



AGENDA REPORT

Meeting Date: December 1, 2009

Item Number: G-16

To: Honorable Mayor & City Council

From: Susan Healy Keene, AICP, Director of Community Development
Jonathan Lait, AICP, City Planner 

Subject: AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RINCON CONSULTANTS, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED GENERAL PLAN AMENDMENT AND ZONE CHANGE TO THREE FORMER RAILROAD RIGHT-OF-WAY PROPERTIES. APPROVAL OF A CHANGE ORDER IN THE AMOUNT OF \$115,746.00, TO THE PURCHASE ORDER TO RINCON CONSULTANTS, INC. FOR A NOT-TO-EXCEED TOTAL OF \$385,368.00.

Attachments:

1. Amendment No. 3 to Contract
2. Copy of Contract Agreement

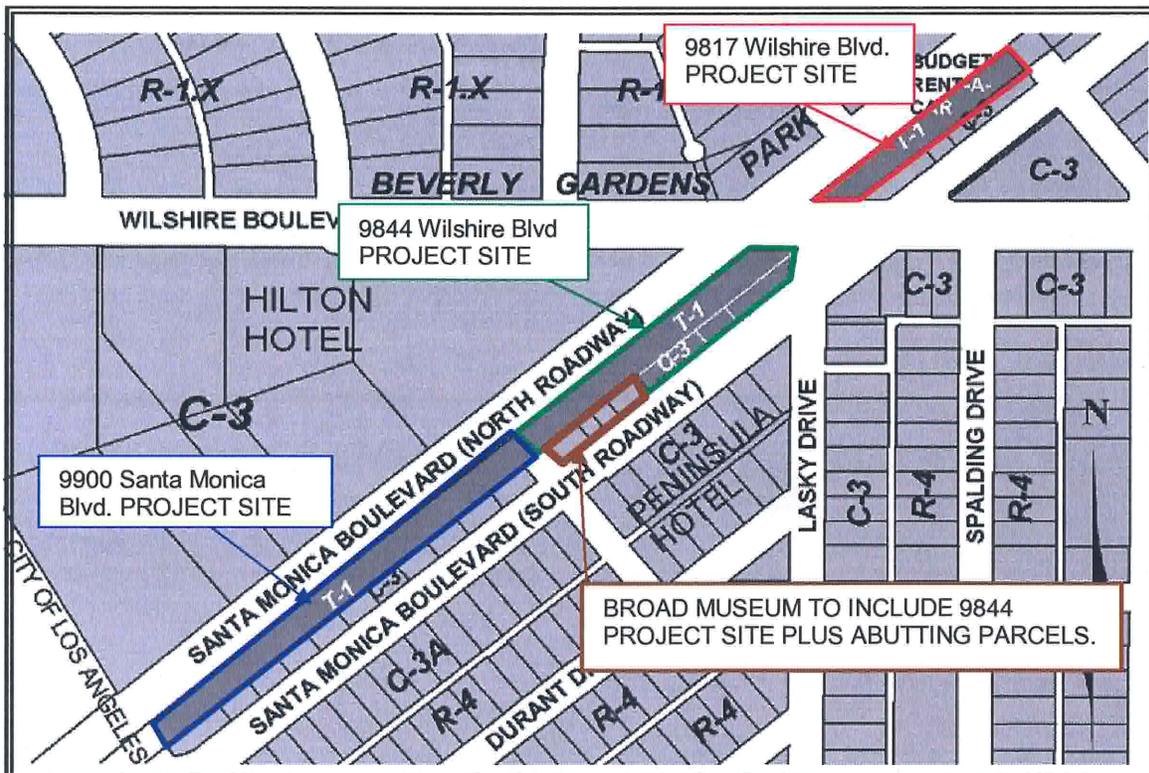
RECOMMENDATION

It is recommended that the City Council approve the agreement between the City of Beverly Hills and Rincon Consultants, Inc. (Rincon) and authorize of a change order for consulting services related to the environmental documentation for the Gateway Environmental Impact Report (EIR).

BACKGROUND

On August 7, 2007, the City entered into a professional services agreement with Rincon for the preparation of an EIR to assess the potential environmental impacts associated with the proposed General Plan Amendment and Zone Change to three former railroad right-of-way properties. Two amendments have been previously approved by the City Council to expand the scope of work to further evaluate historic resources, hazards/hazardous materials and water supply in the EIR, as required by the California Environmental Quality Act (CEQA).

A Draft EIR was completed and released for public review on November 3, 2008. Subsequent to the completion of the Draft EIR, on October 20, 2008, the City received a letter of interest from The Broad Foundation through their attorney, Tom Levyn of Glasser, Weil, Fink, Jacobs, & Shapiro, LLP. This letter identifies The Broad Foundation's interest to establish a public art museum and foundation offices on the property already being studied by the City for the Gateway EIR as well as several abutting parcels as identified below.



The proposal includes the following components:

<i>Museum Gallery space:</i>	<i>43,365 sf</i>
<i>Sculpture Garden space:</i>	<i>6,100 sf</i>
<i>Outdoor Public Plaza:</i>	<i>9,755 sf</i>
<i>Museum Archives:</i>	<i>26,120 sf</i>
<i>Office:</i>	<i>41,000 sf</i>
<i>Retail:</i>	<i>10,155 sf</i>
<i>Parking:</i>	<i>170 stalls</i>

As required by CEQA, in order to evaluate the potential environmental impacts from a new museum, the Draft EIR will need to be amended. This amendment is outside of the scope of work originally contemplated for the Gateway EIR and therefore requires an amendment to the agreement with the City's environmental consultant.

DISCUSSION

Under the City's direction, Rincon has completed a Draft EIR for the Gateway Project as specified in agreement with the City, as amended. As a result of The Broad Foundation's interest to establish a public art museum on properties already being studied in the Gateway Project, an amendment to the agreement between the City and Rincon is required to amend the Draft EIR to include an analysis of a museum project as required under the State's environmental guidelines. The cost for the additional scope of work is \$115,746.00, which includes a \$10,000 contingency to allow for minor changes in scope that can be authorized by the City without delaying the process for a contract amendment.

FISCAL IMPACT

The costs associated with the preparation of this amendment will be provided through the City's General Fund Balance.



Susan Healy Keene, AICP

Approved By

ATTACHMENT 1

AMENDMENT NO. 3 TO CONTRACT

AMENDMENT NO. 3 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RINCON CONSULTANTS, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED GENERAL PLAN AMENDMENT AND ZONE CHANGE TO THREE FORMER RAILROAD RIGHT-OF-WAY PROPERTIES

This Amendment No. 3 is to that certain Agreement, dated August 7, 2007, and identified as Contract No. 321-07, as amended by Amendment No. 1, dated February 5, 2008 and identified as Contract No. 32-08 Amendment No. 2, dated June 17, 2008, and identified as Contract No. 218-08, copies of which are on file in the office of the City Clerk, between the CITY OF BEVERLY HILLS (hereinafter called "City") and RINCON CONSULTANTS, INC., (hereinafter called "CONSULTANT") for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railway right-of-way properties ("Agreement").

RECITALS

A. City entered into a written agreement, dated August 7, 2007, for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railroad right-of-way properties, which has been previously amended.

B. City desires to further amend the scope of work to include an appropriate environmental analysis of a museum project on a portion of the properties currently being analyzed along with several abutting properties located within the C-3 zoning classification and compensate CONSULTANT for such additional work.

NOW, THEREFORE, the parties hereto do amend the Agreement as follows:

Section 1. Paragraph 8 of the Agreement, entitled "Compensation" shall be amended to read as follows:

"8. COMPENSATION.

(a) CITY shall pay CONSULTANT an amount not to exceed Three Hundred Seventy-Five Thousand Three Hundred and Sixty-Eight Dollars (\$375,368) for the satisfactory performance of services based on the fee set forth in Exhibits A and A-2. Payment shall be made as specified in Amendment No.1 to this Agreement.

(b) CITY shall pay CONSULTANT for attendance at additional hearings, meetings, and presentations as described in Section 7 of this Agreement, and for additional services described in Section 10 of this Agreement, an amount not to exceed Ten Thousand Dollars (\$10,000) based on the hourly rates set forth in Exhibit A1, attached hereto and incorporated herein, and for actual expenses reasonably incurred in the performance of this Agreement and approved by CITY.

(c) The total compensation paid by CITY to CONSULTANT shall not exceed Three Hundred Eighty-Five Thousand Three Hundred and Sixty-Eight Dollars (\$385,368)."

Section 2. Exhibit A-1, "Scope of Additional Services for Museum Study" shall be amended as attached hereto and incorporated herein by reference.

Section 3. Exhibit A-2, "Schedule of Rates for Additional Services for Museum Study" shall be amended as attached hereto and incorporated herein by reference.

Section 4. Except as modified by Amendment No. 1 this Amendment No. 3, all of the provisions of the Agreement between the City of Beverly Hills and Rincon Consultants, Inc., dated August 7, 2007, shall remain in full force and effect.

Executed this ___ day of _____, 200__, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

NANCY KRASNE
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

CONSULTANT:
RINCON CONSULTING, INC.

