

REPORT TO CITY COUNCIL

DATE: FEBRUARY 14, 2024

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR
KATRINA GARCIA, ASSOCIATE PLANNER

SUBJECT: APPROVE AGREEMENT FOR CONSULTANT SERVICES WITH ENVICOM CORPORATION TO PREPARE ENVIRONMENTAL DOCUMENTATION RELATED TO THE BORI RESTAURANT PROJECT (AINs 2061-028-002 AND 2061-028-034)

The purpose of this item is to seek approval of an Agreement for Consultant Services with Envicom Corporation (Consultant) for the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND), pursuant to the California Environmental Quality Act (CEQA), for the proposed Bori Restaurant project. The agreement stipulates an amount not-to-exceed \$52,760 for the preparation of the document. A related agreement for payment of costs to the City by JH2 Architects (Applicant) for the preparation of the environmental document is proposed as part of a separate City Council agenda item at the February 14, 2024 meeting. That agreement amount is \$63,312, which includes \$52,760 for the preparation of the IS/MND, plus an additional \$10,552 to cover the City staff costs of reviewing the IS/MND and preparing legal notices and other coordination-related tasks with the Consultant. The City has already received payment of the full amount from the Applicant.

JH2 Architects has submitted an application on behalf of the property owner, for the Bori Restaurant project, which includes a one-story building for a restaurant, along with surface parking. City staff has determined that an IS/MND is necessary for this project. Envicom Corporation has submitted to the City a proposed scope of work to prepare the IS/MND, and staff finds the proposal acceptable. Envicom has provided CEQA document preparation services for the City several times in the past, and staff has been pleased with the firm's quality of work and timely product deliveries.

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

FISCAL IMPACT

There is no additional fiscal impact to the City Council 2023-24 adopted budget because the cost of preparing the environmental document will be fully paid by the applicant.

RECOMMENDATION

Staff respectfully requests the City Council approve the Agreement for Consultant Services with Envicom Corporation on a time-and-materials basis for a not-to-exceed fee of \$52,760.

Attachment: Agreement for Consultant Services (with Exhibits A and B)

AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT: Envicom Corporation

RESPONSIBLE PRINCIPAL OF CONSULTANT: Attn: Laura Kaufman

CONSULTANT'S ADDRESS: 4165 E. Thousand Oaks Blvd.
Ste. 290
Westlake Village, CA 91362

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

PREPARED BY: Katrina Garcia

COMMENCEMENT DATE: February 14, 2024

TERMINATION DATE: February 14, 2025

CONSIDERATION: Contract Price
Not to Exceed: \$ 52,760/yr

ADDITIONAL SERVICES *(Describe Services, Amount, and Approval):*

Date: _____ Amount: \$ _____ Authorized By: _____
(Not to Exceed 10% of Contract Price) City Manager

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND ENVICOM
CORPORATION**

THIS AGREEMENT is made and effective as of February 14, 2024, between the City of Agoura Hills, a municipal corporation ("City") and Envicom Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on February 14, 2024, and shall remain and continue in effect until tasks described herein are completed, but in no event later than February 14, 2025, 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, TWO, THREE) YEAR[S] 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 Fifty Two Thousand Seven Hundred Sixty Dollars and Zero Cents (\$52,760.00) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

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.

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.

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

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.

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: **Envicom Corporation**
4165 E. Thousand Oaks Blvd. Ste. 290
Westlake Village, CA 91362
Attention: Laura Kaufman

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

Illece Buckley Weber,
Mayor

ATTEST:

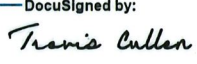
Kimberly M. Rodrigues, MMC
City Clerk
Date Approved by City Council: _____

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

Envicom Corporation
4165 E. Thousand Oaks Blvd. Ste. 290
Westlake Village, CA 91362
Laura Kaufman
(818) 879-4700

By: 
Name: Travis Cullen F44E47B2F0B44A0... President
Title:

By: 
Name: Primo Tapia A7343D83A012486...
Title: Vice President

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

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

See Attached

*Proposal to Provide an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (Envicom Project #2023-164-01)*

EXHIBIT B
PAYMENT RATES AND SCHEDULE

See Attached

*Proposal to Provide an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (Envicom Project #2023-164-01)*



January 29, 2024

City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

Attn: Robbie Nesovic, Principal Planner

Subj: Proposal to Provide an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)

