

REPORT TO CITY COUNCIL

DATE: FEBRUARY 27, 2008

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, CITY ENGINEER

SUBJECT: APPROVAL OF A PROFESSIONAL ENGINEERING SERVICES AGREEMENT, WITH BOYLE ENGINEERING CORPORATION, TO DESIGN THE ROUNDABOUT AT THE INTERSECTION OF KANAN ROAD AND AGOURA ROAD

On November 14, 2007, the City Council authorized staff to solicit proposals for professional design services for a roundabout at the intersection of Kanan Road and Agoura Road. On January 10, 2008, the City received bids from four prospective firms: Boyle Engineering Corporation, KOA Corporation, RBF Consulting, and MNS Engineering, Inc. After reviewing the proposals, staff determined that MNS Engineering, Inc., did not possess the necessary experience for such a complex design so they were not invited for an oral interview.

On February 13, 2008, the remaining three firms were interviewed by City staff, and Boyle Engineering Corporation was unanimously selected as the most experienced and qualified to meet the City's expectations. Boyle Engineering Corporation has an excellent reputation and past experience working within Agoura Hills as they were the designers for Phase 1 of the Agoura Road Bike Lane project between Kanan Road and Liberty Canyon Road.

Boyle's cost proposal came in favorably as well, at \$224,407, which was over \$20,000 less than KOA's cost of \$247,290, and over \$70,000 less than RBF's cost of \$298,780. The cost of this contract will be covered 100% using funds from the City's TIF account.

Staff contacted many of Boyle's references to discuss past work and all of them indicated the firm's performance was excellent.

The design phase of this project is anticipated to take approximately one-year to complete and will officially begin on March 1, 2008.

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 professional services agreement with Boyle Engineering Corporation; and
2. Authorize the Mayor to sign the agreement on behalf of the City Council.

Attachment: Professional Services Agreement (PSR)

AGREEMENT FOR CONSULTING SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT:	Boyle Engineering Corporation
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Dan Ellison Principal in Charge
CONSULTANT'S ADDRESS:	5851 Thille Street Suite 201 Ventura, CA 93003
CITY'S ADDRESS:	City of Agoura Hills Ramiro S. Adeva III, City Engineer 30001 Ladyface Court Agoura Hills, CA 91301
COMMENCEMENT DATE:	March 1, 2008
TERMINATION DATE:	March 1, 2009
CONSIDERATION:	Not to exceed \$260,000

**AGREEMENT FOR CONSULTING SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND BOYLE ENGINEERING CORPORATION
FOR PROFESSIONAL DESIGN SERVICES OF THE
ROUNDBOUT AT THE INTERSECTION OF KANAN ROAD AND AGOURA HILLS**

THIS AGREEMENT, is made and entered into in the CITY of Agoura Hills on this 27th day of February, 2008, by and between the CITY OF AGOURA HILLS, a municipal corporation, herein referred to as CITY, and Boyle Engineering Corporation, hereinafter referred to as "CONSULTANT".

W I T N E S S E T H:

WHEREAS, CITY desires to obtain the services of a competent and experienced CONSULTANT to perform related professional duties as set forth in Exhibit "A" attached and made a part of this agreement; and

WHEREAS, CONSULTANT possesses the required competence and experience and is available to provide the required service for the period of this Agreement.

NOW, THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. TERM. The term of this Agreement shall be from March 1, 2008, until March 1, 2009, unless otherwise approved by the City Engineer.

2. CITY'S OBLIGATIONS. After CONSULTANT has performed the services as specified in this Agreement, CITY will pay, and CONSULTANT shall receive, payments based upon the actual services received by CITY and the fees charged by CONSULTANT at the rates established as shown in Exhibit "B" attached hereto and made a part of this Agreement.

Payments to the CONSULTANT shall be made within 30 days after receipt of an original invoice from the CONSULTANT and acceptance of the services.

3. CONSULTANT'S OBLIGATIONS. For and in consideration of the payments and agreements herein, aforementioned to be made and performed by CITY, CONSULTANT agrees with CITY to furnish the services and to do everything required by this AGREEMENT, the scope of work attached hereto as Exhibit "A", and the Proposal submitted by the CONSULTANT. Without limiting the generality of the foregoing, CONSULTANT represents on behalf of itself and all subcontractors engaged for the performance of this Agreement that only persons authorized to work in the United States, pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws, shall be employed in the performance of the work hereunder.

4. HOLD HARMLESS AND INDEMNIFICATION. CONSULTANT agrees to defend, indemnify, and hold harmless CITY, its officials, officers, employees, representatives, and agents, from and against any and all claims, lawsuits, liabilities or damages of whatsoever nature arising out of or in connection with any intentional misconduct or negligent act or omission of CONSULTANT, its agents, employees, and subcontractors of any tier and employees thereof in connection with the performance or non-performance of this Agreement. The CONSULTANT shall thoroughly investigate any and all claims and indemnify the CITY and do whatever is necessary to protect the CITY, its officials, officers, employees, agents, and representatives as to any such claims, lawsuits, liabilities, expenses, or damages.