STEPHEN SVETE, AICP
President

DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, ICMA-CM
City Manager



SUSAN HEALY KEENE, AICP
Director of Community Development



KARL KIRKMAN
Risk Manager

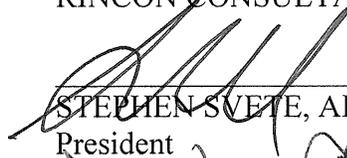
NANCY KRASNE
Mayor of the City of Beverly Hills,
California

[Signatures continue]

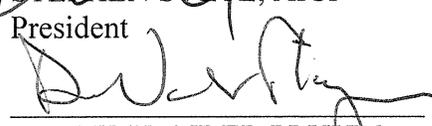
ATTEST:

(SEAL)
BYRON POPE
City Clerk

CONSULTANT:
RINCON CONSULTANTS, INC.



STEPHEN SVETE, AICP
President



DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:

LAURENCE S. WEINER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD, ICMA-CM
City Manager

SUSAN HEALY KEENE, AICP
Director of Community Development

KARL KIRKMAN
Risk Manager

EXHIBIT A-1

SCOPE OF ADDITIONAL SERVICES FOR MUSEUM STUDY

Amendment No. 1

CONSULTANT shall provide the following additional services:

1. Prepare a cultural resources section to be added to the Environmental Impact Report (“EIR”);
 2. Prepare a hazards/hazardous materials section to be added to the EIR;
 3. Prepare a Water Supply Assessment for the Development Project pursuant to SB610;
- and

Expand the number of project alternatives analyzed in the EIR from three to four

Amendment No. 2: Museum Study

CONSULTANT shall provide the following additional services:

Study a third project option in a revised draft EIR, analyze one additional project alternative, assist the City with recirculation of the draft EIR, and draft responses to public comments on the recirculated draft. As you are aware, these new tasks are beyond our original scope of work, and therefore require an amendment to our budget.

The additional project option involves construction of an approximately 120,640 square-foot (not including useable plaza and rooftop space), four story building on Gateway Parcel 2 plus several additional adjacent parcels on South Santa Monica Boulevard, with one level of subterranean parking (170 spaces).

The building would include approximately 43,365 square feet of museum gallery space; 6,100 square feet of sculpture garden space; a 9,755 square-foot outdoor public plaza; 26,120 square feet of museum archive space; 41,000 square feet of office space; and 10,155 square feet of retail space, including 2,554 square feet of restaurant/café space adjacent to the public plaza and 1,909 square feet of museum retail space. Development on Gateway parcels 1 and 3 under this option would be similar as that modeled for the original three-parcel option (i.e., office/retail buildout to 2.0 FAR).

This third option would be studied in each section of the EIR at the same level of detail that the “Parcel 2 only” and “full buildout of the entire Gateway Site” were analyzed in the circulated draft EIR.

Two additional project alternatives will also be studied in a revised Alternatives section, at the level of detail typically used for project alternatives, as follows:

- **Reduced Museum Option.** This alternative would include the same uses and development as the museum option described above, but FAR on all three parcels would be reduced by approximately 40%.
- **Museum Option with Parking and Sculpture Garden on Parcel 1.** This alternative would consist of the museum project described above on Parcel 2; use of Parcel 1 for additional subterranean parking and a sculpture garden; and commercial/retail buildout of Parcel 3 at 1.2 FAR.

This Scope of Work includes a traffic study, photosimulations and historic review of several additional buildings on South Santa Monica Boulevard that would be demolished for the Museum Option (but not for the other project options).

EXHIBIT A-2

SCHEDULE OF RATES
FOR ADDITIONAL SERVICES

Amendment No. 1

Water Supply Assessment	\$7,500
Historic Resources Report (for Cultural Resources EIR section)	\$3,910
Cultural Resources EIR Section	\$1,400
Hazards and Hazardous Materials EIR Section	\$1,800
Additional Alternative	\$2,000
TOTAL	\$16,610

Amendment No. 2: Museum Study

TASK	COST
1. Analysis of traffic impacts of additional project option. Scope assumes that the cumulative projects list and traffic counts from the existing traffic study will be used. (Fehr & Peers Transportation Consultants)	\$24,966
2. Massing models and photo-simulations of additional project option. (Gensler Architects)	\$5,175*
3. Historic Resources analysis for additional structures within footprint of additional option. (SBRA)	\$3,105*
4. Analysis of additional project option and additional project alternatives in EIR, and update of GHG analysis.	\$60,000
5. Recirculation. Includes printing up to 50 copies of revised DEIR sections, preparation of State Clearinghouse transmittal form and transmittal to State Clearinghouse (assumes that the City would be responsible for other CEQA-required and any additional noticing).	\$2,500
6. Responses to Comments on the recirculated draft.	\$6,500
7. Project Management (includes attendance at one additional hearing).	\$3,500
TOTAL	\$105,746.00

ATTACHMENT 2

COPY OF EXISTING CONTRACT AGREEMENT

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RINCON CONSULTANTS, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED GENERAL PLAN AMENDMENT AND ZONE CHANGE TO THREE FORMER RAILROAD RIGHT-OF-WAY PROPERTIES

THIS AGREEMENT is made and entered into in City of Beverly Hills, California, by and between CITY OF BEVERLY HILLS, hereinafter referred to as "CITY," and RINCON CONSULTANTS, INC., hereinafter referred to as "CONSULTANT."

RECITALS

A. CITY is considering three applications for General Plan Amendments and zone changes to three parcels of former railroad right-of-way property adjacent to the intersection of Wilshire and Santa Monica Boulevards. The properties are currently designated and zoned for transportation uses. The Applications propose commercial designations and zoning and includes an application for a three-story, ninety thousand square foot office building has been submitted for one of the parcels (the "Development Project").

B. CITY has acknowledged the potential for environmental impact and has therefore consented to the preparation of an Environmental Impact Report, hereinafter referred to as "EIR."

C. CONSULTANT represents that ti is processionally qualified to prepare an EIR for the Development Project in compliance with the California Environmental Quality Act ("CEQA") and the local guidelines, and has submitted a proposal to prepare an EIR for the Development Project.

NOW, THEREFORE, the parties hereto agree as follows:

1. PURPOSE OF AGREEMENT.

The purpose of this Agreement is to engage CONSULTANT for the purpose of compiling information, preparing, drafting, and completing an EIR on the Development Project, hereinafter referred to as the "Program".

2. EMPLOYMENT OF CONSULTANT.

CITY agrees to engage CONSULTANT and CONSULTANT hereby agrees to perform the services required under this Agreement.

3. ENVIRONMENTAL IMPACT REPORT.

The term "Environmental Impact Report" (EIR), as used in this Agreement means a detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 et seq. of the California Public Resources Code, including but not limited to, the information specified in the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code Sections 21000 et. seq., the State CEQA Guidelines, 14 California Code of Regulations Section 15000 et seq., and the Guidelines of CITY of Beverly Hills. Said EIR shall be prepared in compliance with, and shall contain all items required by CEQA, the State CEQA Guidelines, as amended, and CITY's local CEQA Guidelines, as amended and interpreted by CITY.

4. SCOPE OF WORK.

The scope of work shall include the services described in the Scope of Work, attached hereto and incorporated by this reference as Exhibit A and those areas required by State and local law to be covered in an EIR as identified in Section 3 of this Agreement. CONSULTANT shall also work with all affected individuals and organizations as directed by CITY to refine the scope of work.

5. DELIVERABLES.

(a) **Screencheck EIR (Administrative Draft EIR).** CONSULTANT shall provide CITY with five (5) hard copies and one (1) digital copy of the Screencheck EIR and five (5) hard copies and one (1) digital copy of the appendices to the Screencheck EIR within twenty-four (24) weeks after the final notice to proceed is given to CONSULTANT. CITY shall review the Screencheck copy of the EIR and hold a review work session with CONSULTANT approximately four (4) weeks after submission of the Screencheck EIR. Upon receipt of comments provided by CITY, CONSULTANT shall prepare and deliver to CITY within fourteen (14) days one (1) unbound, reproducible copy and one (1) digital copy of the Screencheck EIR which indicate changes made by CONSULTANT that address comments provided by CITY.

(b) **Draft EIR.** Within seven (7) days of CITY's written approval of a red line copy of the EIR that addresses the comments provided by CITY, CONSULTANT shall prepare and deliver one (1) hard copy and one (1) pdf-format CD-ROM copy of a complete Draft Environmental Impact Report hereinafter referred to as "DEIR" as defined by CEQA and the State and local CEQA Guidelines. CONSULTANT shall also provide one unbound, fully reproducible copy of the DEIR.

After circulation of the DEIR to the general public, CONSULTANT shall consult with all CITY representatives as directed by CITY, prior to preparing responses to comments on the DEIR. CONSULTANT shall then prepare responses to comments, and corrections and additions to the DEIR.

(c) **Response to Comments.** CONSULTANT shall prepare a response to comments submitted during the public comment period and comments submitted after the public comment period at the public hearings, and upon written approval by CITY shall deliver forty (40) hard copies and one (1) digital copy of such document, including one reproducible copy, to CITY.

(d) **Final EIR.** Upon certification of the EIR, CONSULTANT shall prepare and deliver five (5) copies of the Final EIR, as defined by CEQA and the State and local CEQA Guidelines.

