



Agenda Item A.5
CONSENT CALENDAR
Meeting Date: September 5, 2023

TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: Kent Yankee, Contract Project Manager

SUBJECT: Amendment No. 1 to Professional Design Services Agreement 2021-064 with Bengal Engineering, Inc. for the Storke Road/Hollister Avenue Transit, Bike Path and Median Improvement Project

RECOMMENDATION:

Authorize the City Manager to execute Amendment No. 1 to Professional Design Services Agreement No. 2021-064 with Bengal Engineering, Inc. for the Storke Road/Hollister Avenue Transit, Bike Path, and Median Improvement Project, increasing the contract authority by \$34,200, for a new total not-to-exceed amount of \$265,023, with an expiration date of December 31, 2025.

BACKGROUND:

The intersection of Storke Road and Hollister Avenue in the City was originally designed to support a much smaller traffic load, but now has the demand of a growing community. Currently, Storke Road is a four-lane divided roadway with 11-foot-wide vehicle traffic lanes, bike lanes and short turn pockets to adjoining points of interest and cross streets. In recent history this intersection has been a focal point for congestion amongst vehicle traffic, community transit and pedestrians. Short turn pockets and bus pads have obstructed through travel lanes and improvement has become necessary.

Bengal Engineering, Inc. (Bengal) prepared a proposal to perform civil engineering services for the Storke Road/Hollister Avenue Transit, Bike Path, and Median Improvement Project (Project) (CIP No. 9062) in May 2021 with the anticipation that the Project would be completed in 10 months (March 2022). Bengal's budget included coordination of right-of-way acquisition through Hamner-Jewell & Associates (HJA) and utility relocation work for the proposed improvements.

DISCUSSION:

During design, additional utilities were discovered within the City right-of-way as well as outside the right-of-way on the private property which is proposed to be acquired. Additionally, there are private utilities which must also be relocated to build the Project.

These utilities include a large private water line, natural gas and a substantial University of California, Santa Barbara (UCSB) fiber optic bundle which provides the main internet feed to UCSB. Right-of-way negotiations with the adjacent landowner (to the west of Storke Road, in the location of the Bus Pad Extension) led us to discover a private large storm drain which was constructed partially within City property that required additional investigation. With these discoveries, increased efforts requiring field measurements and interpretation of the available record drawings are needed to coordinate the design.

Utility relocations require additional Temporary Construction Easements (TCE's). Because of the magnitude of the utility relocations and the proximity of a very busy portion of Storke Road, it became clear that the TCE's will be located within mature landscaping on private property leading to involved right-of-way appraisals. Right-of-way has become more complicated than expected causing additional coordination with the landowner and City representatives. Therefore, more right-of-way acquisition than anticipated was necessary and this increased the time and coordination of the City, Bengal and HJA.

Public Works staff is recommending that City Council authorize the City Manager to execute Amendment No. 1 to Professional Design Services Agreement with Bengal. increasing the agreement by \$34,200 for a total not-to-exceed amount of \$265,023.

FISCAL IMPACTS:

The total estimated costs and funding sources associated with the Project are identified in this report are listed in Table 1 below.

Table 1

Project Components	Estimated Costs	Funding Source	Funding Amounts
Conceptual Design	\$50,000	Transportation Facilities DIF (220)	\$159,159
Environmental	\$25,000	Long Range Development Plan (230)	\$270,136
Final Design	\$265,023	Measure A Grant (206)	\$422,950
Land Acquisition	\$433,500	Unfunded (TBD)	\$1,155,478
Construction	\$1,234,200		
Total	\$2,007,723	Total	\$2,007,723

Project Funding

Project design consultant engineering costs are \$265,023. There are design engineering funds available for this Project. Table 2 below summarizes the Project funding sources.

