

REPORT TO CITY COUNCIL

DATE: OCTOBER 14, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: JESSICA FORTE, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER

SUBJECT: REQUEST TO APPROVE AN AGREEMENT FOR CONSULTANT SERVICES WITH MNS ENGINEERS INC., FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE ROADSIDE DRIVE BRIDGE WIDENING PROJECT

On August 27, 2020, staff solicited proposals for construction management services related to the Roadside Drive Bridge Widening Project.

The scope of work for the services includes:

- Constructability review of plans and specifications (Pre-Construction)
- Bid assistance and management
- Provide contract administration
- Ensure compliance with all Caltrans/Federal requirements
- Ensure various permit compliance
- Coordination with utility companies
- Coordinate execution of contract and provide schedule monitoring
- Ensure proper progress payments by contractor
- Provide change order management
- Provide construction observation, inspection, and material/soil testing
- Review contractor traffic plans and handling
- Conduct weekly progress meetings
- Provide final punch list, as-built drawings, and ensure project closeout
- Provide claims assistance, if necessary.

During the advertising period, thirty-seven (37) plan rooms, engineering firms, contractors, and vendors viewed the Request for Qualifications (RFQ)/Request for Proposals (RFP). On September 22, 2020, the City received one (1) proposal from MNS Engineers, Inc. (MNS). Staff reviewed the MNS proposal, which demonstrated the company has the experience and qualifications to complete this work based on the following:

- Completeness and thoroughness of proposal.
- Qualifications and experience of key personnel.

- Related experience working with public agencies.
- Approach to performing the work.
- Size of labor force and resources available to complete the work.

MNS is currently providing similar services for the City on the U.S. 101/Palo Comado Canyon Road (at Chesebro) Interchange Project with excellent results thus far.

It should be noted, the City properly advertised the RFQ/RFP, in addition to, reaching out to engineering firms to submit proposals for this work. Staff believes re-advertising the RFQ/RFP would yield similar results. On October 1, staff received an executed "Cost-Effectiveness / Public Interest Finding) Form 12-F from Caltrans, the administrator of the funds being used for this project. This form confirms the single proposal is acceptable for Award of Contract per Federal procurement guidelines, in recognition of the City's efforts in to provide competitive procurement to all qualified firms.

While not part of the scoring criteria, MNS's cost proposal was \$597,276, which will be covered entirely by the Highway Bridge Program (HBP) Funds that were allocated to the City for this project. If approved, MNS is prepared to begin immediately with a constructability review of the plans and specifications in order for the City to move forward with the solicitation of construction bids. Due to the large size of the contract, staff recommends a 5% contingency (\$29,863) resulting in a total contract amount not-to-exceed \$627,139.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council:

1. Approve the Agreement for Consultant Services with MNS Engineers, Inc., in the amount of \$597,276 for construction management services related to the Roadside Drive Bridge Widening Project; and
2. Authorize the Public Works Director/City Engineer to issue necessary change orders within a 5% contingency.

Attachment: Agreement for Consultant Services

AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT:	MNS Engineers, Inc.
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Greg Chelini, P.E.
CONSULTANT'S ADDRESS:	4580 E. Thousand Oaks Blvd. Suite 101 Westlake Village, CA 91362
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Kelly Fisher
COMMENCEMENT DATE:	October 14, 2020
TERMINATION DATE:	October 14, 2022
CONSIDERATION:	Contract Price Not to Exceed: \$597,276

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND MNS ENGINEERS,
INC.**

THIS AGREEMENT is made and effective as of October 14, 2020, between the City of Agoura Hills, a municipal corporation ("City") and MNS Engineers, Inc. ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on October 14, 2020, and shall remain and continue in effect until tasks described herein are completed, but in no event later than October 14, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

In meeting its obligations under this Agreement, Consultant shall at all times faithfully and competently perform all tasks described herein 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.

4. PREVAILING WAGES

A. Prevailing wages are required on all CITY agreements involving construction, design, and preconstruction phases of construction (including, but not limited to, inspection and land surveying work), and maintenance (except for janitorial or security guards) for work on CITY property.

B. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute by this Consultant from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations Internet website at <http://www.dir.ca.gov>. Consultant shall provide a copy of prevailing wage rates to any staff or sub-consultant hired, and shall pay the adopted prevailing wage rates as a minimum. Consultant shall comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Consultant shall forfeit to the City, as a penalty, the sum of \$50.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates

for any work done under this contract, by him or by any sub-consultant under him, in violation of the provisions of the Agreement..

5. PAYMENT

A. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed Five Hundred Ninety-Seven Thousand Two Hundred Seventy Six Dollars and Zero Dollars (\$597,276.00) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

C. Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Consultant shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section entitled "**PAYMENT**" herein.