Dear Mr. Nesovic,

Envicom Corporation (Envicom) is pleased to submit this proposal to prepare an Initial Study leading to a Mitigated Negative Declaration (IS/MND), pursuant to the California Environmental Quality Act (CEQA) for the proposed Bori Restaurant Project proposed by Kibun Max Koo (applicant) at 28730 Agoura Road Restaurant in the City of Agoura Hills. This proposal represents our estimate of the scope of work and level of effort required, based on general discussion and receipt of project plans and other descriptive materials, and the following technical studies: Hydrology and Low Impact Development (LID) Report; Biological Letter Report, Oak Tree Report, and Approved Fuel Modification Plan; Transportation Report; Noise Report; and various City Department review comment letters and applicant responses. Given the volume of this work, we have not yet reviewed it all, but have made assumptions that the reports are adequate for incorporation into the IS/MND, with only light review and minimal comments needed from Envicom. We will inform you if this proves to not be the case.

PROJECT UNDERSTANDING

The subject property is 30,794 square feet (sf) in size, which is approximately 0.71 acres. The proposed one-story, approximately restaurant would comprise 2,570 sf, comprised of:

<u>Use</u>	<u>Area (sf)</u>
Interior Dining Area:	1,008 sf (including 179 sf of waiting area)
Outdoor Dining Area:	190 sf
Kitchen :	1,003 sf
Office/Storage:	132 sf
Hallway:	104 sf
Restrooms:	133 sf

The restaurant would be located adjacent to Agoura Road where a building setback, landscaping and a patio would be provided. A proposed driveway on Vejar Drive, on the eastern side of the property, would provide access to the project site. The driveway provides access to an 18-space parking lot, situated south (behind) the restaurant. Envicom's role will be to prepare the IS/MND and prepare select technical studies to support the IS/MND, as described in the next list below.



January 29, 2024
Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 2 of 8

Technical Studies List

The following list identifies the technical studies that we anticipate will be needed to complete the IS/MND along with the responsible parties.

1. Application, Project Descriptive Materials, Site Plan, Elevations, Grading Plans, Utilities Information and Plans (Project Team)
2. Air Quality and Greenhouse Gas (GHG) Emissions (Envicom)
3. Cultural and Paleontological Resources (Envicom)
4. Geology and Soils (Project Team)
5. Hazards/Hazardous Materials - Phase I Environmental Site Assessment (Project Team)
6. Hydrology and Water Quality/LID (Project Team)
7. Noise and Vibration (Envicom)
8. Transportation (Project Team)
9. Utilities and Service Systems – project usage and design issues (Project Team)

We assume that technical studies provided by the project team will be adequate to support a CEQA analysis, providing existing conditions, impacts and mitigation measures addressing the applicable questions on the City's Initial Study Checklist.

SCOPE OF WORK

Task 1 – Administrative Draft IS/MND

Envicom will prepare an IS pursuant to CEQA and the City's requirements, which is anticipated to lead to an MND. Envicom will coordinate with the appropriate members of the team to obtain all project descriptive materials, including the project application. Envicom will review the materials and technical studies provided by the project team and provide a list of further data needs related to preparation of the IS/MND. Only minor comments and no substantive second review of the studies will be required.

The Project Description will be prepared early in the process, and circulated within the team to confirm our understanding of the project proposal and the project components that will be evaluated for potential environmental impacts under CEQA. The IS/MND will address all topical areas contained in the City's Initial Study Checklist. An explanation supporting the findings under each topical area will be provided. Analysis will be supported by technical documents or other data sources to be cited in footnotes. Project technical studies will be included as appendices to the IS/MND.

Envicom will provide word and PDF versions of Administrative Draft IS/MND to the project team for review and comment in redline strikethrough format. Based upon one (1) set of consolidated comments from the team we will revise the document and prepare MS Word and PDF versions of the Administrative Draft IS/MND for submittal to the City. The Cost Estimate Table included with this proposal provides assumptions about the level of effort for the response to comments support.

January 29, 2024
Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 3 of 8

Deliverables:

- Administrative Draft IS/MND (MS Word and PDF format).
- Revised Administrative Draft IS/MND (MS Word and PDF format).

