



AGENDA REPORT

Meeting Date: August 16, 2016
Item Number: D-14
To: Honorable Mayor & City Council
From: Raj Patel, Assistant Director of Community Development / City Building Official
Subject: APPROVALS RELATED TO 9900 WILSHIRE BOULEVARD PROJECT CONSULTANT AGREEMENTS AND PURCHASE ORDERS DESCRIBED HEREIN:

A. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND ESA PCR FOR AIR QUALITY (DUST) MONITORING SERVICES FOR THE 9900 WILSHIRE BOULEVARD PROJECT; AND

APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO EXCEED AMOUNT OF \$89,000 FOR FISCAL YEAR 2016-2017.

B. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND VENEKLASEN ASSOCIATES, INC. FOR CONSULTING SERVICES RELATED TO CONSTRUCTION NOISE AND VIBRATION MONITORING FOR THE 9900 WILSHIRE BOULEVARD PROJECT; AND

APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO EXCEED AMOUNT OF \$96,750 FOR FISCAL YEAR 2016-2017.

C. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND FEHR & PEERS FOR TRAFFIC MITIGATION AND MONITORING SERVICES FOR THE 9900 WILSHIRE BOULEVARD PROJECT; AND

APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO EXCEED AMOUNT OF \$30,180 FOR FISCAL YEAR 2016-2017.

Attachments:

1. Agreement – ESA PCR
2. Agreement – Veneklasen Associates, Inc.
3. Agreement – Fehr & Peers

**ITEM A. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND ESA
PCR FOR AIR QUALITY (DUST) MONITORING SERVICES FOR THE
9900 WILSHIRE BOULEVARD PROJECT; AND**

**APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO
EXCEED AMOUNT OF \$89,000 FOR FISCAL YEAR 2016-2017.**

RECOMMENDATION

Staff recommends that the City Council approve an Agreement between the City of Beverly Hills and ESA PCR to provide air quality (dust) monitoring services at the 9900 Wilshire Boulevard project site. Staff is also requesting the approval of a purchase order for a total not-to-exceed amount of \$89,000 for the contracted services during fiscal year 2016-2017. The agreement is for three (3) years until June 30, 2019, for a total not-to-exceed amount of \$267,000. The total cost for these services is paid by the developer with no fiscal impact to the City as required by the project Conditions of Approval.

INTRODUCTION

PCR Services Corporation is a multi-disciplinary environmental firm, which has been providing comprehensive environmental, health and safety consulting services to private and public agencies since 1974. Staff recommends that PCR Services Corporation be retained to provide the City with professional air quality (dust) monitoring services for the 9900 Wilshire Boulevard Project. The services to be provided are in compliance with the 9900 Wilshire Specific Plan, Conditions of Approval for Specialty Testing services in conjunction with the various stages of project construction, including; site development, shoring and excavation, subterranean parking garage and podium, through project buildout. This project will take multiple years to construct, which will require the city to have the ability to retain this environmental consultant for the length of the anticipated project schedule. This is a multi-year contract with PCR Services Corporation with the period of performance of August 22, 2016 – June 30, 2019.

DISCUSSION

PCR Services Corporation is currently performing air quality monitoring services at the construction site of 9850 Wilshire (Waldorf Astoria) Boulevard located adjacent to the project site. With both sites having similar air quality monitoring requirements, it was deemed to have PCR Services perform these services to both sites with the monitoring costs being shared. However, with construction activities at the 9850 Wilshire project well underway, PCR Services will be providing air and dust monitoring services separately to the 9900 Wilshire Boulevard project with said project bearing the full cost of the services.

Under this Agreement, PCR Services Corporation will provide air quality monitoring services to ensure compliance with the requirements of the "Conditions of Approval" for the 9900 Wilshire Boulevard project site. This will include, among other conditions, reporting and recommending mitigation measures developed as part of the Environmental Impact Report as incorporated into the entitlement approval.

Staff is requesting approval of this agreement and purchase order for a total not-to-exceed amount of \$89,000, to allow PCR Services to provide the above-mentioned services for fiscal year 2016-2017.

FISCAL IMPACT

There is no fiscal impact to the City as a result of the approval of this Agreement and Purchase Order. All costs associated with the performance of these professional services will be fully covered by the developers of the 9900 Wilshire Boulevard Project.

ITEM B. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND VENEKLASSEN ASSOCIATES, INC. FOR CONSULTING SERVICES RELATED TO CONSTRUCTION NOISE AND VIBRATION MONITORING FOR THE 9900 WILSHIRE BOULEVARD PROJECT; AND

APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO EXCEED AMOUNT OF \$96,750 FOR FISCAL YEAR 2016-2017.

