



AGENDA REPORT

Meeting Date: August 20, 2013

Item Number: G-12

To: Honorable Mayor & City Council

From: Alan Schneider, Director of Project Administration

Subject: APPROVAL OF AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND MATT CONSTRUCTION CORPORATION FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE BEVERLY GARDENS PARK; AND
APPROVAL OF A CHANGE PURCHASE ORDER IN THE AMOUNT OF \$291,501 TO MATT CONSTRUCTION CORPORATION FOR THE SERVICES

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the "City Council move to approve Amendment No. 1 to the Agreement between the City of Beverly Hills and Matt Construction Corporation for Construction Management Services Related to the Beverly Gardens Park project", and approve a Change Purchase Order in the amount of \$291,501 for construction management services. The total amount of the agreement and the amendment is \$341,235.

INTRODUCTION

At the June 4, 2013 Study Session, design consultant Mia Lehrer presented an update to the full Council on the proposed design for the Beverly Gardens Restoration project. City Council provided direction to proceed with the bidding process. The proposed amendment is for construction management services by Matt Construction during the construction of the project.

DISCUSSION

Matt Construction (Matt) was engaged by the design team to assist with the preconstruction design effort and provided cost estimating, project scheduling and constructability services. Matt's role as construction manager during design phase provided an opportunity to implement the project under a Construction Manager Multi Prime (CMMP) delivery method. The original agreement with Matt for preconstruction services, in the amount of \$49,734 was executed on May 2, 2013, under the authority of the City Manager.

Staff proposes to contract for construction management services to assure the project meets the project budget, built on schedule and of the highest quality. Amendment No. 1 specifies the following services:

Construction Management Scope of Services

General

1. Provide construction management and related administrative services as required to coordinate work of the prime contractors with each other and with the activities and responsibilities of Construction Manager, the City's Project Manager and Architect, to complete the Project in accordance with the City objectives for cost, time, and quality.

Coordination

1. Provide orchestration of prime contractors' field activity; construction observation; arrangement, coordination, and supervision of material testing and special inspection services, and project close-out services.
2. Schedule and conduct construction progress meetings on weekly basis to discuss such matters as procedures, progress, issues, problems, and scheduling. Prepare and promptly distribute meeting agenda and minutes.
3. Provide construction oversight to monitor prime contractors' implementation of the correct Project construction means, methods, techniques, sequences, and procedures. Implement a process to achieve satisfactory performance from each of the prime contractors. Recommend courses of action to the City's Project Manager when requirements of the construction contract are not being fulfilled, and the non-performing party will not take corrective action.
4. Observe and require that all inspections and tests required by Community Development Building and Safety Division and by the consulting testing and inspection firms, be performed. In the event of non-compliance with inspections of failure of tests, provide the necessary steps and recommendation(s) to the City's Project Manager to obtain compliance.
5. Obtain the Certificate of Occupancy and establish the date of Substantial Completion in accordance with specifications.

Budget / Costs

1. Thoroughly review, analyze and investigate each prime contractor's change order request, and provide the City's Project Manager a written recommendation of the merits of the request.
2. Recommend necessary or desirable changes to the Architect and the City's Project Manager and provide advice regarding such changes, implement change order procedures, review requests for changes, assist in negotiating prime contractor proposals, submit recommendations to the Architect and the City's Project Manager,

and if they are accepted, prepare change orders for the Architect's and prime contractors' signatures and Project Managers authorization.

3. Analyze claims for extension of time; prepare estimates based upon alleged cause of claim. Construction Manager shall prepare and distribute change order reports on a monthly basis throughout the construction phase.
4. Develop and implement procedures for the review and processing of applications for payment by prime contractors for progress and final payments. Make recommendations and provide advice to the Architect for certification to the City's Project Manager for payment.

Schedule

1. Provide preparation for construction sequencing and evaluation to produce the master project schedule.
2. Update the master project schedule incorporating the activities of the trade contractors, including activity sequence and duration, processing of shop drawings, product data and samples, and delivery of products requiring long lead time procurement.