Task 2 – Screencheck Draft IS/MND and MMP

Upon receipt of one (1) consolidated set of City comments, Envicom will prepare the Screencheck Draft MND. A Mitigation Monitoring Program (MMP) will be prepared, addressing all mitigation measures necessary to reduce project environmental impacts to a less than significant level. We will provide MS Word and PDF versions of the Screencheck Draft IS/MND and MMP to the project team for review and comment in redline strikethrough format. Based upon one (1) consolidated set of comments from the team we will revise the document and prepare MS Word and PDF versions of the Screencheck Draft IS/MND and MMP for submittal to the City.

Deliverables:

- Screencheck Draft IS/MND and MMP (MS word and PDF format) for City review.

Task 3 – Draft IS/MND and MMP for Public Circulation

Upon receipt of one (1) consolidated set of minor final comments from City staff, Envicom will make required revisions to prepare the IS/MND and Mitigation Monitoring Program (MMP) for public review.

The City will be responsible for public distribution of the documents, including preparation of the Notice of Intent to adopt the MND, City Clerk posting, newspaper publication and mailing, as required by CEQA. Electronic distribution by the City is assumed to the extent possible. The costs associated with production of the Draft IS/MND will be provided once the number of copies and size of the document are better known. Thus, these costs are shown as “To Be Determined” (TBD) in our Cost Estimate Table.

Deliverables:

- Public Circulation Draft of the IS/MND and MMP (MS Word and PDF format). The number of hard copies is TBD in coordination with the City Planning Department.

Task 4 – Response to Public Comments, Final IS/MND and MMP

Upon completion of an assumed 20-day public review period for the Draft IS/MND, we will respond to public and agency comments received during the public review period. Prior to receipt of these comments, it is difficult to estimate the level of effort required to prepare responses. The response to comments effort has been estimated in our Cost Estimate Table. Should the comments received be more extensive than anticipated, additional time required to respond will be billed on a time and materials basis, upon mutual agreement and City authorization. The number of hard copies and electronic versions is not known at this time and will be determined in coordination with City Department of Regional Planning. Thus, these costs are shown TBD in our Cost Estimate Table.

January 29, 2024
Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 4 of 8

Deliverables:

- Response to Comments, Final MND and MMP (MS Word and PDF format) for City review.
- Final Response to Comments, Final MND and MMP (MS Word and PDF format). The number of hard copies is TBD in coordination with the City Planning Department.

Task 5 – Project Management/Meetings/Coordination/Hearings

We anticipate the need to coordinate with City staff and attend meetings throughout the process. We recognize that sufficient coordination to obtain data, discuss project issues and determine strategic approaches is critical to providing high quality service and products and avoiding delays. To this end, we have included an estimated budget for project management, meeting and coordination. Additional budget may be required if participation in weekly meetings is requested.

We anticipate the need to prepare for and participate in one (1) public hearing for this project. If necessary preparation and participation at additional hearings would be provided under separate authorization.

TECHNICAL STUDIES

Air Quality and Greenhouse Gas Emissions Analysis

Envicom will utilize data on the construction program and operational project characteristics to model anticipated air quality and greenhouse gas emissions (GHG) impacts for the proposed project. The studies will be conducted using South Coast Air Quality Management District (SCAQMD) and City approved methods and thresholds.

Air Emissions Modeling

This task will consist of coordinating with the project team to gather relevant project data as available to quantify emissions anticipated to result from construction and operation of the proposed project using CalEEMod emissions model.

The SCAQMD provides quantitative significance thresholds for emissions of criteria pollutants by development projects that will be relied on to determine the significance of emissions estimated using the CalEEMod emissions model.

- GHG emissions of CO₂ equivalent (CO₂e) emissions will be determined from the model.
- A general discussion of air quality effects and management efforts based upon Antelope Valley Air Quality Management Plan, and/or applicable data provided by the Air Resources Board.
- An atmospheric environment setting discussion for the project area based on data from the nearest SCAQMD air monitoring station.
- Provide a quantitative evaluation of potential impacts by comparing the project's estimated emissions of criteria pollutants to relevant significance thresholds based on SCAQMD standards.

January 29, 2024

Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 5 of 8

- Prepare tables that show air emissions estimations for project construction and operation phases compared to SCAQMD CEQA thresholds.
- Provide a discussion of project related GHG emissions from construction and operations compared to applicable thresholds of significance.
- Identify recommended project design features that could establish project consistency with relevant GHG emissions reduction plans for the City of Los Angeles.

