

REPORT TO CITY COUNCIL

DATE: SEPTEMBER 13, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

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

SUBJECT: APPROVE AGREEMENT FOR CONSULTANT SERVICES WITH M6 CONSULTING, INC. FOR CONSTRUCTION ENGINEERING SERVICES RELATED TO THE LADYFACE GREENWAY PROJECT

This report seeks City Council approval of a contract with m6 Consulting, Inc. (m6) for construction engineering services related to construction of the Ladyface Greenway Project. The Ladyface Greenway Project (Project) consists of constructing a new greenway over an existing rectangular concrete-lined runoff channel that is owned and maintained by the Los Angeles County Flood Control District (LACFCD).

In July 2021, the City entered into an agreement with m6 to provide design plans and specifications for the Project. The final design plans and specifications have been completed and the construction permit from LACFCD was issued on May 31, 2023. Construction engineering services will be crucial in assisting staff during the construction phase of the project, so that the design engineer (and their subconsultants) can respond to questions or requests for further clarification from the City and/or contractor, as issues arise in the field. As the original design engineer, m6 will be responsible to provide the City "as-built" plans when the project is completed. Additionally, m6 will insure that any field modifications necessary to construct the project do not negatively affect the integrity of the approved plans.

This agreement would allow pre-bid design services to be performed, including integration of utility undergrounding plans, hardscape and landscape plans for the Las Virgenes Municipal Water District Pump Station, constructability review from the construction management team, bidding phase support services, and various meetings over the span of the Project.

The Project is fully funded through a combination of State Earmark dollars awarded by former Assemblymember Bloom and the Los Angeles County Metropolitan Transit Authority (Measure R and M Funds) approved by the Las Virgenes-Malibu Council of Governments. The contract amount being requested is \$490,938 with a 10% allowable contingency of \$49,093. The City Bi-Annual Budget accounts for the expenditure of these funds across FY 2023/24 and FY2024/25.

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 Design Professional Consultant Services Agreement with m6 Consulting, Inc. for construction engineering services for the Ladyface Greenway Project; and
2. Authorize the Mayor to sign the agreement on behalf of the City Council.

Attachment: Agreement for Design Professional Consultant Services

AGREEMENT FOR DESIGN PROFESSIONAL CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT: m6 Consulting, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Attn: Robert Woodward, PE,
Principal

CONSULTANT'S ADDRESS: 4165 E. Thousand Blvd, Ste. 355
Westlake Village, CA 91362

CITY'S ADDRESS: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301
Attn: City Manager

PREPARED BY: Charmaine Yambao

COMMENCEMENT DATE: September 13, 2023

TERMINATION DATE: June 30, 2026

CONSIDERATION: Contract Price
Not to Exceed: \$ 490,938.00/yr

ADDITIONAL SERVICES <i>(Describe Services, Amount, and Approval):</i> _____ _____ _____ _____
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Date: _____ Amount: \$ _____ Authorized By: _____
(Not to Exceed 10% of Contract Price) City Manager

**AGREEMENT FOR DESIGN PROFESSIONAL
CONSULTANT SERVICES BETWEEN THE CITY OF
AGOURA HILLS AND M6 CONSULTING, INC.**

THIS AGREEMENT is made and effective as of September 13, 2023, between the City of Agoura Hills, a municipal corporation ("City") and m6 Consulting, 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 September 13, 2023, and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2026, unless sooner terminated pursuant to the provisions of this Agreement.

The City may, at its option, extend this Agreement for one additional term of one year upon providing written notice of its intent to extend this Agreement to the Consultant not less than thirty (30) days prior to the expiration of the initial Term. Such extension shall be at the same price and conditions as set forth herein.

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. 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 Four Hundred Ninety Thousand Nine Hundred Thirty-Eight Dollars and Zero Cents (\$490,938.00) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

B. The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

C. 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.

D. 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.

5. 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.