7. DEFAULT OF CONSULTANT

A. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.”

8. OWNERSHIP OF DOCUMENTS

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

9. INDEMNIFICATION

Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent Consultants serving in the role of City officials, and volunteers (collectively "Indemnitees") free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of Consultant, its officials, officers, employees, agents or sub-consultants in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnitees. With respect to any and all such Claims, Consultant shall defend Indemnitees at Consultant's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Consultant shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant or Indemnitees. All duties of Consultant under this Section shall survive termination of this Agreement.

10. INSURANCE REQUIREMENTS

Prior to commencement of work, Consultant shall procure, provide, and maintain, at Consultant's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

4) Professional Liability coverage: One million (\$1,000,000) per claim and in aggregate.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Vendor maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Consultant agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

G. Verification of Coverage. **Consultant shall furnish the City with original endorsements, specifically naming the City of Agoura Hills, its officers, officials, employees and volunteers as additional insured, effecting coverage required by this clause.** The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

H. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

11. INDEPENDENT CONSULTANT

A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services and tasks under this Agreement on behalf of Consultant shall not be City employees and shall at all times be

under Consultant's exclusive direction and control. Consultant and all of Consultant's personnel shall possess the qualifications, permits, and licenses required by state and local law to perform the services and tasks under this Agreement, including, without limitation, a City business license as required by the Agoura Hills Municipal Code. Consultant shall determine the means, methods, and details by which Consultant's personnel will perform the services and tasks. Consultant shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the services and tasks, and compliance with the customary professional standards. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents.

B. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of City. Consultant and Consultant's personnel shall not supervise any of City's employees; and City's employees shall not supervise Consultant's personnel. Consultant's personnel shall not wear or display any City uniform, badge, identification number, or other information identifying such individual as a City employee; and Consultant's personnel shall not use any City e-mail address or City telephone number in the performance of any of the services and tasks under this Agreement. Consultant shall acquire and maintain at its sole cost and expense such vehicles, equipment, and supplies as Consultant's personnel require to perform any of the services and tasks required by this Agreement. Consultant shall perform all services and tasks off of City premises at locations of Consultant's choice, except as otherwise may from time to time be necessary in order for Consultant's personnel to receive projects from City, review plans on file at City, pick up or deliver any work product related to Consultant's performance of any services and tasks under this Agreement, or as may be necessary to inspect or visit City locations and/or private property to perform the services and tasks. City may make a computer available to Consultant from time to time for Consultant's personnel to obtain information about, or to check on, the status of projects pertaining to the services and tasks performed under this Agreement. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

C. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services and tasks hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services and tasks hereunder. Consultant shall be responsible for and pay all salaries, wages, benefits and other amounts due to Consultant's personnel in connection with their performance of the services and tasks under this Agreement, and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to, Social Security taxes, other retirement or pension benefits, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Notwithstanding any other agency, state, or federal policy, rule, regulation, statute, or ordinance to the contrary, Consultant and any of its officers, employees, agents, and subcontractors providing any of the services and tasks under this Agreement shall not become entitled to, and hereby waive any claims to, any wages, salaries, compensation, benefit, or any incident of employment

by City, including, but not limited to, eligibility to enroll in, or reinstate to membership in, the California Public Employees Retirement System ("PERS") as a City employee, and entitlement to any contribution to be paid by City for employer contributions or employee contributions for PERS benefits.

D. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from, caused by, or relating to Consultant's personnel practices, or to the extent arising from, caused by, or relating to the violation of any of the provisions of this Section. In addition to all other remedies available under law, 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. This duty of indemnification is in addition to Consultant's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

12. PERS COMPLIANCE AND INDEMNIFICATION

A. General Requirements. The parties acknowledge that City is a local agency member of PERS, and as such has certain pension reporting and contribution obligations to PERS on behalf of qualifying employees. Consultant agrees that, in providing its employees and any other personnel to City to perform the services and tasks under this Agreement, Consultant shall assure compliance with the Public Employees' Retirement Law, commencing at Government Code Section 20000, the regulations of PERS, and the Public Employees' Pension Reform Act of 2013, as amended. Without limitation to the foregoing, Consultant shall assure compliance with regard to personnel who have active or inactive membership in PERS and to those who are retired annuitants and in performing this Agreement shall not assign or utilize any of its personnel in a manner that will cause City to be in violation of the applicable retirement laws and regulations.

B. Indemnification. Consultant shall defend (with legal counsel approved by City, whose approval shall not be unreasonably withheld), indemnify, and hold harmless City, and its City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from, caused by, or relating to Consultant's violation of any provisions of this Section. This duty of indemnification is in addition to Consultant's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

13. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The

City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

14. RELEASE OF INFORMATION

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or sub-consultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

15. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Consultant: MNS Engineers, Inc.
4580 E. Thousand Oaks Blvd. Ste. 101
Westlake Village, CA 91362
Attention: Greg Chelini, P.E.

16. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

17. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

18. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

19. PROHIBITED INTEREST

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-consultants for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-consultants on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

20. EXHIBITS

Exhibits A and B constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, the provisions of this Agreement shall control.

21. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or

written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

22. AMENDMENT OF AGREEMENT

This Agreement may be amended only by a writing signed by both parties. The City Manager is authorized to sign an amendment to this Agreement on the City Council's behalf and without the City Council's prior approval to make the following non-substantive modifications to the Agreement: (a) name changes; (b) extensions of time that do not result in monetary changes; (c) non-monetary changes in the scope of work; and (d) termination of the Agreement.

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Illece Buckley Weber,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk
Date Approved by City Council: _____

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

MNS Engineers, Inc.
4580 E. Thousand Oaks Blvd. Ste. 101
Westlake Village, CA 91362
Greg Chelini, P.E.
805-648-4840
805-692-6931 (fax)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

The specific elements (scope of work) of this service include:

I. Preliminary Design – “Summary Letter Report”

- A.** Attend kick-off meeting at the City to discuss roles of team personnel, schedule, critical activities, constraints, interface with the public, and specific design issues.
- B.** The Consultant shall account for field visits of the project area to identify design issues. Record existing site conditions in photographs and/or video.
- C.** The Consultant shall analyze existing site characteristics, including but not limited to, landform, drainage patterns, soil characteristics, vegetation, utilities, environmental considerations and existing uses, auto and pedestrian circulation patterns and relationships to adjoining properties, easements, City adopted plans, policies, and initiatives. Prepare written and graphic report of these findings.
- D.** The Consultant shall perform land survey to identify all property lines, easements, utilities and other improvements, and drainage patterns.
- E.** The Consultant shall provide a complete survey of the project area, establishing horizontal and vertical control for the project. All survey shall be based upon existing benchmarks, provided by the City and/or County of Los Angeles. Mapping shall include topographic features within 50 feet of project area.
- F.** The Consultant shall prepare alternatives and comparative analysis as necessary including construction cost, construction time, environmental impacts, and right-of-way costs for each alternative.
- G.** The Consultant shall conduct geotechnical investigations based upon field borings upstream, downstream, and at proposed abutments. Report shall address required depth of abutments to competent bearing soils (or required depth of pilings), allowable bearing pressure, extent of soil removals, and adequacy of soil for the proposed construction. Report shall also address scour potential and recommendations for scour protection.
- H.** The Consultant shall identify all drainage/BMP structure improvements, based upon hydrology, hydraulic calculations and water quality issues. Structural BMPs shall be incorporated into the street design for stormwater quality improvements prior to entering natural waterways.
- I.** The Consultant shall prepare all documents and conduct special studies/ reports according to the provisions of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Consultant fee estimates at this time shall be based on anticipated Mitigated Negative Declaration. Provide standard hourly rates for supplemental environmental work that may be required.
- J.** The Consultant shall prepare PES Form and Conduct Field Review.
- K.** The Consultant shall determine the scope of initial studies after consultation with the environmental review agencies. Based on those initial studies, establish consensus between all environmental reviewers for CEQA and NEPA review as to the appropriate environmental documents needed for this project.

- L. The Consultant shall obtain all necessary NEPA and CEQA Environmental Certifications. City will pay all permitting and filing fees.

II. Right of Way and Utility Relocations

- A. The Consultant shall prepare legal descriptions, plats, and deeds for Right of Way acquisitions (if needed).
- B. The Consultant shall provide engineering support and Right of Way services to provide for full compliance with the requirements of Caltrans Local Assistance Procedures Manual and Right of Way Manual for acquisition of right-of-way and utility relocations (if needed).
- C. The Consultant shall coordinate utility relocation plans as needed.
- D. The Consultant shall complete Caltrans right-of-way and utility relocation standard forms and obtain Caltrans right-of-way certifications.