Air Quality and Greenhouse Gas Emissions Study Assumptions

- The results of the study may be integrated into the response to the City Initial Study Checklist, without the need for a separate stand-alone report.
- CalEEMod output sheets will be supplied in an Appendix to the IS/MND.

Cultural Resources Phase I Assessment with Paleontological Assessment

An Envicom archaeologist and cultural resources expert will prepare a stand-alone Cultural Resources Phase I Report for the project, including an assessment of sensitivity for paleontological resources. The following tasks would be completed:

Database Record Searches

Envicom will contact the South Central Coastal Information Center (SCCIC), located at the campus of California State University Fullerton, and request a records search for previously recorded cultural sites and completed technical studies that have been performed within the project area, plus a surrounding study area for additional cultural resource context. Envicom will contact the Native American Heritage Commission (NAHC) with a request to search their database for Tribal Cultural Resources (TCR) located within the subject property and within the surrounding study area. Both records searches will use a 0.25-mile study area around the project property, which will be used to determine whether the project is within a region that is sensitive for prehistoric or older historical cultural resources or not. Additionally, Envicom will also reach out to the Natural History Museum of Los Angeles (NHM) to request a record search for fossil resources that have been previously identified within the project area.

This task assumes that the provided project site development footprint encompasses all areas of disturbance and improvements associated with the project, including for staging areas, access roads, parking areas, driveways, utilities, and landscaping. The applicant team shall provide grading information, including the depth of excavation, which is important for the paleontological sensitivity and impact assessment for the project.

Site Survey

Envicom will complete a physical cultural resource survey of the project development area in accordance with Secretary of the Interior's Standards and Guidelines for Archaeological and Historic Preservation (48 FR 44716, Sept. 29, 1983). The survey will identify whether there are any previously unrecorded cultural resources located within the project site.

January 29, 2024

Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 6 of 8

Report Preparation

Within 30-days of Envicom receiving both the SCCIC, NAHC and NHM results, a draft Cultural Resources Phase I Report, including paleontological resources, will be prepared and provided to the City and incorporated into the IS/MND analysis. This scope assumes no findings of resources, and therefore that a negative findings report will be sufficient for the project.

Cultural Resources Phase I Assessment with Paleontological Assessment Assumptions

- The results of the study will be negative findings. If instead there are positive findings, additional out-of-scope work will be required. Such out-of-scope work may include but would not be limited to:
- Cultural resources identified within the SCCIC record search, which will require an update on current field conditions.
- The discovery of new cultural resources during the pedestrian survey will require the completion of a California Department of Parks and Recreation (DPR) cultural resource site form(s), as required under California Office of Historic Preservation (OHP) survey standards, which will also be an out-of-scope task.
- Any cultural resource(s) identified through either the SCCIC or pedestrian field survey efforts within or immediately adjacent to the project development footprint may require additional testing, which is also not covered within the presented scope. A positive findings cultural report following OHP guidelines will also be needed.
- Tasks related to cultural resource site subsurface surveys (also referred to as “Phase Ib” surveys), site evaluations (Phase II), or site data recovery (Phase III), or any evaluation or data recovery plans, communications, or meetings related to such tasks will not be needed.
- The formal evaluation of archaeological sites or historical resources for eligibility to the National Register of Historic Places or the California Register of Historic Resources will not be needed. Additional scope and authorization of work would be required if needed.
- Consultation with the Lead Agency, Permitting Agency, OHP, or any Native American Tribal Group representatives will not be needed.
- By receipt of notice to proceed, full access to the property will be provided.
- The SCCIC and NHM charge fees based on the number of records found and time spent by their staff, which cannot be known in advance. Often, such fees range from \$600.00 to \$1,200.00. We will include a fee budget of \$1,200.00 within the budget and ask the information centers notify us if their fees will exceed \$1,200.00, so we can inform the City of the need for additional funds.
- General scope and cost assumptions in our original proposal apply, including that the proposed project description will not substantively change subsequent to the start of preparation of the study.

January 29, 2024
Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (*Envicom Project # 2023-164-01*)
Page 7 of 8

DIRECT COSTS

Direct costs to be incurred in our scope of work include but would not be limited to, materials and supplies, equipment usage, mileage, copying, delivery, mailing, and communications charges. Our billing rates are indicated on the 2024 Envicom Corporation Professional Fee Schedule (attached).