6. TIME OF PERFORMANCE.

Upon written Notice to Proceed by CITY, CONSULTANT shall commence the performance of the services set forth in this Agreement. CONSULTANT shall submit the deliverables required by this Agreement in accordance with the schedule set forth in Section 5 of this Agreement and complete the performance of all the services required by this Agreement upon expiration of the statutory period to challenge the Notice of Determination (CEQA Guidelines Section 15112). CONSULTANT shall not be responsible for delays caused by reasons beyond its control.

7. HEARINGS, MEETINGS, PRESENTATIONS, AND PROGRAM MANAGEMENT.

Stephen Svete shall be Program Manager for CONSULTANT on this Program, unless a substitute is approved in writing by CITY. CONSULTANT shall have available, when requested by CITY, the Program Manager designated in this Section, to consult with CITY staff and attend and/or make presentations at up to five (5) public hearings or meetings of CITY Council, Planning Commission, the public, and/or with interested parties identified in Exhibit A. If the number of hearings and meetings exceeds a combined total of five (5), then for those hearings and meetings in excess of five (5), CONSULTANT shall be compensated as set forth in Section 8(b) of this Agreement. Multiple meetings scheduled for the same day shall constitute a single meeting.

8. COMPENSATION.

(a) CITY shall pay CONSULTANT an amount not to exceed Two Hundred Forty-Three Thousand Twelve Dollars (\$243,012) for the satisfactory performance of services based on the fee set forth in Exhibit A. Payment shall be made as specified in Section 9 of this Agreement.

(b) CITY shall pay CONSULTANT for attendance at additional hearings, meetings, and presentations as described in Section 7 of this Agreement, and for additional services described in Section 10 of this Agreement, an amount not to exceed Ten Thousand Dollars (\$10,000) based on the hourly rates set forth in Exhibit A1, attached hereto and incorporated herein, and for actual expenses reasonably incurred in the performance of this Agreement and approved by CITY.

(c) The total compensation paid by CITY to CONSULTANT shall not exceed Two Hundred Fifty-Three Thousand Twelve Dollars (\$253,012.00).

9. METHOD OF PAYMENT.

Payment shall be made as specified in this Section for satisfactory completion of the following phases. Such payment shall be made within thirty (30) days after receipt of invoices detailing the services performed and the hours of service on a form approved by CITY.

(a) Five percent (5%) of the Agreement amount upon completion of the public scoping meeting.

(b) Fifteen percent (15%) of the Agreement amount upon the submittal of satisfactory Preliminary Sections including the project description, description of alternatives, cumulative projects list, and thresholds of significance.

(c) Thirty percent (30%) of the Agreement amount upon the submittal of five (5) satisfactory screen check copies of the DEIR to CITY.

(d) Fifteen percent (15%) of the Agreement amount upon the submittal of forty (40) satisfactory Draft Environmental Impact Reports for public review to CITY.

(e) Twenty percent (20%) of the Agreement amount upon the submittal of thirty (30) copies of the Response to Comments of the DEIR.

(f) Fifteen percent (15%) of the Agreement amount upon final action by CITY on the Final EIR or sixty (60) days after completion of the response to comments document, whichever occurs first.

10. ADDITIONAL SERVICES.

CITY may from time to time require CONSULTANT to perform additional services not included in the services described in Exhibit A. No additional services shall be rendered by CONSULTANT unless such services are first authorized by CITY Manager or his designee in writing. CITY may, at its option, require CONSULTANT to print and furnish additional copies of the DEIR, Responses to Comments, or Final EIR on a time and materials basis based on the hourly rates set forth in Exhibit A1, and for actual expenses reasonably incurred in the performance of this Agreement and approved by CITY. CITY shall compensate CONSULTANT for such additional services as set forth in Section 8(b) of this Agreement.

11. CHANGES.

CITY may, from time to time, request changes in the scope of services of CONSULTANT to be performed under this Agreement. Such changes, if agreed upon by CITY and CONSULTANT, shall be in the form of a written amendment to this Agreement.

12. PROPRIETARY INFORMATION.

(a) CITY will allow CONSULTANT access to all pertinent and available information. All documents and information provided by CITY or its designated agent for the preparation of the EIR for the Development Project shall remain the property of CITY.

(b) The Environmental Impact Report and all supplementary materials, drawings, sketches, details, computations, studies, reports, and other documents prepared or provided by CONSULTANT under this Agreement shall be the property of CITY.

(c) CONSULTANT shall provide all reproductions required for use during the preparation of the EIR. CONSULTANT shall, at such time and in such form as CITY may require, furnish such periodic reports and other information concerning the status of the analysis as may be requested by CITY at no cost to CITY. CONSULTANT shall furnish CITY, upon request, copies of all documents and other materials prepared or developed in relation with, or as part of, the initial study. Such documents shall be the property of CITY and CONSULTANT shall retain no ownership or other interest in those documents. All documents and working papers prepared in conjunction with the EIR shall be turned over to CITY for safekeeping.

(d) CONSULTANT shall not reproduce or permit reproductions to be made of the analysis or any preliminary materials except with the written consent of CITY.

13. RECORDS AND INSPECTIONS.

CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement. 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 transcripts therefrom, and to inspect all Program data, documents, proceedings, and activities.

14. SUBCONSULTANTS.

CONSULTANT at its own cost and expense may retain registered professional engineers or other special consultants to furnish any specialized data required in the preparation of the EIR. In the event CONSULTANT determines that a subconsultant must be retained to perform any of the services required by this Agreement, CONSULTANT shall obtain prior written approval of CITY.

15. PERMIT FEES.

CITY shall pay all fees, excluding business taxes, which may be required to obtain any permit necessary to the preparation of the EIR.

16. CITY NOT OBLIGATED TO THIRD PARTIES.

CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

17. TERMINATION.

(a) CITY may cancel this Agreement at any time upon five (5) business 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 full compensation for all services performed by CONSULTANT, in an amount to be determined as follows: For work done in accordance with all the terms and provisions of this Agreement, CONSULTANT shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation based on the rates set forth in Exhibit A1; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid CONSULTANT for full performance of the services required by this Agreement.

18. ACCOMPLISHMENT OF THE WORK.

Time is of the essence for each and every provision of this Agreement. CONSULTANT shall commence, carry on, and complete the services required by this Agreement with all practicable dispatch, in a sound, economical, and efficient manner in accordance with all applicable laws and standards. In the event that there were any significant changes in the applicable laws and standards after commencement of this Agreement which were not contemplated by the parties hereto which substantially change the scope of work required by CONSULTANT hereunder, the parties shall negotiate an appropriate amendment to the scope of work and compensation based upon the reasonable amount of time required to complete such additional work in accordance with such new laws or standards, subject to CITY's right to terminate this Agreement pursuant to Section 17.

19. INDEMNIFICATION.

CONSULTANT is skilled in the professional calling necessary to perform the services and duties agreed to be performed under this Agreement, and CITY is relying upon the skill and knowledge of CONSULTANT to perform said services and duties. CONSULTANT agrees to indemnify, defend, and hold harmless CITY, its officials, employees, and agents from any and all claims, demands, and liabilities, including legal fees and costs, resulting from any reckless, wrongful or negligent acts, errors or omissions, or intentional misconduct of CONSULTANT, or any person employed by CONSULTANT, in the performance of this Agreement.

20. INSURANCE.

(a) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance with a combined single limit of not less than Two Million (\$2,000,000.00) Dollars per occurrence against any injury, death, loss, or damage as a result of wrongful or negligent acts by

CONSULTANT, its officers, employees, agents, and independent contractors in the performance of services under this Agreement.

(b) CONSULTANT shall at all times during the term of this Agreement also carry, maintain, and keep in full force and effect a policy or policies of Commercial Automobile Liability Insurance with a combined single limit of not less than One Million (\$1,000,000.00) Dollars per occurrence which will cover the drivers and automobiles used to perform services pursuant to this Agreement. Such insurance shall include coverage for owned, non-owned, and hired automobiles.

(c) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Professional Liability Insurance, with minimum limits of One Million (\$1,000,000.00) Dollars.

(d) CONSULTANT agrees to maintain in force at all times during the performance of work under this Agreement, Worker's Compensation Insurance as required by law.

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

(f) All insurance policies shall provide that the insurance coverage shall not be canceled by the insurance carrier without giving CITY thirty (30) days prior written notice thereof, ten (10) days notice if cancellation is due to nonpayment of premium. CONSULTANT agrees that it will not cancel, reduce, or otherwise modify said insurance coverage.

(g) 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.

(h) At all times during the term of this Agreement, CONSULTANT shall maintain on file with CITY Clerk of CITY a certificate or certificates of insurance on the form set forth in Exhibit B, attached hereto and incorporated herein by this reference, showing that the aforesaid policies are in effect in the required amounts, the additional insureds are named therein, and the policies cannot be canceled, reduced other than for paid claims, or otherwise modified except as provided in Subsection (f). The certificate shall also specifically state that the coverage contained in those policies affords insurance in compliance with the terms and conditions as set forth in this Agreement. CONSULTANT shall, prior to commencement of work under this Agreement, file with CITY Clerk such certificate or certificates. The policies required by this Agreement except workers compensation and professional liability coverage shall contain an endorsement naming CITY as an additional insured. The policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled, or coverage reduced, except on thirty (30) days written notice to CITY. CONSULTANT agrees that it will not cancel, reduce other than for paid claims, or otherwise modify said insurance coverage.