RECOMMENDATION

Staff recommends that the City Council approve an Agreement between the City of Beverly Hills and Veneklassen Associates, Inc. for noise and vibration monitoring services for the 9900 Wilshire Boulevard project. Staff is also requesting the approval of a purchase order for a total not-to-exceed amount of \$96,750 for the contracted services during fiscal year 2016-2017, the agreement is renewable for two additional one-year terms. The total cost of the three-year Agreement is \$290,250, which is paid for by the developer with no fiscal impact to the City as required by the project Conditions of Approval.

INTRODUCTION

Veneklassen Associates, Inc. has provided noise and vibration monitoring services for this project under Agreement No. 288-14 during the period April 24, 2014 and January 2, 2015. The Agreement was executed for a not-to-exceed amount of \$49,580, under the City Manager's signature authority. Subsequently, Veneklassen Associates, Inc. also provided environmental acoustical monitoring services under Amendment 1, Agreement No. 239-15 during the period of January 3 – June 30, 2015. The agreement was executed for a not-to-exceed amount of \$58,580, and approved by City Council on June 8, 2015.

The services to be provided are in compliance with the 9900 Wilshire Specific Plan, Conditions of Approval for Specialty Testing services in conjunction with the various stages of project construction, including; site development, shoring and excavation, subterranean parking garage and podium, through project buildout. This project will take multiple years to construct, which will require the city to have the ability to retain this environmental consultant for the length of the anticipated project schedule. This new request is a multi-year agreement with Veneklassen Associates, Inc. with the period of performance of August 22, 2016 – June 30, 2019.

DISCUSSION

Staff recommends that the City Council approve an Agreement and a purchase order for Veneklassen Associates, Inc. to perform noise and vibration monitoring services at the 9900 Wilshire Boulevard project. Veneklassen Associates, Inc. will provide under this agreement noise monitoring of construction activities relative to any noise impact on El

Rodeo Middle School (Beverly Hills Unified School District) and the residential properties in the immediate vicinity as per the requirements of the "Conditions of Approval" for said project. Noise and vibration monitoring services are a component of construction mitigation measures developed as part of the Environmental Impact Report (EIR) as incorporated into the entitlement approvals.

Staff is requesting approval for this agreement and purchase order for a total not-to-exceed amount of \$96,750, to allow Veneklasen Associates, Inc. to provide the above-mentioned services for fiscal year 2016-2017.

FISCAL IMPACT

There is no fiscal impact to the City as a result of the approval of this Agreement and Purchase Order. All costs associated with the performance of these professional services will be fully covered by the developers of the 9900 Wilshire Boulevard Project.

ITEM C. AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND FEHR & PEERS FOR TRAFFIC MITIGATION AND MONITORING SERVICES FOR THE 9900 WILSHIRE BOULEVARD PROJECT; AND

APPROVAL TO OBTAIN A PURCHASE ORDER FOR A NOT TO EXCEED AMOUNT OF \$30,180 FOR FISCAL YEAR 2016-2017.

RECOMMENDATION

Staff recommends that the City Council approve an Agreement between the City of Beverly Hills and Fehr & Peers to provide traffic mitigation and monitoring services at the 9900 Wilshire Boulevard project site. Staff is also requesting the approval of a purchase order for a total not-to-exceed amount of \$30,180 for the contracted services during fiscal year 2016-2017, the agreement is renewable for two additional one-year terms. The cost of the two succeeding years is \$37,364.50 each. The total cost of the three-year Agreement is \$104,909, which is paid for by the developer with no fiscal impact to the City as required by the project Conditions of Approval.

INTRODUCTION

Under Agreement No. 223-13, Fehr & Peers previously provided traffic mitigation services to the City of Beverly Hills during the planning phase of the 9900 Wilshire Boulevard project. The original term of the agreement was set from June 1, 2013 to June 30, 2014, and subsequently extended to June 30, 2016 pursuant to Section 2 of the Agreement. Agreement No. 223-13 was executed for a not-to-exceed amount of \$50,000, under the City Manager's signature authority.

The services to be provided are in compliance with the 9900 Wilshire Specific Plan, Conditions of Approval for Specialty Testing services in conjunction with the various stages of project construction, including; site development, shoring and excavation, subterranean parking garage and podium, through project buildout. This project will take multiple years to construct, which will require the city to have the ability to retain this environmental consultant for the length of the anticipated project schedule. This new request for approval is for a multi-year agreement with Fehr and Peers with the period of performance of August 22, 2016 – June 30, 2019.