Reporting

1. Observe and record the progress of the Project, and submit written progress reports to the City's Project Manager and to the Architect on a monthly basis. Include information on each prime contractor's performance working during the period, as well as the entire project.
2. Provide budget updates indicating percentages of completion and the dollar amounts of change orders.
3. Provide progress photos.
4. Use reasonable diligence to discover work performance by prime contractor(s) that is not in compliance with the contract documents.

Safety

1. Verify that safety programs are developed by each of the prime contractors as required by the contract documents.
2. Construction Manager shall take necessary precautions for the safety of its employees, all prime contractors and others on the Project site and comply with the applicable safety laws and building codes to prevent accidents or injuries to person on, about, or adjacent to the project site.

Total compensation for services under this amendment is \$291,501, comprised of a fee of \$73,000, general condition expenses for \$191,721, post-construction management services for \$1,780 and an additional \$25,000 for contingencies.

The construction manager's fee is based on 5% of the project construction cost and represents the firm's profit and general office overhead. Staff feels the fee is appropriate for the project.

The general conditions expenses are the direct costs for the project on site management services, and include a staff of three, field office and other temporary facilities, and miscellaneous costs for the full duration of the construction work.

Should the City Council approve this amendment for these consultant services, the total compensation under this agreement is not to exceed \$341,235.

FISCAL IMPACT

Funding for this agreement is allocated in the FY 13-14 Capital Improvement Program (CIP) budget approved by the City Council for the Beverly Gardens Restoration Project #0485.

Don Rhoads 
Finance Approva

Mahdi Aluzri 
Approved By

Attachment 1

AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND MATT CONSTRUCTION CORPORATION FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE BEVERLY GARDENS PARK

NAME OF CONSULTANT: Matt Construction Corporation

RESPONSIBLE PRINCIPAL OF CONSULTANT: James Muenzer, Senior Vice President

CONSULTANT'S ADDRESS: 9414 Norwalk Boulevard, Suite 100
Santa Fe Springs, CA 90670
Attention: James Muenzer, Senior Vice President

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Alan Schneider, Director of Project Administration

COMMENCEMENT DATE: Upon Written Notice to Proceed

TERMINATION DATE: June 30, 2014

CONSIDERATION: Original Agreement
Not to exceed \$49,734.00, including all reimbursable expenses and described in Exhibit B;

Total not to exceed \$49,734.00

Amendment No. 1
Fee and all reimbursable expenses shall not exceed \$266,501 as described in Exhibit B;

Contingency shall not exceed \$25,000 as described in Exhibit B;

Total of Amendment No. 1 not to exceed \$291,501

Total of original Agreement and Amendment No. 1 not to exceed \$341,235

AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND MATT CONSTRUCTION CORPORATION FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE BEVERLY GARDENS PARK

THIS AMENDMENT NO. 1 is to the Agreement between the City of Beverly Hills (hereinafter called "CITY"), and Matt Construction Corporation (hereinafter called "CONSULTANT") dated May 2, 2013, and identified as Contract No. 123-13.

RECITALS

A. CITY entered into a written contract with CONSULTANT for preconstruction services related to the Beverly Gardens Park Block #14 (Lily Pond) Project ("Project") to be located along North Santa Monica Boulevard between Beverly Drive and Canon Drive.

B. CITY desires to amend the Agreement to change the Termination Date, increase the scope of services to include the construction and post-construction phases, increase the Compensation for these services, and amend the Indemnification. CONSULTANT represents that it is qualified and able to perform the amended Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. The Consideration shall be amended as set forth above.

Section 2. Section 12 of the Agreement entitled "Indemnification" shall be amended to read as follows:

"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 3. Exhibit A, "Scope of Work", shall be amended as attached hereto and incorporated herein.

Section 4. Exhibit B, "Schedule of Payment and Rates", shall be amended as attached hereto and incorporated herein.