SCOPE OF WORK AND COST ASSUMPTIONS

This proposal includes the assumptions within the scope of work above and attached Cost Estimate Table, as well as the following:

- The technical studies that are provided to Envicom are assumed to be adequate to support the CEQA analysis, requiring minimal to no review comments.
- An IS/MND is the appropriate CEQA document.
- The project description will not substantively change subsequent to the start of preparation of the technical studies or IS/MND.
- The applicant will provide site plans, grading plans, and drainage plans that adequately depict the proposed project for use in the MND.
- If necessary, additional technical studies will be provided under separate authorization.
- The cost is dependent upon the number of review cycles cited above. Additional iterations / review cycles may result in additional costs and the need for a contract amendment.
- Comments received from the City will not result in substantial changes to the project description and/or technical analysis.
- The Response to Public Comments effort has been approximated in or Cost Estimate Table. Any required effort in excess of these amounts will be covered under separate authorization.
- Additional time for participation in meetings and hearings beyond the level of effort included in this proposal will be provided on a time and materials basis.
- The Cost Estimate Table demonstrates the level of effort and direct costs currently assumed.
- Budgets may be shifted between line items to avoid the need for contract amendments.

TIMING

With the assumptions above, Envicom estimates submittal of the Administrative Draft IS/MND to the City within eight (8) weeks of authorization and receipt of all necessary materials.

COST

The proposed IS/MND scope of work will be prepared on a time-and-materials basis, pursuant to the assumption provided herein and our 2024 Envicom Corporation Professional Fee Schedule for an amount not-to-exceed \$52,760.00.



January 29, 2024
Proposal to Prepare an Initial Study/Mitigated Negative Declaration
28730 Agoura Road Restaurant Project (Envicom Project # 2023-164-01)
Page 8 of 8

We appreciate the opportunity to assist you with your project. Please do not hesitate to call if you have any questions about this proposal.

Sincerely,



Laura Kaufman, AICP
Vice President, Environmental Services

Authorization to Proceed (signature)

Date

Daily Correspondence:

Project Manager: _____

Email: _____

Phone: _____

Billing Correspondence:

Accounting Contact: _____

Email: _____

Phone: _____

Attachments:

