope with this second amendment have been expanded. The raft of State laws enacted since the commencement of the Zoning Code Update process have prompted the need to create and refine additional code language beyond what was originally anticipated. Specifically, the updated scope includes:

- Additional time to finalize new code provisions for the processing of permits, zoning changes and the recognition of the General and Specific Plan Amendment processes in the zoning code;
- Incorporation into the zoning code of new standards for telecommunications installations;
- Objective development standards for certain affordable housing projects;
- Refinement and incorporation of short-term and long-term rental regulations;
- Incorporation of new zoning districts related to the El Camino Real Specific Plan;
- Incorporation of transition diagrams and other form-based elements from the El Camino Real Specific Plan into the Zoning Code Update.

The scope has also been revised to eliminate tasks that City staff are planning to perform in-house, such as the preparation of the new zoning map, and to focus the consultants' work on helping staff draft new code provisions consistent with current land use development patterns and changes to state law.

The proposed Amendment will enable the consultant to continue to support the City's effort to comprehensively update the Zoning Code, now anticipated for completion in early 2021.

ENVIRONMENTAL REVIEW

This action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

The proposed amendment includes an increase of \$75,440 for additional consulting services related to the expanded project scope which is based on continued refinement of zoning provisions in light of changes to development patterns and changes in State law. The Zoning Code Update Capital Improvement Project has a remaining balance of \$39,073 that is available for payments towards the proposed amended agreement. Staff is recommending that funds in the amount of \$36,367 be allocated from the Advanced Planning Reserve to cover the total cost of Amendment No. 2.

The budget amendment below allocates funding from the Advanced Planning Reserve in the General Fund to the Zoning Code Update Project in the General Government Capital Fund in the amount of \$36,367.

Budget Amendment FY 2019/20			
	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Reserve</u>			
Advanced Planning Fee	\$678,777	(\$36,367)	\$642,410
<u>Transfers To</u>			
General Government Capital Fund - Zoning Code Update Project	\$1,201,881	\$36,367	\$1,238,248
General Government Capital Fund			
<u>Transfers From</u>			
General Fund	\$1,201,881	\$36,367	\$1,238,248
<u>Expenditures</u>			
Zoning Code Update Project	\$118,084	\$36,367	\$154,451

COORDINATION

This report has been coordinated with the Finance Department and City Attorney’s office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website

and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

1. Approve and authorize the City Manager to execute Amendment No. 2 to the Agreement for the Performance of Services with Mintier Harnish, LP, for preparation of the Zoning Code Update with an increase of \$75,440 for a total contract cost not to exceed \$323,690; and
2. Approve the related FY 2019/20 budget amendment in the General Fund to reduce the General Fund Advanced Planning Reserve and increase the transfer to the General Government Capital Fund by \$36,367; in the General Government Capital Fund, increase the transfer from the General Fund and the Zoning Code Update Capital Improvement Project by \$36,367.

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Amendment No. 2 to Service Agreement with Mintier Harnish, LP
2. Amendment No. 1 to Service Agreement with Mintier Harnish, LP
3. Original Agreement with Mintier Harnish, LP