

**RESOLUTION NO. 2012-49**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK  
AUTHORIZING THE FIRST AMENDMENT TO THE AGREEMENT FOR SERVICES  
WITH COMMUNICATION LEASING SERVICES, INC.**

WHEREAS, the City and Consultant have entered into that certain Agreement for Services with Communications Leasing Services, Inc., dated November 9th, 2004 (the "Agreement"), which was approved by the City Council by Resolution No. 2004-306; and

WHEREAS, pursuant to Paragraph 8 (Amendment of Scope of Work) of the Agreement, the City and Consultant desire to amend the Agreement to: (1) amend the Exhibit "A" (Scope of Work) describing additional services to be supplied to the City from Consultant; (2) amend Exhibit "B" (Standard Rates and Charges) to provide for Consultant Fee for such additional services, and (3) increase Consultant's maximum compensation in light of such additional services to be supplied by Consultant.

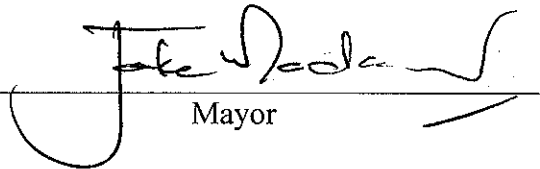
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve an amendment to the Agreement in substantially similar form to that First Amendment to Agreement for Services, which is attached hereto as **Exhibit A** and incorporated by this reference, subject to approval by the City Attorney.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the First Amendment in substantially similar form to the attached Exhibit A for and on behalf of the City of Rohnert Park.

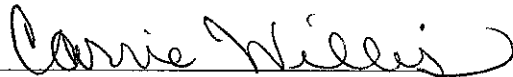
DULY AND REGULARLY ADOPTED this 22<sup>nd</sup> day of May, 2012.



CITY OF ROHNERT PARK

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Interim Deputy City Clerk

AHANOTU: <u>AYE</u>	BELFORTE: <u>AYE</u>	CALLINAN: <u>AYE</u>	STAFFORD: <u>AYE</u>	MACKENZIE: <u>AYE</u>
AYES: ( 5 ) NOES: ( 0 ) ABSENT: ( 0 ) ABSTAIN: ( 0 )				

## FIRST AMENDMENT TO AGREEMENT FOR SERVICES

**THIS FIRST AMENDMENT TO AGREEMENT FOR SERVICES**, (this "Amendment") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2012 by and between the **City of Rohnert Park** (the "City"), and **Communication Leasing Services, Inc.**, ("Consultant").

**WHEREAS**, the City and Consultant have entered into that certain AGREEMENT FOR SERVICES with Communications Leasing Services, Inc., dated November 9th, 2004 (the "Agreement"), which was approved by the City Council by Resolution No. 2004-306; and

**WHEREAS**, pursuant to Paragraph 8 (Amendment of Scope of Work) of the Agreement, the City and Consultant desire to amend the Agreement to: (1) amend the Exhibit "A" (Scope of Work) describing additional services to be supplied to the City from Consultant; (2) amend Exhibit "B" (Standard Rates and Charges) to provide for Consultant Fee for such additional services, ; (3) increase Consultant's maximum compensation in light of such additional services to be supplied by Consultant; and (4) delete paragraph 9 relating to special fees for AT&T at the Northern Station.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, City and Consultant hereby agree to amend the Agreement as follows:

1. **Amendment to Scope of Work.** A new Paragraph 8 is hereby added to the Exhibit "A" (Scope of Work) of the Agreement as follows:

"8. "Oversee and Negotiate Additional Equipment." Consultant shall review telecommunication companies' requests to add additional equipment to an existing leased or licensed telecommunication site with the City. Consultant shall provide recommendations to the City regarding the design of the proposed additional equipment as well as use best efforts to negotiate an increase in rent or license fees to be paid to the City from the telecommunication company. Under the direction of the City, Consultant will negotiate the business terms and draft subsequent Telecommunication Agreement Amendment for City review and execution that shall serve to document equipment to be added as well as an increase in rent or license fees, if any. Consultant shall also give the City recommendations regarding zoning and or construction drawings of the proposed additional equipment."

2. **Amendment to Standard Rates and Charges.** The following paragraph is hereby added to Exhibit "B" (Standard Rates and Charges) of the Agreement:

"The Consultant Fee for new services related to Paragraph 8 of Exhibit "A" shall be based only on the difference between the current rent or license fee received by the City and the newly negotiated increase in such rate, if any, due to the placement of additional equipment in City property subject to a Telecommunication Agreement. Such payment to Consultant from the City shall be under the same terms currently described under this Exhibit "B".

3. **Amendment to Compensation.** Subdivision (A) of Paragraph 4 of the Agreement (Compensation) shall be amended to read as follows:

“City shall pay Consultant as compensation in full for such Services at the rates and in such payments as set forth in the Standard Rates and Charges attached as Exhibit “B,” the total sum not to exceed One Hundred Fifty-five Thousand dollars (\$155,000.00).

4. **Definitions.** All capitalized terms not herein defined shall have the same definitions as in the Agreement.

5. **Interpretation.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall take precedence.

6. **Agreement in Effect.** Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified, remains in full force and effect, and is incorporated and restated herein as if fully set forth at length. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

7. **Counterparts.** This Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

**IN WITNESS WHEREOF**, the parties below have caused this Amendment to be executed as of the date first written above.

CITY OF ROHNERT PARK:

CONSULTANT:

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Per Resolution No. \_\_\_\_\_ adopted by the City Council on \_\_\_\_\_.