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

(j) Any deductibles or self-insured retentions shall be declared to and are subject to CITY's approval. At the option of CITY, either the insurer shall reduce or eliminate the deductibles or self-insured retentions as respects CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

19. INDEPENDENT CONTRACTOR.

CONSULTANT is and shall at all times remain as to CITY a wholly independent contractor. CONSULTANT shall have no power to incur any debt, obligation, or liability on behalf of CITY or otherwise act on behalf of CITY as an agent. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees. Neither CONSULTANT nor its agents, employees, or subconsultants shall, 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.

20. FAIR EMPLOYMENT PRACTICES/EQUAL OPPORTUNITY ACTS.

In the performance of this Agreement, CONSULTANT shall comply with all applicable provisions of the California Fair Employment Practices Act (California Labor Code Sections 1410, et seq.) and the applicable equal employment provisions of the Civil Rights Act of 1964 (42 U.S.C. Sections 200e - 217), whichever is more restrictive.

21. CONFLICTS OF INTEREST.

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 services contemplated by this Agreement. No person having any such interest shall be employed by, or be associated with, CONSULTANT. Further, CONSULTANT and his subcontractors shall not enter into any contract to perform work associated with any private development or project site within the boundaries of City of Beverly Hills during the term of this Agreement without prior written approval of CITY.

22. SUCCESSORS AND ASSIGNS.

This Agreement covers professional services of a specific and unique nature. CONSULTANT shall have no right to assign, or attempt to assign, any portion of this Agreement without prior written approval of CITY.

23. TITLES.

The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any provisions of this contract.

24. EXTENT OF AGREEMENT.

This Agreement represents the entire and integrated Agreement of the parties and supersedes any and all prior and contemporaneous negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument approved by CITY and executed by CITY and CONSULTANT.

25. EFFECTIVE DATE OF THIS AGREEMENT.

This Agreement, made in duplicate, shall be effective from and after the date signed by City.

26. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of California.

27. RIGHTS AND REMEDIES NOT WAIVED.

In no event shall the making by CITY of any payment to CONSULTANT constitute or be construed as a waiver by CITY of any breach of covenant, or any default which may then exist, on the part of CONSULTANT, and the making of any such payment by CITY while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to CITY with regard to such breach or default.

28. PERSONNEL.

CONSULTANT represents that it has, or will secure at its own expense, all personnel required to perform the services required under this Agreement. All of the services required under this Agreement will be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

29. ATTORNEY'S FEES.

In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provision of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including actual attorney's fees incurred in connection with such action or proceeding.

30. CONFLICT BETWEEN CONTRACT AND PROPOSAL.

In the event of any conflict between the provisions of this Agreement and Exhibit A, CONSULTANT's proposal to CITY, the provisions of this Agreement shall be controlling.

31. NOTICES.

Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties in the United States mail, postage paid, to the address as noted below:

Vincent P. Bertoni, AICP
Director of Community Development
City of Beverly Hills Planning Department
455 North Rexford Drive, Room G-40
Beverly Hills, California 90210

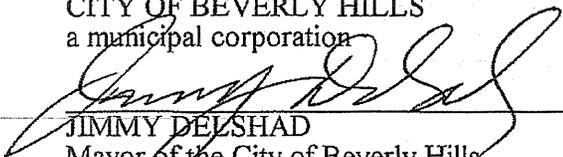
Stephen Svete, AICP
President
Rincon Consultants, Inc.
790 East Santa Clara Street
Ventura, California 93001

32. 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.

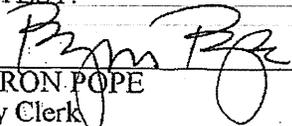
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the 7th day of August, 2007, at Beverly Hills, California

CITY OF BEVERLY HILLS
a municipal corporation



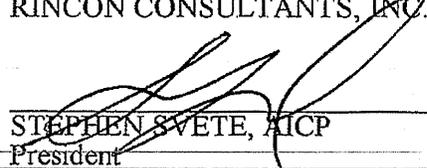
JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

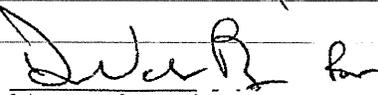
 (SEAL)

BYRON POPE
City Clerk

CONSULTANT:
RINCON CONSULTANTS, INC.

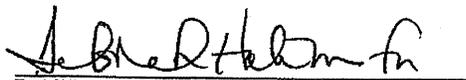


STEPHEN SVETE, AICP
President



DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



RODERICK J. WOOD
City Manager



VINCENT P. BERTONI, AICP
Director of Community Development



KARL KIRKMAN
Risk Manager

EXHIBIT A

Scope of Services

I. Understanding of the Project

CITY is requesting proposals for the preparation of an Environmental Impact Report (EIR) to analyze the impacts associated from the rezoning of three parcels of former railroad right-of-way property located adjacent to the intersection of Wilshire and Santa Monica Boulevards. The parcels separate North and South Santa Monica Boulevards. All three parcels are under separate ownership. While the General Plan Designation and Zoning Classification of each parcel is proposed to be changed to accommodate commercial uses, one of the parcels also includes the proposed development of an office building.

The site is recognized as one of CITY's most prominent gateways. Following an application involving one of the three parcels in 2002, a land use study was prepared to identify appropriate zoning/land uses of the project site based on location, surrounding land use context, and transportation impacts. The Gateway Land Use Study provides the following:

Analysis of right-of-way and improvement options for the intersection of Santa Monica Boulevard and Wilshire Boulevard;

- Analysis of market conditions for potential land uses in the study area;
- Analysis of potential configuration and massing of building and parking on the property as permitted by the C-3 Zone as well as a reduced level of development;
- Analysis of the development feasibility of prototypical projects for the study area; and
- Traffic and circulation analysis of various land use scenarios.

The Gateway Land Use Study was presented before a joint meeting of the City of Beverly Hills City Council and Planning Commission meeting on December 20, 2006. Subsequently, all three property owners have submitted separate applications to CITY requesting a General Plan Amendment and Zone Change. CITY has determined that a single EIR shall be prepared to evaluate all three applications.

CONSULTANT recognizes that CITY has an opportunity to collectively plan for the three parcels, providing options for the property owners that may meet both their objectives and CITY's desire to create a unique and important urban design statement at this entry location. Accordingly, CONSULTANT proposed to devise alternatives that would provide a variety of massing options. Project Descriptions for the Three Parcels. All three properties are currently designated for Transportation uses in the Land Use Element of CITY's General Plan and all three properties are currently classified within the Transportation (T-1) Zone. The T-1 Zone allows for rail-related uses and, in some cases, surface parking.

All three property owners are requesting a General Plan Amendment to a designation of Commercial - Low Density General and a Zone Change to the Commercial (C-3) Zone that would permit heights to 45 feet and a maximum Floor Area Ratio of 2:1. The proposed zoning and standards are the general convention for commercial development throughout CITY. In conjunction with the proposed Zone Change and General Plan Amendment, one of the property owners has submitted an application for a three-story, 42-foot in height, 90,000 square foot commercial/office building over a three-level subterranean garage with 274 parking spaces.

CONSULTANT, with the assistance of Gensler, shall develop three massing alternatives that would meet the basic application objectives. These massing models shall be the subject of the EIR analysis.

II. Approach to the Task

CONSULTANT takes a practical problem-solving approach to the CEQA process. CONSULTANT believes that a fundamental purpose of the environmental document is to aid in CITY's decision-making process. In order to facilitate this, it is essential to distinguish environmental concerns from policy issues.

The format of the environmental topics of the EIR shall include a setting, environmental impact analysis, mitigation, and level of significance sections. Each impact mitigation section shall include a subheading for each site to discuss the individual impacts and recommend mitigation for each site and impact.

Preliminarily, CITY has determined the key issues of concern for this project would include aesthetics, air quality, land use, traffic/circulation/parking, noise, public services and utilities. Construction effects shall be covered under noise, traffic, parking and air quality. As part of the scoping process, CITY is requiring that an initial study be prepared to further identify issues or refine the environmental analysis under each topic. The results of a public EIR scoping meeting may result in the consideration of additional topics for analysis in the EIR.

Proposed Work Program

The work program for the project shall entail the specific tasks described below.

Task 1: Kickoff Meeting

Within one week of authorization to proceed, the CONSULTANT team shall organize a kickoff meeting with CITY staff and members of the applicant group, if appropriate. This meeting shall serve as a forum to review and confirm study objectives and establish an operational protocol. Working schedules shall be finalized and details for scheduled tasks shall be discussed. The consultant team shall use this opportunity to collect any relevant studies and information not already transmitted.

The kickoff meeting shall also allow CITY/consultant team an opportunity to thoroughly discuss the approach to environmental evaluation, concepts to drive the massing model options, and possible project alternatives. A review of community concerns that have surfaced to date shall be discussed. CONSULTANT shall also have an opportunity to confirm the cumulative project list.

