



TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: Melissa Angeles, Senior Engineering Technician

SUBJECT: Award of Construction Contract and Construction Management, Inspection, and Materials Testing Services Agreement for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project (CIP 9060)

RECOMMENDATION:

- A. Authorize the City Manager to execute a construction contract with Lash Construction, Inc., for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project in an amount not to exceed \$395,989, subject to the requirements of the contract documents (Attachment 1); and
- B. Authorize the City Manager to approve contingency contract change orders for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project, if necessary, in an amount not to exceed \$79,000; and
- C. Authorize the City Manager to execute a professional design services agreement with Filippin Engineering, Inc., in an amount not to exceed \$86,800 for Construction Management, Inspection, and Materials Testing Services for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project, with a termination date of June 30, 2020 (Attachment 2); and
- D. Authorize an additional appropriation of \$507,285 from Fund 220 (GTIP) to CIP Project No. 9060 – Fairview Avenue Sidewalk Infill at Stow Canyon Road Project account 220-5-9060-705.

BACKGROUND:

The existing sidewalk along the east side of Fairview Avenue fronts the Goleta Library, ends at the Fairview Gardens property line, and resumes access north of Stow Canyon Road. Northbound Fairview Avenue transitions from two travel lanes to one, approximately 750 feet south of Stow Canyon Road, and returns to two lanes just north of Stow Canyon Road. The reduced road lanes (bottleneck restriction) is due to the City right-of-way alignment along the Fairview Gardens frontage on the east side.

To correct the discontinuity, Public Works will reconstruct this section of roadway to be consistent with the west side of Fairview Avenue. The Fairview Avenue Sidewalk Infill at Stow Canyon Road Project (Project) will close the existing gap in front of Fairview Gardens by providing 370 feet of new sidewalk and will widen Fairview Avenue to include a second northbound travel lane, a 5-foot wide bicycle lane, and 5-foot wide sidewalk. A pedestrian crosswalk will be installed across Stow Canyon Road that will include Americans with Disability Act Standards (ADA) compliant curb ramps and a streetlight.

As a condition of a previous use permit application, Fairview Gardens has provided a 10-foot wide easement along the property's Fairview Avenue frontage to accommodate the sidewalk, bicycle lane, and widened roadway. The City Clerk received the Irrevocable Offer to Dedicate and recorded it with the County of Santa Barbara Recorder's Office.

On April 17, 2018, the City Council authorized the City Manager to execute a Professional Design Services Agreement with Cannon Corporation to prepare plans, specifications, and an engineer's estimate for the Project.

On November 6, 2018, Council authorized Public Works to advertise the Project for construction. At this meeting, Council also approved the Project plans and specifications.

The Fairview Avenue Sidewalk Infill at Stow Canyon Road Project is included in the current City of Goleta Capital Improvement Program budget. The Project is also included in the City of Goleta (Gol 21) Bicycle and Pedestrian Projects Program in the SBCAG Regional Active Transportation Plan.

DISCUSSION:

Bidding

The Public Works Department solicited competitive bids from qualified contractors using the formal bid process required by the California Public Contract Code and the Uniform Construction Cost Accounting Manual. Public Works Staff advertised requests for bids in the Santa Barbara Independent on November 15 and November 22, 2018 and posted the contract documents on the City's website and Construction Bidboard (eBidboard). Public Works issued addendum number 1 on December 3, 2018. The City Clerk's Office opened the sealed bids at City Hall on Thursday, December 12, 2018. A total of seven bids were received. A summary of the bids received is shown in the table below.

Contractor	City	Bid Amount
Lash Construction Inc.	Santa Barbara	\$395,988.50
Granite Construction Company	Goleta	\$397,565.00
G. Sosa Construction, Inc.	Santa Maria	\$420,391.00
Toro Enterprises Inc.	Oxnard	\$422,175.75
JJ Fisher Construction Inc.	Nipomo	\$425,170.31
CalPortland Construction	Santa Maria	\$490,725.00
R. Burke Corporation	San Luis Obispo	\$525,104.50

The apparent low bidder is Lash Construction Inc. (Lash). Public Works reviewed the bid, investigated the contractor, and has determined Lash to be responsive to the bid solicitation. The Public Works Department does not have reservations about the contractor's ability to perform the advertised work.