DISCUSSION

Staff recommends that the City Council move to approve an Agreement and a purchase order for Fehr and Peers to perform traffic mitigation and monitoring services at the 9900 Wilshire Boulevard project. Under the new Agreement, Fehr and Peers will provide traffic monitoring services to ensure compliance with the requirements of the "Conditions of Approval" for the 9900 Wilshire Boulevard project site. This will include, among other conditions, preparation of a traffic monitoring study within 45 days after the beginning of each school year (or early fall) to measure traffic conditions and assessment of unanticipated impacts during construction.

Staff is requesting approval for this agreement and purchase order for a total not-to-exceed amount of \$30,180 for fiscal year 2016-2017, to allow Fehr & Peers to provide the above-mentioned services.

FISCAL IMPACT

There is no fiscal impact to the City as a result of the approval of this Agreement and Purchase Order. All costs associated with the performance of these professional services will be fully covered by the developers of the 9900 Wilshire Boulevard Project



Approved By
Susan Healy Keene, AICP
Director, Community Development

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND ESA PCR FOR AIR QUALITY (DUST) MONITORING
SERVICES FOR THE 9900 WILSHIRE BOULEVARD
PROJECT

NAME OF CONSULTANT: ESA PCR

RESPONSIBLE PRINCIPAL
OF CONSULTANT: Heidi Rous, CPP, Director

CONSULTANT'S ADDRESS: PCR Services Corporation
201 Santa Monica Blvd. Suite 500
Santa Monica, CA 90401
Attention: Heidi Rous, Director

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Raj Patel, Assistant Director
Community Development Building
Official

COMMENCEMENT DATE: August 22, 2016

TERMINATION DATE: June 30, 2019

CONSIDERATION: Fiscal Year 2016-2017, not to exceed
\$89,000

Fiscal Year 2017-2018 (if extended), not to
exceed \$89,000

Fiscal Year 2018-2019 (if extended); not to
exceed \$89,000

Total not to exceed \$267,000 based on the
rates set forth in Exhibit B, including
reimbursables.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND ESA PCR FOR AIR QUALITY (DUST) MONITORING
SERVICES FOR THE 9900 WILSHIRE BOULEVARD
PROJECT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and ESA PCR, (hereinafter called "CONSULTANT").

RECITALS

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

B. CONSULTANT represents that it is qualified and able to perform the services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT 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 CONSULTANT 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. CONSULTANT shall commence its services under this Agreement upon the Commencement Date or upon a written receipt of a notice to proceed from CITY. CONSULTANT 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 on or by the Termination Date set forth above. The City Manager or his designee may extend the time of performance in writing for two additional one-year periods pursuant to the same terms and conditions of the Agreement.

Section 3. Compensation. CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein. Said Consideration shall constitute reimbursement of CONSULTANT's fee for the services as well as the actual cost of any equipment, materials, and supplies necessary to provide the services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

Section 4. Method of Payment. CITY shall pay CONSULTANT 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. CONSULTANT 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 CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT 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 CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT 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) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible by CONSULTANT 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. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT'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. CONSULTANT 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 CONSULTANT. CONSULTANT 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 CONSULTANT.

Section 11. Insurance.

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

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONSULTANT in performing the Scope of Work required by this Agreement.

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

(4) 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, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(b) CONSULTANT shall require each of its sub-consultants or sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) 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.

(d) CONSULTANT 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 CONSULTANT's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONSULTANT 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. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general liability insurance shall contain an endorsement naming the CITY and the Beverly Hills Unified School District ("DISTRICT") as an additional insured. 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.

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

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

Section 12. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, the Beverly Hills Unified School District ("DISTRICT"), and every officer, employee and agent of CITY and DISTRICT, 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 CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONSULTANT. CONSULTANT 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, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT 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 CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT'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 CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three 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. Notice. Any 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 18. 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 19. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, 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 CONSULTANT.

Section 20. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 23. 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 _____ 2016, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

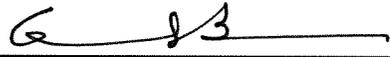
JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

CONSULTANT: ESA PCR



GREGORY J. BROUGHTON
Sr. Vice President



ALBERT CUISINOT
Secretary

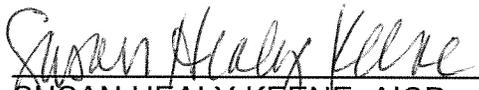
APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development



SHARON L'HEUREUX DRESSEL
INTERIM RISK MANAGER

EXHIBIT A
SCOPE OF SERVICES

CONSULTANT shall provide air quality monitoring at the 9900 Wilshire Boulevard site and El Rodeo school for the 9900 Wilshire Boulevard Project (or "Project").