28730 Agoura Road Restaurant Project IS/MND Cost Estimate
2024 Envicom Corporation Professional Fee Schedule



**28730 Agoura Road Restaurant Project
IS/MND Cost Estimate**

Task	Staff/Subconsultants	Hours	Rate	Cost
Labor Costs				
Task 1-Administrative Draft IS/MND				
<i>Project Information Review</i>	Sr. Project Manager	8.0	135.00	1,080.00
	Noise Services Manager	6.0	170.00	1,020.00
	Principal Biologist	6.0	160.00	960.00
<i>IS/MND Preparation</i>	Sr. Project Manager	40.0	135.00	5,400.00
	Associate Project Manager	16.0	125.00	2,000.00
	Environmental Analyst	32.0	105.00	3,360.00
Word Processing	Admin/Word Processing	8.0	80.00	640.00
Graphics	Graphics/GIS	8.0	105.00	840.00
PM Coordination/Internal Review/Quality Assurance	VP/Director	12.0	215.00	2,580.00
	<i>Admin Draft IS/MND Subtotal</i>			<i>17,880.00</i>
Task 2-Screencheck Draft IS/MND and MMP				
<i>Response to City Comments</i>	Sr. Project Manager	30.0	135.00	4,050.00
	VP/Director	4.0	215.00	860.00
	Mixed Staff Rate	18.0	115.00	2,070.00
	Admin/Word Processing	6.0	80.00	480.00
	Graphics/GIS	4.0	105.00	420.00
	<i>Screencheck Draft IS/MND Subtotal</i>			<i>7,880.00</i>
Task 3-Draft IS/MND and MMP for Public Circulation				
<i>Response to City Comments and Elec. Production</i>	Sr. Project Manager	16.0	135.00	2,160.00
	Admin/Word Processing	6.0	80.00	480.00
	Graphics/GIS	4.0	105.00	420.00
	<i>Draft IS/MND for Public Circulation Subtotal</i>			<i>3,060.00</i>
Task 4-Response to Public Comments, Final IS/MND and MMP				
<i>Response to Comments/Document Revisions</i>	Sr. Project Manager	16.0	135.00	2,160.00
	VP/Director	4.0	215.00	860.00
	Admin/Word Processing	6.0	80.00	480.00
	Graphics/GIS	4.0	105.00	420.00
	<i>Response to Comments, Final IS/MND Subtotal</i>			<i>3,920.00</i>
Task 5-Project Management/Meetings/Team Coordination/Hearings				
<i>Project Management/Administration</i>	Sr. Project Manager	24.0	135.00	3,240.00
	VP/Director	6.0	215.00	1,290.00
	Admin/Word Processing	16.0	80.00	1,280.00
<i>Public Hearings Preparation/Participation</i>	Sr. Project Manager	6.0	135.00	810.00
	<i>Project Mgmt./Meetings/Team Coord./Hearings Subtotal</i>			<i>6,620.00</i>
LABOR SUBTOTAL				\$39,360.00
DIRECT COSTS				
<i>Admin Draft IS/MND & Tech Appendices</i>	# of copies and pages TBD			TBD
<i>Public Draft IS/MND & Tech Appendices</i>	# of copies and pages TBD			TBD
<i>Final IS/MND & Tech Appendices</i>	# of copies and pages TBD			TBD
General Materials, Copies, Mileage, and Other Direct Costs				2,200.00
MATERIALS/DIRECT COSTS ESTIMATE (not including SCCIC)				\$2,200.00
LABOR AND DIRECT COSTS TOTAL				\$41,560.00
TECHNICAL STUDIES / ANALYSIS				
<i>Air Quality, Greenhouse Gas Emissions Analysis (no stand-alone report)</i>	<i>Envicom Corporation</i>			6,000.00
<i>Cultural Resources Phase I Assessment</i>				5,200.00
TECHNICAL STUDIES SUBTOTAL				\$11,200.00
IS/MND AND TECHNICAL STUDIES TOTAL				\$52,760.00



PROFESSIONAL FEE SCHEDULE
January 1, 2024

The Envicom Professional Fee Schedule provides the rates for labor, expenses, and reimbursable costs that will be charged for our professional and support services. The following provides a breakdown for our Personnel, Project-Related Expenses, and Equipment Rates

PERSONNEL

Principal	\$230.00
Director	\$160.00-215.00
Senior Project Manager	\$130.00-\$180.00
Noise Services Manager	\$170.00
Principal/Senior Biologist	\$125.00-155.00
Project Manager	\$115.00-\$135.00
Associate Project Manager	\$100.00-\$115.00
Environmental Analyst/Planner	\$85.00-\$115.00
Staff Biologist	\$85.00-\$115.00
Restoration Ecologist/Arborist	\$135.00
GIS/Mapping	\$100.00-\$150.00
Cultural Resource Field Technician/Monitor	\$65.00-\$90.00
Project Assistant/Production Specialist	\$80.00
Intern	\$55.00

Expert Witness testimony: One and one half times above listed rates (including depositions).

PROJECT-RELATED EXPENSES

A **communication fee** of three percent (3%) of total labor billings will be charged for in-house costs for phone, fax, e-mail, postage, personal computer use, interim working copy reproductions and records maintenance/retention. **Travel expenses** (hotels, meals, rental vehicles, etc.) are charged at cost plus ten percent (10%). Per Diem charge for subsistence may be negotiated in lieu of actual direct expenses for hotels/meals. **Printing/Reproduction** rates for black and white copies will be charged at \$0.15 per page and in-house color copies at \$1.00 per 8.5x11 and \$1.50 per 11x17 copy. Oversized copies and plots will be as quoted. **Personal vehicle** use will be at the current IRS rate per mile. **Out of pocket direct expenses** identifiable to an assignment will be charged at cost plus ten percent (10%). **Subcontractors and sub-consultants** services billed at cost plus 10 percent (10%).

EQUIPMENT RATES

Envicom Corporation charges for consumable field materials and specialized equipment.

General Field Consumables (Stakes, Flagging, Plant and Tree Tags)	Cost + 10%
Water Quality Sampling (Temp, pH, DO, Turbidity)	\$60.00/day
Noise Meter	\$100.00/day
GPS	\$100.00/day
4 x 4 Trucks	\$100.00/day