6. 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.”

7. 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.

8. INDEMNIFICATION

A. Indemnity for Design Professional Services. In the connection with its design professional services, Consultant shall hold harmless and indemnify City, and its elected officials, officers, employees, servants, designated volunteers, and those City agents serving as independent consultants in the role of City officials (collectively, “Indemnitees”), with respect to any and all claims, demands, damages, liabilities, losses, costs or expenses, including reimbursement of attorneys’ fees and costs of defense (collectively, “Claims” hereinafter), including but not limited to Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate in whole or in part to the negligence, recklessness, or willful misconduct of Consultant or any of its officers, employees, sub-consultants, or agents in the performance of its professional services under this Agreement.

B. Other Indemnities. In connection with any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense (collectively, "Damages" hereinafter) not covered by Paragraph 8.a. above, Consultant shall defend, hold harmless and indemnify the Indemnitees with respect to any and all Damages, including but not limited to, Damages relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to acts or omissions of Consultant or any of its officers, employees, sub-consultants, or agents in the performance of this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the City, as determined by final arbitration or court decision or by the agreement of the parties. Consultant shall defend Indemnitees in any action or actions filed in connection with any such Damages with counsel of City's choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant's duty to defend pursuant to this Section 8.b. shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions of Indemnitees.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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: m6 Consulting, Inc.
4165 E. Thousand Oaks Blvd., Suite 355
Westlake Village, CA 91362
Attention: Robert Woodward, PE
Principal

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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

Chris Anstead,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

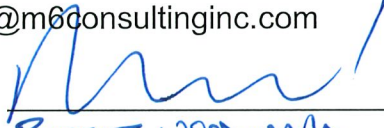
Date Approved by City Council _____


APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

m6 Consulting, Inc.
4165 E. Thousand Oaks Blvd., Suite 355
Westlake Village, CA 91362
Robert Woodward, PE, Principal
805-379-1015
Robert@m6consultinginc.com

By: 
Name: ROBERT WOODWARD
Title: PRINCIPAL

By: 
Name: MASOUD MAMMOUD
Title: PRINCIPAL

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

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

Construction Engineering Support Services for The Agoura Hills Ladyface Greenway Project.

Task 101: Construction Period Engineering Support

TASK A – MEETINGS

m6 Consulting Inc. (m6) will attend the various meetings as described and assumed below. Preparation of meeting agendas and minutes will be prepared as applicable and distributed to the applicable staff and team.

- Pre-Bid Design Meetings: Assumption of 4 meetings
- Pre-Bid Meeting: Assumption of 1 meeting
- Preconstruction Meeting: Assumption of 1 meeting
- Public Outreach Meeting and Exhibits: Assumption of 3 meetings
- Construction Progress Meetings: Assumption of 4 meetings
- City Council Meeting: Assumption of 2 meetings
- PWSC Meeting: Assumption of 3 meetings
- Internal City & m6 Biweekly Meeting (Biweekly): Assumption for a period of 18-months

As applicable, Landscape Architect, Paul Jordan with Jordan Gilbert and Bain (JGB) will be required and in attendance at respective meetings for critical design revisions and input. JGB hourly assumption of hours at applicable meetings have been included in the estimate.

TASK B: Pre-Bid Design Services

Miscellaneous design coordination and services will be provided for final construction plans. Remaining design services include the following items:

LVMWD landscape and hardscape at Cornell Pump Station Building: m6 together with Jordan, Gilbert and Bain will provide site plans for proposed site improvements surrounding the Cornell Pump Station Building. Site improvements will be approved and coordinated with LVMWD and the City. The final design will incorporate landscaping to matching or complement with the Project.

Integration of SCE and AT&T undergrounding: The underground design will be provided by SCE, AT&T, and Crown Castle. m6 will provide coordination between the utility companies and update the Project construction documents as applicable to reflect proposed work.