III. Final Design – Plans, Specifications and Estimates

- A. The Consultant shall design the widening of the Roadside Drive Bridge, and installation of approximately 325 feet of additional sidewalk extending from the west side of the bridge to the Roadside Lumber driveway, based on the City reviewed "Summary Letter Report".
- B. The Consultant shall prepare civil roadway plans for the required improvements, consistent with City format. At a minimum, the plan set shall include Title Sheet, Site Plan, General Construction Notes, Horizontal Control, Typical Sections and Details, Plan and Profile, Drainage/BMP Structure(s) Details, Traffic Striping/Signage/Signal Plans, Street Lighting/Electrical, and Utility Plans.
- C. The Consultant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for use during construction of the project. The SWPPP shall comply with MS4 permit and General Construction permit requirements appropriate for the project.
- D. Submittal of plan set shall be delivered at 50% and 90% complete and final. The Consultant shall submit five (5) sets per submittal. All original sheets shall be stamped by a professional engineer. Sheet size shall be 24" x 36". When project is complete, the Consultant shall provide AutoCAD files for all plan sheets.
- E. The Consultant shall prepare construction specifications consistent with City format.
- F. The bridge design shall be in accordance with the latest California Amendments of AASHTO LRFD Design Specifications Manual and other Caltrans bridge design standards.
- G. Submittal of specifications shall be delivered to the City at 90% complete and final. When project is complete, the Consultant shall provide a digital file of specification package in Microsoft Word format for Windows.
- H. The Consultant shall prepare an engineer's construction cost estimate based on the itemized quantity take-off from the contract documents.

- I. Submittal of the engineer's construction cost estimate shall be delivered to the City at 90% complete and final in a spreadsheet format.

IV. Project Management and Preparation of Periodic Updated Schedule, Deliverables and Meetings

- A. The Consultant shall meet as needed with the City to accomplish Project tasks as outlined. Meetings expected between the Consultant and City, shall be and not be limited to: Project Kick-off Meeting, presentation of "Summary Letter Report", and progress meetings at 90% design completion.
- B. The Consultant shall provide periodic schedule updates on deliverables and meetings as changes to original schedule occur or as needed based on the needs of the project.

EXHIBIT B
PAYMENT RATES AND SCHEDULE



**Construction Management, Inspection and Materials Testing Services
Staffing Schedule / Cost Proposal
for Roadside Drive Bridge Widening Project
City of Agoura Hills**

		Project Schedule																						
		2020										2021												
PHASE		Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	TOTAL HOURS	HOURLY RATE	TOTAL COST
Pre-Construction																						64	210.00	\$ 13,440.00
Construction																						1840	156.00	\$ 287,040.00
Closeout																						80	110.00	\$ 8,800.00
																								\$ 27,640.00
																								\$ 544,420.00
																								\$ 27,840.00

PHASE		2020										2021										TOTAL HOURS	HOURLY RATE	TOTAL COST	
Role	Staff	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr				
PRE-CONSTRUCTION																									
Resident Engineer/SR	Bill Callaghan, PE			16	16	32																64	210.00	\$ 13,440.00	
Construction Inspector	Mike McFadden, EIT			16	20																	36	156.00	\$ 5,616.00	
Project Coordinator	Celeste Alfino				16	40																56	110.00	\$ 6,160.00	
PRE-CONSTRUCTION SUBTOTAL		0	0	32	32	92	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	156		\$ 26,216.00	
CONSTRUCTION																									
Resident Engineer/SR	Bill Callaghan, PE					80	60	60	60	48	48	48	48	48	48	60	60					628	210.00	\$ 131,880.00	
Construction Inspector	Mike McFadden, EIT					120	172	172	172	172	172	172	172	172	172	172	150					1840	156.00	\$ 287,040.00	
Project Coordinator	Celeste Alfino					48	48	40	32	32	32	32	32	32	32	40	40					406	110.00	\$ 44,000.00	
CONSTRUCTION SUBTOTAL		0	0	0	0	248	300	272	264	252	252	252	252	252	252	272	250					2866		\$ 462,920.00	
PROJECT CLOSEOUT																									
Resident Engineer/SR	Bill Callaghan, PE																				60	0	210.00	\$ 12,600.00	
Construction Inspector	Mike McFadden, EIT																				40	0	156.00	\$ 6,240.00	
Project Coordinator	Celeste Alfino																				80	0	110.00	\$ 8,800.00	
PROJECT CLOSEOUT SUBTOTAL		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	180	0		\$ 27,640.00	
TOTAL HOURS		0	0	32	32	92	248	300	272	264	252	252	252	252	252	272	250	100				3024		\$ 515,776.00	

Sub-Consultants		TOTAL COST
Materials Testing	Oakridge Geoscience, Inc.	\$ 54,000.00
Source Inspection	ZT Consulting, Inc.	\$ 27,500.00
SUBCONSULTANTS SUBTOTAL		\$ 81,500.00

CONSTRUCTION MANAGEMENT TOTAL	\$ 597,276.00
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Notes:
 1. Based upon A Notice to Proceed in November 2020. Estimated field construction beginning February 2020 with a duration of 12 months.
 2. Prevailing wage rates (for inspection services) subject to FW adjustments.
 3. Based upon an 8 hour workday and no overtime. Any overtime needed will be considered additional to this cost proposal.