



## AGENDA REPORT

**Meeting Date:** September 1, 2015  
**Item Number:** D-14  
**To:** Honorable Mayor & City Council  
**From:** Alan Schneider, Director of Project Administration   
**Subject:** APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND RTK ARCHITECTS, INC. FOR CONSULTANT DESIGN SERVICES RELATED TO THE BEVERLY GARDENS RESTROOM BUILDING AT CANON DRIVE; AND  
APPROVAL OF A PURCHASE ORDER IN THE AMOUNT OF \$83,050 TO RTK ARCHITECTS, INC. FOR THE SERVICES

**Attachments:**

1. Agreement
2. Categorical Exemption

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### **RECOMMENDATION**

Staff recommends that the City Council move to approve an Agreement between the City of Beverly Hills and RTK Architects, Inc. for consulting design services related to the Beverly Gardens Park Restroom Building at Canon Drive project, and approve a Purchase Order in the amount of \$83,050 for these services.

### **INTRODUCTION**

The existing restroom building in Beverly Gardens Park, located on N. Canon Drive was last renovated in 1984. That remodel created disabled access to the facility and replaced the plumbing fixtures with vandal-resistant products. In conjunction with the Beverly Gardens restoration program the Lily Pond and Electric Fountain are the first two projects to be restored. The development of a veteran's memorial integrated with the existing Hunter & Hounds sculpture is in process on the same block with the restroom building in Beverly Gardens between Canon Drive and Crescent Drive. That project is currently in the design phase and construction documents will soon begin.

The proposed agreement is for architectural and engineering services to replace the existing restroom building as part of the restoration plan for this block.

## **DISCUSSION**

The existing restroom building has provided adequate public service for park users for over 30 years. The condition however requires refurbishment of the interior finishes and plumbing fixtures. In addition the building contains some non-functional spaces, such as an open covered space to provide shelter for Metro bus riders and a large storage / maintenance room for park maintenance staff. Due to limited use of the bus shelter and park maintenance operations that no longer require a large storage room, a more functional building plan has been considered. Consequently, within the existing building footprint of approximately 800 square feet, staff recommends that the restroom capacity be expanded to serve larger public events, such as the biannual art fair.

RTK Architects were engaged to prepare a conceptual design study for a new restroom building. This concept (attached to the agreement), will serve as the basis for the project design development. The proposed new design eliminates the bus shelter, contains a smaller maintenance room and would increase the restroom capacity from three (3) plumbing fixtures to six (6) in the women's room and from three (3) to five (5) fixtures in the men's room.

The proposed scope of design services includes the following:

- Complete Design Development package including drawings and outline specifications
- Prepare statement of probable cost
- Complete Construction Documents package
- Obtain building permit
- Assist City in bidding process
- Construction administration

The conceptual design was evaluated for project cost based on cost data from contractors working on City projects and the recently completed Roxbury field restroom building. A range from \$500,000 to \$600,000 for construction is staff's estimation. Further cost evaluation will be made during the design phase.

The fee proposal for the above services under this agreement is \$76,550. In addition, a contingency of \$5,000 and reimbursable expenses not to exceed \$1,500 are included for a total amount of \$83,050.

The agreement calls for a project schedule with design development documents completed in three weeks followed by construction documents in five weeks.

The Department of Community Development has reviewed the project for environmental impact and concluded that the project qualifies for a categorical exemption under the procedures adopted by the City of Beverly Hills, and no further environmental assessment is necessary.

Meeting Date: September 1, 2015

**FISCAL IMPACT**

Funding for this agreement is allocated in the fiscal year 2015-16 Capital Improvement Program (CIP) budget from the Beverly Gardens Park project #0485.



David E. Lightner  
Approved By

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# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND RTK ARCHITECTS, INC. FOR CONSULTANT DESIGN  
SERVICES RELATED TO THE BEVERLY GARDENS  
RESTROOM BUILDING AT CANON DRIVE

NAME OF CONSULTANT: RTK Architects, Inc.

CONSULTANT'S DESIGNATED REPRESENTATIVE: Mandana Motahari, Principal

CONSULTANT'S ADDRESS: 3975 Landmark Street, Suite 400  
Culver City, CA 90232

CITY'S ADDRESS: City of Beverly Hills  
345 Foothill Road  
Beverly Hills, CA 90210  
Attention: Alan Schneider  
Director of Project Administration

COMMENCEMENT DATE: Upon receipt of Notice to Proceed

TERMINATION DATE: June 30, 2016

CONSIDERATION: Professional fees not to exceed \$76,550,  
based on the rates set forth in Exhibit B-2;

Contingency for additional work not to  
exceed \$5,000.00, as more fully described in  
Exhibit B-1;

Reimbursable expenses not to exceed  
\$1,500, as more fully described in Exhibit  
B-1;

Total compensation, including Professional  
Fees, Contingency and Reimbursable  
Expenses, not to exceed \$83,050.00

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND RTK ARCHITECTS, INC. FOR CONSULTANT DESIGN  
SERVICES RELATED TO THE BEVERLY GARDENS  
RESTROOM BUILDING AT CANON DRIVE

THIS AGREEMENT is entered between the City of Beverly Hills (“City”) and RTK Architects, Inc. (“Consultant”), a California corporation.