Section 5. Except as specifically amended by this Amendment No. 1, the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 on the _____ day of _____, 201_, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

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

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

CONSULTANT: MATT CONSTRUCTION
CORPORATION

STEVEN MATT
Chief Executive Officer *JAM*

KENNETH BLAKELEY
Chief Financial Officer

APPROVED AS TO FORM:

for *LSW* (PH)

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager

MAHDI ALUZRI
Assistant City Manager/Acting Director of
Public Works & Transportation

KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

ORIGINAL AGREEMENT

CONSULTANT, under the direction of the CITY'S Project Manager, shall perform the following services:

Scope for Pre-Construction Services

CONSULTANT shall provide preconstruction services in connection with the CITY's Beverly Gardens Park project, specifically the Lily Pond Block #14 and Electric Fountain Block #21 ("Project"), located along Santa Monica Boulevard between Beverly Drive and Canon Drive, and between Carmelita Avenue and Walden Drive respectively in Beverly Hills, California, 90201.

Scope of Services

With regard to the above Project, CONSULTANT shall work in support of the CITY's designated project manager. The scope of CONSULTANT's services to be provided includes the following tasks:

Develop Pre-Qualification Criteria

- Create pre-qualification criteria for each Prime Contractor scope of work for the project
- Identify and cultivate appropriate Prime Contractor interest for each Bid Package

Pre-Qualification Process

- Assist the City during the Pre-Qualification process
- Provide analysis of Pre-qualification results

Develop Bid Packages

- Develop Bid Packages based on Construction Drawings
- Include schedule, scope of work, bid form, and other City requirement documents in the Bid Packages

Bidding Process

- Assist the City during the Bidding Process
- Lead pre-bid job walk

Analysis & Negotiation

- Prepare bid analysis documentation
- Prepare required Prime Contract exhibits with project
- Oversee Prime Contract awards in conjunction with City procedures
- Ensure Prime Contracts are executed

Project Schedule & Fee Breakdown

	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	
<u>Activities</u>					
Develop pre-qualification criteria	XX				
Pre-qualification process	X	X			
Develop bid packages		XX			
Bidding process		X	XX		
Analysis & recommendation				X	X
	<u>Hours total</u>	<u>Hourly rate</u>	<u>Total</u>		
<u>Staffing</u>					
Project Executive	14	\$212	\$ 2,968		
Senior Project Manager	108	\$122	\$13,176		
Project Manager	400	\$ 80	\$32,000		
Admin Support	30	\$ 53	\$ 1,590		
			<u>\$49,734</u>		

AMENDMENT NO. 1

Project Description

CONSULTANT shall provide construction management services in connection with the CITY's Beverly Gardens Park project, specifically the Lily Pond Block #14 ("Project"), located along Santa Monica Boulevard between Beverly Drive and Canon Drive in Beverly Hills, California, 90201. The scope of work generally includes restoration of Lily Pond and Circular Fountain; retain photo opportunity area (for Beverly Hills sign); new plantings at water features; new bollard lighting at pathways and accent uplights at specimen trees.

At the sole discretion of CITY, CITY may include an alternate bid option for the Electric Fountain Block #21 at Beverly Gardens Park fronting Santa Monica Boulevard between Walden Drive and Carmelita Drive. The scope of work generally includes restoration of the Electric Fountain for mechanical and electrical equipment; restoration of historic tiles and pavers; new bollard lighting at pathways and accent uplights at specimen trees.

Project design is based on the Construction Documents (CD) Plan Check set, dated May 17, 2013 prepared by Mia Lehrer & Associates for Block #14 at Santa Monica Boulevard between Canon Drive and Beverly Drive, Beverly Hills, CA 90210.