Task 2: Project Description/Options Development

Development of Massing Options. Working with architects from Gensler, CONSULTANT shall develop three varying massing models, all considering both maximum FAR at a 45-foot height limit and new configuration and height exception/variance. A total of three models shall be developed for each of the three sites (9 models total). These shall be presented in a meeting with CITY staff. At least one of these options shall include detailed renderings confirming with the submittals of the applicant of one of the three parcels, provided that submitted information is obtained in a format that is workable by Gensler (AutoCAD or similar.)

Within one month of the kickoff meeting and receipt of all applicant-provided material, CONSULTANT shall present a written Project Description for review. The Project Description shall incorporate the three massing options. This review is critical, since it forms the basis for environmental evaluation under CEQA. Textual, tabular, and graphic presentation shall be included as necessary to facilitate a thorough understanding of proposed facilities.

The project description shall include a discussion of proposed land use changes and controls, planned structural or landscape modifications, operational or other features, policies and programs that have been incorporated into the project to minimize potential environmental or land use conflicts.

Task 3: EIR Scoping

This task includes scoping of the EIR with preparation an Initial Study, circulation of the Notice of Preparation (NOP), and management of a public scoping meeting.

Task 3.1: Prepare Draft Initial Study

CONSULTANT shall prepare an Administrative Draft Initial Study for the proposed using CITY's Initial Study Checklist form. The Initial Study shall be comprised of a completed checklist and responses to all questions, with particular emphasis given to responses where the impact is not significant and the response provided shall serve as the primary record of CITY's determination that the impact is not significant. The objective of the Initial Study would be to support the preparation of the EIR and focus the EIR where necessary.

CONSULTANT shall revise the Administrative Draft Initial Study per CITY staff comments and provide an additional draft for approval if desired. CONSULTANT shall circulate that the Initial Study as an attachment to the NOP as requested by CITY Planning staff.

Task 3.2: Prepare Notice of Preparation

CONSULTANT shall prepare, file and circulate the NOP with oversight and approval by CITY. The NOP and all correspondence received in response to the NOP shall be attached as an Appendix to the Draft EIR. A finalized scope for the Draft EIR shall be defined after all comments on the NOP have been received.

Task 3.3: Design and Manage Scoping Meeting

CONSULTANT shall design and conduct a public scoping meeting. CONSULTANT understands that CITY will provide the venue for the meeting and will provide the public notices of the meeting. CONSULTANT shall be responsible for handout materials consisting of project description, site plan, site location map and CEQA timeline and any other presentation graphics, etc.

Task 3.4: Finalize EIR Scope

A scope for the Draft EIR shall be discussed and finalized with CITY staff after all comments on the NOP have been received and the scoping meeting is concluded and the input analyzed. CONSULTANT shall work with CITY staff to determine if the comments expand the scope of work or require an additional technical section not included in the EIR.

Task 4: Administrative Draft Environmental Impact Report

The Administrative Draft EIR (ADEIR) shall be prepared in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. Specifically, the CEQA Guidelines state that:

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.

To the extent possible, CONSULTANT shall incorporate information from existing environmental and planning documents that apply to the site and project. As necessary, CONSULTANT shall conduct original research to augment existing information. The ADEIR shall include the specific components described below.

Subtask 4.1: Summary. The EIR shall contain a summary of the proposed project and associated environmental consequences. This information shall be presented in tabular format to simplify review by decision-makers and the general public. This table shall include:

A synopsis of issue-specific environmental impacts by issue area by level of significance;

Mitigation measures required for any identified significant impacts; and

The residual effects after mitigation.

The summary shall provide a brief synopsis of the alternatives reviewed and their associated impacts. It shall also identify the environmentally superior alternative among the studied alternatives. A brief discussion of areas of known public controversy and issues to be resolved shall also be included.

Subtask 4.2: Introduction and Environmental Setting. The EIR shall include introductory sections (required by CEQA) that lay the groundwork for and summarize the substantive analysis to follow. The introduction shall describe the purpose and legal authority of the study, scope and content of the EIR, a discussion of lead, responsible and trustee agencies, and a brief project history. The environmental setting shall provide a general description of the existing geographic character of the CITY of Beverly Hills and the Gateway Center area. The regional environmental setting shall also contain a discussion of cumulative development in the area utilizing a cumulative project list developed in consultation with CITY and Fehr & Peers Associates specifically for this project.

Subtask 4.3: Environmental Impact Analysis. Each environmental discussion shall include the following:

Setting;
Impact analysis;
Mitigation measures; and
Level of significance after mitigation.

The discussion for each issue area shall be introduced by a brief summary of the issue, concerns, impacts, and mitigation measures. The setting that follows shall describe existing conditions relevant to the given issue area based on existing data sources. Sources shall include CITY's General Plan elements, the Gateway Center Land Use Study, other relevant environmental documents prepared during the last five years, data provided by CITY, and the results of reconnaissance visits to the site.

The impact analysis shall include a discussion of the methodology used to quantify or determine impacts and the criteria for judging significance. Where possible, impacts shall be quantified. If existing data does not allow definitive quantification, reasonable assumptions shall be used to qualitatively forecast potential impacts. Cumulative impacts shall also be discussed in this section.

CONSULTANT typically orients analyses around clear impact statements that are separately highlighted in the text. This allows a more precise statement of the specific issue at hand and sets the stage for the technical discussion that follows. If the impact warrants mitigation measures, they are indexed to and immediately follow the numbered impact in question. We have found that such an approach focuses the analysis and becomes clearer for the public and decision-makers to follow. Mitigation measures may include design measures and programs proposed by CITY staff and the consultant team. All mitigation measures shall be presented in wording that can be directly applied to conditions of approval.

The technical approach to analyzing each environmental issue is described in the following section.

Subtask 4.4: Long Term Effects. This portion of the EIR shall discuss the growth-inducing effects of the proposed plan. Drawing on the information provided in the regional setting and the

preceding issue discussion, CONSULTANT shall address the potential for the project to directly induce economic growth and remove obstacles to growth in the area.

Subtask 4.5: Alternatives. This proposal assumes that the EIR shall analyze three alternatives. These would include the CEQA-required "no project" alternative, as well as two alternative buildout schemes.

Note that these schemes shall be apart from the three massing options, which are considered variations of the project description.

We recommend finalizing the alternative descriptions after completion of some of the preliminary analysis so that we can ensure that the studied alternatives address significant impacts of the proposed project. CONSULTANT shall work directly with CITY staff to identify specifics of all alternatives.

Evaluation of alternatives shall be in less detail than that for the proposed project, though the analysis shall make a significance determination for all issue areas and suggest possible additional mitigation measures. This should provide decision-makers and the public adequate information to decide among alternatives.

This section shall also identify the environmentally superior alternative. If the "no project" alternative is determined to be environmentally superior, the EIR shall identify the environmentally superior alternative among the remaining scenarios.

CITY Review of the Administrative Draft EIR

CONSULTANT shall provide the ADEIR for CITY review within ten weeks of the kickoff meeting. Thereafter, the project manager shall meet with CITY's project manager to discuss any concerns, modifications, and input to the analysis and proposed mitigation measures.

Task 5: Draft Environmental Impact Report

This task involves the production, editorial work and communication processes to publish the Draft EIR for circulation to the public and concerned agencies. CONSULTANT shall assume that CITY staff shall be responsible for filing a Notice of Completion with the State Office of Planning and Research and the County Clerk, circulating the Draft EIR to commenting agencies and interested groups or individuals, and receiving their written commentary. We further assume CITY will give notice to all organizations and individuals who have expressed interest in receiving such notice and publish the notice in a local newspaper.

Task 6: Public Hearings

CONSULTANT's Project Manager or Principal-in-Charge shall attend up to five public hearings or meetings on the Draft and Final EIRs. If desired by staff, these shall include oral presentations to the hearing body, supplemented with graphic presentations, if necessary. These hearings can be scheduled and selected at CITY's discretion. CONSULTANT shall attend additional hearings on a time-and-materials basis, in accordance with our standard fees.

Task 7: Final Environmental Impact Report

The final formal stages of the EIR process involve responding to comments, public hearings and final publication tasks. At this point, all of the discretionary permit applications and the Draft EIR shall be brought together for final public governmental scrutiny leading to decisions regarding approval. Through this process, final changes and policy decisions concerning the project shall be made. Our work effort for this task is described below.

Subtask 7.1: Responses to Comments/Administrative Final EIR. Subsequent to receipt of all public comments on the Draft EIR, CONSULTANT shall prepare formal responses and publish an Administrative Final EIR for CITY review. This shall include a list of commenter, comment letters, responses to comments, and any added or revised text of the Draft EIR that may be necessary. The final version of the responses to comments shall be incorporated into the Final EIR, usually as an appendix. Subsequently, CONSULTANT shall discuss and modify as necessary any data in the EIR that requires such a step.

Subtask 7.2: Publication of the Final EIR. CONSULTANT shall deliver one camera-ready copy of the Final EIR and deliver it to CITY. Upon certification of the Final EIR and project approval, CONSULTANT shall deliver 40 bound copies and one unbound copy of the Final EIR. CONSULTANT shall be responsible for filing a Notice of Determination with the County Clerk's office.