R E C I T A L S

- A. City desires to obtain the services of a consultant to provide design services for the Beverly Gardens Restroom Building located at North Canon Drive (Project”).
- B. Consultant represents that it is licensed, qualified and able to perform the services.
- C. Pursuant to the authority provided by Government Code Section 37103, City desires to engage Consultant to design the Project in the manner set forth herein and more fully described in Exhibit A, attached hereto and incorporated herein.

NOW, THEREFORE, the parties agree as follows:

Section 1. Scope and Level of Services.

- (a) Subject to the terms and conditions set forth in this Agreement, City hereby engages Consultant, and Consultant hereby accepts such engagement, to perform the technical and professional services necessary to prepare all drawings, specifications, design and other documents for the Project as described in Exhibit A.
- (b) In providing the Consultant's services, Consultant shall review applicable laws, statutes, ordinances, codes, and other regulations affecting the Project, including without limitation, for the purpose of determining accessibility requirements, the State of California handicap accessibility requirements and seismic requirements (collectively, "Laws"). Consultant shall prepare all design documents in compliance with such Laws.
- (c) Consultant hereby represents and agrees that it has the experience necessary to undertake the services to be provided herein. In light of such status and experience, Consultant hereby covenants that it shall follow the customary professional standards in performing all services required hereunder.
- (d) Consultant shall provide prompt written notice to City if Consultant becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Consultant's plans, specifications or working drawings.
- (e) By executing this Agreement, Consultant agrees that, to the extent required by the standard of practice, Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be

performed, and (iii) understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. Consultant agrees that Consultant, to the extent required by the standard of practice, has investigated the visible portions of the construction site(s) and is reasonably acquainted with the conditions there existing. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform City of such fact and shall not proceed until written instructions are received from the City Representative.

Section 2. Time of Performance. Consultant shall commence the services described in Section 1 upon the City's giving to Consultant a written notice to proceed and shall diligently prosecute the services to completion on or before the Completion Date set forth in the Basic Contract Terms on the first page of this Agreement and in accordance with the Milestone Schedule attached hereto and incorporated herein as Exhibit A.

Section 3. Compensation; Terms of Payment. City agrees to pay to Consultant, and Consultant agrees to accept in full satisfaction for the services described in this Agreement, an amount not to exceed the amount set forth above and further described in Exhibit B-1, attached hereto and incorporated herein and hourly rates described in Exhibit B-2, attached hereto and incorporated herein. City shall pay Consultant said consideration in accordance with the payment terms set forth in Exhibit B-1.

Section 4. City's Designated Representative and Consultants. The City's Designated Representative shall be authorized to act on the City's behalf with respect to the Project and shall be permitted to issue consents and approvals on behalf of City, but shall have no authority to issue changes or approve additional services which increase the Consultant's compensation hereunder. Consultant covenants with City to cooperate with, and to cause its consultants, approved by City, to cooperate with, City's Designated Representative and City's consultants in connection with the services provided by Consultant hereunder.

Section 5. Independent Contractor. Consultant is and shall at all times remain a wholly independent contractor with respect to City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees. 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. This Agreement shall not and is not intended to make Consultant an agent, servant, or employee of City and shall not and is not intended to create the relationship of partnership, joint venture or association between City and Consultant.

Section 6. Assignment. This Agreement covers professional services of a specific and unique nature. This Agreement may not be assigned in whole or in part by Consultant, without the prior written consent of City. Consultant shall not assign, transfer, or subcontract any interest in this Agreement or the performance of any of Consultant's obligations hereunder. Any attempt by Consultant to so assign, transfer, or subcontract any rights, duties, or obligations arising hereunder shall be null, void and of no effect.

Section 7. Personnel.

(a) The Consultant's Designated Representative is authorized to act on the Consultant's behalf with respect to City. The members of Consultant's staff shall be responsible for fulfilling Consultant's obligations under this Agreement. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform Consultant's services under this Agreement. Consultant shall at all times be responsible for satisfactory performance of all personnel engaged in performing services required by this Agreement. All personnel used by Consultant in the performance of the services required pursuant to this Agreement shall be qualified by training and experience to perform their assigned tasks. At the request of City, Consultant shall not use any personnel hereafter deemed by City to be incompetent, careless, unqualified to perform the work assigned to him, or otherwise unsatisfactory to City. Consultant represents and warrants that RTK Architects, Inc. are licensed California architects and shall keep and maintain such licenses in good standing and in full force and effect at all times while Consultant is performing services included in this Agreement.

(b) All services required under this Agreement shall be performed by Consultant or under Consultant's direct supervision, and all personnel shall possess the qualifications, permits, and licenses required by State and local law to perform such services.

(c) Consultant shall be responsible for payment of all employees' and subconsultants' wages and benefits, and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

(d) Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials, from any and all liability, damages, claims, costs and expenses of any nature arising from Consultant's alleged violations of personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 7.

