



AGENDA REPORT

Meeting Date: April 2, 2013
Item Number: G-12
To: Honorable Mayor & City Council
From: Christian Di Renzo, Sr. Management Analyst
Subject: AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND HF&H CONSULTANTS, LLC FOR SOLID WASTE CONSULTATION; AND APPROVAL OF A PURCHASE ORDER IN THE AMOUNT OF \$110,000 TO HF&H CONSULTANTS, LLC FOR FY 2013/14

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council move to approve an agreement with HF&H Consultants, LLC for consultant work related to solid waste utility rate fees and other services and authorize a purchase order in the amount not to exceed of \$110,000 for FY 2013/14.

INTRODUCTION

The City wishes to continue retaining the consulting services of HF&H Consultants, LLC for assistance in the field of solid waste. It is advisable to continue this long-standing relationship given the consultants' familiarity with the City's unique solid waste operation and their subject matter expertise.

DISCUSSION

HF&H Consultants, LLC has a long history of assisting the City in solid waste analysis that includes biennial rate reviews and periodic operational audits. The firm was integral in assisting the City in 2010 with the renegotiation of the solid waste franchise agreement with Crown Disposal Co. The firm is currently being retained by the City of Los Angeles as they explore franchising their commercial and multi-family disposal services. This agreement will engage HF&H Consultants, LLC for three years to accomplish the following tasks:

Meeting Date: April 2, 2013

- Perform financial rate analysis
- Review rate adjust requests submitted by Crown Disposal, Co.
- Review Crown's reports, tonnage and billing
- Assist in conducting surveys
- Provide advice with respect to Zero Waste strategic planning

FISCAL IMPACT

The total amount of this agreement is for \$330,000 over a three-year period commencing July 1, 2013. This amount remains unchanged from the current agreement due to expire on June 30, 2013. These funds are available and budgeted for in Fund 83, the Solid Waste Enterprise Fund.



Noel Marquis
Finance Approval



David Gustavson
Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
HF&H CONSULTANTS, LLC FOR SOLID WASTE
CONSULTATION

NAME OF CONSULTANT: HF&H CONSULTANTS, LLC

RESPONSIBLE PRINCIPAL OF CONSULTANT: Laith B. Ezzet, Sr. Vice President

CONSULTANT'S ADDRESS: 19200 Van Karman Avenue, Suite 360
Irvine, California 92612
Attention: Laith B. Ezzet, Senior Vice President

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: David D. Gustavson, Director of Public
Works & Transportation

COMMENCEMENT DATE: July 1, 2013

TERMINATION DATE: June 30, 2016, unless extended pursuant to
Section 2 of the Agreement

CONSIDERATION: Not to exceed \$110,000.00 per fiscal year

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
HF&H CONSULTANTS, LLC FOR SOLID WASTE
CONSULTATION

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and HF&H CONSULTANTS, LLC (hereinafter called "CONSULTANT").

RECITALS

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

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

NOW, THEREFORE, the parties agree as follows:

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

Section 2. Time of Performance. CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONSULTANT shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the Director of Public Works or his designee. The City Manager or his designee, at the option of CITY may extend the Agreement for one additional fiscal year.

Section 3. Compensation.

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

(b) Expenses. CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

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

Section 4. Method of Payment. Unless otherwise provided for herein, CONSULTANT shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for

the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period, the number of hours worked, expenses incurred and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

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

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

Section 7. Responsible Principal(s).

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

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

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

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

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

Section 11. Insurance.

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

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

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

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

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

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

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

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

(e) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

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

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of such notice.

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

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

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

Section 16. Records and Inspections. CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 3 years. City shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts there from, and to inspect all program data, documents, proceedings and activities.

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

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

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

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

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

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

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

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

EXECUTED the ____ day of _____ 2013, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

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

ATTEST:

BYRON POPE
City Clerk

CONSULTANT:
HF&H CONSULTANTS, LLC.

ROBERT D. HILTON
President

MARVA M. SHEEHAN
Chief Financial Officer

APPROVED AS TO FORM

LAURENCE S. WEINER
City Attorney

APPROVED AS TO CONTENT

JEFFREY C. KOLIN
City Manager



DAVID D. GUSTAVSON
Director of Public Works & Transportation



KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

Task 1: Perform Financial and Rate Analyses

CONSULTANT shall assist the CITY in its evaluation of the cost and rate impacts associated with various budgeting, operational, contractual, and service changes that may be implemented. The analysis shall include the costs of the CITY's municipal residential solid waste operations, as well as the contracted commercial solid waste operations. This task may, at the discretion of CITY, also include financial analyses related to diversion plans to comply with State recycling mandates.