Task 8: Mitigation Monitoring and Reporting Plan

CONSULTANT shall prepare a mitigation monitoring and reporting plan (MMRP) in accordance with CITY requirements. The MMRP shall be provided in a format designed for use by planners, environmental monitors, or code enforcement officers. Essentially, this plan shall take the form of a detailed table, which shall compile all of the mitigation measures developed within the body of the EIR, as well as information necessary to monitor compliance with each measure. The program shall include:

Suggested wording as a condition of approval:

- Identification of persons/agencies responsible for monitoring compliance with each condition;
- Timing when monitoring must occur;
- Frequency of monitoring; and
- Criteria to be used to determine compliance with conditions.

Technical Approach to Environmental Issues

The preliminary scope of work for the environmental issues to be examined during the environmental review process has been identified as follows:

- aesthetics
- air quality
- land use
- traffic/circulation/parking
- noise
- public services and utilities

In addition to these core issues, CONSULTANT shall utilize other referenced environmental documentation, and other standard environmental analysis methods to provide justification for those issues that were determined to have no potential effect.

The analysis shall compare the impacts of project buildout to existing conditions. The No-Project Alternative shall provide an analysis providing the comparative merits and impacts between the buildout of the proposed plan and buildout. The following briefly describes our approach to the issues.

AESTHETICS

The proposed project involves infill structures at a massing scale that will alter the ambient built environment condition. As such, the proposed project would represent a major change in the visual character of the project site, an important entry corridor into Beverly Hills from the west. While this

issue shall ultimately be addressed by CITY's Design Review Commission, said body shall likely be looking for guidance from the evaluation of the issue as presented in the EIR.

CONSULTANT shall perform an aesthetic and visual quality impacts analysis as part of the EIR for the proposed development. This shall include an aesthetics analysis of the project against current CITY policies and regulations, and the creation of three (3) photo-simulations by Gensler of the proposed project.

Note that photo-simulations shall be drawn from the November 2006 Land Use Study for the site. If possible, these photo-simulations shall be modified with the more detailed application information provided for one of the three parcels. These shall be presented from the following location perspectives:

- Street level from the east
- Street level from the west
- Oblique aerial

CONSULTANT shall review all CITY documents addressing design and development standards for the project site area to ensure the project's consistency with stated goals. From a subjective standpoint, the orientation and scale of the project shall be analyzed to understand how the proposal would affect the public right-of-way and how the proposal might relate to heights of adjacent buildings.

The aesthetics evaluation shall also provide graphic analysis of potential shadowing impacts. Models, also to be prepared by Gensler, shall show shadowing effects of all nine (9) options (three for each parcel). CONSULTANT shall compare impacts to any adopted city thresholds for impacts of shadows.

AIR QUALITY

Demolition and other site preparation as well as construction activities at the site shall generate large amounts of dust and heavy equipment emissions that have the potential to cause nuisance impacts. The potential for significant construction impacts shall be based on the SCAQMD's CEQA Air Quality Handbook methodologies and significance criteria. Any data gathered as part of the earth investigation relative to the potential for contaminated soils shall be reflected in the air quality analysis.

Operational impacts shall be associated with the increase in motor vehicle activity and, to a lesser degree, increases in on-site energy consumption. The addition of air pollutants to the region shall be quantified using the URBEMIS air emission calculation program. This methodology is proposed rather than that of the MAAQI available from the SCAQMD because this new version of URBEMIS uses updated emission factors from the latest version of the MAAQI model. Carbon monoxide (CO) screening shall be conducted using the SCAQMD's model for any study area intersections forecast to operate at LOS D or lower. If the preliminary screening identifies potentially significant impacts, more detailed modeling shall be conducted using CALINE4.

LAND USE

This section of the EIR shall examine the broader policy issues and distinguish them from the environmental issues. The proposed project is generally consistent with the local land use pattern. This section of the EIR shall address the proposed general plan amendments and zoning changes as the focus of the land use and planning impact evaluation and consistency analysis.

It is recognized that the change in land uses and intensity of the Gateway area represents another example of the ongoing intensification of uses in Beverly Hills and the greater Westside Los Angeles

region. This and other local land use issues shall be discussed in light of the methods proposed by the applicants to achieve CITY objectives for the area.

CONSULTANT shall prepare an objective discussion of the proposed project in the context of the existing land use pattern in the immediate vicinity of the site. This discussion shall also summarize the findings of other sections relevant to land use compatibility (noise, air quality, aesthetics) from a land use perspective. An assessment of land use compatibility impacts of uses proposed within the Gateway area shall be provided, and mitigation measures shall be recommended to reduce any potentially significant conflicts or impacts.

TRAFFIC/CIRCULATION/PARKING

The issue of traffic, circulation, and parking shall be addressed by Fehr & Peers. The study would identify the comparable examples through consultation with CITY staff and the project team. Traffic counts shall be collected for the peak hour periods (AM, Midday, and PM) and parking occupancy counts for three hours (9:00 AM, Noon, and 5:00 PM).

The analysis shall include at least the following 10 intersections:

- Santa Monica Boulevard North/Wilshire Boulevard*
- Santa Monica Boulevard South/Wilshire Boulevard*
- Santa Monica Boulevard South/Charleville Boulevard
- Charleville Boulevard/Spalding Drive
- Santa Monica Boulevard/Moreno Drive*
- Olympic Boulevard/Spalding Drive
- Santa Monica Boulevard South/Roxbury Drive
- Wilshire Boulevard/Linden Drive
- Roxbury Drive/Wilshire Boulevard/Brighton Way
- Santa Monica Parkway North/South Road Crossover*

* Denotes recent counts taken within the last 6 months

Recent traffic counts are available at 6 of these 10 intersections. We would collect traffic counts at the remaining 6 intersections for the following analysis periods:

- Morning peak hour (7 AM to 9 AM)
- Midday peak hour (11 AM to 2 PM)
- Evening peak hour (4 PM to 6 PM)

Additionally, we shall conduct daily traffic counts on the following roadway segments:

- Charleville Boulevard, east of Lasky Drive
- Lasky Drive, south of Charleville Boulevard
- Charleville Boulevard, south of Santa Monica Boulevard South
- Moreno Drive, south of Santa Monica Boulevard South

We would recommend that the daily counts be conducted over 2-week period, to minimize the effect of any isolated traffic spikes and to provide more consistent data.

Trip Distribution Data Collection. We have previously employed travel time runs to determine which routes would be the fastest to and from a project location. We propose to conduct travel time runs on up to five routes during the three peak hour periods. Up to three travel time runs shall be conducted on each route during each peak hour. We anticipate that up to 60 travel time runs shall be collected. The results of the travel time analysis shall be summarized in a technical memorandum.

Review of Proposed Transportation Improvements. CONSULTANT shall also document proposed transportation improvements in the study area. Potential impacts of various improvements could be changes in intersection and roadway configurations, changes to other types of facilities (transit, sidewalks, bicycle routes), and even changes in overall traffic patterns. CONSULTANT shall consult with CITY staff to determine how best to incorporate the results of this review. For documentation purposes, CONSULTANT shall summarize the results of this review in a technical memorandum.

Review of Approved and Proposed Development Projects. It is our understanding that CITY staff maintains a list of Cumulative projects. CONSULTANT shall update the list used previously in the 9876 and 9900 Wilshire projects by verifying that this list is current and no projects need to get added, deleted, or modified.

Project Trip Generation. Using the results of Task 3, CONSULTANT shall estimate project trip generation for the proposed sites. CONSULTANT shall prepare trip generation estimates for all three of the peak hour periods. To present a worst-case analysis, CONSULTANT shall not apply any trip generation reductions such as pass-by trips, internalization, or transit use. Since our trip generation rates shall reflect locally developed data, it is likely that these reductions are already reflected in the surveyed trip generation rates.

Project Trip Distribution. Using the results of Task 5, CONSULTANT shall distribute the project trips onto the study area roadway network. We anticipate that the trip distribution shall be derived from multiple sources, including:

- Existing traffic counts, which indicate the relative traffic volumes within the study area
- Regional travel demand model data, as provided by the LA County Congestion Management Program (CMP) Traffic Study Guidelines
- Peak hour travel time runs from the project site to major destinations in CITY

Prior to proceeding with the analysis, CONSULTANT shall document the results of Task 8 and Task 9 in a technical memorandum and provide the results to CITY Staff at Beverly Hills. We anticipate developing a separate trip distribution for both projects.

Verification of Project Study Intersections. Following the completion of Task 8 and 9, CONSULTANT shall determine the growth at all ten of the study intersections identified previously. For any intersection where the project traffic causes an increase of more than 3 percent as compared to the existing counts, CONSULTANT shall determine if any adjacent intersections shall be impacted by the traffic from either project. If additional intersections or roadway segments are likely to be impacted, CONSULTANT shall notify the Beverly Hills CITY Staff and the other members of the project team.

Existing Conditions Analysis. Using the traffic counts collected in Task 4, CONSULTANT shall determine the existing level of service for each of the study intersections. For the signalized intersections, CONSULTANT shall apply the Intersection Capacity Utilization (ICU) methodology. For unsignalized intersections, LOS shall be determined using 2000 Highway Capacity Manual (HCM) methodologies. The LOS results at our study intersections shall be compared against the results of other studies identified in Task 1 to identify any significant discrepancies.