Section 8. Conflicts of Interests. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Consultant shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement. Consultant agrees not to accept any employment or representation during the term of this Agreement which is or may likely make Consultant "financially interested" (as provided in California Government Code Sections 1090 and 87100) in any decision made by City on any matter in connection with which Consultant has been retained pursuant to this Agreement.

Section 9. Insurance. The following insurance shall be provided and maintained by Consultant:

(a) Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form No. CG00 01 11 85 or 88. Total limits shall be no less than two million dollars (\$2,000,000) per occurrence for all coverages and two million dollars (\$2,000,000) general aggregate. City and its employees and agents shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 (in no event will City accept an endorsement form with an edition date later than 1990). Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any employee or agent of City.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered under the umbrella policy. Coverage shall be following form to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion. Policies shall have concurrent starting and ending dates.

(b) Business Auto/Umbrella Liability Insurance. Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto). Limits shall be no less than two million dollars (\$2,000,000) per accident. Starting and ending dates shall be concurrent. If Consultant owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(c) Worker's Compensation/Employer's Liability Insurance. Coverage shall be written on a policy form providing worker's compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects the City, its employees or agents.

(d) Professional Liability Insurance. Coverage shall be written on a policy form providing "design professional liability" or "architects and engineers" liability insurance or equivalent coverage. The policy limit shall be no less than one million dollars (\$1,000,000) per claim and in the aggregate.

(e) Unless otherwise approved by City in writing, Consultant's insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best's Insurance Guide rating of "A-:IV." Self-insurance will not be considered to comply with these insurance specifications.

(f) Except for Workers Compensation, 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.

(h) Consultant agrees to provide evidence of the insurance required herein, consisting of certificate(s) of insurance on the form attached as Exhibit C, attached hereto and incorporated herein, evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability and umbrella liability policies using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide thirty (30) days' notice of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Consultant agrees to provide complete copies of policies to City upon request.

(i) Consultant agrees to require all consultants and other parties hired for the Project to maintain insurance which meets all of the requirements of this Agreement. Consultant agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Consultant agrees to require that no contract used by any consultant, or contracts Consultant enters into, will reserve the right to charge back to City the cost of insurance required by this Agreement. Consultant agrees that upon request, all agreements with consultants or others with whom Consultant contracts on behalf of City, will be submitted to City for review. Failure of City to request copies of such agreement will not impose any liability on City, or its employees.

(j) Consultant shall not commence the performance of the services until the above insurance has been obtained and certificate(s) of insurance evidencing all of the coverages required and additional insured endorsement(s) have been filed with and approved by City. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless, and defend under this Agreement.

#### Section 10. Indemnification.

(a) In connection with the design professional services required by this Agreement, and to the maximum extent permitted by law, Consultant shall defend, hold harmless and indemnify City, and its elected officials, officers, employees, designated volunteers, and agents serving as independent contractors in the role of city officials, ("Indemnitees"), from any claim, demand, damage, liability, loss, cost or expense, including but not limited to death or injury to any person and injury to any property ("claims"), arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant or any of its officers, employees, subconsultants, or agents in the performance of its professional design services under this Agreement. Consultant shall defend Indemnitees in any actions filed in connection with any such claims with counsel of Indemnitees' choice, and shall pay all costs and expenses, including actual attorney's fees, incurred in connection with such defense.

(b) In connection with all claims not covered by Paragraph (a), and to the maximum extent permitted by law, Consultant shall defend, hold harmless and indemnify Indemnitees from any claim, demand, damage, liability, loss, cost or expense, including but not

limited to death or injury to any person and injury to any property (“claims”), arising out of, pertaining to, or relating to Consultant's performance of this Agreement. Consultant shall defend Indemnitees in any action or actions filed in connection with any such claims with counsel of Indemnitees' choice, and shall pay all costs and expenses, including actual attorney's fees, incurred in connection with such defense. Consultant's duty to defend pursuant to this Section 10 shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions of Indemnitees.

(c) All duties of CONSULTANT under this Section 10 shall survive termination of the Agreement.

Section 11. Termination by City.

(a) City may cancel this Agreement at any time upon five (5) days written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by City, due to no fault or failure of performance by Consultant, Consultant shall be paid full compensation for all services satisfactorily performed by Consultant in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, Consultant shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation based on the hourly rates set forth in Exhibit B-2, provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid Consultant for the full performance of the services required by this Agreement.

(c) In the event that the City's termination is based on a default by Consultant, City may pursue any and all rights and remedies it may have at law or in equity, and City's pursuit of any such right or remedy shall not be deemed a waiver of any other right or remedy of City.

(d) In the event of termination under this Section, City may retain another Consultant for the Project.

Section 12. Ownership of Work Product.

