



## AGENDA REPORT

**Meeting Date:** March 4, 2014  
**Item Number:** D-7  
**To:** Honorable Mayor & City Council  
**From:** David Yelton, Acting City Building Official/Assistant Director of  
Community Development

**Subject:** AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
STEGEMAN AND KASTNER, INC. FOR CONSULTING SERVICES  
RELATED TO CONSTRUCTION OVERSIGHT COORDINATION  
SERVICES AT 9900 WILSHIRE BOULEVARD; AND

AUTHORIZE A PURCHASE ORDER APPROVAL IN THE AMOUNT  
OF \$717,647. FOR PROFESSIONAL CONSULTING SERVICES

**Attachments:** 1. AGREEMENT

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### **RECOMMENDATION**

It is recommended that the City Council approve an agreement between the City of Beverly Hills and Stegeman and Kastner, Inc. to provide construction management plan coordination services for the 9900 Wilshire Boulevard project; and authorize a purchase order approval in the amount of \$717,647 for the contracted services. Funds for this consultant are fully paid for by the developer as required by the project's Conditions of Approval.

### **INTRODUCTION**

The Community Development Department is recommending that Stegeman and Kastner, Inc. be hired to provide the City with professional construction management plan coordination services for the 9900 Wilshire Project. The selection of Stegeman and

Kastner, Inc. was reviewed and jointly selected by the Beverly Hills Unified School District and the City to provide construction management plan services. This is a multi-year contract with Stegeman and Kastner, Inc. providing services through June 30, 2016.

The Construction Management Plan Coordinator is retained to develop and maintain the Construction Management Plan pursuant to the Resolution "Conditions of Approval" on behalf of the City of Beverly Hills and Beverly Hills Unified School District. The developer shall pay for the Construction Management Plan Coordinator who shall be hired by and work for the City to develop and maintain compliance of the Construction Management Plan.

Project coordination services focus on construction mitigation measures developed as part of the Environmental Impact Report (EIR) as incorporated into the entitlement approval, which are broken down into different phases including start up, demolition, excavation, grading, shoring, and building development throughout the entire construction development process.

#### **DISCUSSION**

Staff is requesting the City Council approve an Agreement and a purchase order to Stegeman and Kastner, Inc. in the amount of \$717,647 to provide construction management plan services as selected by the City of Beverly Hills and Beverly Hills Unified School District. The Agreement with Stegeman and Kastner, Inc. shall provide construction management plan services as necessary in order to comply with the requirements of the developer's "Conditions of Approval" for the 9900 Wilshire Boulevard Project Development Agreement.

#### **FISCAL IMPACT**

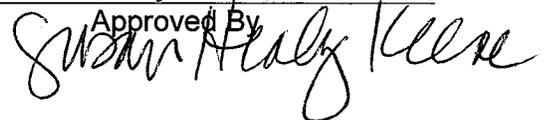
There is no fiscal impact to the City. All costs associated with the performance of construction management plan coordination services will be fully covered by the developers of the 9900 Wilshire project.

Don Rhoads  
Finance Approval



Susan Healy Keene, AICP

Approved By



# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
STEGEMAN AND KASTNER, INC. FOR CONSULTING SERVICES  
RELATED TO CONSTRUCTION OVERSIGHT COORDINATION  
SERVICES AT 9900 WILSHIRE BOULEVARD

NAME OF CONSULTANT: Stegeman and Kastner, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Fritz Kastner, CEO

CONSULTANT'S ADDRESS: 2601 Ocean Park Blvd., Suite 300  
Santa Monica, CA 90405  
Attention: Fritz Kastner, Chief Executive Officer

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

COMMENCEMENT DATE: Upon execution of the Agreement

TERMINATION DATE: June 30, 2016

CONSIDERATION: Professional fees not to exceed \$699,647 based on the  
hourly rates set forth in Exhibit B; Reimbursable  
expenses not to exceed \$18,000; Total not to exceed  
\$717,647

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
STEGEMAN AND KASTNER, INC. FOR CONSULTING SERVICES  
RELATED TO CONSTRUCTION OVERSIGHT COORDINATION  
SERVICES AT 9900 WILSHIRE BOULEVARD

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

RECITALS

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

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

NOW, THEREFORE, the parties agree as follows:

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

Section 2. Time of Performance.

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

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

Section 3. Compensation.

(a) Compensation

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

(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 and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

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

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

Section 7. Responsible Principal(s)

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

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

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

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

Section 10. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner

with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 11. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

Section 13. Termination.

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

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

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

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

Section 16. 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 17. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 18. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 19. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

Section 20. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

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

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

Section 23. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, 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: STEGEMAN & KASTNER, INC.

\_\_\_\_\_  
FRITZ KASTNER  
Chief Executive Officer

\_\_\_\_\_  
RANDALL FULTON  
Treasurer

[Signatures continue]

APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager



SUSAN HEALY KEENE  
Director of Community Development



KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall perform the following oversight services in connection with coordination of the Construction Management Plan for the 9900 Wilshire Boulevard project ("Project") in accordance with the Conditions of Approval of the Development Agreement (City Contract No. 110-08) ("Development Agreement"), and based on information contained in the Specific Plan and Conditions of Approval, including the Standard Conditions List for the Planning Commission and the Mitigation Monitoring Plan, the Final Environmental Impact Report Reso. 08-R-12497, the Tract Map No. 67884, Subdivision Extension Letter of October 19, 2011, and the Preliminary Construction Schedule dated May 13, 2013.