1. CONSULTANT shall review the contractors' construction plans, focusing on the description of major construction equipment and procedures used for construction phases of the project; primary locations of construction sites; and anticipated durations. CONSULTANT shall estimate construction phases that are likely to cause elevated levels of dust at the El Rodeo school site based on construction plans, to assist in calibrating the monitors.

2. CONSULTANT shall develop a monitoring plan and establish thresholds based on the South Coast Air Quality Management District thresholds for Particulate Matter (PM10) at the El Rodeo School site. This threshold will be based on a 5-hour rolling average dust concentration equivalent to South Coast Air Quality Management District ("SCAQMD") Rule 403. The 1-hour threshold will be established at 150 ug/m³ as a trigger level for corrective measures.

3. CONSULTANT shall furnish on a rental basis, install and maintain three DustTrak2 (Model 8530) dust monitors. One monitor will be placed at an upwind location, one monitor to be placed at the El Rodeo School, and the other at a residential site (intersection of Trenton Drive and Wilshire Boulevard). In addition, one anemometer will be installed to measure wind speed and direction. Program monitors shall measure and store PM10 concentrations on an hourly basis for the duration of Project's construction phase. Data shall be recorded at 5-minute intervals, downloaded on a weekly basis, and processed to determine if PM10 concentrations exceed SCAQMD thresholds. CONSULTANT shall also program a pre-defined trigger level of 150 ug/m³ over a 1-hour averaging period. If/when dust concentrations levels are recorded in excess of that limit, the system shall be equipped with a visual alarm (strobe light) shall notify CONSULTANT by text message and/or email. It should be noted that delay time between the occurrence of the exceedance and notification in this manner typically runs 5 to 20 minutes. Once alerted, CONSULTANT staff shall download the data, and, if warranted, contact the Environmental Compliance Monitor (ECM).

4. Monitoring is expected to commence August 22, 2016 for a period of up to twelve (12) months, until June 30, 2017. Monitoring shall be performed on an as-needed basis and shall continue until budget is exhausted. Data shall be collected during night time and weekend construction activities upon request. After monitoring is complete, the monitors shall be removed. However, if necessary, the monitors may remain on-site for subsequent phases of construction. If monitors remain onsite until the next monitoring phase, rental fees and maintenance cost will be billed on a time and materials basis under separate scope. Monitors may be disassembled and removed with a 30-day notice. The scope assumes one take-down event for the duration of monitoring. If additional setup

and take-down activities are required and approved by CITY in writing, it may be billed on a time and materials basis as mutually agreed by the parties.

5. CONSULTANT shall perform the necessary review and validation of data on a routine (weekly) basis, unless more frequent analysis is warranted. CONSULTANT shall prepare and provide written reports to CITY on a weekly basis, describing the measured dust concentrations at the El Rodeo school and Project construction site, in tabular and graphical formats. In addition to weekly reports, reports shall also be provided on a monthly basis to CITY staff. The weekly and monthly reports shall also include exceedances of trigger levels or SCAQMD thresholds and corrective actions taken, if any. Weekly reports will contain dust monitoring data from the school site in graphical and tabular form. Monthly reports shall contain data from the school and construction site.

6. During dust monitoring, CONSULTANT shall notify the ECM if the 1-hour PM10 concentration exceeds trigger levels. CONSULTANT's estimate of fees generally assumed up to 1 such event per month over the 11 month duration expected under this Agreement.

7. CONSULTANT shall attend meetings with CITY, El Rodeo school personnel, Project construction teams, and others, as requested by CITY. Regular telephone meetings shall be held on a weekly basis with Project construction teams and/or environmental monitoring staff to determine construction activities anticipated for the week. CONSULTANT assumed Project initiation would require approximately 5 hours and allocated an additional 24 hours for on-site meetings with CITY and El Rodeo school staff. Weekly meetings with Project construction teams shall require a total of 30 hours over 24 months.

EXHIBIT B

SCHEDULE OF RATES AND PAYMENT

CITY shall compensate CONSULTANT for the services required by the Agreement as follows: Fiscal Year 2016-2017, not to exceed \$89,000; Fiscal Year 2017-2018 (if extended), not to exceed \$89,000; Fiscal Year 2018-2019 (if extended); not to exceed \$89,000; total not to exceed \$267,000 based on the rates set forth in this Exhibit, including reimbursables.