(a) Ownership of Plans. All plans, specifications, reports, studies, tracings, maps, drawings, blueprints, or other written material prepared or obtained by Consultant in the course of performing the services required by this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City, and Consultant shall convey and transfer all copyrightable interests in such plans, specifications, reports, studies, tracings, maps, drawings, blueprints, documents, and in the Building to City. Basic survey notes, sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to City. Such material shall not be the subject of a copyright application by Consultant. Any alteration or reuse by City of any such materials on any project other than the Project for which they were prepared shall be at the sole risk of City unless City compensates Consultant for such use. City agrees to indemnify, defend and

hold harmless Consultant against any claims, losses, costs or damages as a result of City's alteration or reuse of such plans, drawings and specifications without compensation to Consultant. In the event of the return of the plans, drawings or specifications to Consultant or its representative, Consultant shall be responsible for their safe return to City. Consultant shall be entitled to retain copies of the plans, drawings and specifications for Consultant's files. Under no circumstances, other than non-payment, shall Consultant fail to deliver any draft or final plans, drawings or specifications to City upon written demand by City for their delivery, notwithstanding any disputes between Consultant and City concerning payment, performance of the Agreement, or otherwise unless City has failed to pay Consultant any undisputed amount lawfully due Consultant under this Agreement. This covenant shall survive the termination of this Agreement.

(b) Title to Intellectual Property. Consultant represents that it has secured all necessary licenses, consents or approvals to use the components of any intellectual property, including computer software, used in the rendering of services and the production of the materials produced under this Agreement, and that City has full legal title to and the right to reproduce such materials. Consultant agrees to defend, indemnify and hold City, and its elected officials, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials, harmless from any loss, claim or liability in any way related to a claim that City is violating federal, state or local laws, or any contractual provisions, relating to trade names, licenses, franchises, patents or other means of protecting interests in products or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked materials, equipment, devices or processes used on or incorporated in the services and materials produced under this Agreement. In case such materials, equipment, devices or processes are held to constitute an infringement and their use is enjoined, Consultant, at its expense, shall: (i) secure for City the right to continue using the materials by suspension of any injunction or by procuring a license or licenses for City; or (ii) modify the materials so that they become non-infringing. This covenant shall survive the termination of this Agreement.

Section 13. Effect of City Approvals. City's approval of any documents prepared in connection with the Project (in City's proprietary capacity under this Agreement as the owner of the Project) shall not be deemed to limit Consultant's liability under this Agreement or otherwise affect Consultant's duties and responsibilities under this Agreement.

Section 14. Confidentiality. Consultant, in the course of its duties, may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this section shall survive the termination of this Agreement.

Section 15. Attorneys' Fees. In the event either party to this Agreement shall institute any action or proceeding against the other party to this Agreement, which action or proceeding concerns a controversy arising out of this Agreement, the prevailing party in such

action or proceeding shall be entitled to reimbursement from the unsuccessful party for all reasonable costs and reasonable attorneys' fees arising out of such action or proceeding. In addition to the foregoing award of reasonable attorneys' fees and costs, the prevailing party shall be entitled to its reasonable attorneys' fees and costs incurred in any post-judgment or post-arbitration proceedings to enforce any judgment in connection with this Agreement. This provision is separate and several and shall survive the merger of this provision into any judgment.

Section 16. Notices. Any notice required to be given by this Agreement shall be deemed duly and properly given upon delivery, if sent by U.S. mail, postage prepaid, return receipt requested, to the address set forth on the first page of this Agreement, or personally delivered to such address or other address specified in writing and delivered in accordance with the requirements of this Section.

Section 17. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

Section 18. 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 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. Time of Essence . Time is of the essence of this Agreement. Consultant acknowledges that City is entering into this Agreement based on the representation that the Consultant's schedule contained in Exhibit A can be maintained. In the event City determines that the progress of Consultant's work and services is behind the progress anticipated in the schedule (and not due to events caused by City), City may require Consultant to take such actions as City deems necessary to expedite progress of the work and services in conformance with the progress anticipated by the schedule, which actions may include, without limitation, increasing the number of workmen performing the work and services, utilizing overtime work and requiring additional work shifts. Such action by City to place Consultant back on schedule shall not entitle Consultant to receive any additional compensation for these activities. In addition, if the Project is delayed due to Consultant's fault, negligence or breach of this Agreement, Consultant shall be responsible for the reasonable additional costs and expenses incurred by City, including without limitation, any acceleration costs, impact costs and any additional compensation due to City's other consultants, as a result of such delays, to the extent permitted by California law.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, at Beverly Hills, California.

City:  
CITY OF BEVERLY HILLS,  
a municipal corporation

\_\_\_\_\_  
JULIAN A. GOLD, M.D.  
Mayor of the City of Beverly Hills, California

ATTEST:

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

Consultant: RTK ARCHITECTS, INC.,  
A California corporation

\_\_\_\_\_  
MANDANA MOTAHARI  
President

\_\_\_\_\_  
PHILLIP TRIGAS  
Secretary

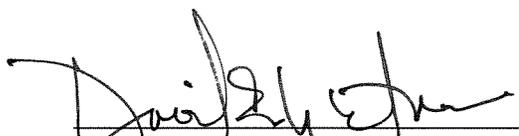
APPROVED AS TO FORM:

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

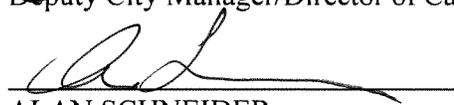
APPROVED AS TO CONTENT:

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

[Signatures continue]



DAVID E. LIGHTNER  
Deputy City Manager/Director of Capital Assets



ALAN SCHNEIDER  
Director of Project Administration



KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF SERVICES

Consultant shall perform the following services in connection with the development of a new public restroom facility located in Beverly Gardens Park on North Canon Drive. The restroom building replaces the existing structure at the same location with an expanded facility of approximately 800 square feet. Conceptual design studies have been prepared dated November 12, 2014 by RTK Architects, Inc. (Consultant) and serve as the basis for the design development of this project (Attachment 1).

