



## AGENDA REPORT

**Meeting Date:** February 17, 2015  
**Item Number:** D-15  
**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 ELECTRIC FOUNTAIN BLOCK BEVERLY GARDENS PARK PROJECT; AND APPROVAL OF A CHANGE PURCHASE ORDER IN THE AMOUNT OF \$342,019 TO MATT CONSTRUCTION CORPORATION FOR THE SERVICES  
**Attachments:** 1. Agreement

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### **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 Electric Fountain Block project, and approve a Change Purchase Order in the amount of \$342,019 for construction management services. The total amount of the agreement and the amendment is \$374,905.

### **INTRODUCTION**

This amendment to the agreement with Matt Construction Corporation provides for the necessary construction management services for construction of the project. It accompanies the other agreement for construction administration services with Mia Lehrer and Associates and the award of multiple trade contracts (sub-contracts).

### **DISCUSSION**

The first phase of the Beverly Gardens Park restoration addressed the Lily Pond between Canon Drive and Beverly Drive and was completed in January 2014.

The next project is Block #21 referred to as the "Electric Fountain Garden" between Walden Drive and Carmelita Avenue of Beverly Gardens Park. The Electric Fountain work includes the restoration of the fountain, tiles around the fountain, bollards and concrete bench, planting, hedge screening, decomposed granite paving, curb edging, pathway and accent lighting and reconfiguration of the paths to the corner street crossing.

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 the 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 \$32,886 was executed under the authority of the City Manager.

Staff proposes to contract for construction management services to assure the project meets the project budget, is built on schedule and is of the highest quality. In general, Amendment No. 1 specifies site supervision to manage and coordinate the prime trade contractors' site activities; provide schedule updates; monitor construction for any changed conditions (change orders) and submit payment applications; manage processes for submittals and requests for clarifications; and coordinate contractor safety procedures.

Total compensation for services under this amendment is \$342,019, comprised of a fee of \$81,729, general condition expenses of \$248,510 (for a construction period of five and one-half months), post-construction management services for \$1,780 and an additional \$10,000 for contingencies.

The construction manager's fee is based on 5½% of the project construction cost and represents the firm's profit and general office overhead.

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.

### **FISCAL IMPACT**

The total amount of this amendment has been included in the funding described in the accompanying agenda report for the award of multiple trade contracts (sub-contracts) to be approved by the City Council for the Beverly Gardens Restoration Project #0485.

David Lightner  
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 ELECTRIC FOUNTAIN BLOCK BEVERLY GARDENS PARK PROJECT

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, 2015

CONSIDERATION: Original Agreement  
Not to exceed \$29,886.00, including all reimbursable expenses as described in Exhibit B;  
  
Contingency shall not exceed \$3,000.00 as described in Exhibit B;

Amendment No. 1  
Not to exceed \$332,019 for professional fees and reimbursable expenses as described in Exhibit B;  
  
Contingency shall not exceed \$10,000 as described in Exhibit B;

Total of Amendment No. 1 not to exceed \$342,019

Total of original Agreement and Amendment No. 1 not to exceed \$374,905

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

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 September 23, 2014, and identified as Contract No. 513-14.

RECITALS

A. CITY entered into a written contract with CONSULTANT for preconstruction services related to the Beverly Gardens Park Electric Fountain Block #21 Project to be located along North Santa Monica Boulevard between Carmelita Avenue and Walden Drive ("Project").

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 of the Project, and increase the Compensation for these services.

C. 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 11, entitled "Insurance" shall be amended to read as follows:

"Section 11. Insurance.

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

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

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

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

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

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

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

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

(e) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general liability insurance shall contain an endorsement naming the CITY 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 3. Section 12, entitled "Indemnification" shall be amended to read as

follows:

"Section 12. Indemnification. CONSULTANT shall 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 4. Exhibit A, entitled "Scope of Work," shall be amended as attached

hereto and incorporated herein.

Section 5. Exhibit A-2, entitled "Progress Schedule," shall be added to the

Agreement as attached hereto and incorporated herein.

Section 6. Exhibit A-3, entitled "CONSULTANT's Key Personnel," shall be

added to the Agreement as attached hereto and incorporated herein.

Section 7. Exhibit B, entitled "Schedule of Payment and Rates," shall be

amended as attached hereto and incorporated herein.