Table 2: Project Funding

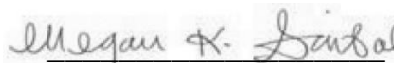
Fund Type	Account	FY 2022-23 Carryovers	FY 2023-24 Budget	Available Balance
Measure A Grant	206-90-9062- 57050 (Land Acquisition)	\$71,264	\$0	\$71,264
Long Range Development Plan	230-90-9062-57071 (Land Acquisition)	\$40,136	\$0	\$40,136
Transportation Facilities DIF	220-90-9062-57070 (Design)	\$8,076	\$0	\$8,076
Long Range Development Plan	230-90-9062-57071 (Design)	\$86,293	\$0	\$86,293
Measure A Grant	206-90-9062- 57071 (Construction)	\$284,570	\$0	\$284,570
Transportation Facilities DIF	220-90-9062-57071 (Construction)	\$125,000	\$0	\$125,000
Total		\$615,339	\$0	\$615,339

ALTERNATIVES:

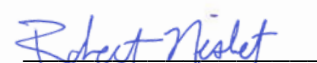
Council may elect not to authorize the proposed Amendment No. 1 to Professional Design Services Agreement with Bengal Engineering, Inc. at this time. This would impede the Project schedule and would result in the loss of engineering support services by Bengal Engineering, Inc.

Reviewed By:


Kristine Schmidt
Assistant City Manager

Legal Review By:


Megan Garibaldi
City Attorney

Approved By:


Robert Nisbet
City Manager

ATTACHMENTS:

1. Amendment No. 1 to Professional Design Services Agreement No. 2021-064 with Bengal Engineering, Inc.
2. Professional Design Services Agreement 2021-064 with Bengal Engineering, Inc.

ATTACHMENT 1

Amendment No. 1 to Professional Design Services Agreement No. 2021-064 with
Bengal Engineering, Inc.

**AMENDMENT NO. 1
TO A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
BENGAL ENGINEERING, INC.**

This **Amendment No. 1** to the Professional Design Services Agreement by and between the **City of Goleta**, a municipal corporation ("City") and **Bengal Engineering Inc.** ("Consultant") dated July 20, 2021 ("Agreement," Agreement No. 2021-064) is made on this ____ day of ____, 20____.

SECTION A. RECITALS

1. This Agreement is for the Storke Road/Hollister Avenue Transit, Bike/Ped, and Median Improvements Project; and
2. The Agreement currently provides in Section 3 Subsection (a) for the total compensation amount not to exceed \$230,823; and
3. The parties desire to amend the Agreement so as to provide for additional compensation in the amount of \$34,200 for continued tasks; and
4. The Agreement currently provides in Section 6 for the termination of the Agreement on December 31, 2024; and
5. The parties desire to amend the Agreement so as to extend the termination of the Agreement to December 31, 2025; and
6. The City Council approved this Amendment No. 1, on this ____ day of ____, 20____.

SECTION B. AMENDED TERMS

Now therefore City and Consultant agree as follows that the Agreement be, and hereby is, amended as follows:

1. **Subsection (a) of Section 3. COMPENSATION AND PAYMENT** of the Agreement is amended to add an additional authorized amount of \$34,200 and to read in its entirety:
 - (a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$265,023 (herein "not-to-exceed amount") and shall be earned as the work progresses.

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2025, after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

2. **Section 6. TERM, PROGRESS AND COMPLETION** of the Agreement is amended to extend the term for an additional 12 months to read in its entirety:

The term of this Agreement is from the date first written above to December 31, 2025, unless the term of this Agreement is extended or the Agreement is terminated as provided for herein.

CONSULTANT shall not commence work on the services to be performed until (i) CONSULTANT furnishes proof of insurance as required by Section 10 below, and (ii) CITY gives written authorization to proceed with the work provided by CITY's Project Manager. All services shall be completed within the term of this Agreement following the notice to proceed.

3. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect.

In concurrence and witness whereof, this Amendment No. 1 has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

CONSULTANT

Robert Nisbet, City Manager

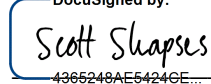
MD Wahiduzzaman,
Chief Executive Officer

ATTEST:

Deborah Lopez, City Clerk

Scott Onishuk, Principal

APPROVED AS TO FORM:
MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:

4365248AE5424GE...
Scott Shapses, Deputy City Attorney

ATTACHMENT 2

Professional Design Services Agreement 2021-064 with Bengal Engineering, Inc.