Oak Tree Permitting: Construction within the existing oak trees on site requires a City-issued Oak Tree Permit. Additional plan modifications are required to ensure compliance with the City's Oak Tree Ordinance and review by the City Arborist and Oak Tree Specialist. The identified tasks include revising bioswale alignments and modular wetland details. Updates to the plans are required to identify these changes. Additional updates to the project's LID and Hydrology report will be provided.

LACFCD Permits: Updates to the plans related to Oak Tree Mitigation measures will require a resubmittal to LACFCD. Updated plans will be submitted to LACFCD for review and approval for modifications within LACFCD ROW. It is not anticipated any of these revisions will require modifications to the structural overbuild or storm drain outfall connection.

Whizin Property connectivity. This item includes providing coordination between the adjacent property owner with currently proposed connections from Project to adjacent property. Currently there are two connection locations contemplated in the design that are to be brought to the Whizin center property owner for review and approval.

m6 together with JGB, will assist the City with response and comment from construction manager's constructability review and update construction documents with minor design modifications resulting from constructability review.

Seismic Anchorage and Foundations for Art Pieces/Monuments: m6 will provide design services for the foundations and anchorage of the art pieces and project monuments to be selected and approved by the City's art commission. The assumed monument locations have been identified in the current Project design plan. Details of the respective foundation and anchorage will be provided along with structural justification for the proposed design.

TASK C BIDDING SERVICES

m6 will provide bidding phase support services to review RFI's and will issue Addenda to the Contract Documents relating to the RFIs as necessary during the Project's bidding phase. m6 will also provide, if necessary, conformed plans and specifications prior to pre-construction meeting.

TASK D SUBMITTAL REVIEW

m6 together with JGB will review submittals from the Contractor. The identified submittal reviews include the following:

- Project Schedule
- Construction Sequencing Plan
- Traffic Control Plans
- Concrete Mix Design
- Asphalt Concrete Mix Design
- CIDH Concrete Pile Installation Plan
- Precast Concrete Quality Control Plan (PCQCP)
- Deferred Submittal – Precast Voided Beams
- Temporary Shoring Design, Plans, Specifications and Analysis
- Project Fencing Plan

TASK E RFI'S DURING CONSTRUCTION PHASE

m6 together with JGB will review RFI's as relevant and will issue responses and addenda to the Contract Documents relating to the RFIs as necessary during the Project's construction phase. An assumed 60 RFIs related to the Civil and Structural portion are assumed and an assumed 60 RFIs relating to the landscaping scope are assumed.

TASK F SITE OBSERVATIONS

m6 together with JB as appropriate will provide site observations and site visits during construction. It is assumed during the heavy civil and structural phase of the project, m6 will provide daily/weekly visits and biweekly thereafter. Similarly, during the landscaping phase of construction, JB will assume weekly site visits and monthly thereafter. Additional identified site visits include: Source Inspection of the Pre Cast Deck Panels at the Pre Cast Plant, Field Change reviews, Review of mock-ups for aesthetics, Punch List and Final Observation.

TASK G CHANGE ORDER REVIEW

m6 will assist City and CM on reviewing contractor submitted change orders. m6 will issue addenda to the Contract Documents relating to the change orders as necessary.

TASK H RECORD DRAWINGS

m6 together with JGB will provide As-Builts/Record Project Drawings and revise project plans based on record drawings by contractor and as required by LA County construction permit.

TASK I PROJECT MANAGEMENT

An allocated hourly budget for additional as-needed project management services has been provided within this Task. Miscellaneous requested services tasks shall be specific to the Project construction and/or environmental services and herein will be from this task as needed and coordinated with the City.

Task 102: Geotechnical Services and Material Testing

NV5 in conjunction with m6 will also provide geotechnical engineering services and material testing during construction. NV5 will observe and document the drilling of the NV5 piles on a continual basis in accordance with the requirements of the California Building Code Section 17-5.8 Cast-in-Place Deep Foundations. The following tasks are assumed:

Construction Materials Testing

In-place density testing for the contemplated retaining walls backfill. It is assumed this will entail 30 site visits at 4 hours a visit.