Attest:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## EXHIBIT "A"

### SCOPE OF WORK

Services to be provided by Consultant for City shall be the following tasks:

1. "Assessment of Sites." Consultant shall inspect City sites and consult with applicable members of City staff to determine the capacity at selected sites to house telecommunication equipment and the best location for the placement of such equipment from the City's staff perspective. The product for this task shall be a list of potential telecommunication sites. Consultant shall present the recommended list to the City Council for review and possible modification.
2. "Standard Telecommunications Lease Agreement." Consultant will confer with City staff and prepare a draft Standard Telecommunications Lease Agreement. Consultant shall present the Standard Telecommunications Lease Agreement to the City Council for review and possible modification.
3. "Planning Pre-Approval." Consultant shall prepare applications for planning approval of selected telecommunications lease sites. The applications will include potential and probable configurations of telecommunications equipment. This task includes appearances before the Planning Commission to present lease site proposals and respond to questions from members of the Planning Commission. This task shall be undertaken on a site-by-site basis.
4. "Site Marketing." Consultant shall market potential telecommunications lease sites to telecommunication carriers. The marketing program may include mail, telephone, and e-mail solicitations in behalf of the City by the Consultant. Consultant shall provide 24 hours notice prior to any site visit by representatives of telecommunication carriers. City agrees to cooperate with Consultant and telecommunication carriers to conduct any technical test necessary to determine the suitability of a given site.
5. "Negotiate Lease Agreement." Using the Standard Telecommunications Lease Agreement as a template, Consultant shall negotiate final Telecommunications Lease Agreement with telecommunication carriers. Consultant shall appear at City Council meetings and present and respond to questions from members of the City Council regarding proposed Telecommunications Lease Agreements. Only the City Council may approve a Telecommunications Lease Agreement in behalf of the City and Consultant shall not indicate that a Telecommunication Lease Agreement will be approved prior to consideration by the City Council.
6. "Review Construction Drawings." Consultant shall review construction plans to assure compliance with planning approvals and proper installation of telecommunications equipment and facilities.
7. "Final Walk-Through of Construction." Consultant shall inspect installation of equipment and facilities by a telecommunication carrier and assure compliance with such specifications and standards that may be incorporated in the applicable Telecommunication Lease Agreement.
8. "Oversee and Negotiate Additional Equipment." Consultant shall review telecommunication companies' requests to add additional equipment to an existing leased or licensed telecommunication site with the City. Consultant shall provide recommendations to the City regarding the design of the proposed additional equipment as well as use best efforts to negotiate an increase in rent or license fees to be paid to the City from the telecommunication company. Under the direction of the City, Consultant will negotiate the business terms and draft subsequent Telecommunication Agreement Amendment for City review and execution that shall serve to document equipment to be added as well as an increase in rent or license fees, if any. Consultant shall also give the City recommendations regarding zoning and or construction drawings of the proposed additional equipment

## EXHIBIT "B"

### STANDARD RATES AND CHARGES

The compensation due from City to consultant shall be based on the following percentages of the amount due City during the initial term of the Telecommunication Agreement. City agrees to pay Consultant the Fee as follows.

- A. In the case of a Telecommunication Agreement where the negotiated Carrier Fee is equal to or less than \$1,500 per month, the Consultant fee will be twelve percent (12 %) of the value of the initial term.
- B. In the case of a Telecommunication Agreement where the negotiated Carrier Fee is from \$1,501 to \$1,800 per month, the Consultant fee will be fourteen percent (14%) of the value of the initial term.
- C. In the case of a Telecommunication Agreement where the negotiated Carrier Fee is from \$1,801 to \$2,100 per month, the Consultant fee will be sixteen percent (16%) of the value of the initial term.
- D. In the case of a Telecommunication Agreement where the negotiated Carrier Fee is from \$2,101 to \$2,500 per month, the Consultant fee will be seventeen percent (17%) of the value of the initial term.
- E. In the case of a Telecommunication Agreement where the negotiated Carrier Fee is greater than \$2,500 per month, the Consultant fee will be eighteen percent (18%) of the value of the initial term.

In the case of a Telecommunication Agreement in which City receives payment in one sum annually, in advance, then City shall pay the Consultant Fee in two annual payments within ten (10) days from the date the first annual payment is received by the City and the date the second annual payment is received by the City during the first two years the Telecommunication Agreement is in place.

In the case of a Telecommunication Agreement in which City receives monthly payments, then City shall pay the Consultant Fee in twenty four (24) equal installments over the first twenty-four (24) months of the Telecommunication Agreement due within ten (10) days from the date each of the twenty four (24) payments are received by City pursuant to subject Telecommunications Agreement.

In the event City sells any of parcels or sites subject to a Telecommunication Agreement, the balance of any unpaid Consultant Fee due for any such parcel or site shall accelerate and be paid to Consultant on a lump sum basis upon close of escrow of sale of subject parcel or site. In the event a telecommunication carrier under a Telecommunication Agreement with City stops paying its rent or license fee prior to the termination date of a Telecommunication Agreement, then the payment of any unpaid Consultant Fees may be suspended until the telecommunication carrier commences payment of rent or license fees to City at which time City shall resume payment of the Consultant Fee in accordance with the terms of the Agreement until the Consultant Fee is paid in its entirety.

The Consultant Fee for new services related to Paragraph 8 of Exhibit "A" shall be based only on the difference between the current rent or license fee received by the City and the newly negotiated increase in such rate, if any, due to the placement of additional equipment in City property subject to a Telecommunication Agreement. Such payment to Consultant from the City shall be under the same terms currently described under this Exhibit "B".