Public Works recommends that the City Council find the bid from Lash in the amount of \$395,989 to be the lowest responsive bid and award a construction contract for the project to Lash in a total amount not to exceed \$395,989 as included in Attachment 1. Public Works is also requesting that the City Manager be given authority to approve contract change orders up to \$79,000 above the bid price.

Construction Management

Public Works recommends that the City Council authorize the City Manager to execute a professional design services agreement with Filippin Engineering, Inc. (Filippin) for Construction Management, Inspection and Testing (CMIT) Services in an amount not to exceed \$86,800.

Filippin is listed on the City's pre-approved on-call list of consultants, resulting from a Qualification Based Selection process. Public Works is recommending Filippin due to their considerable experience managing similar projects in accordance with the City's adopted Engineering Design Standards. Filippin has not participated in the planning or design phases of the project.

Project Cost Estimates

The total estimated cost for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project is \$627,839, based on a \$395,989 bid, plus contingencies, construction management, design services and staff time, and is shown in the following table:

Project Components	Estimated Costs	Funding Source	Funding Amounts
Labor*	\$14,000	Measure A	\$20,584
Consultants	\$52,050	Measure A Grant	\$67,716
Construction	\$395,989	GTIP	\$32,254
Construction Management	\$86,800	GTIP Additional Budget	\$507,285
Contingency	\$79,000		
Totals	\$627,839	Totals	\$627,839

*Estimated

FISCAL IMPACTS:

The FY 18/19 current budget for this project is approximately \$148,697. Funding includes Measure A, Measure A Grant, and Goleta Transportation Improvement Program (GTIP) funds.

To support the additional \$507,285 of funding needed, Public Works is recommending additional funds from the GTIP fund. Public Works recommends that the Council authorize a budget appropriation of \$507,285 from GTIP funds (Fund 220) to the project account 220-5-9060-705. There is approximately \$15 million available in the GTIP fund balance.

The table below summarizes the FY 18/19 project budget, requested appropriations, and revised project budget amounts:

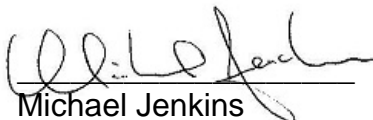
Fairview Avenue Sidewalk Infill at Stow Canyon Road Project					
Fund	Account	FY 18/19 Current Budget	YTD Actuals and Encumbrances	Requested Appropriations	Revised Available Budget
Measure A	205-5-9060-705	\$20,584			\$20,584
Measure A	205-5-9060-706	\$13,197	\$13,197		\$0
Measure A Grant	206-5-9060-705	\$66,416			\$66,416
Measure A Grant	206-5-9060-706	\$13,797	\$12,497		\$1,300
GTIP	220-5-9060-705	\$28,000		\$507,285	\$535,285
GTIP	220-5-9060-706	\$6,703	\$2,449		\$4,254
	Total	\$148,697	\$28,143	\$507,285	\$627,839


ALTERNATIVES:

The Council may elect to reject all bids and direct Public Works to re-bid the project; however, doing so would significantly delay the project construction and may result in the loss of Measure A grant funding which has a construction award deadline of June 30, 2019. Re-bidding the project could also result in a delay in the currently programmed Pavement Rehabilitation efforts in the City.

Legal Review By:

Approved By:


Michael Jenkins
City Attorney


Michelle Greene
City Manager

ATTACHMENTS:

1. Construction Contract with Lash Construction Inc.
2. Professional Services Agreement for Construction Management with Filippin Engineering, Inc.

ATTACHMENT 1

Construction Contract with Lash Construction Inc.

**PUBLIC WORKS AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
LASH CONSTRUCTION, INC.**

This Public Works Agreement (herein referred to as "AGREEMENT") is made and entered into this 15th day of January, 2019, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **LASH CONSTRUCTION, INC.** (hereinafter referred to as "CONTRACTOR").

R E C I T A L S

A. Pursuant to the Notice Inviting Sealed Bids for Fairview Avenue Sidewalk Infill at Stow Canyon Road Project in the City of Goleta, bids were received, publicly opened, and declared on the date specified in the notice.