Special Inspection:

- Portland Cement Concrete (PCC) and Drilled Pier Observation. Assumed at 40, 8-hour site visits.
- Masonry: Assumed at 10, 8-hour site visits
- Source Inspection of the Pre Cast Deck Panels at the Pre Cast Plant Location (Location is TBD)

Gamma-Gamma Pile Logging

To be performed by NV5 subcontractor, EarthSpectives. Assumed 2-days of work to include mobilization, up to 900ft of PVC inspection, piles, data processing, and report.

Infiltration Testing

To include two Infiltration Borings to approximately 30 Feet and delivered in a final report.

Laboratory Testing:

- 4" ASTM D1557 Modified Proctor (3)
- 6" ASTM D1557 Modified Proctor (1)
- Bulk Specific gravity (HVEEM-3 Pt. LTMD) (2)
- HVEEM Stabilometer (2)
- Sieve Analysis (1)
- Sand Equivalent (1)

- R Value (2)
- Concrete Compression 4x8 Cylinders (150)
- Compression Test-Grout Specimen (16)
- Compression Test-Mortar Specimen (16)

Task 103 Landscape Architect Services

In addition to the task items identified in Task 101 the following additional items relating to the Landscape scope have been identified. JB will provide an updated colored site plan and assume a total of four (4) project renderings for the City's reproduction and use.

Task 104 Environmental Services

As required by the Projects MMRP, m6 will employ Envicom Corporation (Envicom) to provide construction phase services to verify compliance with respective MMRP requirements as well as environmental-related permits. Services include:

Biological Monitoring During Vegetation Removal and Initial Ground Disturbance

Pursuant to Mitigation Measure BIO-16, during initial ground-disturbing activities and vegetation removal, Envicom will provide a full-time daily biological monitor to look for small mammals and/or reptiles in the Project's boundaries. If small mammals and/or reptiles are discovered, the biological monitor should move wildlife of low mobility out of harm's way and relocated to suitable habitat adjacent to the Project area; however, wildlife should be allowed to move away on its own as much as possible. An assumed ten (10) days of biological monitoring will be required. Daily monitoring logs will be prepared and submitted to document compliance with this requirement.

Excluded from this scope are the following:

1. Utility Bypass Design;
2. Permit Fees;
3. Construction Management;
4. Construction period survey;
5. Other items not specifically provided for in this Cost Proposal and the Tasks above.

A reimbursable budget has been established for this project, to allow for mileage, reproduction, and other incidental items.

EXHIBIT B
PAYMENT RATES AND SCHEDULE



Schedule of Hourly Rates

Hourly Public Works Services:

Project Manager	\$165.00
Project Engineer	\$145.00
Project Designer/CAD Drafter	\$125.00
Hydrology/Hydraulic Engineer	\$135.00
Structural Engineer	\$145.00
Inspector	\$95.00
Map Review/City Surveyor	\$250.00
1 Man Survey Crew	\$205.00
2 Man Survey Crew	\$250.00
Minimum Survey Trip Charge	\$750.00
Office Survey/Mapping	\$165.00
Soils/Geotechnical Engineer	\$165.00
Environmental Specialist	\$175.00
Principal Engineer	\$185.00
Landscape Architect	\$185.00

Rates are increased by a factor of 1.5 times for overtime, and for holiday and weekend assignments. All rates are subject to a 2% increase annually on January 1st.

MISCELLANEOUS CHARGES:

Hourly

Administration/Tech Aide	\$95.00
Direct Costs	Cost+15%
Outside Reproduction	Cost +15%
Materials & Expenses	Cost + 15%
Mileage (Portal to Portal)	\$0.54/Mile

Effective January, 2023