2021-064

**Project Name: Storke Road/Hollister Avenue Transit,
Bike/Ped, and Median Improvements**

**AGREEMENT FOR PROFESSIONAL DESIGN SERVICES
BETWEEN THE CITY OF GOLETA
AND
BENGAL ENGINEERING, INC.**

This AGREEMENT FOR PROFESSIONAL DESIGN SERVICES (herein referred to as "AGREEMENT") is made and entered into this 20th day of July, 2021, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **BENGAL ENGINEERING, INC.**, a California Corporation (a limited liability company herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional design engineering services for the Storke Road/Hollister Avenue Transit, Bike/Ped, and Median Improvements; and

WHEREAS, the CITY does not have the personnel able and/or available to perform the services required under this AGREEMENT, and therefore, the CITY desires to contract for professional services to accomplish this work; and

WHEREAS, the CITY procured these services in compliance with Goleta Municipal Code Section 3.05.260 by selecting CONSULTANT from the City's preauthorized qualified consultants list for Civil Engineering Services, which was compiled from a competitive Request for Proposals; and

WHEREAS, the City Council, on this 20th day of July, 2021, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

1. RETENTION AS CONSULTANT

CITY hereby retains CONSULTANT, and CONSULTANT hereby accepts such engagement, to perform the services described in Section 2. CONSULTANT warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional Design Services in conjunction with the Storke Road/Hollister Avenue Transit, Bike/Ped, and Median Improvements Project shall generally include surveying, design, preparing plans and specifications, and bidding support as more particularly set forth in the Scope of Work, attached as Exhibit A, and incorporated herein.

City of Goleta
Public Works Department and Bengal Engineering, Inc.
Page 1 of 18

CONSULTANT shall deliver to CITY the deliverables defined in Exhibit A.

3. COMPENSATION AND PAYMENT

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$230,823 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit B, attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2024, after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

(b) **Payment.** CONSULTANT shall provide CITY with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to CITY's Project Manager, as described in Section 5. Invoices shall be made no more frequently than on a monthly basis, and describe the work performed (including a list of hours worked by personnel classification). All payments shall be made within 30 days after CITY's approval of the invoice.

4. EXTRA SERVICES

CITY shall pay CONSULTANT for those CITY authorized extra services, not reasonably included within the services described in Section 2, as mutually agreed to writing in advance of the incurrence of extra services by CONSULTANT. Unless CITY and CONSULTANT have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. The applicable hourly rates for extra services shall be at the hourly rates set forth in the compensation exhibit. Any compensation for extra services shall be part of the total compensation and shall not increase the not to exceed amount identified in Section 3.

5. CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by CONSULTANT shall be accomplished under the general direction of, and coordinate with, CITY's "Project Manager", as that staff person is designated by CITY from time to time, and who presently is James Winslow. Project Manager shall have the authority to act on behalf of the CITY in administering this AGREEMENT but shall not be authorized to extend the term of the AGREEMENT or increase the not to exceed amount.

6. TERM, PROGRESS AND COMPLETION

The term of this AGREEMENT is from the date first written above to December 31, 2024, unless term of this AGREEMENT is extended, or the AGREEMENT is terminated as provided for herein.

CONSULTANT shall not commence work on the services to be performed until (i) CONSULTANT furnishes proof of insurance as required by Section 10 below, and (ii) CITY gives written authorization to proceed with the work provided by CITY's Project Manager. All services shall be completed by the termination date of this AGREEMENT following the notice to proceed.

7. OWNERSHIP OF DOCUMENTS

All drawings, designs, data, photographs, reports and other documentation (other than CONSULTANT's drafts, notes and internal memorandum), including duplication of same prepared by CONSULTANT in the performance of these services, are the property of CITY. CITY shall be entitled to immediate possession of the same upon completion of the work under this AGREEMENT, or at any earlier or later time when requested by CITY. CITY agrees to hold CONSULTANT harmless from all damages, claims, expenses, and losses arising out of any reuse of the plans and specifications for purposes other than those described in this AGREEMENT, unless written authorization of CONSULTANT is first obtained.

8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR

This AGREEMENT is for professional services which are personal to CITY. Scott Onishuk is deemed to be specially experienced and is a key member of CONSULTANT's firm, and shall be directly involved in the performance of this work. This key person shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This AGREEMENT may not be assigned or subcontracted without the City Manager's prior written consent.