Additionally, CONSULTANT shall conduct a field visit to verify the LOS results at any intersections which operating at a deficient or nearly deficient LOS. If necessary, CONSULTANT shall make adjustments to the ICU or HCM results to more closely approximate field conditions.

Cumulative No Project Traffic Forecasts. CONSULTANT shall obtain future traffic volumes from CITY's Traffix Model, which includes pending and approved development projects within the CITY of Beverly Hills and the City of Los Angeles. These volumes shall be added to the existing counts along with a growth factor (1% per year) to reflect historical growth in traffic.

Project Impact Analysis for Cumulative Scenario. CONSULTANT shall estimate LOS for all of the study intersections for both the No Project and With Project condition in the Cumulative scenario.

CONSULTANT shall apply the signalized and unsignalized analysis methods (ICU and HCM) discussed in Task 11. Impacts shall be determined using CITY's significance criteria. Additionally, CONSULTANT shall determine the percentage volume increase on the residential streets and compare that increase against CITY's significance criteria. Any exceedance of CITY's significance criteria shall be noted. Impacts for each project shall be noted separately.

Roadway System Impacts. CONSULTANT shall evaluate the project's impacts on the roadway system in addition to intersection and residential street impacts. Roadway system impacts shall be assessed against the significant criteria identified in Task 2. Potential impacts include interference with planned roadway improvements and construction traffic impacts. To assess construction traffic impacts, CONSULTANT shall require a detailed description of construction activities: the duration, the type of construction activities, the number of workers, and anticipated number of construction vehicles accessing the site.

Transit System Impacts. CONSULTANT shall also evaluate the project's impact on the transit system. Transit impacts include interference with existing and future transit operations or an increase in transit ridership above the available or planned capacity. Transit system impacts shall be identified using the significance criteria identified in Task 2.

Pedestrian and Bicycle System Impacts. We shall evaluate impacts upon the pedestrian and bicycle system within the study area. Potential impacts include disruptions to existing facilities, such as the addition of driveway across an existing sidewalk or through project traffic queuing across an existing crosswalk. Bicycle and pedestrian system impacts shall be identified using the significance criteria identified in Task 2.

Project Site Access and On-Site Circulation Review. Our review of project site access and on-site circulation shall consider at least the following items:

- Queuing at project driveways
- Project driveway traffic control
- Emergency vehicle access and circulation
- Delivery vehicle access and circulation
- Driveway sight distance
- Adequacy of vehicular parking
- Adequacy of bicycle parking

The items to be considered in the review of on-site circulation shall be verified through the review of significance criteria in Task 2. It is our intention to develop specific significance criteria for each item to facilitate the impact identification.

Off-Site Collision Impacts. CONSULTANT shall evaluate the project's impacts on off-site collisions at our various study intersections using the identified significance thresholds. Impacts under this area could occur if the project changes to the configuration of an intersection resulting in obstructed sight distance, alters the operation of traffic control devices, or significantly increases the traffic volume at an intersection where the accident rate exceeds the statewide average.

CMP Analysis. Based on our review of the Los Angeles County Congestion Management Program (CMP) administered by the Metropolitan Transit Authority (MTA) requirements, the traffic study outlined above contains all of the elements required for a traffic study under the CMP. There are a few minor differences, including:

- The CMP outlines a regional trip distribution for all areas of Los Angeles County, which may not match the detailed distribution we have identified

- Impacts to CMP intersections only occur at signalized LOS F intersections instead of the D, E or F threshold employed by CITY
- The CMP details a growth rate for various areas of LA County, which may not be consistent with historical growth rates in CITY .

As part of the coordination efforts for this study, CONSULTANT shall contact the MTA to verify that a separate CMP study is not required. Should a separate study be required, CONSULTANT shall use the data identified in the larger traffic study as applicable. CONSULTANT shall limit this analysis to CMP intersections and roadways located within the study area. A review of the current CMP document indicates that the Santa Monica Boulevard and Wilshire Boulevard are both classified as CMP arterials.

For each impact identified, a mitigation measure shall be identified. For each intersection impact, the improvements necessary to fully mitigate the impact shall be stated. Should these improvements be determined infeasible, it shall be noted in our report. Other potential mitigation measures could include changes to traffic signal operations, implementation of demand management strategies and changes to each proposed project site plan. Our discussion of mitigation measures shall also include the potential for these two projects to jointly fund any needed improvements.

CONSULTANT shall evaluate the impact of two alternatives for this project. This alternative evaluation shall consider impacts to the study area roadways, intersection operations, alternative transit modes and site access and circulation. The analysis of intersection and roadway impacts shall be conducted at the same level as the Project Level Analysis. Any reduction in project impacts resulting from the development of the site under one of these shall be noted. We anticipate that the alternatives shall be identified through consultation with CITY staff as well as the other members of the project team.

NOISE

The noise analysis shall examine both temporary construction noise and long-term operational noise associated with increased vehicle activity. Short-term noise shall be assessed based upon noise levels reported in the USEPA document Noise from Construction Equipment and Operations.

Traffic noise shall be estimated using a modification of the Federal Highway Noise Prediction Model (calibrated based upon actual measured noise in the area) and data from the traffic study. The analysis shall focus on street segments anticipated to experience substantial traffic increases and that are adjacent to sensitive noise receptors.

The noise section shall examine the change in noise characteristics compared to the existing conditions. The potential for effects on any nearby residences shall also be analyzed. Construction noise shall be assessed in terms of maximum noise levels, while long-term operational noise exposure shall be assessed in terms of the Community Noise Exposure Level (CNEL). The EIR shall also address relevant policies and implementation strategies of CITY's adopted Noise Element.

PUBLIC SERVICES and UTILITIES

The Public Services section of the EIR shall address potential impacts on police protection and fire protection services, as well as the proposed project's impacts to CITY's wastewater treatment, stormwater treatment, and solid waste collection and disposal system. Development of projects with the stated entitlement may lead to impacts to these service systems, due to the intensification of use. These service systems shall be evaluated and, where possible, impacts shall be quantified. The EIR shall include an evaluation to determine the wastewater demand of planned uses to guide future development of a plan that reflects the appropriate size and location of sewer mains. This section of the EIR would estimate the amount of waste that would be generated on-site and the impacts of such waste upon the lifespan of landfills that serve CITY.

PUBLIC SERVICES and UTILITIES

The Public Services section of the EIR shall address potential impacts on police protection and fire protection services, as well as the proposed project's impacts to CITY's wastewater treatment, stormwater treatment, and solid waste collection and disposal system. Development of projects with the stated entitlement may lead to impacts to these service systems, due to the intensification of use. These service systems shall be evaluated and, where possible, impacts shall be quantified. The EIR shall include an evaluation to determine the wastewater demand of planned uses to guide future development of a plan that reflects the appropriate size and location of sewer mains. This section of the EIR would estimate the amount of waste that would be generated on-site and the impacts of such waste upon the lifespan of landfills that serve CITY.

Project Schedule / Deliverable Products

The following is a list of deliverable products that would be provided to CITY. It adheres to the schedule included in CITY's Request for Proposals.

EIR Project Description. Three copies of the draft EIR Project Description would be delivered within two weeks of the kickoff meeting.

Administrative Draft Environmental Impact Report. 12 copies of the Administrative Draft Environmental Impact Report shall be delivered within 12 weeks of receipt of notice to proceed.

Draft Environmental Impact Report. 50 bound copies of the Draft Environmental Impact Report shall be provided within two weeks of receipt of CITY comments on the Administrative Draft Environmental Impact Report.

Responses to Comments. One copy of the draft responses to comments on the Draft Environmental Impact Report and draft MMRP shall be delivered to CITY within three weeks of receipt of all comments on the Draft EIR.

Final Environmental Impact Report. One unbound copy and 40 bound copies of the Final Environmental Impact Report shall be delivered within one week of receipt of all CITY comments on the Response to Comments report). The Final Environmental Impact Report shall be in the form of a single document that includes the Draft Environmental Impact Report, comment letters received, responses to comments, and the MMRP.

Fee Proposal and Form of Contract

CONSULTANT Consultants shall prepare the Environmental Impact Report for the proposed Gateway Project EIR, in accordance with our proposed scope of services, for an estimated cost of \$243,012.

The attached table (Attachment 1) provides a breakdown of the proposed budget by major work item. The cost estimate includes preparation of the Project Description, the Administrative Draft Environmental Impact Report, Draft Environmental Impact Report, responses to comments on the Draft EIR, the Final Environmental Impact Report, and the mitigation monitoring plan.

Attendance at a project kickoff meeting and up to five public hearings or community meetings is included in the estimated budget. At CITY request, the Project Manager or Principal-in-Charge shall attend additional hearings.

The proposed scope of services and associated costs are fully negotiable to meet the needs of CITY. Additional work, not included within our proposed work program, shall be completed only upon written CITY authorization in accordance with our standard fee schedule. This offer for professional



EXHIBIT B
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	LIMITS		
				B.I.	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.