Scope of Services includes the following and is further described in following articles:

- Complete Design Development package including drawings and outline specifications
- Prepare statement of probable cost
- Complete Construction Documents package
- Obtain building permit
- Assist City in bidding process
- Construction administration

#### ARTICLE 1. GENERAL RESPONSIBILITIES

A schedule for the development and construction of the Project, including a schedule for the performance of Consultant's services, is attached hereto as Exhibit A-1. Any adjustments to Consultant's schedule shall be of no force and effect unless such adjustments are agreed to in writing by City or are delays in Consultant's performance caused for reasons beyond the control of Consultant.

#### ARTICLE 2. CHANGES IN CONSULTANT'S SERVICES

Changes in services of Consultant, including services required of Consultant's sub-consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, provided that changes in the services required of Consultant are initiated by City, would entitle Consultant to an adjustment in compensation, and Consultant obtains City's prior written authorization for an adjustment in compensation in each instance. Such adjustment in compensation shall be made by mutual agreement of the parties.

#### ARTICLE 3. PROJECT ADMINISTRATION

- A. Consultant shall manage Consultant's services and administer the Project. Consultant shall consult with City, research applicable design criteria, attend Project meetings during and through completion of the Design phase prior to commencement of construction documents phase, communicate with members of the Project team and issue progress reports. Consultant shall coordinate the services provided by Consultant and Consultant's consultants with those services provided by City and City's consultants.

- B. Upon written request of City, Consultant shall prepare for City's and City's Designated Representative's review and approval, an update of Consultant's portion of the progress schedule attached hereto as Exhibit A-1 that shall identify milestone dates for decisions required of City, design services furnished by Consultant, and completion of documents provided by Consultant. Such update schedule shall be consistent with the initial Progress Schedule attached hereto as Exhibit A-1.
- C. Consultant shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.
- D. Upon request of City, Consultant shall make a presentation to explain the design of the Project to representatives of City or as otherwise requested by City.
- E. Consultant shall submit design documents to City at intervals appropriate to the design process for purposes of evaluation and approval by City. Consultant shall be entitled to rely on written approvals received from City in the further development of the design except as limited by Section 4 of the Agreement.
- F. If requested by City's Designated Representative, Consultant shall assist City in connection with City's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

#### ARTICLE 4. EVALUATION OF BUDGET AND COST OF THE WORK

- A. City shall engage a qualified professional to prepare estimates of the cost of the work for the Project (the "Cost of Work") at the end of the Design Development and Construction Document phases. Consultant shall review the estimates and advise City of any suggested adjustments to the estimates of the Cost of the Work required by changes in Project requirements. If at any time the estimate of the Cost of the Work exceeds City's budget, Consultant shall make appropriate recommendations to City to adjust the Project's size, quality or budget.
- B. Omitted
- C. In preparing estimates of the Cost of the Work, Consultant shall be permitted to include contingencies for design; to reasonably assume (unless known) what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project with City's prior written approval and, with City's prior written approval in each instance, to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet City's budget for the Cost of the Work.

## ARTICLE 5. DESIGN DEVELOPMENT DOCUMENTS

- A. Consultant shall provide design development documents (the "Design Documents") based on the approved written program resulting from discussions and meetings with City staff. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Documents shall include specifications that identify major materials and systems and establish in general their quality levels.
- B. Design Documents shall include, without limitation, floor plans of each typical and unique level; site plan; building sections; preliminary building systems designs; key details; and outline specifications. Design Documents for interior design and any common areas will include, without limitation, final space plan; typical interior details; wall, floor and finish selection. It shall also include the furniture and work station layout, selection and hookup.
- C. Consultant shall reasonably cooperate in the scheduling of meetings necessary for City's review and approval of the Design Documents, which meetings shall be attended by Consultant at the request of City.
- D. Consultant shall review the estimates of the cost of the work and make appropriate recommendations to City to adjust the Project's size, quality to meet City's budget for the Project.

## ARTICLE 6. CONSTRUCTION DOCUMENTS

- A. Consultant shall provide construction documents (the "Construction Documents") based on the approved Design Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.
- B. During the development of the Construction Documents, Consultant shall assist City in the development and preparation of: (1) if requested by City, bidding procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between City and the selected Contractor for the construction ("Contractor"); and (2) the conditions of the contract for construction (general conditions, supplementary conditions and other conditions). Consultant also shall compile the Project Manual that includes the conditions of the contract for construction and Specifications and may include bidding requirements and sample forms.
- C. Consultant shall file with the appropriate regulatory agency all documents required for approval of governmental authorities exercising jurisdiction over the Project. Consultant shall prepare all the documents required pursuant to design services, which are necessary for City or City's contractors to obtain all permits and other approvals of plans, specifications, and construction documents prepared by Consultant from public agencies exercising

jurisdiction over the Project whose approval is required or by law or as otherwise customary and reasonable.