The following portions of the work will be subcontracted out to other parties by CONSULTANT:

- **Hamner, Jewell, and Associates**, Lillian Jewell, utilities and right-of-way services.
- **Reese Water & Land Surveying Services**, Robert J. Reese, surveying services.

9. **HOLD HARMLESS AND INDEMNITY**

(a) **Indemnification and Defense for Professional Service.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless the CITY and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, to the extent they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT. CONSULTANT's duty to defend shall consist of reimbursement of defense costs incurred by CITY in direct proportion to the CONSULTANT's proportionate percentage of fault. CONSULTANT's percentage of fault shall be determined, as applicable, by a court of law, jury or arbitrator. In the event any loss, liability or damage is incurred by way of settlement or resolution without a court, jury or arbitrator having made a determination of the CONSULTANT's percentage of fault, the parties agree to mediation with a third party neutral to determine the CONSULTANT's proportionate percentage of fault for purposes of determining the amount of indemnity and defense cost reimbursement owed to the CITY.

(b) **For All Other Liabilities.** Notwithstanding the foregoing and without diminishing any rights of CITY, for any liability, claim, demand, allegation against CITY arising out of, related to, or pertaining to any act or omission of CONSULTANT, but which is not a design professional service, CONSULTANT shall defend, indemnify, and hold harmless CITY, its officials, employees, and agents ("Indemnified Parties") from and against any and all damages, costs, expenses (including reasonable attorney fees and expert witness fees), judgments, settlements, and/or arbitration awards, whether for personal or bodily injury, property damage, or economic injury, and arising out of, related to, any concurrent or contributory negligence on the part of the CITY, except for the sole or active negligence of, or willful misconduct of the CITY.

(c) **No Waiver.** CITY does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by CITY, or the deposit with CITY, of any insurance certificates or policies described in Section 10.

10. **INSURANCE**

CONSULTANT shall, at CONSULTANT's sole cost and expense, provide insurance as described herein. All insurance is to be placed with insurers authorized to do business in the State of California with an A.M. Best and Company rating of A- or better, Class VII or better, or as otherwise approved by CITY.

Insurance shall include the following (or broader) coverage:

- a) Insurance Services Office Commercial Liability coverage "occurrence" form CG 00 01 or its exact equivalent with an edition date prior to 2004 and with minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- b) Insurance Services Office form number CA 00 01 or equivalent covering Automobile Liability, including hired and non-owned automobile liability with a minimum limit of \$1,000,000 per accident. If the Service Provider owns no vehicles, this requirement may be satisfied by a non-owned and hired auto endorsement to Service Provider's commercial general liability policy.
- c) Workers' Compensation insurance complying with California worker's compensation laws, including statutory limits for workers' compensation and an Employer's Liability limit of \$1,000,000 per accident or disease.
- d) Professional liability insurance that covers the services to be performed in connection with this agreement, in the minimum amount of \$1,000,000 per claim.

Liability insurance policies required to be provided by CONSULTANT hereunder shall contain or be endorsed to contain the following provisions:

- a) CITY, its employees, officials, agents and member agencies shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the work performed or related to the contract. Additional insured status under the general liability requirement shall be provided on Insurance Services Office Form CG 20 10, with an edition date prior to 2004, or its equivalent. Additional insured status for completed operations shall be provided either in the additional insured form or through another endorsement such as CG 20 37, or its equivalent.
- b) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to CITY's vicarious liability.
- c) Professional liability insurance policies inception date, continuity date, or retroactive date must be before the effective date of this agreement. CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.
- d) Liability coverage shall be primary and non-contributing with any insurance maintained by CITY.