The analysis shall include a projection of the total rate revenue requirement, and the percentage rate increase to residential and commercial rates in order to meet the rate revenue requirement. CONSULTANT shall utilize a multi-year EXCEL spreadsheet to estimate revenues and expenses for the period of analysis, and develop alternative rate adjustment strategies that will meet the target fund balance by the end of the projection period.

CITY shall be responsible for providing its detailed budgeting information and historical financial results, and various operating data such as the number of tons collected and diverted by line of service, container distributions, and other relevant data.

Task 2: Review Rate Adjustment Requests Submitted by Hauler

Crown Disposal ("Crown") is the City's commercial solid waste handling contractor. Crown also performs mixed processing of CITY's residential waste that is delivered to Crown's material recovery facility by CITY crews. Crown is allowed to request an annual rate adjustment. If requested, CONSULTANT shall verify the accuracy of the rate adjustment calculations for consistency with the rate adjustment formula contained in the agreement between Crown and CITY.

Task 3: Provide Contracting Assistance

Upon request CONSULTANT shall assist CITY with negotiation of amendments to the existing commercial solid waste collection agreement with Crown Disposal and/or the residential processing agreement. This may include enhancements to existing services or waste diversion programs in order to increase recycling and comply with State waste diversion mandates.

Task 4: Customer Surveys

Should CITY proceed with surveys of its residential and/or commercial customers, CONSULTANT shall assist CITY in the development and design of the questionnaire and tabulation and analysis of the survey results.

Task 5: Meetings, Briefings and Evaluation of Implementation Issues

CONSULTANT anticipates that there will be a variety of planning meetings and project briefings with CITY staff, the Public Works Commission, and the City Council during the term of the engagement, as well as requested analyses of various implementation issues associated with

both the residential and commercial services. CONSULTANT shall perform the supporting analyses, conduct the requested briefings, and attend the various meetings.

Task 6: Waste Hauler Audit

CONSULTANT shall audit certain contract information as requested by CITY. Section 7.2.6 of the new commercial solid waste agreement contains a provision for an audit of the hauler's records for the period from April 1, 2011 through December 31, 2012. Subsequent audits are to be performed every third year, and the audit cost is to be reimbursed to CITY by the hauler. The hauler reimbursement for the first audit is \$80,000 and subsequent audits are \$50,000 (as adjusted by the CPI). The scope of the audit may, at the discretion of CITY, include reported tonnage (refuse, recycling, green waste), accuracy of commercial customer billing for consistency with CITY's approved rate schedule, achievement of contractually required diversion levels, confirmation that all required tonnage to be delivered for processing has been properly handled and accounted for, and compliance with various service and reporting requirements to ensure that the contractor is performing in accordance with the contract specifications.

STAFFING

Laith Ezzet, Senior Vice President shall be the project manager. Other employees of CONSULTANT with appropriate skills and experience for the assigned tasks will assist him.

EXHIBIT B

RATES

FEES

Estimated costs by task are summarized below. Fees may be shifted among tasks and among years to meet the CITY's study priorities. Actual costs may be higher or lower than estimated amounts, depending on the level of support requested by CITY for specific tasks. The audit costs are reimbursed to CITY by the hauler per terms of the CITY's franchise agreement.

Task Number and Description	FY 2014	FY 2015	FY 2016
1. Perform financial and rate analyses	\$ 50,000	\$50,000	\$50,000
2. Review contractor rate adj. request	5,000	5,000	5,000
3. Provide contracting assistance	0	\$20,000	0
4. Customer surveys	0	10,000	0
5. Meetings, briefings, implementation	5,000	25,000	5,000
6. Waste Hauler Audits	<u>50,000*</u>	<u>0</u>	<u>50,000</u>
Total fees and expenses:	<u>\$110,000</u>	<u>\$110,000</u>	<u>\$110,000</u>

**Audit initiated during FY 2013 and completed in FY 2014*

CITY shall compensate CONSULTANT based on the following hourly rates:

<u>Staff Classification</u>	<u>Rate</u>
Senior Vice President	\$255
Senior Manager/Director	\$215 to \$225
Manager	\$189 to \$209
Senior Associate	\$165 to \$185
Associate Analyst	\$125 to \$145
Assistant Analyst	\$95 to \$115

CITY shall reimburse CONSULTANT for the following:

Automobile travel (*Or as adjusted by IRS allowance)	\$.0555 per mile *
Document reproduction (in-house, over 25 pages/run)	\$0.10 per page
Color printing/color copies (in-house)	\$0.75 per page
Subcontractors	Actual + 15%
Postage, overnight mail, and other out of pocket costs	Actual cost