- D. Construction Documents will include, without limitation: (i) floor plans of each typical and unique level; (ii) site plan; (iii) enlarged plans and elevations of special areas where necessary; (iv) engineering drawings of building systems included in Project scope; (v) reflected ceiling plans, showing the location of the various types of ceilings and the location of HVAC registers and influenced by the ceiling layout; (vi) outlets plans showing the location of power, telephone and data communications outlets; and (vii) details indicating the design intent of the above.
- E. Omitted
- F. Construction Documents shall specify acceptable manufacturers, recommended product installation procedures and performance criteria for products. The Contract Documents shall also require Contractor, at the conclusion of the construction of the Project and based upon information kept current by Contractor and reviewed by Consultant as an element necessary for approval of Contractor's monthly progress payments, to prepare and furnish to City a complete record set of drawings and specifications depicting the Project as constructed.
- G. Construction Documents shall divide the Work into base work and alternatives, if directed by City. The documents shall make provision for the base work to be constructed by itself or with any or all of the alternatives.
- H. In addition to paper print copies, the Construction Documents shall be provided in electronic disk format in the latest version of AutoCAD.
- I. The Construction Documents shall include the requirement that the appropriate City personnel be trained in the maintenance and operation of all equipment and systems at the completion of the project.

#### ARTICLE 7. CONSTRUCTION PROCUREMENT SERVICES

- A. Consultant shall assist the City in obtaining competitive bids and shall assist City in awarding and preparing contracts for construction.
- B. Consultant shall assist City in establishing a list of prospective bidders or contractors.
- C. Consultant shall assist City in bid validation or proposal evaluation and determination of the successful bid or proposal, if any.
- D. Bidding documents shall consist of bidding requirements, proposed contract forms, general conditions and supplementary conditions, specifications and drawings (the "Bidding Documents"). City shall prepare the boilerplate documents including the Notice Inviting Bids, Instructions To Bidders, Special City Requirements, General Specifications and General Conditions, and required contract forms to be completed by bidders.

- E. If requested by City, Consultant shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. City shall pay directly for the cost of reproduction.
- F. Omitted
- G. Consultant shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute to all prospective bidders, addenda identifying approved substitutions.
- H. At the request of City, Consultant shall participate in or, at City's direction, shall organize and conduct a pre-bid conference for prospective bidders.
- I. Consultant shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.
- J. Consultant shall participate in, if requested by City, the opening of the bids.

#### ARTICLE 8. CONSTRUCTION ADMINISTRATION SERVICES

##### A. GENERAL ADMINISTRATION

- a. The Consultant shall provide administration of the contract between the City and the general contractor as set forth below in coordination with City's Designated Representative.
- b. The Consultant shall advise and consult with the City during the project construction, but the Consultant shall not have authority to act on behalf of the City.
- c. The Consultant shall review requests by the general contractor for additional information about the Contract Documents.
- d. If deemed appropriate by the Consultant or the City, the Consultant shall prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.
- e. The Consultant shall promptly interpret and provide recommendations on matters concerning performance of the Contractor, and advise the City.
- f. Interpretations and recommendations of the Consultant shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing (which may be in the form of drawings).

## B. EVALUATIONS OF THE WORK

- a. The Consultant shall visit the site to guard the City against defects and deficiencies in the Work, and to determine if the Work is being performed in accordance with the Contract Documents; however, the Consultant shall not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the Work. On the basis of such on site observation as Consultant, Consultant shall submit to City a written report subsequent to each onsite visit.
- b. The Consultant shall report to the City known or suspected deviations from the Contract Documents and from the most recent construction schedule submitted by the general contractor; however, the Consultant shall not be responsible for the general contractor's failure to perform the Work in accordance with the requirements of the Contract Documents unless caused by the Consultant or its consultants.

## C. CERTIFICATION OF PAYMENTS TO CONTRACTOR

- a. The Consultant shall review and certify the amounts due the general contractor and shall cause the issuance of certificates for payment in such amounts. The Consultant's certification for payment to a contractor shall constitute a representation to the City, based on the Consultant's evaluation of the work and on the data comprising the contractor's application for payment, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents.
- b. The issuance of a Certificate for Payment shall not be a representation that the Consultant has (1) made exhaustive or continuous onsite inspections to check the quality or quantity of the work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from subcontractors and material suppliers to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the contractor has used money previously paid.

## D. SUBMITTALS

- a. The Consultant shall review and approve or take other appropriate action upon the contractors' submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Consultant's action shall be taken with such reasonable promptness as to cause no delay in the work or in the activities of the City or contractors while allowing sufficient time in the Consultant's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the contractors as required by the Contract Documents. The Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Consultant, of any construction means, methods, techniques, sequences or procedures.

- b. The Consultant shall maintain a record of submittals and copies of submittals supplied by contractors in accordance with the requirements of the Contract Documents.