- e) Evidence of coverage (including the workers' compensation and employer's liability policies) shall provide that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after 30 days' prior written notice has been given to CITY. Such provision shall not include any limitation of liability of the insurer for failure to provide such notice.
- f) No liability insurance coverage provided to comply with this AGREEMENT shall prohibit CONSULTANT, or CONSULTANT's employees, or agents, from waiving the right of recovery prior to a loss. CONSULTANT waives its right of recovery against CITY.
- g) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- h) There shall be no recourse against CITY for payment of premiums or other amounts with respect to the insurance required to be provided by CONSULTANT hereunder. Any failure, actual or alleged, on the part of CITY to monitor compliance with these requirements will not be deemed as a waiver of any rights on the part of CITY. CITY has no additional obligations by virtue of requiring the insurance set forth herein. In the event any policy of insurance required under this AGREEMENT does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments.
- i) CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this AGREEMENT. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

11. RELATIONSHIP OF CONSULTANT TO CITY

The relationship of the CONSULTANT to CITY shall be that of an independent contractor and that in no event shall CONSULTANT be considered an officer, agent, servant or employee of CITY. CONSULTANT shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

12. CORRECTIONS

In addition to the above indemnification obligations, CONSULTANT shall correct, at its expense, all errors in the work that may be disclosed during CITY's review of CONSULTANT's report or plans. Should CONSULTANT fail to make such correction in

a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT or withheld from any funds due to CONSULTANT hereunder.

13. TERMINATION BY CITY

CITY, by notifying CONSULTANT in writing, may upon 10 calendar days notice, terminate without cause any portion or all of the services agreed to be performed under this AGREEMENT. If termination is for cause, no notice period need be given. In the event of termination, CONSULTANT shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by CITY to CONSULTANT within 30 days following submission of a final statement by CONSULTANT unless termination is for cause. In such event, CONSULTANT shall be compensated only to the extent required by law.

14. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by CONSULTANT of the final payment made under this AGREEMENT shall operate as and be a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything done, furnished, or relating to CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of CITY's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, subcontractors, agents and CONSULTANTS for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, subcontractors, agents and consultants.

15. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, CONSULTANT shall make available to a representative of CITY for examination of all its records with respect to all matters covered by this AGREEMENT and will permit CITY to audit, examine and/or reproduce such records. CONSULTANT will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least two years after termination or final payment under this AGREEMENT.

16. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this AGREEMENT by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by

such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this AGREEMENT, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

17. CONFLICT OF INTEREST

CONSULTANT is unaware of any CITY employee or official that has a financial interest in CONSULTANT'S business. During the term of this AGREEMENT and/or as a result of being awarded this AGREEMENT, CONSULTANT shall not offer, encourage or accept any financial interest in CONSULTANT'S business by any CITY employee or official.

18. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this AGREEMENT shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

19. MITIGATION OF DAMAGES

In all situations arising out of this AGREEMENT, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

20. GOVERNING LAW

This AGREEMENT, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

21. NONDISCRIMINATION

CONSULTANT shall not discriminate on the basis of race, color, gender, gender identity/expression, pregnancy, sexual orientation, disability, marital status, or any other characteristic protected under applicable federal or state law.

22. TAXPAYER IDENTIFICATION NUMBER

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. October 2018), as issued by the Internal Revenue Service.

23. NON-APPROPRIATION OF FUNDS

Payments due and payable to CONSULTANT for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of CITY funds. In the event CITY has not appropriated sufficient funds for payment of CONSULTANT services beyond the current fiscal year, this AGREEMENT shall cover only those costs incurred up to the conclusion of the current fiscal year.

24. MODIFICATION OF AGREEMENT

The tasks described in this AGREEMENT and all other terms of this AGREEMENT may be modified only upon mutual written consent of CITY and CONSULTANT.

25. USE OF THE TERM "CITY"

Reference to "CITY" in this AGREEMENT includes City Manager or any authorized representative acting on behalf of CITY.

26. PERMITS AND LICENSES

CONSULTANT, at its sole expense, shall obtain and maintain during the term of this AGREEMENT, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this AGREEMENT.

27. CAPTIONS

The captions or headings in this AGREEMENT are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the AGREEMENT.

28. AUTHORIZATION

Each party has expressly authorized the execution of this AGREEMENT on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this AGREEMENT.

29. ENTIRE AGREEMENT BETWEEN PARTIES

Except for CONSULTANT'S proposals and submitted representations for obtaining this AGREEMENT, this AGREEMENT supersedes any other agreements, either oral or

in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services.