Task Description^a	Fees^b Not to Exceed
Monthly Equipment Rental and Expenses	\$3,500
Maintenance Activities	\$1,500-3,500
Data Processing / Memo	\$500-1,000
TOTAL MONTHLY COST ESTIMATE	\$5,500 - 8,000

^a Tasks are billed on a time and materials basis. Client approval must be obtained before proceeding to the next task.

^b Dollar values are allowances; actual costs could be higher or lower. Should actual costs be lower, only actual costs will be billed. Should circumstances cause actual cost to exceed budgets for the line items, additional authorization will be sought prior to exceeding approved budgets.

Calibration on monitors needs to be performed on an annual basis or when monitors are replaced with new ones. Bad weather conditions or malfunctioning equipment will require additional labor and parts in order to keep the monitors in working condition. In addition to typical maintenance, on-demand maintenance will be needed occasionally to troubleshoot and repair equipment. Additional not to exceed monthly costs are set forth as follows:

- Calibration (once per year) in addition to the average monthly costs above:
 - Calibration Equipment Rental - \$1,500
 - Labor - \$2,000
 - Laboratory Fees and Expenses - \$500
 - Total - \$4,000
- On-Demand Maintenance
 - Labor (Equipment/Battery/Solar Panel Replacement) - \$1,000 - \$2,500/event
 - Equipment Repair / Replace Parts / Troubleshooting - \$1,000 - \$2,000/event
 - Total - \$8,000/year

Task	Fee
Construction Dust Monitoring	
Equipment Rental and Maintenance	\$77,000
Calibration	\$4,000
On-Demand Maintenance/Repairs	\$8,000
Total	\$89,000

As discussed above, additional monthly costs are not expected to occur on a regular basis and total costs for the period of performance would not exceed \$89,000. If Project construction activities coincide with the 9876 Wilshire project, the monitoring and reporting costs will be shared, resulting in potential substantial cost savings for each coinciding month.

Schedule of Payment

CONSULTANT shall submit an itemized statement to CITY for its services performed on a form approved by CITY, which shall include documentation setting forth in detail a description of the services rendered, hours of service, and reimbursable expenses. CITY shall pay CONSULTANT the undisputed amount of such billing within thirty (30) days receipt of the same.



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: _____

RM02.DOC REVISED 10/14/96.

Attachment 2

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
VENEKLASEN ASSOCIATES, INC. FOR CONSULTING
SERVICES RELATED TO CONSTRUCTION NOISE AND
VIBRATION MONITORING FOR THE 9900 WILSHIRE
BOULEVARD PROJECT

NAME OF CONSULTANT: Veneklasen Associates, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Stephen A. Martin, Ph.D., P.E., Associate
Principal

CONSULTANT'S ADDRESS: 1711 Sixteenth Street
Santa Monica, CA 90404
Attention: Stephen A. Martin, Ph.D., P.E.,
Associate Principal

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Raj Patel, Assistant Director
Community Development Building Official

COMMENCEMENT DATE: August 22, 2016

TERMINATION DATE: June 30, 2019

CONSIDERATION: Fiscal Year 2016-2017, not to exceed
\$96,750

Fiscal Year 2017-2018 (if extended), not to
exceed \$96,750

Fiscal Year 2018-2019 (if extended); not to
exceed \$96,750

Total not to exceed \$290,250 based on the
rates set forth in Exhibit B, including
reimbursables.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
VENEKLASEN ASSOCIATES, INC. FOR CONSULTING
SERVICES RELATED TO CONSTRUCTION NOISE AND
VIBRATION MONITORING FOR THE 9900 WILSHIRE
BOULEVARD PROJECT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Veneklasen Associates, Inc., (hereinafter called "CONSULTANT").

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. CONSULTANT represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT 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 CONSULTANT 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. CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONSULTANT 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) Compensation. CITY agrees to compensate CONSULTANT for the services and/or goods provided under this Agreement, and CONSULTANT 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) Expenses. CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

(c) Additional Services. CITY may from time to time require CONSULTANT to perform additional services not included in the Scope of Work. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. CITY shall pay CONSULTANT 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. CONSULTANT 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 CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT 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 CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT 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) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible by CONSULTANT 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. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT'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. CONSULTANT 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 Consultant. CONSULTANT 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 CONSULTANT.

Section 11. Insurance.

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

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single

limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONSULTANT in performing the Scope of Work required by this Agreement.

(3) 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, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

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

(b) CONSULTANT shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) 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.

(d) CONSULTANT 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 CONSULTANT's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONSULTANT 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. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY and the Beverly Hills Unified School District ("DISTRICT") as an additional insured. 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.