E. CHANGES IN THE CONSTRUCTION WORK

- a. The Consultant shall prepare change orders and obtain from the Contractor supporting documentation and data for the City's approval and execution thereof in accordance with the Contract Documents. Upon obtaining City's Designated Representative's written approval, the Consultant may authorize minor changes in the Work not involving an adjustment in compensation or an extension of the time which are consistent with the intent of the Contract Documents. If necessary, the Consultant shall prepare, reproduce and distribute drawings and specifications to describe work to be added, deleted or modified. Consultant and its consultants shall meet with City and its contractors to assist in the negotiation of change orders, and review any contractor's request for change orders, advise whether such proposed changes are already included in the scope of the work described in Contract Documents and advise that the proposed adjustments to the contract and the construction schedule are consistent with industry standards.
- b. The Consultant shall review requests by the City or its contractors for changes in the Work, including adjustments to the compensation or time. Consultant may require that request for a change in the work is accompanied by sufficient supporting data and information to permit the Consultant to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Consultant determines that requested changes in the work are not materially different from the requirements of the Contract Documents, the Consultant may recommend to the City that the requested change be approved.

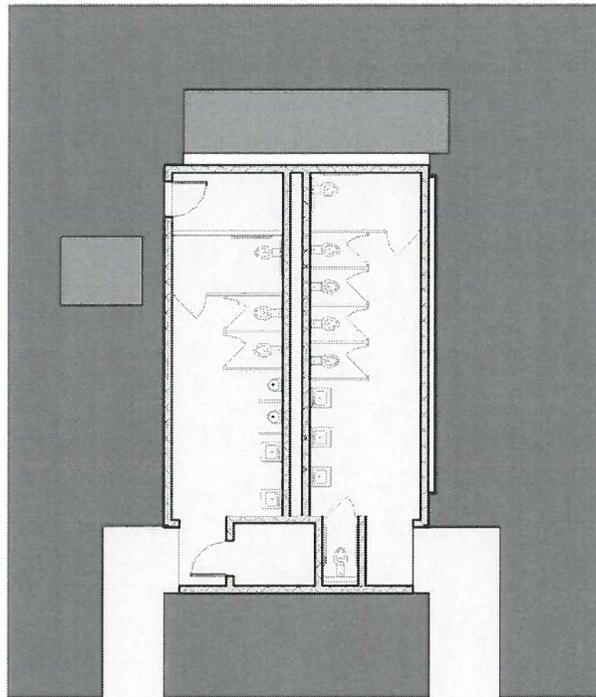
F. PROJECT COMPLETION

- a. The Consultant shall conduct inspections to determine the dates of the substantial completion and final completion (including reviewing the correction of all punch list items, until all punch list items have been corrected to City's satisfaction) and shall issue a "Certificate of Substantial Completion" and a "Certificate of Final Completion" (based on Consultant's inspections and actual knowledge). Consultant shall receive, review and forward to City, for the City's review, written warranties and related documents required by the Contract Documents and assembled by contractors. Consultant shall also be responsible for receiving from Contractor all manuals of operation of mechanical, electrical and other equipment which are required by Contract Documents, and shall deliver to City copies of same as such mechanical, electrical or other system is completed. Consultant shall prepare for City a list of observed items, materials or systems that require replacement or additional work by contractors.
- b. The Consultant's inspections shall be conducted with the City's Designated Representative to check conformance of the work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the contractors of work to be completed or corrected.

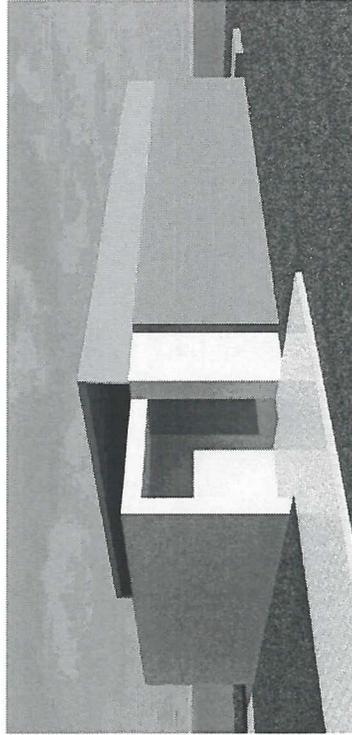
## EXCLUSIONS

Consultant's services exclude the following:

- Geotechnical engineering
- Survey
- Fire Alarm/ Fire Sprinkler Design
- Interior Design
- Low voltage Design
- Solar Panel system design



1 Floor Plan  
1/8" = 1'-0"



2 3D View 1  
1/2" = 1'-0"



PROJECT TITLE: BEVERLY GARDEN RESTROOM  
 DATE: 11.12.2014  
 SCALE: 1/8" = 1'-0"  
 DRAWN BY: SK

RTK ARCHITECTS, INC.  
 ARCHITECTS & INTERIORS  
 10750 WILSON BOULEVARD, SUITE 100  
 BEVERLY HILLS, CALIFORNIA 90210  
 TEL: 310.441.1111 FAX: 310.441.1112  
 WWW.RTKARCHITECTS.COM



BEVERLY GARDEN RESTROOM

ATTACHMENT 1 TO EXHIBIT A

**EXHIBIT A-1**

**PROJECT SCHEDULE**

Consultant shall provide the services in accordance with the following work schedule which shall commence at the discretion of the City.