#### **Scope of Services**

CONSULTANT shall act as the "Construction Management Plan Coordinator" during a Start Up and Demolition Phase with an anticipated duration of 6 months, followed by an Excavation and Shoring Phase with an anticipated duration of 7 months. In addition, there is the relocation of a major MWD water main, which will occur during this timeframe. The specifics of these activities shall be as described in the Construction Management Plan and Construction Schedule approved by the CITY. In accordance with Article 34 of the Development Agreement, CONSULTANT shall develop and maintain the Construction Management Plan for the duration of the Project.

The Scope of Services is based on the specific requirements of the Conditions of Approval, in particular on the provisions of Article 33 a through j of the Development Agreement, and the requirement to monitor compliance with these provisions. This work shall be performed by CONSULTANT in close coordination with the CITY's Environmental Compliance Monitor. The implementation of the monitoring program will involve careful documentation and reporting and associated document control. More specifically, CONSULTANT anticipates the following requirements.

#### 1. Start Up and Demolition Phase (anticipated duration of 6 months)

The Scope of Work shall include items such as:

- Initial meetings with all concerned entities, including CITY, City of Beverly Hills School District ("School District"), El Rodeo School and other public entities
- Review project documentation
- Preparation of a summary of items to be monitored
- Assistance in the assembly of the CITY project team
- Assist in the establishment of the Scope of Work of other project consultants
- Review scope of the proposed mitigation monitoring baseline testing
- Coordinate work effort with the Environmental Compliance Monitor
- Review adherence of baseline testing parameters to the provisions of the EIR
- Assist the project team in the coordination with the School District in the installation of all monitoring equipment
- Prepare the Construction Management Plan in collaboration and coordination with the project applicant
- Maintain and update the Construction Management Plan
- Review the Construction Management Plan with the CITY, the School District and other public entities
- Participate in meetings, provide recommendation and resources in connection with the development, modification and implementation of the Mitigation Monitoring Plan
- Attend the regular OAC (Owner, Architect, Contractor) meetings
- Provide copies of the initial and updated Construction Management Plan to all public entities as required

- Confirm regular updates of information on the public projects web-site
- Provide support including on site assistance to the Environmental Compliance Monitor as required
- Provide documentation including meeting minutes of meetings chaired by CONSULTANT.
- Consult on mitigation issues as identified in the complaint log as requested
- Coordinate Review of the Traffic Study and identify and make recommendations regarding mitigation measures
- Provide monthly reports as required to the CITY for distribution
- Coordinate with the project team the identification and mitigation options of the Mitigation Monitoring Plan
- Review test results and reports as requested by CITY
- Conduct field reviews as requested to observe conditions in the area of El Rodeo School

2. Excavation and Shoring Phase (anticipated duration of 7 months)

The Scope of Work shall include items such as:

- Update the Construction Management Plan in collaboration and coordination with the project applicant
- Participate in meetings, provide recommendation and resources in connection with the development, modification and implementation of the Mitigation Monitoring Plan
- As part of updating the Construction Management Plan provide issue resolution services
- Attend the regular OAC (Owner, Architect, Contractor) meetings
- Provide updated copy of the Construction Management Plan to public entities as requested by the City
- Confirm regular updates of information on the public projects web-site
- Provide support including on site assistance to the Environmental Compliance Monitor as required
- Identify impacts and coordinate resolution of the impacts as part of the Mitigation Monitoring Plan
- Review test results and reports as requested
- Provide documentation including meeting minutes of meetings chaired by CONSULTANT.
- Consult on mitigation issues as identified in the complaint log as requested
- Review the traffic study prepared by CITY's traffic consultant, identify and make recommendations regarding mitigation measures
- Provide monthly reports as required to the CITY for distribution

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

<b>1. Start Up and Demolition Phase:</b>	<b>NOT TO EXCEED</b>
Assuming a duration of 6 months, CONSULTANT anticipates a manpower requirement of 1,955 hours	<b>\$ 392,475</b>
<b>2. Excavation and Shoring Phase:</b>	
Assuming a duration of 7 months, CONSULTANT anticipates a manpower requirement of 1,827 hours	<b>\$ 307,475</b>
Professional Services	<b>\$ 699,647</b>
<b>Total Not to Exceed</b>	<b>\$717,647</b>

The following standard rate schedule effective January 1, 2014 is subject to revision on an annual basis upon giving CITY thirty (30) days prior written notice.

<b><u>RATES:</u></b>	<b><u>Hourly:</u></b>
Principal	\$224.00
Project Executive	\$203.00
Senior Project Manager	\$185.00
Project Manager	\$170.00
Assistant Project Manager	\$150.00
QA/QC Manager	\$150.00
Senior Estimator	\$125.00
Senior Scheduler	\$125.00
Project Engineer	\$ 98.00

**Reimbursable Expense Rates:**

All reimbursables reasonably incurred in the performance of the Agreement will be charged at cost without markup in an amount not to exceed \$18,000 for:

Photocopy/Reproduction Rate - BW	\$ .10/page
Photocopy/Reproduction Rate - Color	\$ .50/page
Mileage, adjusted to I.R.S. standard rate	
Parking	
Long Distance Telephone	
Printing	
Messenger & Delivery Services	
Travel: Airfare, Hotel, Cab Fares, Rental Car	

Subcontracts: Will be charged at cost plus 5%

EXHIBIT C

CERTIFICATE OF INSURANCE

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

**NAMED INSURED**

**COMPANIES AFFORDING COVERAGE**

**ADDRESS**

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/C LETED OPER T ONS <input type="checkbox"/> BLANKET CONTR CTUAL <input type="checkbox"/> CONTRACTOR'S P OTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKER'S COMPENSATION					

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

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

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

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

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

DATE : \_\_\_\_\_ BY : \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized Insurance Representative

AGENCY : \_\_\_\_\_ TITLE : \_\_\_\_\_  
 \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_