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

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

Section 12. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, DISTRICT, and every officer, employee and agent of CITY and DISTRICT, 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 CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONSULTANT. CONSULTANT 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, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT 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 CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT'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 CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three 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. 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 18. 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 19. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, 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 CONSULTANT.

Section 20. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 23. 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 _____ 2016, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

ATTEST:

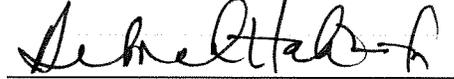
BYRON POPE
City Clerk

CONSULTANT: VENEKLASEN
ASSOCIATES, INC.

JAMES A. GOOD
President

HOOSHANG KHOSROVANI
Secretary

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development



SHARON L'HEUREUX DRESSEL
Interim Risk Manager

EXHIBIT A
SCOPE OF WORK

CONSULTANT shall perform the following services in connection with construction noise and vibration monitoring services for the 9900 Wilshire Boulevard project ("Project"):

Initial Review

1. Meet with the Project representatives to discuss Project phasing and impact concerns.
2. Review Project-related documentation including proposed site plans, construction phasing, and logistics reports (to be furnished by CITY).

Noise and Vibration Monitoring

1. Provide noise and vibration monitoring equipment to monitor construction activity at two sensitive locations (El Rodeo School and the neighboring residential area) from August 22, 2016 through June 30, 2019. The monitoring equipment shall provide alerts indicating when the measured noise or vibration levels exceed established baseline noise levels.
2. Download the data collected (either in person or remotely) with the monitoring system:
 - a. On a weekly basis and cross-reference the data against any issued complaints.
 - b. Provide, on a monthly basis, reports documenting the measured data.
3. Visit the Project site weekly as necessary to observe the monitoring equipment and document its condition.
4. Provide a final report to CITY summarizing the measurements.

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall compensate CONSULTANT in an amount not-to-exceed \$96,750 for Fiscal Year 2016-2017; and if extended as provided in Section 2 of the Agreement, not-to-exceed \$96,750 for Fiscal Year 2017-2018 and not-to-exceed \$96,750 for Fiscal Year 2018-2019; for a total not-to-exceed amount of \$290,250 for services required by this Agreement based on the hourly rates set forth in this Exhibit. This not-to-exceed amount includes professional services and equipment.

These fees shall be estimated as follows:

	<u>Not to Exceed</u>
• Project Meetings, Preparations, and Initial Equipment Setup	\$ 5,250
• Equipment Fees (\$3,818 per month)	\$42,000
• Weekly Data Downloads, Data Analysis, Monthly Reports, Complaint Reviews (Data download, analysis, reports and complaint reviews estimated at 385 staff hours)	<u>\$49,500</u>
	Total \$96,750 per fiscal year

SCHEDULE OF HOURLY RATES

CATEGORY	BILLING RATE/HOUR
Principal/Associate I	\$230
Associate Principal/Associate II	\$185
Senior Associate / Associate III	\$160
Associate IV	\$130
Associate V	\$115
Associate VI	\$100

Acoustic modeling is charged at a rate of \$175 per hour.

Additional Services outside the Scope set forth in Exhibit A such as the following are available on an hourly basis upon written request of the City Manager or his designee:

1. Noise monitoring services beyond June 30, 2017. Should the start of construction activities begin later than June 2016 and/or additional construction time is necessary requiring monitoring after June 30, 2017, the additional not-to-exceed fee to continue all services is \$8,000 per month. Alternatively, a second full year of services can be provided for an additional fee as quoted herein.

2. Public meetings or hearings relating to the subject Project.
3. Project team meetings or site visits beyond those itemized above.
4. Noise modeling and/or Finite Element analysis relating to vibration.

Schedule of Payment

CONSULTANT shall submit an itemized statement to CITY for its services performed, which shall include documentation setting forth in detail a description of the services rendered, hours of service, and reimbursable expenses. CITY shall pay CONSULTANT the undisputed amount of such billing within thirty (30) days receipt of the same.



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"/> CONSULTANT'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: CONSULTANT 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 CONSULTANT's officers, employees, agents or others employed by CONSULTANT while engaged by CONSULTANT 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: _____

RM02.DOC REVISED 10/14/96.