B. On January 15, 2019, Goleta's City Council declared CONTRACTOR to be the lowest responsible bidder and accepted the bid of CONTRACTOR.

C. The City Council, on this 15th day of January, 2019, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT with CONTRACTOR for furnishing labor, equipment and material for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project in the City of Goleta.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, it is agreed:

- 1. GENERAL SCOPE OF WORK:** CITY agrees to engage CONTRACTOR and CONTRACTOR agrees to furnish all necessary labor, tools, materials, appliances, and equipment for and do the work for the Fairview Avenue Sidewalk Infill at Stow Canyon Road Project in the City of Goleta. The work shall be performed in accordance with the Plans and Specifications dated (and as generally described in the "Notice Inviting Bids," attached as Exhibit A) and in accordance with bid prices set forth in CONTRACTOR'S Bid Proposal (attached as Exhibit B) and in accordance with the instructions of the City Engineer, or City's Manager's designee.
- 2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY:** The contract documents for the aforesaid project, a complete set of which is on file with the Goleta City Clerk's Office, shall consist of the Notice Inviting Bids, Instructions to Bidders, Bid Proposal, Standard Specifications, Special Provisions, and all referenced specifications, details, standard drawings, and appendices; together with this Agreement and all required bonds, insurance certificates, permits, notices and affidavits; and also, including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to insure its completion in an acceptable manner. All of the provisions of said contract documents are made a part hereof as though fully set forth herein. This contract is intended to require a complete

and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written agreement, the provisions of this Agreement, and the Standard Specifications, in that order, shall control. Collectively, these contract documents constitute the complete agreement between CITY and CONTRACTOR and supersede any previous agreements or understandings.

3. COMPENSATION: CONTRACTOR agrees to receive and accept the prices set forth in its Bid Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.
4. TIME OF PERFORMANCE: CONTRACTOR agrees to complete the work within 60 working days from the date of the notice to proceed. By signing this Agreement, CONTRACTOR represents to CITY that the contract time is reasonable for completion of the work and that CONTRACTOR will complete such work within the contract time. In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay CITY as liquidated damages, not as a penalty, the sum of \$1000 per day for each and every day of unauthorized delay beyond the completion date, which amount shall be deducted from any payments due or to become due the CONTRACTOR.
5. PREVAILING WAGES:
 - A. Pursuant to Labor Code Sections §§1720 *et seq.*, including but not limited to sections 1771, 1774 and 1775, and as specified in Title 8, California Code of Regulations, Section 16000 *et seq.*, CONTRACTOR must pay its workers prevailing wages. It is CONTRACTOR's responsibility to interpret and implement any prevailing wage requirements and CONTRACTOR agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.
 - B. In accordance with Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are available upon request from CITY's Engineering Division or the website for State of California Prevailing wage determination at <http://www.dir.ca.gov/DLSR/PWD>. CONTRACTOR must post a copy of the prevailing rate of per diem wages at the job site.

- C. CITY directs CONTRACTOR's attention to Labor Code Sections 1777.5, 1777.6 and 3098 concerning the employment of apprentices by CONTRACTOR or any subcontractor.
- D. Labor Code Section 1777.5 requires CONTRACTOR or subcontractor employing tradesmen in any apprenticeship occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate must also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases will not be less than one to five except:
- (1) When employment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15 percent in the 90 days before the request for certificate, or
 - (2) When the number of apprentices in training in the area exceeds a ratio of one to five, or
 - (3) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally, or
 - (4) When assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- Pursuant to Labor Code § 1776, CONTRACTOR shall comply with all Department of Industrial Relations registration requirements.
- E. CONTRACTOR is required to make contributions to funds established for the administration of apprenticeship programs if CONTRACTOR employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.
- F. CONTRACTOR and any subcontractor must comply with Labor Code Sections 1777.5 and 1777.6 in the employment of apprentices.
- G. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations (DIR), ex-officio the Administrator of Apprenticeship, San

Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

- H. CONTRACTOR and its subcontractors must keep an accurate certified payroll records showing the name, occupation, and the actual per diem wages paid to each worker employed in connection with this Agreement. The record will be kept open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Law Enforcement. If requested by CITY, CONTRACTOR must provide copies of the records at its cost.
6. LEGAL HOURS OF WORK: CONTRACTOR agrees to comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. Except as provided by Labor Code Section 1815, the CONTRACTOR shall, as a penalty to the CITY, forfeit twenty five dollars (\$25) for each worker employed in the execution of the Contract by the CONTRACTOR or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 (commencing at Section 1810) of the California Labor Code.
7. TRAVEL AND SUBSISTENCE PAY: CONTRACTOR agrees to pay travel and subsistence pay to each worker needed to execute the work required by this Agreement as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.
8. CONTRACTOR'S LIABILITY: The CITY and its officers, agents and employees ("Indemnitees") shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof, or for any of the materials or other things used or employed in performing the work; or for injury or damage to any person or persons, either workers or employees of CONTRACTOR, of its subcontractors or the public, or for damage to adjoining or other property from any cause whatsoever arising out of or in connection with the performance of the work. CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever.

CONTRACTOR will indemnify Indemnities against and will hold and save Indemnitees harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of CONTRACTOR, its agents, employees, subcontractors or invitees provided for herein, whether or not there is concurrent passive negligence on the part of CITY. In connection therewith:

- a. CONTRACTOR will defend any action or actions filed in connection with any such claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorneys' fees, expert fees and costs incurred in connection therewith.
- b. CONTRACTOR will promptly pay any judgment rendered against CONTRACTOR or Indemnitees covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such work, operations or activities of CONTRACTOR hereunder, and CONTRACTOR agrees to save and hold the Indemnitees harmless therefrom.
- c. In the event Indemnitees are made a party to any action or proceeding filed or prosecuted against CONTRACTOR for damages or other claims arising out of or in connection with the work, operation or activities hereunder, CONTRACTOR agrees to pay to Indemnitees and any all costs and expenses incurred by Indemnitees in such action or proceeding together with reasonable attorneys' fees.

CONTRACTOR'S obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of CITY under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless CITY for liability attributable to the active negligence of CITY, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where CITY is shown to have been actively negligent and where CITY active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

So much of the money due to CONTRACTOR under and by virtue of the contract as shall be considered necessary by CITY may be retained by CITY until disposition has been made of such actions or claims for damages as aforesaid.

It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law.

This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to Indemnitees.

CONTRACTOR, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the CONTRACTOR regardless of any prior, concurrent, or subsequent passive negligence by the Indemnitees.

9. THIRD PARTY CLAIMS: In accordance with Public Contracts Code Section 9201, CITY will promptly inform CONTRACTOR regarding third-party claims against CONTRACTOR, but in no event later than ten (10) business days after CITY receives such claims. Such notification will be in writing and forwarded in accordance with the "Notice" section of this Agreement. As more specifically detailed in the contract documents, CONTRACTOR agrees to indemnify and defend the City against any third-party claim.
10. WORKERS COMPENSATION: In accordance with California Labor Code Sections 1860 and 3700, CONTRACTOR and each of its subcontractors will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, CONTRACTOR, by signing this contract, certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
11. INSURANCE: With respect to performance of work under this Agreement, CONTRACTOR shall maintain and shall require all of its subcontractors to maintain insurance as required in the Standard Specifications.
12. ASSIGNMENT: This Agreement is not assignable nor the performance of either party's duties delegable without the prior written consent of the other party. Any attempted or purported assignment or delegation of any of the rights or obligations of either party without the prior written consent of the other shall be void and of no force and effect.
13. INDEPENDENT CONTRACTOR: CONTRACTOR is and shall at all times remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents shall have control of the conduct of CONTRACTOR or any of CONTRACTOR'S employees, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of CITY.
14. TAXES: CONTRACTOR is responsible for paying all retail sales and use, transportation, export, import, special or other taxes and duties applicable to, and assessable against any work, materials, equipment, services, processes and operations incidental to or involved in this contract. CONTRACTOR is responsible

for ascertaining and arranging to pay them. The prices established in the contract shall include compensation for any taxes CONTRACTOR is required to pay by laws and regulations in effect at the bid opening date.