5. INSURANCE. CONSULTANT shall furnish CITY with proof of the following minimum insurance coverages prior to the execution hereof:

- a) General Comprehensive Liability \$2,000,000 Combined single limit
(must be written on an occurrence form and include bodily injury, property damage)
- b) Automobile Liability for owned autos \$1,000,000
and non-owned/hired autos (must be written on an occurrence form)
- c) Professional Liability/Errors \$2,000,000
& Omissions
- d) Worker's Compensation \$ 250,000 Statutory

Coverage 5.a) and b) shall also include a CITY approved endorsement form or a copy of insurance policies providing an additional insured endorsement covering the CITY, its agents and employees, and all of the foregoing insurance shall include an unequivocal clause stating that none of the required insurance shall be canceled or materially changed without 30 days prior written notice to the CITY. For coverage 5.a) and b) a CITY-approved endorsement or certified copy of insurance policies providing coverage shall be submitted to and approved prior to commencement of any work.

6 AMENDMENTS. Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the City Engineer of the CITY.

7. TERMINATION. CONSULTANT may not terminate this Agreement except upon 30 days written notice, and upon receiving the prior written consent of CITY, which shall not be withheld unreasonably. CITY may terminate this Agreement without cause, upon thirty (30) days written notice to CONSULTANT in which case CONSULTANT shall be entitled to receive compensation for the reasonable value of CONSULTANT'S services performed through the termination date. Furthermore, if,

during the term of this Agreement, CITY determines that CONSULTANT is not faithfully abiding by any term or condition contained herein, CITY may notify CONSULTANT in writing of such defect or failure to perform; such notice must give CONSULTANT a 24-hour notice of time thereafter in which to perform said work or cure the deficiency. If CONSULTANT has not performed the work or cured the deficiency within the time specified in the notice, or if a similar failure to perform or deficiency is repeated, such shall constitute a breach of this Agreement and CITY may terminate this Agreement immediately by written notice to CONSULTANT to said effect. In said event, CONSULTANT shall be entitled to the reasonable value of its services performed up to the day it received CITY's Notice of Termination, minus any offset from such payment representing the CITY's damages from such breach. Failure of CONSULTANT to provide CITY staff reports, exhibits, charts, graphs, and other written material, which meets or exceeds reasonable professional standards, shall cause damages which are unascertainable at the inception hereof, entitling CITY to offset any payments due on the agreement in the form of liquidated damages not exceeding the balance due on the agreement, and not as a penalty. CITY reserves the right to delay any post-termination payment until completion or confirmed abandonment of the project, as may be determined in the CITY's sole discretion, so as to permit a full and complete accounting of costs. In no event shall CONSULTANT be entitled to receive in excess of the compensation quoted in its proposal/bid.

8. INCORPORATION BY REFERENCE. The Request for Proposal and the Proposal Submission are hereby incorporated in and made a part of this Agreement. In the event of a conflict the priority of documents shall be: (1) This Agreement; (2) Request for Proposal; (3) Proposal Submission.

The City assumes all ownership rights of the final documents.

9. ASSIGNMENT/SUCCESSORS. Neither party hereto shall assign any of the benefits or burdens hereunder without the prior written consent of the other party hereto. Assigns and successors to the parties hereto shall be bound by the provisions hereof.

10. COMPLETE AGREEMENT. This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding upon the parties hereto.

11. TIME OF PERFORMANCE. Time of completion of the roundabout design shall be completed within **261** working days from the start date of this agreement (March 1, 2008). Any delays or extensions of the time of performance shall be requested in writing to the City Engineer, and no delay/extension is acceptable without the prior approval of the City Engineer. Liquidated damages shall be enforced in the

amount of **\$1,000** per day for any additional days, unless otherwise approved by the City Engineer.

12. ANTI-DISCRIMINATION. In the performance of the terms of this Agreement, CONSULTANT agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of the age, race, color, religious creed, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, or marital status of such persons. Violation of this provision may result in the imposition of penalties referred to Labor Code Section 1735.

13. AUDIT. CITY shall have the option of inspecting and/or auditing all records and other written materials used by CONSULTANT in preparing its statements to CITY as a condition precedent to any payment to CONSULTANT.

14. NOTICE. All written notices to the parties hereto shall be sent by United States mail, postage prepaid by registered or certified mail addressed as follows:

CITY: Ramiro Adeva, City Engineer
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

CONSULTANT: Dan Ellison, Principal in Charge
Boyle Engineering Corporation
5851 Thille Street
Suite 201
Ventura, CA 93003

15. AUTHORITY TO EXECUTE AGREEMENT. Both CITY and CONSULTANT do covenant that each individual executing this Agreement on behalf of each party is a person duly authorized and empowered to execute Agreement for such party.