Attachment 3

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND FEHR &
PEERS FOR TRAFFIC MITIGATION AND MONITORING SERVICES FOR
THE 9900 WILSHIRE BOULEVARD PROJECT

NAME OF CONSULTANT: Fehr & Peers

RESPONSIBLE PRINCIPAL OF CONSULTANT: Sarah Bradenberg, Principal

CONSULTANT'S ADDRESS: 600 Wilshire Boulevard, Suite 1050
Los Angeles, CA 90017
Attention: Sarah Bradenberg, Principal

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Susan Healy Keene, AICP
Director Community Development

COMMENCEMENT DATE: August 22, 2016

TERMINATION DATE: June 30, 2019

CONSIDERATION: Fiscal Year 2016-2017, not to exceed \$30,180

Fiscal Year 2017-2018 (if extended), not to exceed \$37,364.50

Fiscal Year 2018-2019 (if extended); not to exceed \$37,364.50

Total not to exceed \$104,909 based on the rates set forth in Exhibit B, including reimbursables.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND FEHR &
PEERS FOR TRAFFIC MITIGATION AND MONITORING SERVICES FOR
THE 9900 WILSHIRE BOULEVARD PROJECT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Fehr & Peers Transportation Consultants (hereinafter called "CONSULTANT").

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. CONSULTANT represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT 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 CONSULTANT 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.

The City Council authorizes the City Manager to issue Project purchase orders throughout the term of this Agreement to CONSULTANT which shall set forth the services to be performed by CONSULTANT, the time within which CONSULTANT shall complete performance of those services and the amount of compensation to be paid CONSULTANT for those services.

Section 2. Time of Performance.

CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONSULTANT 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.

Section 3. Compensation.

(a) Compensation

CITY agrees to compensate CONSULTANT for the services and/or goods provides under this Agreement, and CONSULTANT 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, based on the hourly rates set forth in Exhibit B.

(b) Expenses

The amount set forth in paragraph (a) shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including, but not limited to, all labor, materials, delivery, tax, assembly, and installation, as applicable). There shall be no claims for additional compensation for reimbursable expenses.

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

Section 4. Method of Payment. Unless otherwise provided for herein, CONSULTANT shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONSULTANT 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 CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT 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 CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT 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) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible by CONSULTANT 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. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT'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. CONSULTANT 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 CONSULTANT. CONSULTANT 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 CONSULTANT.

Section 11. Insurance.

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

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONSULTANT in performing the Scope of Work required by this Agreement.

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

(4) 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, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(b) CONSULTANT shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) 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.

(d) CONSULTANT 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 CONSULTANT's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONSULTANT 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. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. 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.

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

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

Section 12. Indemnification. CONSULTANT 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 CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONSULTANT. CONSULTANT 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, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT 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 CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT'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 CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. 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 17. 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 18. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, 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 CONSULTANT.

Section 19. 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 20. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 21. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 22. 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

JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

[Signatures continue]

CONSULTANT: FEHR & PEERS

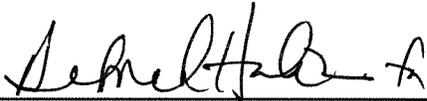


STEVE BROWN
Sr. Vice President



MARION DONNELLY
Chief Financial Officer

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development



SHARON L'HEUREUX DRESSEL
Interim Risk Manager

EXHIBIT A

CONSULTANT shall provide construction monitoring support from August 2016 through June 2017 for the project site located at 9900 Wilshire Boulevard ("Project") as follows:

Task 1 – Preparation of Traffic Monitoring Study

As required by Resolution No. 08-R-12499, Condition of Approval #58, a traffic study is to be conducted within 45 days after the beginning of each school year to measure traffic conditions during construction and assess whether unanticipated impacts are occurring. This Scope of Work assumes the preparation of a traffic study in early Fall. It should be noted that CONSULTANT's are currently under contract to produce a similar study for the Beverly Hilton Site. The cost for this task reflects a discount in the data collection effort in Year 1 since the traffic counts being collected will be utilized for both studies. This Scope assumes the full cost of the data collection effort in Years 2 and 3.

Through the use of a traffic count firm, CONSULTANT shall collect traffic counts at the following intersections:

- Santa Monica Boulevard North / Beverly Drive (Signalized)
- Santa Monica Boulevard North / Wilshire Boulevard (Signalized)
- Santa Monica Boulevard South / Beverly Drive (Signalized)
- Santa Monica Boulevard South / Wilshire Boulevard (Signalized)
- Santa Monica Boulevard North / Merv Griffin Way (Side-Street Stop)
- Wilshire Boulevard / Beverly Drive (Signalized)
- Wilshire Boulevard / Merv Griffin Way (Signalized)
- Santa Monica Boulevard North/South Crossover (Signalized)
- Santa Monica Boulevard / Century Park East (Signalized)
- Sunset Boulevard / Whittier Drive (Signalized)

