



AGENDA REPORT

Meeting Date: November 20, 2012
Item Number: F-9
To: Honorable Mayor & City Council
From: Noel Marquis, Assistant Director of Administrative Services - Finance
Subject: **APPROVALS RELATED TO VARIOUS CITY PURCHASING AND BUDGET TRANSACTIONS AS DESCRIBED HEREIN**
Attachments: 1. Agreement

Item A. APPROVAL OF AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TEGNER-MILLER INSURANCE BROKERS FOR INSURANCE BROKER SERVICES; AND,

APPROVAL TO ISSUE A PURCHASE ORDER IN THE AMOUNT OF \$3,800,000 TO PAY FOR SERVICES AND THE PURCHASE OF INSURANCE

RECOMMENDATION

Staff recommends that the City Council approve the agreement and the purchase order with Tegner-Miller Insurance Brokers for insurance brokerage services, and for the purchase of insurance.

INTRODUCTION

The City of Beverly Hills self-insures for most risks, but purchases insurance to cover catastrophic losses such as for earthquake and property losses. The City uses the services of a licensed broker to obtain insurance coverage. The past contract was with ISU Coast Insurance, which was merged into the firm of Tegner-Miller Insurance Brokers. The existing contract has expired, and City Council approval is requested for a three year contract.

DISCUSSION

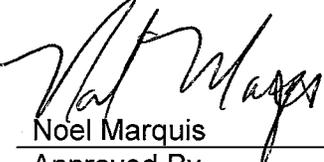
In California, insurance must be purchased using the services of a licensed broker. The City has paid for the service on a flat rate basis rather than pay through the use of a combination of fees and commissions. By paying a flat rate, the City gets complete broker services at a set

rate. Because commissions are always part of the insurance premiums, Tegner-Miller Insurance Brokers deducts any added commissions paid on purchased insurance from the quarterly bill, and the City pays the difference. The new contract reflects an increase of 5.7% over the existing rate, but the City will have the new rate fixed for the three years of the contract. This increase is the first rate change in three years.

At the end of the prior contract, the City informally polled other agencies to determine the need of an RFP for broker services. Because of the long relationship the City has had with the broker, our rate was extremely low in comparison with neighboring communities. In light of this, normally an extension of the existing contract would have been recommended. However, with the merger of the two firms and the name change, staff felt it prudent to draft a new contract.

FISCAL IMPACT

Funds are budgeted within the Administrative Services Budget for broker services and the purchase of insurance.


Noel Marquis
Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
TEGNER-MILLER INSURANCE BROKERS FOR INSURANCE
BROKER SERVICES

NAME OF CONTRACTOR:	Tegner-Miller Insurance Brokers
RESPONSIBLE PRINCIPAL OF CONTRACTOR:	David Nelson, Vice President
CONTRACTOR'S ADDRESS:	2001 Wilshire Boulevard, #101 Santa Monica, CA 90403 Attention: David Nelson, Vice President
CITY'S ADDRESS:	City of Beverly Hills 455 N. Rexford Drive Beverly Hills, CA 90210 Attention: Karl Kirkman, Risk Manager
COMMENCEMENT DATE:	November 1, 2012
TERMINATION DATE:	October 31, 2015, unless extended pursuant to Section 2 of the Agreement
CONSIDERATION:	Not to exceed \$56,000 per year, as more particularly described in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
TEGNER-MILLER INSURANCE BROKERS FOR INSURANCE
BROKER SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Tegner-Miller Insurance Brokers (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work. CONTRACTOR shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by CONTRACTOR must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

Section 2. Time of Performance.

CONTRACTOR shall commence its services under this Agreement upon the Commencement Date or upon a receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

The City Manager or his designee may extend the time of performance in writing for two additional one-year terms or such other term not to exceed two years from the date of termination pursuant to the same terms and conditions of this Agreement.

Section 3. Compensation.

(a) CITY agrees to compensate CONTRACTOR for the services and/or goods provides under this Agreement, and CONTRACTOR agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein.