Design Development Documents: Commence upon receipt of notice to proceed and complete in three (3) weeks

Construction Documents Commence upon receipt of approval of design development documents and complete in five (5) weeks

## EXHIBIT B-1

### COMPENSATION/PAYMENT TERMS

- A. City shall compensate Consultant for the satisfactory performance of services described in this Agreement an amount not to exceed Seventy Six Thousand Five Hundred Fifty Dollars (\$76,550.00) for professional fees.

City shall pay Consultant reimbursable expenses for printing and plotting, and computer rendering of the design, reasonably incurred by Consultant and Consultant's employees in the performance of this Agreement an amount not to exceed One Thousand Five Hundred Dollars (\$1,500.00). City shall be responsible for reproduction of bid sets.

- B. Consultant shall provide City with monthly invoices in a form acceptable to the City for services performed. Such invoices shall describe in detail the work performed during the previous month by task, and shall request that payment be made in proportion to the portion of total services required. City shall pay satisfactory invoices within thirty (30) days. However, in no event shall be paid more than the following:

1. Twenty-eight percent (28%) of the total Agreement price upon the satisfactory completion of the Design Development documents;
2. Eighty-six percent (86%) of the total Agreement price upon the satisfactory completion of the Construction Documents;
3. Ninety-one and Seven tenths percent (91.7%) of the total Agreement price upon the satisfactory completion of the Bidding Phase;
4. One hundred percent (100%) of the total Agreement price upon the completion of the Project bidding.

- C. 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 B-2 or a lump sum as may be mutually agreed, but shall not exceed Five Thousand Dollars (\$5,000.00). This amount shall be in addition to that indicated in the previous paragraphs. Additional consultant services which were not included in the scope of services, but which may be added at the discretion of City include:

- Security Consultant
- Building and Tenant Identification Graphics

- D. If City exercises its right to terminate this Agreement other than for cause pursuant to Section 11 of the Agreement, compensation to the Consultant shall be based on the actual work completed at the time of termination, but in no case exceed the amount which would be paid Consultant for the full performance of the services required by this Agreement.

E. Total compensation under this Agreement shall not exceed Eighty Three Thousand Fifty Dollars (\$83,050.00).

**EXHIBIT B-2**

**SCHEDULE OF HOURLY RATES**

<u>Title</u>	<u>Project Title</u>	<u>Hourly Billing Rate</u>
PARTNER	Principal	\$200.00
ASSOCIATE PARTNER	Project Architect	\$175.00
SENIOR ASSOCIATE	Architect	\$165.00
ASSOCIATE	Associate	\$155.00
NONE	Designers/Drafters	\$125.00
NONE	Technical Staff	\$80.00

**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**

- A.  
B.  
C.**

**ADDRESS**

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS	
					P.D.	AGGREGATE
	<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> <b>GENERAL LIABILITY</b> <input type="checkbox"/> <b>PRODUCTS/COMPLETED OPERATIONS</b> <input type="checkbox"/> <b>BLANKET CONTRACTUAL</b> <input type="checkbox"/> <b>CONTRACTOR'S PROTECTIVE</b> <input type="checkbox"/> <b>PERSONAL INJURY</b> <input type="checkbox"/> <b>EXCESS LIABILITY</b> <input type="checkbox"/> <b>WORKERS' COMPENSATION</b>					

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: \_\_\_\_\_  
\_\_\_\_\_

# **Attachment 2**



COMMUNITY DEVELOPMENT DEPARTMENT

455 N. Rexford Drive
Beverly Hills, CA 90210-4817
(310) 285-1123
FAX: (310) 858-5966

www.beverlyhills.org

CITY OF BEVERLY HILLS

Categorical Exemption

NAME OF PROJECT Beverly Gardens Park Restroom Building Replacement

LOCATION N. Canon Drive between N. Santa Monica Bl. and Park Way, Beverly Hills, California

TYPE OF BUSINESS (IF COMMERCIAL) City public restroom

PROJECT DESCRIPTION Demolish existing restroom building and replace with new restroom on same footprint, reduce storage area and increase plumbing fixtures.

APPLICANT'S NAME City of Beverly Hills PHONE 310-285-1188

APPLICANT'S ADDRESS Project Administration 345 Foothill Road

CITY Beverly Hills, CA ZIP 90210

IF DIFFERENT, PROVIDE:

AGENT'S NAME PHONE

AGENT'S ADDRESS

CITY ZIP

The undersigned, having received this project for processing, has reviewed it for environmental impact and concluded that the project qualifies for a categorical exemption under the procedures adopted by the City of Beverly Hills and no further environmental assessment is necessary.

Applicable Exemption Class Class 2(c)(15302) Replacement or Reconstruction

COMMENTS Class 2 includes the replacement or reconstruction of existing structures and facilities— in this case, a public restroom building—involving negligible expansion of capacity.

REVIEWED BY Cynthia de la Jove Date 8/14/15