AMENDMENT NO. 1 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RINCON CONSULTANTS, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED GENERAL PLAN AMENDMENT AND ZONE CHANGE TO THREE FORMER RAILROAD RIGHT-OF-WAY PROPERTIES

This Amendment No. 1 is to that certain Agreement, dated August 7, 2007, and identified as Contract No. 321-07, a copy of which is on file in the office of the City Clerk, between the CITY OF BEVERLY HILLS (hereinafter called "CITY") and RINCON CONSULTANTS, INC., (hereinafter called "CONSULTANT") for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railroad right-of-way properties ("Agreement").

RECITALS

A. City entered into a written agreement, dated August 7, 2007, for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railroad right-of-way properties.

B. City desires to amend the method of payment provision of the Agreement to bring the payment schedule more closely in line with the work milestones.

NOW, THEREFORE, the parties hereto do amend the Agreement as follows:

Section 1. Paragraph 9 of the Agreement, entitled "Method of Payment" shall be amended to read as follows:

"9. METHOD OF PAYMENT

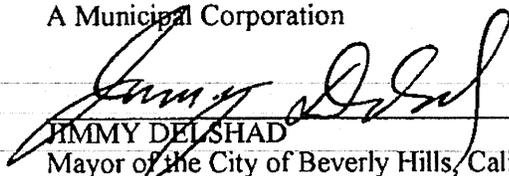
Payment shall be made as specified in this Section for satisfactory completion of the following phases. Such payment shall be made within thirty (30) days after receipt of invoices detailing the services performed and the hours of service on a form approved by CITY.

- (a) Five percent (5%) of the Agreement amount upon completion of the initial study.
- (b) Thirty-five percent (35%) of the Agreement amount upon the submittal of the draft traffic study.
- (c) Twenty-five percent (25%) of the Agreement amount upon the submittal of five (5) satisfactory screen check copies of the DEIR to CITY.
- (d) Ten percent (10%) of the Agreement amount upon the submittal of forty (40) satisfactory Draft Environmental Impact Reports for public review to CITY.
- (e) Fifteen percent (15%) of the Agreement amount upon the submittal of thirty (30) copies of the Response to Comments of the DEIR.
- (f) Ten percent (10%) of the Agreement amount upon final action by CITY on the Final EIR or sixty (60) days after completion of the response to comments document, whichever occurs first."

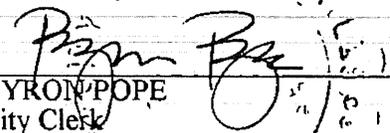
Section 2. Except as expressly modified by this Amendment No. 1, all of the provisions of the Agreement between the City of Beverly Hills and Rincon Consultants, Inc., dated August 7, 2007, shall remain in full force and effect.

Executed this 5th day of February, 2008, at Beverly Hills, California.

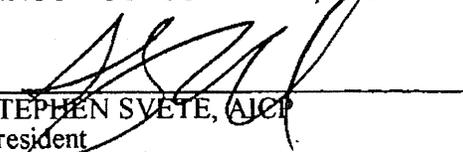
CITY OF BEVERLY HILLS
A Municipal Corporation


JIMMY DELSHAD
Mayor of the City of Beverly Hills, California

ATTEST:


BYRON POPE
City Clerk

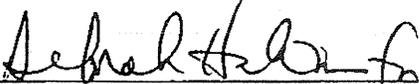
CONSULTANT:
RINCON CONSULTANTS, INC.


STEPHEN SVETE, AICP
President

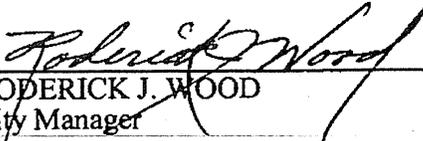
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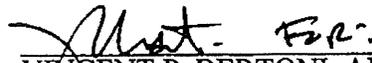
DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:

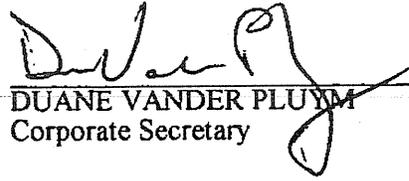

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:


RODERICK J. WOOD
City Manager


VINCENT P. BERTONI, AICP
Director of Community Development


KARL KIRKMAN
Risk Manager


DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER
City Attorney

RODERICK J. WOOD
City Manager

VINCENT P. BERTONI, AICP
Director of Community Development

KARL KIRKMAN
Risk Manager

AMENDMENT NO. 2 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RINCON CONSULTANTS, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED GENERAL PLAN AMENDMENT AND ZONE CHANGE TO THREE FORMER RAILROAD RIGHT-OF-WAY PROPERTIES

This Amendment No. 2 is to that certain Agreement, dated August 7, 2007, and identified as Contract No. 321-07, as amended by Amendment No. 1, dated February 5, 2008 and identified as Contract No. 32-08, copies of which are on file in the office of the City Clerk, between the CITY OF BEVERLY HILLS (hereinafter called "City") and RINCON CONSULTANTS, INC., (hereinafter called "CONSULTANT") for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railway right-of-way properties ("Agreement").

RECITALS

A. City entered into a written agreement, dated August 7, 2007, for the preparation of an environmental impact report for a proposed General Plan amendment and zone change to three former railroad right-of-way properties, which has been previously amended.

B. City desires to amend the scope of work and compensate CONSULTANT for such additional work.

NOW, THEREFORE, the parties hereto do amend the Agreement as follows:

Section 1. Paragraph 8 of the Agreement, entitled "Compensation" shall be amended to read as follows:

“8. COMPENSATION.

(a) CITY shall pay CONSULTANT an amount not to exceed Two Hundred Fifty-Nine Thousand Six Hundred and Twenty-Two Dollars (\$259, 622) for the satisfactory performance of services based on the fee set forth in Exhibits A and A2. Payment shall be made as specified in Amendment No.1 to this Agreement.

(b) CITY shall pay CONSULTANT for attendance at additional hearings, meetings, and presentations as described in Section 7 of this Agreement, and for additional services described in Section 10 of this Agreement, an amount not to exceed Ten Thousand Dollars (\$10,000) based on the hourly rates set forth in Exhibit A1, attached hereto and incorporated herein, and for actual expenses reasonably incurred in the performance of this Agreement and approved by CITY.

(c) The total compensation paid by CITY to CONSULTANT shall not exceed Two Hundred Sixty-Nine Thousand Six Hundred and Twenty-Two Dollars (\$269,622).”

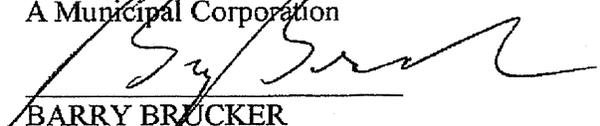
Section 2. Exhibit A-1, “Scope of Additional Services” shall be added to Exhibit A of the Agreement as attached hereto and incorporated herein by reference.

Section 3. Exhibit A-2, “Schedule of Rates for Additional Services” shall be added to Exhibit A of the Agreement as attached hereto and incorporated herein by reference.

Section 4. Except as modified by Amendment No. 1 and expressly modified by this Amendment No. 2, all of the provisions of the Agreement between the City of Beverly Hills and Rincon Consultants, Inc., dated August 7, 2007, shall remain in full force and effect.

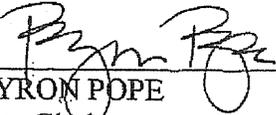
Executed this 17th day of June, 2008, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

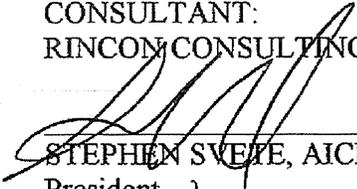

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

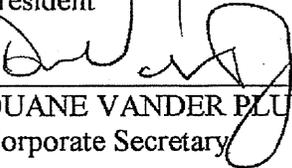
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ATTEST:

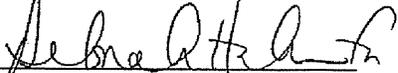

BYRON POPE
City Clerk

CONSULTANT:
RINCON CONSULTING, INC.

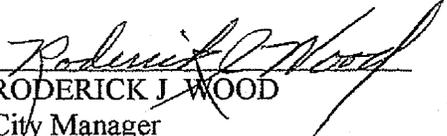

STEPHEN SVEVE, AICP
President


DUANE VANDER PLUYM
Corporate Secretary

APPROVED AS TO FORM:


LAURENCE S. WEINER
City Attorney

APPROVED AS TO CONTENT:


RODERICK J. WOOD
City Manager


JONATHAN LAIT, AICP
City Planner


KARL KIRKMAN
Risk Manager

EXHIBIT A-1

SCOPE OF ADDITIONAL SERVICES

CONSULTANT shall provide the following additional services:

1. Prepare a cultural resources section to be added to the Environmental Impact Report ("EIR");
2. Prepare a hazards/hazardous materials section to be added to the EIR;
3. Prepare a Water Supply Assessment for the Development Project pursuant to SB610; and
4. Expand the number of project alternatives analyzed in the EIR from three to four

EXHIBIT A-2

SCHEDULE OF RATES
FOR ADDITIONAL SERVICES

Water Supply Assessment	\$7,500
Historic Resources Report (for Cultural Resources EIR section)	\$3,910
Cultural Resources EIR Section	\$1,400
Hazards and Hazardous Materials EIR Section	\$1,800
Additional Alternative	\$2,000
TOTAL	\$16,610