(b) Additional Services. City may from time to time require CONTRACTOR to perform additional services not included in the Scope of Services. Such requests for additional services and any compensation for such services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. CITY shall pay CONTRACTOR said Consideration in accordance with the method and schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

Section 5. Independent Contractor. CONTRACTOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible by CONTRACTOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONTRACTOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of CONTRACTOR. CONTRACTOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) Professional Liability Insurance. A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONTRACTOR agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(2) Workers' compensation insurance as required by the State of California.

(b) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(c) CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONTRACTOR's expense, the premium thereon.

(d) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(e) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(f) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 13. Termination.

(a) CITY OR CONTRACTOR may cancel this Agreement at any time upon thirty (30) days written notice to the other party. CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY or CONTRACTOR, due to no fault or failure of performance by CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of five (5) years. City shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONTRACTOR must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, and supersedes all prior negotiations,

representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONTRACTOR.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 20__, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

WILLIAM W. BRIEN, M.D.
Mayor of the City of
Beverly Hills, California

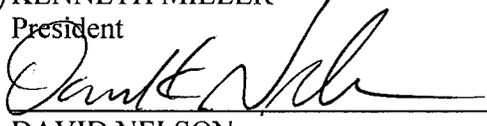
ATTEST:

(SEAL)
BYRON POPE
City Clerk

CONTRACTOR: TEGNER-MILLER
INSURANCE BROKERS



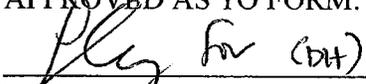
KENNETH MILLER
President



DAVID NELSON
Vice President

[Signatures continue:]

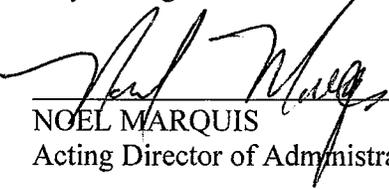
APPROVED AS TO FORM:



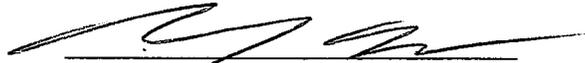
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager



NOEL MARQUIS
Acting Director of Administrative Services



KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

CONTRACTOR shall perform the following services to CITY's satisfaction:

1. Arrange for the placement and purchase of all insurance required by CITY.
2. Conduct all necessary research and investigation on insurance markets available for the placement of CITY's insurance programs
3. As may be required, put CITY insurance policies out to bid to competing insurance carriers based on information provided and researched by CITY Risk Management division;
4. Negotiate and arrange for the purchase of such insurance as may be authorized by CITY;
5. Act as liaison between CITY and insurance carriers in handling any dispute relating to claims, service or coverage problems; and
6. Work with CITY Risk Management division in making a formal review of each CITY insurance program on an annual basis, including recommendations on alternative methods of handling the exposure and any analysis of exclusions and other problem areas.

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall pay CONTRACTOR commissions and fees not to exceed Fifty-Six Thousand Dollars (\$56,000) per year. CONTRACTOR shall report to CITY all commissions and other payments made to CONTRACTOR in connection with the placement or purchase of CITY insurance on December 31, March 31, June 30 and September 30 of each fiscal year on a form approved by CITY's Risk Manager. In no event shall CITY's obligation to CONTRACTOR exceed the sum of Fifty-Six Thousand Dollars (\$56,000) per fiscal year and such obligation shall be reduced by whatever amounts are paid to CONTRACTOR by insurance companies as fees and commissions. Any additional sums due from CITY to CONTRACTOR shall be paid quarterly within thirty (30) days after receipt of CONTRACTOR's reports of fees on a form approved by CITY's Risk Manager, provided, however, payments together with fees shall not exceed Fourteen Thousand Dollars (\$14,000) per quarter unless required in the final quarter. If fees exceed Fourteen Thousand Dollars (\$14,000) in any one quarter, the amount of such excess shall be carried forward to the subsequent quarter or quarters within the same fiscal year as a credit to reduce any sums otherwise due from CITY hereunder.



EXHIBIT C
CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED _____

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS _____

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: _____

BY: _____
Authorized Insurance Representative

AGENCY: _____

TITLE: _____
ADDRESS: _____