16. CONFLICT OF INTEREST. Neither CONSULTANT nor any employees, agents, or subcontractors of CONSULTANT who will be assigned to this project, to the best of CONSULTANT'S knowledge, own any property or interest in properties, business relationships, or sources of income which may be affected by the performance of this Agreement. Should either party hereto learn of any such interest, income source, or business relationship, such fact shall immediately be brought to the attention of the other party hereto. If the parties thereupon cannot mutually agree upon a means to eliminate the conflict CITY may terminate the agreement immediately on the same conditions applicable when CONSULTANT fails to provide to CITY staff reports, exhibits, charts, etc. (See Section 7 hereof).

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

ATTEST:

CITY OF AGOURA HILLS,
a Municipal Corporation

Kimberly M. Rodrigues, City Clerk
City of Agoura Hills

By: _____
John Edelston, Mayor
City of Agoura Hills

APPROVED AS TO FORM:

Craig Steele, City Attorney
City of Agoura Hills

CONSULTANT:

Boyle Engineering Corporation
5851 Thille Street, Suite 201
Ventura, CA 93003

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signatures of Two Corporate Officers Required]

EXHIBIT A

SCOPE OF SERVICES

The consultant's services shall include, but not be limited to, the following:

1. **Project Administration and Management:** The selected firm will be responsible for communicating regularly with City staff on the progress of the design. Communication with City staff will be key in the timely review and approval of the final design. A project schedule will need to be maintained by the selected firm throughout the duration of the design to ensure the timely completion of the design plans, specifications, and estimates.
2. Selected firm is responsible for gathering the necessary data to complete the design. This includes, but is not limited to, record plan research, utility research, field investigations, right-of-way investigations, field survey, etc.
3. Prepare conceptual roundabout layouts, using a 1"= 40' scale, to be reviewed and approved by City staff. Conceptual layouts are necessary to ensure all specific design concerns are identified and addressed prior to starting the final design.
4. **Progress Meetings:** In addition to the communication efforts as listed in item #1 above, progress meetings between the consultant and City staff shall be made at the 35%, 65% 95%, and Final design stages. This also allows for immediate identification of unforeseen design issues, and the prompt resolution of such issues.

Plans shall include, among other things, vertical and horizontal geometrics, pavement sections, drainage layout, utility layout, landscaping/ aesthetic-appeal concepts, cross-sections, details, signing and striping, right-of-way, property/ boundary lines (existing and proposed), street lighting, demolition plan, pavement transitions, etc.

5. **Deliverables:** in addition to the project plans, consultant is responsible for preparing studies, models, visuals, legal documents such as: hydrology/drainage reports, geotechnical reports, traffic simulation models, truck traffic turning templates, traffic counts, legal descriptions/ exhibits for right-of-way issues, etc.
6. **Informational Meetings (Public Relations):** Consultant will be responsible for coordinating a public information session (includes, among other things, preparation of exhibits, handouts, cost estimates, anticipated construction schedules, etc) where the public will be invited to ask questions about the project. The date, time, and location of such an event will need to be coordinated with City staff.

In addition, consultant will be prepared to provide updates to the to groups such as the City Council, Agoura Village subcommittee, etc.

Attachment B

CONFLICT OF INTEREST STATEMENT FOR CONSULTANTS

AS REQUIRED BY THE FAIR POLITICAL PRACTICES COMMISSION (FPPC)
UNDER CALIFORNIA GOVERNMENT CODE SECTION 87306

Consultants who make or participate in the making of decisions which may affect financial interests are required to file a Conflict of Interest Statement, Form 730 under Disclosure Category 1.

Consultant, as defined, "shall include any natural person who provides, under agreement, information, advice, recommendation, or counsel to a state or local government agency, provided, however, that 'consultant' shall not include a person who:

1. Conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal agreement monitoring; and
2. Possesses no authority with respect to any agency decision beyond rendition of information, advice, recommendation or counsel."

Procedure

1. All Request for Proposals (RFP's) for Consultant services should include the following clause in the General Terms and Conditions:

Conflict of Interest Disclosure - In accordance with California Government Code Section 97306, the Consultant awarded a agreement to provide the requested services, may be required to file a Conflict of Interest Statement, Form 730 no later than 30 days after execution of the agreement, annually thereafter prior to April 30th of each year for the duration of the agreement, and within 30 days of termination of the agreement. Failure to file any required statements will result in withholding payment for services rendered.

2. Prior to award of a agreement, a determination is made as to whether the Consultant who will be retained to provide certain services is required to file a Conflict of Interest Statement based on the definition of Consultant.
3. The Determination of Reporting Status for Consultant form (Attachment C) is completed by the Department.
4. Award of agreement staff reports along with the Determination of Reporting Status for Consultants form are routed to the Support Services Administrator and the City Attorney's Office prior to submittal to the City Manager's Office. The staff

report, Agreement and Determination of Reporting Status for Consultants form are then routed to the City Manager's office upon approval for agreements under \$15,000, and for inclusion on the City Council Agenda for agreements exceeding \$15,000.

5. The Department ensures that all Conflict of Interest filings by the Consultant are forwarded immediately to the City Clerk's office. The Department also does not authorize payment for services rendered until the proper Conflict of Interest filings have been completed.