Scope for Construction & Post Construction Phases

CONSULTANT, in cooperation with the Project Architect, shall administer the contracts for the Project construction under the direction of CITY's Project Manager. CONSULTANT shall also provide the following additional services:

General

1. Provide construction management and related administrative services as required to coordinate work of the Prime Contractors with each other and with the activities and responsibilities of CONSULTANT, the Project Manager and Architect, to complete the Project in accordance with the CITY objectives for cost, time, and quality.
2. Assist the Project Manager in selecting the professional services of surveyors, special consultant(s), and materials testing laboratories, and coordinate their services as necessary during construction.
3. Assist with the monitoring of prevailing wages for all applicable Prime Contractor work, and obtain written detailed reports from the Prime Contractor as requested by the Project Manager.
4. Require and receive certificates of insurance from the Prime Contractors combined with advice as to the sufficiency of coverage.
5. Perform other customary and necessary duties for the construction of the project utilizing the construction management multi-prime delivery method.
6. With the Project Manager's approval, CITY shall authorize CONSULTANT to act on its behalf to provide directions to CITY's Prime Contractors for coordination of work activities, compliance with work quality, and adherence to the construction schedule. CITY shall incorporate language in its contracts with its Prime Contractors requiring its Prime Contractors to adhere to directions provided by CONSULTANT.

Coordination

1. Provide orchestration of Prime Contractor field activity; construction observation; arrangement, coordination, and supervision of material testing and special inspection services, and project close-out services.
2. Schedule and conduct construction and progress meetings on weekly basis to discuss such matters as procedures, progress, issues, problems, and scheduling. Prepare and promptly distribute meeting agenda and minutes.
3. Provide construction oversight to monitor Prime Contractors' implementation of the correct Project construction means, methods, techniques, sequences, and procedures. Implement a process to achieve satisfactory performance from each of the prime contractors. Recommend courses of action to the Project Manager when requirements of the construction contract are not being fulfilled, and the non-performing party will not take corrective action.
4. Establish and implement procedures for submittals ("Submittals"), change orders, and other such procedures and maintain logs, files, and other necessary documentation relating thereto. CONSULTANT shall review all shop drawings, product data, samples, and other submittals and provide advice thereon. CONSULTANT shall coordinate Submittals with information contained in related documents and shall transmit Submittals, together with CONSULTANT's review comments, to the Architect for review. In collaboration with the Architect, CONSULTANT shall establish and implement procedures for expediting the processing and the approval of shop drawings, product

data, samples, and other submittals. CONSULTANT shall maintain logs, files, and other necessary records and documentation for City.

5. Consult with and advise the Architect and the Project Manager if any prime contractor requests interpretation of the meaning and intent of the drawings and/or specifications for the Project, and shall assist in the resolution of questions which may arise.
6. Observe and require that all inspections and tests required by the Department of Building and Safety and by the consulting testing and inspection firms, be performed. In the event of non-compliance with inspections or failure of tests, provide the necessary steps and recommendation(s) to the Project Manager to obtain compliance.
7. Assure that all closeout duties are performed by the Prime Contractors, including but not limited to, training; provision of technical, maintenance, and operational manuals; warranties, as required by the project specifications, and determine the start of the warranty period.
8. Obtain the Certificate of Occupancy and establish the date of Substantial Completion in accordance with specifications.

Budget / Costs

1. Maintain cost accounting records on authorized work performed under unit pricing costs, additional work performed on the basis of actual cost of labor and materials, or other work requiring accounting records.
2. Thoroughly review, analyze and investigate each Prime Contractor's change order request, and provide the Project Manager a written recommendation of the merits of the request.
3. Recommend necessary or desirable changes to the Architect and the Project Manager and provide advice regarding such changes, implement change order procedures, review requests for changes, assist in negotiating Prime Contractor proposals, submit recommendations to the Architect and the Project Manager, and if they are accepted, prepare change orders for the Architect's and Prime Contractors signatures and Project Managers authorization.
4. Analyze claims for extension of time; prepare estimates based upon alleged cause of claim. CONSULTANT shall prepare and distribute change order reports on a monthly basis throughout the construction phase. Such reports will provide information pertaining to proposed and executed change orders and their effect on the Construction Costs and Master Project Schedule.
5. Develop and implement procedures for the review and processing of applications for payment by Prime Contractors for progress and final payments. Make recommendations and provide advice to the Architect for certification to the Project Manager for payment.
6. Recommend the release of retention for Prime Contractors, as warranted.