30. PARTIAL INVALIDITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

31. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: Michelle Greene, City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117


TO CONSULTANT: Attention: Md Wahiduzzaman
 Bengal Engineering, Inc.
 360 S. Hope Ave, Suite C-110
 Santa Barbara, CA 93105
 (805) 563-0788

32. COUNTERPARTS AND ELECTRONIC/FACSIMILE SIGNATURES

This Agreement may be executed in several counterparts, which may be facsimile or electronic copies. Each counterpart is fully effective as an original, and together constitutes one and the same instrument.

In concurrence and witness whereof, this AGREEMENT has been executed by the parties effective on the date and year first above written.

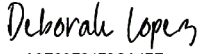
CITY OF GOLETA


DocuSigned by:

DE7CE466308944A...
Michelle Greene, City Manager

CONSULTANT

DocuSigned by:
Md Wahiduzzaman, Bengal Engineering
91A6D2C10773423...
Md Wahiduzzaman
Chief Executive Officer

ATTEST

DocuSigned by:

A3E09F3473CA47E...
Deborah Lopez, City Clerk

DocuSigned by:

1B45731B0D5E4F7...
Scott Onishuk, Principal

APPROVED AS TO FORM:
MICHAEL JENKINS, CITY ATTORNEY

DocuSigned by:

A1BF8F896161498...
Winnie Cai, Assistant City Attorney

Exhibit A SCOPE OF WORK

1. PROJECT ADMINISTRATION

This task includes the budget for meetings, internal QA/QC and project control, interaction with stakeholders and project site visits as shown on the Fee Estimate.

2. GEOMETRIC APPROVAL DRAWINGS

To provide the basis-of-design for the detailed work, Bengal will develop the layout of roadway configuration and the bus stops for City / MTD review and approval. The work includes the following components:

a) Create Design Base Map

Topographic Survey:

Bengal, working with our subcontractor, Reese Water and Land Surveying, will create a base map for the design. Bengal will use the 2014 aerial map as a starting point and add details using ground-based data collection.

b) Southbound Storke Lane Configuration

- Layout to lengthen the southbound right turn pocket to Marketplace Drive
- Layout sidewalk: Bengal will develop the layout of a sidewalk from Hollister to the conform south of the reconstructed bus pocket. Because of likely right-of-way limitations, Mr. Winslow envisions that this project will build a 5-foot wide sidewalk which provides the eastern half of a future 10-foot wide shared use path.

c) Reconfigure Median Left Turn Lanes: Market Place Dr. / Storke Plaza

The project will lengthen the southbound left turn lane by decreasing the length of the “inside” (western) lane of the northbound left turn. This reconfiguration is not a simple matter of scooting the median over. The roadway itself is transitioning from 7 lanes at Hollister Ave. to 6 lanes at Storke Plaza. In addition, there is a challenge in grading to the difference in existing pavement elevations from one side of the existing median to the other; the east side of the median is substantially higher than the west side.

d) Northbound Storke: Select Lane Configuration

The number 3 (curb adjacent) northbound lane and the bike lane will be restriped to change traffic flow from the current configuration. This lane will be changed to create a “right-turn only” to eastbound Hollister Ave. The bike lane will be moved away from the

curb to a buffer zone between the #2 northbound and right-turn lane, from Storke Plaza to the limit line at Hollister Ave.

- e) **Concept Plans: Hollister Ave. Bus Shelter Near Cortona Drive**
Bengal will develop concept plans showing the reconstruction of the bus shelter on eastbound Hollister Ave., across the street from Cortona Drive.
- f) **Concept Bus Stop Plan: Reconstruct stop on Southbound Storke, South of Marketplace Dr.**

Bengal's Scope for Geometric Approval Drawings (GAD):

- Interaction with City Staff
- Limited interaction with MTD
- Topo surveying and mapping
- Engineering/ Plan preparation: Geometric Approval Drawings
- Bus Stop Improvements:
 - Hollister Ave. Bus Stop: Concept plan to replace existing bus stop structure. Plans will show what will be removed and layout of the new "LNI Manufacture Design Shelter"
 - Southbound Storke Bus Stop: Concept plans showing a new bus stop with a new bus shelter. The existing bus stop will be modified to accommodate one 60-foot articulated bus and flatwork requested by MTD.