Intersection counts shall be collected during the following periods on a regular non-holiday weekday (Tuesday, Wednesday or Thursday):

- Weekday morning peak period (7:00 AM to 9:00 AM)
- Weekday mid-day peak period (11:00 AM to 2:00 PM)
- Weekday evening peak period (4:00 PM to 6:00 PM)
- Saturday mid-day peak period (11:00 AM to 2:00 PM)

Roadway segment counts shall be collected at the following locations for a 24-hour period on a regular non-holiday weekday (Tuesday, Wednesday or Thursday):

- Whittier Drive (north of Wilshire Boulevard)
- Elevado Avenue (east of Whittier Drive)
- Trenton Drive (north of Wilshire Boulevard)
- Carmelita Avenue (north of Wilshire Boulevard)
- Walden Drive (north of Wilshire Boulevard)

Parking occupancy counts shall be collected on the following residential streets on a regular non-holiday weekday (Tuesday, Wednesday or Thursday) from 8 AM to 1 PM:

- Whittier Drive (between Wilshire Boulevard & Walden Drive)
- Elevado Avenue (between Whittier Drive & Walden Drive)
- Trenton Drive (between Wilshire Boulevard & Whittier Drive)
- Carmelita Avenue (between Wilshire Boulevard & Walden Drive)
- Walden Drive (between Santa Monica Boulevard & Whittier Drive)

CONSULTANT shall prepare a written report that summarizes the following based on the new data:

- New traffic data in graphical form
- Intersection levels of service in tabular form
- Identification of any significant increases of traffic volume, delay or parking occupancy
- Development of measures to mitigate the unanticipated impacts

Task 2 –Traffic Monitoring

CONSULTANT shall schedule 11 site visits by staff (one per month over the contract period) to verify that the conditions of approval and CMP are being followed. Specific items that CONSULTANT shall note in these visits include:

- Are deliveries and pick-ups occurring during peak or off-peak hours?
- Are there trucks queuing on major roadways like Wilshire Boulevard and Santa Monica Boulevard?
- Are any of the lanes on Wilshire Boulevard and Santa Monica Boulevard obstructed?
- Are vehicles adhering to the designated haul routes?
- Is an additional crossing guard needed along Merv Griffin Way before and after school during the current phase of construction?

Following each site visit, CONSULTANT shall prepare a brief written report that summarizes CONSULTANT's observations. It should be noted that CONSULTANT is currently under contract to conduct monthly monitoring reports for the Beverly Hilton Site. CONSULTANT shall conduct the site visits for the 9900 Wilshire Boulevard Project on a different day from the Beverly Hilton to ensure that our full attention is given to construction operations for each site.

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall compensate CONSULTANT for performing the services required by the Agreement as follows: Fiscal Year 2016-2017, not to exceed \$30,180; Fiscal Year 2017-2018 (if extended), not to exceed \$37,364.50; Fiscal Year 2018-2019 (if extended); not to exceed \$37,364.50; total not to exceed \$104,909 based on the rates set forth in this Exhibit, including reimbursable expenses reasonably incurred in the performance of the Agreement.

Labor Cost

	Staff	Billing Rate/Hr.	Estimated Hours	Labor Cost
Task 1 - Preparation of Traffic Monitoring Study				
	Principal-in-Charge	\$ 250.00	4	\$ 1,000
	Project Manager	\$ 180.00	12	\$ 2,160
	Project Engineer	\$ 130.00	40	\$ 5,200
	Admin/Graphics Support	\$ 125.00	10	\$ 1,250
Task 2 - Traffic Monitoring				
	Principal-in-Charge	\$ 250.00	8	\$ 2,000
	Project Manager	\$ 180.00	11	\$ 1,980
	Project Engineer	\$ 130.00	88	\$ 11,440
	Total Labor		173	\$ 25,030

Expenses:

Item	Description	Cost
Task 1 - Preparation of Traffic Monitoring Study		
1	data collection (NDS sub-consultant)	\$ 4,000
2	auto mileage (\$0.54/mile)	\$ 150
3	communication/reproduction	\$ 290
Task 2 - Traffic Monitoring		
1	auto mileage (\$0.54/mile)	\$ 250
2	communication/reproduction	\$ 460
	Total Expenses	\$ 5,150

Task	Cost
1	\$14,050
2	\$16,130
Total Cost	\$30,180

Assumptions:

- 1) Traffic monitoring monthly for 11 months
- 2) Time and Material billing

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

ADDRESS

- A.
- B.
- C.

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"/> WORKER'S COMPENSATION					

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

TITLE : _____
 AGENCY : _____ Address : _____