Schedule

1. Provide preparation for construction sequencing and evaluation to produce the Master Project Schedule.
2. Update the Master Project Schedule incorporating the activities of the trade contractors, including activity sequence and duration, processing of shop drawings, product data and samples, and delivery of products requiring long lead time procurement.
3. Maintain the Master Schedule (actual vs baseline).

Reporting

1. Observe and record the progress of the Project, and submit written progress reports to the Project Manager and to the Architect on a monthly basis. Include information on each Prime Contractor's performance working during the period, as well as the entire project.
2. Provide budget updates indicating percentages of completion and the dollar amounts of change orders.
3. Provide progress photos.
4. Use reasonable diligence to discover work performance by Prime Contractor(s) that is not in compliance with the contract documents.

Safety

1. Verify that safety programs are developed by each of the Prime Contractors as required by the contract documents.
2. CONSULTANT shall take necessary precautions for the safety of its employees, all construction Prime Contractor and others on the Project site and comply with the applicable safety laws and building codes to prevent accidents or injuries to person on, about, or adjacent to the project site.
3. With the Project Manager's approval, CITY shall authorize CONSULTANT to act on its behalf to direct its Prime Contractors to comply with safety rules and regulations, and provide safety work as necessary to ensure a safe work site. CITY will, in its contracts with the Prime Contractors, require the Prime Contractors to comply with all safety directions given by CONSULTANT.

PROGRESS SCHEDULE

The construction schedule shall not exceed 6 months from commencement of construction to substantial completion unless, in the opinion of the CITY's Project Manager, there are verifiable unforeseen conditions or changes in scope.

Schedule is based on award of prime contracts on July 16, 2013, as reflected in CONSULTANT's Preliminary Schedule, dated May 31, 2013.

CONSTRUCTION MANAGER'S KEY PERSONNEL

<u>Project Staff</u>	<u>Title</u>
Jim Muenzer	Project Executive
Drew Wesling	Senior Project Manager
Nolan Caldwell	Project Engineer
To be determined	Project Superintendent

Construction Manager's key personnel listed above shall not be changed without the prior written approval of CITY:

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

ORIGINAL AGREEMENT

CITY shall compensate CONSULTANT for the satisfactory performance of services, including expenses, an amount not to exceed Forty Nine Thousand Seven Hundred Thirty-four Dollars (\$49,734.00) at the rates set forth in Exhibit A for Pre-Construction Services.

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

AMENDMENT NO. 1

CITY shall compensate CONSULTANT for the satisfactory performance of services, including expenses, described in Amendment No. 1 an amount not to exceed Two Hundred Sixty Six Thousand Five Hundred One Dollars (\$266,501) at the rates set forth below for the Construction and Post-Construction Phases.

CONSULTANT shall submit an itemized monthly statement to CITY on a CITY approved form for its services performed, which shall include documentation setting forth in detail a description of the services rendered, and the hours of service. Said billing shall be on a time and materials basis utilizing the hourly rates set forth below. The estimated amount for general conditions is \$31,953 per month. CITY shall pay CONSULTANT the amount of such billing within thirty (30) days of receipt of same.

CONSULTANT shall not charge a fee for Change Orders.

If CITY authorizes scope changes during construction that are not included in the scope of services described herein, CONSULTANT shall submit the total not-to-exceed cost in writing and in advance, and if approved by the CITY's Project Manager, bill CITY on a time and materials basis at the rates set forth below. Payment for these services shall be from the Contingency. No billings may be made utilizing Contingency funds without the prior written authorization of the City's Project Manager.

Contingency for services outside the scope set forth in Exhibit A shall not exceed \$25,000.

The total fee, expenses and Contingency, if authorized under this Amendment No. 1, shall not exceed Two Hundred Ninety One Thousand Five Hundred One Dollars (\$291,501)

Total of original Agreement and Amendment No. 1 not to exceed Three Hundred Forty One Thousand Two Hundred Thirty Five (\$341,235).

Hourly Rates

Project Executive	\$212
Senior Project Manager	\$108
Project Manager	\$ 80