Work / Information Provided by City:

- Length of desired median left turn pockets
- Pavement Reconstruction plans currently under design by others
- Record drawings for:
 - South Storke Road (Likely old SB County Road Department design drawings used for original construction of Storke which included a dirt median at this location.)
 - Camino Real Marketplace off-site improvements which provided the design to widen Storke Road in the 1990's.
 - The Storke Plaza drawings (some buildings are being remodeled)

City / MTD Provides:

- Desired length of bus shelter (MTD standard seems to be 15-feet-long). Bengal will use "boilerplate plans" from MTD / LNI industries. Bengal assumes this includes the foundation for the shelter; Bengal will provide plan layout.

For current MTD Standards, see

<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=35131>

3. EXISTING UTILITY INVESTIGATION

Bengal will perform the following:

- Request a “Dig Alert Excavators Design Lookup” to gather utility information.
- Request a Dig Alert utility mark-out prior to surveying: Mark limits in field and coordinate with companies.
- Request record drawings from area utility companies: Includes keeping track of responses in a matrix and organizing electronic versions of record drawings.
- Survey the field utility marks created by Dig Alert.
- Create a utility base map.

4. DETAILED DESIGN

After the City approves the geometry (GAD), Bengal will perform the detailed design to create a portion of the PS&E package for construction. This work will be performed in the following submittals for City review.

Submittals:

1. 65 % Plans & Engineer’s Estimate
2. 100% Plans, Specifications and Engineer’s Estimate
3. Final Bid Plans, Specifications and Engineer’s Estimate
 - Each submittal will include progress prints of the plans
 - The 65% submittal will include the engineer’s estimate but not the specials
 - The 100% and Final Bid Plans will include the plans, estimate and special provisions for the contract items.

Scope:

- Interaction with City Staff
- Roadway improvement plans
- Replace Hollister Ave. bus shelter
- Reconstruct the bus stop on Storke Road: new pocket, new shelter
- Striping and signing: Storke Road
- Specifications
- Engineer’s Estimate

Work by City/others:

- Others will combine the portion of the plans, specifications, and Engineer’s Estimate into a “Bid Package”.

5. RIGHT-OF-WAY SUPPORT

The Right-of-Way Support item provides budget for Bengal and our subcontractors to research the existing right-of-way and utilities, and to provide right-of-way acquisition and utility support work on behalf of the City. The work will proceed on a time-and-materials basis as the required scope evolves.

a) Existing Right-of-Way Surveying and Mapping

Work includes obtaining four (4) title reports along with the research to determine the existing right-of-way and create the linework to define this along the west side of Storke Road. See attached proposal from Reese for more information.

b) Define Temporary Construction Easements

We anticipate that temporary construction easements will be required to access the site and stage construction. Our proposal also includes a budget to define temporary construction easements. We have provided an allowance for Temporary Construction Mapping on three parcels; work includes prepare legal descriptions and exhibit maps ("sketches")

c) Define Right-of-Way Acquisition

Once the existing right-of-way is defined on the base mapping and the Geometric Approval Drawings are accepted, the impact of the project to adjacent properties will be evaluated. Should additional right-of-way be needed (we envision such "takes" would be within the existing landscaping), additional slices of right-of-way could be needed. This item provides a budget for Bengal to prepare permanent right-of-way takes on three parcels; work includes prepare legal descriptions and exhibit maps.

d) Engineering Support Right-of-Way Agents

This item provides a budget for Bengal to support HJA's work during their interaction with the landowners for acquisition or TCE's.

e) Utility Relocation

We envision that the project could require some utility relocation. Bengal and HJA will work together as follows:

1. Bengal will identify the apparent utility conflicts base on our design plans and "Existing Utility Investigation" and suggest an approximate place for relocation
2. HJA will work with the utility companies. Those companies will develop their own utility relocation plans as mentioned in their proposal. Bengal will review and approve the proposed utility relocation plans and support HJA as requested within the budget provided
3. HJA will prepare the utility relocation notices and agreements as mentioned in their proposal.

6. BIDDING SUPPORT AND RECORD DRAWINGS

Bengal will perform the following:

- Provide support during bidding including reviewing and responding to bidders RFIs.
- Provide support during construction by reviewing contractor submittals
- Preparing final Record Drawings from the as-builts.