Section 8. 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

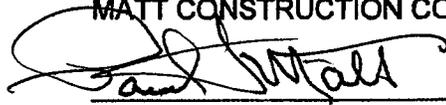
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)

\_\_\_\_\_  
BYRON POPE  
City Clerk

CONSULTANT:  
MATT CONSTRUCTION CORPORATION



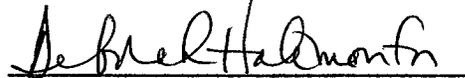
\_\_\_\_\_  
PAUL MATT  
Chairman of the Board

JAM



\_\_\_\_\_  
ALAN MATT  
Executive President/Treasurer

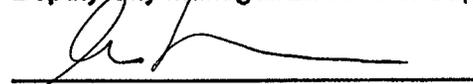
APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT

\_\_\_\_\_  
MAHDI ALUZRI  
Interim City Manager

  
\_\_\_\_\_  
for DAVID LIGHTNER  
Deputy City Manager/Director of Capital Assets

  
\_\_\_\_\_  
ALAN SCHNEIDER  
Director of Project Administration

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

EXHIBIT A  
SCOPE OF WORK

**A. 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 Electric Fountain Block #21 as described more fully in Exhibit A-1 attached hereto and incorporated herein ("Project"), located along Santa Monica Boulevard between Carmelita Avenue and Walden Drive respectively in Beverly Hills, California, 90201, in accordance with proposal, dated August 29, 2014.

**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:

*Estimating*

- Develop cost estimate based on latest project plans and specs to be issued by MLA Green, Inc. around first week in September

*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 Package*

- Develop Bid Package 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

**B. AMENDMENT NO. 1**

**SCOPE FOR CONSTRUCTION & POST CONSTRUCTION PHASES**

CONSULTANT shall provide construction management services in connection with the CITY's Beverly Gardens Park project, specifically the Electric Fountain Block #21 ("Project"), located along Santa Monica Boulevard between Carmelita Avenue and Walden Drive respectively in Beverly Hills, California, 90201, in accordance with CONSULTANT's proposal, dated January 27, 2015. The construction progress schedule is described in Exhibit A-2, attached hereto and incorporated herein.

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

**Management & Supervision**

Provide Site Supervision to orchestrate, control, coordinate Prime Contractor site activities, MEP coordination, collaboration with CITY and Consultants. Monitor progress of work.

**Schedule**

Provide schedule updates as work progresses on regular basis.

**Accounting**

Open book accounting approach for financial aspects for the Project. Monitor Costs, Lead Change Management process, Develop and implement review process of Prime Contractor Payment Applications, compile Prime Contractor Invoices and prepare Schedule of Values.

**Document Control**

Implement Document Management system and process. Manage processes for Submittals, Requests for Information, Change Order Management, and Close-Out.

**Safety and Quality Control**

Coordinate Prime Contractor Safety Programs and implement required safety processes and procedures for a safe and productive jobsite. Implement Quality Control program to ensure the highest possible level of execution for the work installed.

**C. CONSULTANT PERSONNEL**

CONSULTANT's Key Personnel for the Project is set forth in Exhibit A-3 attached hereto and incorporated herein.

## EXHIBIT A-1

### PROJECT DESCRIPTION

The proposed Project consists of 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 up-lights at specimen trees.

Project design is based on the Bid Set of Construction Documents, dated September 12, 2014 prepared by Mia Lehrer & Associates for Block #21.

## EXHIBIT A-2

### PROGRESS SCHEDULE

The construction schedule shall not exceed 5-1/2 months from commencement of construction to substantial completion unless, in the opinion of CITY's Project Manager, there are verifiable unforeseen conditions or changes in scope.

Project start date shall be based on CITY's award of prime contracts on February 17, 2015.

EXHIBIT A-3

CONSULTANT's KEY PERSONNEL

**Project Staff**

Jim Muenzer  
Drew Wesling  
Nolan Caldwell  
To be determined

**Title**

Project Executive  
Senior Project Manager  
Project Engineer  
Project Superintendent

CONSULTANT's key personnel listed above shall not be changed without the prior written approval of CONSULTANT.

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

#### **ORIGINAL AGREEMENT**

CITY shall compensate CONSULTANT for the satisfactory performance of services, including reimbursable expenses, an amount not to exceed Twenty Nine Thousand Eight Hundred Eighty-six Dollars (\$29,886.00) for Pre-Construction Services

In the event the City authorizes in writing Contingency services not included as a part of the services described herein, the payment shall be based on the hourly rates in Exhibit A or a lump sum as may be mutually agreed, but shall not exceed Three Thousand Dollars (\$3,000.00).

#### **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 Eighty One Thousand Seven Hundred Twenty Nine Dollars (\$81,729.00) 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 above. The estimated amount for general conditions is \$45,183.00 per month for a period of five and one half (5-1/2) months for a not to exceed amount of \$248,510.00. General conditions for Management Services for the post construction phase for a period of 5 calendar days is \$1,780.00.

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. Payment for these services shall be from the Contingency, an amount not to exceed \$10,000.00. No billings may be made utilizing Contingency funds without the written authorization of the CITY's Project Manager.

The total fee, expenses and Contingency, if authorized, shall not exceed Three Hundred Forty Two Thousand Nineteen Dollars (\$342,019.00)

Total of original Agreement and Amendment No. 1 shall not to exceed Three Hundred Seventy Four Thousand Nine Hundred Five Dollars (\$374,905.00).

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.