Project Understanding and Approach

1. Bengal's fee estimate is a budget suggested for the project. The project will proceed on a time-and-materials basis because of all the variables beyond our control.
2. The work performed by subcontractors is shown in their proposals to Bengal.
Descriptions of the scope are defined in these subcontracts and shall be considered the contract scope for this project.
3. Bengal assume the project is practical as proposed by the City.
4. Bengal assume the project will proceed uninterrupted.
5. Bengal understand that Bengal's plans will be included in "pavement restoration" project prepared by others.
6. Bengal assume limited review of each submittal.
7. Bengal assumes that all environmental documents will be completed by others, and that the work as described is clear to proceed. We haven't provided a budget for support of environmental planning.
8. Bengal know of no environmental restrictions to the work as proposed.
9. Bengal has not included effort for stormwater mitigation. This is because this project site is so congested with improvements including underground utilities, and because there is so much traffic, there appears to be little room to provide meaningful stormwater mitigation measures.
10. Effort for preparation of reports, studies, or memos is not included. Bengal understand the work is design and plan preparation.
11. No effort for designing retaining walls is included.
12. Length of left turn-pocket to eastbound Storke Plaza will be provided by the City.
13. Length of southbound right turn pocket to westbound Marketplace Drive will be determined by Bengal; Bengal will make this "as long as we can" based on factors Bengal will determine during design.
14. Traffic Handling/Stage Construction Plans are not included.
15. Erosion Control/SWPPP plans are not included.
16. Bengal understand that all lighting and signal work is by others.

17. No modifications to Hollister/Storke Pedestrian Refuge Island—the “pork chop islands” are included.
18. At the time this proposal was prepared Bengal had not met with MTD. Effort shown in the Fee estimate for bus shelters / bus stops is a budget based on the understanding that MTD will have limited input to the design. In regard to the bus shelters Bengal will use the cut-sheets / standard details of the shelters provided by MTD’s website, and show the location. No additional effort is proposed.
19. No modifications to reprofile Marketplace Dr. are included. This is because, subsequent to Bengal’s site visit with the City, Bengal’s been given consideration of the traffic volume which pours through this driveway; Bengal is concerned that this will be difficult to accomplish without great effort and expense, and understands the budget is limited.
20. Specifications: Bengal will prepare the Technical Specifications, using Caltrans 2018 format. Others will assemble the bid documents.
21. No geotechnical investigation or materials testing is included. The pavement structural section will be provided to the consultant who is preparing pavement maintenance plans
22. No hydraulic/drainage studies or reports are proposed.
23. Bengal assumes the proposed improvements will not require drainage modifications therefore no effort modify the existing drainage systems is included.
24. ADA-compliance:

This project proposed a partial width of a future 10-foot wide shared-use trail which Bengal will design to be ADA-compliant. Key design features include profile grades which will be less than 5% and a cross falls less than 2%. We assume all adjoining work, some of which is existing, some of which is under design (we saw evidence of surveying; we believe this is associated with the pavement reconstruction portion of the project) is also ADA-compliant, and the that our work will join to the work of others, without accommodations. No sidewalk will be added to enter the private property on Marketplace Dr.
25. Bengal will investigate and attempt to define utility conflicts using record linework and field flags/ paint provided by “911 Dig Alert”. Others will relocate their own utilities in the public right-of-way.
26. Bengal assumes utility relocation plans will be prepared by others.
27. No landscaping plans are included. Mature landscaping exists behind the sidewalk on the west side of Storke Rd. Bengal envisions that construction will affect this landscaping and that the City will coordinate with the landowners to mitigate / reconstruct the landscaping.
28. Because of the close proximity of traffic, existing sidewalks, and mature landscaping, no potholing of utilities is planned.
29. Effort for public outreach is not included.

Exhibit B
SCHEDULE OF FEES

Classification	Rate/Hr
Special Consultant	\$250
Project Manager	\$170
Bridge Engineer	\$175
Civil Engineer	\$165
Geotech Engineer	\$165
Drafter/Technician	\$ 95
Clerical	\$ 75