15. LICENSES: CONTRACTOR represents and warrants to CITY that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to CITY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance, and approvals which are legally required of CONTRACTOR to practice its profession. CONTRACTOR shall maintain a City of Goleta business license, if required under CITY ordinance.
16. RECORDS: CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by CITY or any authorized representative, and will be retained for three years after the expiration of this Agreement. All such records shall be made available for inspection or audit by CITY at any time during regular business hours.
17. SEVERABILITY: If any portion of these contract documents are declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect provided that it does not frustrate the mutual intent of the parties herein.
18. WHOLE AGREEMENT: This Agreement supersedes any and all other agreements either oral or written, between the parties and contains all of the covenants and agreements between the parties pertaining to the work of improvements described herein. Each party to this contract acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statements or promise not contained in this contract shall not be valid or binding. Any modifications of this contract will be effective only if signed by the party to be charged.
19. AUTHORITY: CONTRACTOR affirms that the signatures, titles, and seals set forth hereinafter in execution of this Agreement represent all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest herein. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party. This Agreement may be modified by written amendment. CITY's City Manager may execute any such amendment on CITY's behalf.

20. **NOTICES:** All notices permitted or required under this Agreement shall be in writing, and shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Additionally, such notices may be given to the respective parties at the following addresses, or at such other addresses as the parties may provide in writing for this purpose.

Such notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after deposit in the U.S. mail, first-class postage prepaid, and addressed to the party at its applicable address. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

CITY OF GOLETA
130 Cremona Drive, Suite B
Goleta, CA 93117
Attn: City Manager

CONTRACTOR
Lash Construction, Inc.
721 Carpinteria Street
Santa Barbara, CA 93103
Attn: James W. Lash, Vice-President

21. **DISPUTES:** Disputes arising from this contract will be determined in accordance with the contract documents.
22. **NON-DISCRIMINATION:** No discrimination shall be made in the employment of persons in the work contemplated by this Agreement because of race, religion, color, medical condition, sex, sexual orientation, national origin, political affiliation or opinion, or pregnancy or pregnancy-related condition. A violation of this section exposes CONTRACTOR to the penalties provided for in Labor Code Section 1735.
23. **NO THIRD PARTY BENEFICIARY:** This Agreement and every provision herein is for the exclusive benefit of CONTRACTOR and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of the CONTRACTOR's or the CITY's obligations under this Contract.
24. **TIME IS OF ESSENCE.** Time is of the essence for each and every provision of the Contract Documents.
25. **ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES:** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile

transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

26. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of California, and exclusive venue for any action involving this Agreement will be in Santa Barbara County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement with all the formalities required by law on the respective dates set forth opposite their signatures.

This Agreement is executed on this 15th day of January, 2019, at Goleta, California, and effective as of _____, _____.

CITY OF GOLETA:

Michelle Greene, City Manager

ATTEST:

Deborah Lopez, City Clerk

APPROVED AS TO FORM:



Winnie Cai, Assistant City Attorney

CONTRACTOR:

James W. Lash, Vice-President

State of California License No.

Class A License No. 373001

Business Phone No.

805-963-3553

CONTRACTOR'S Emergency Phone No. at
which contractor can be reached at any time

805-698-1054

SECTION A NOTICE INVITING SEALED BIDS

NOTICE INVITING SEALED BIDS FOR THE CONSTRUCTION OF FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON ROAD 130 CREMONA DRIVE, SUITE B, CITY OF GOLETA, CA

PUBLIC NOTICE IS HEREBY GIVEN that the City of Goleta ("City"), invites sealed bids for the above stated project and will receive such bids in the office of the City Clerk, 130 Cremona Drive, Suite B, Goleta, California 93117, up to the hour of **3:00 p.m. on Wednesday December 12, 2018**, and will be publicly opened and read aloud promptly thereafter. Faxes or any electronic format is not acceptable.

Copies of the Bidding Documents including Project Plans and Specifications, City General Provisions, City and Special Provisions, but not including Greenbook Standard Plans, Greenbook Standard Specifications, Greenbook Standard Special Provisions – 2015 Edition, or Reference Specifications) are available from the City, 130 Cremona Drive, Suite B, Goleta, California 93117 upon payment of a \$50.00 non-refundable fee if picked up, or no payment to City if obtained from Construction Bidboard, Inc. at <http://www.ebidboard.com/>, or City of Goleta website at <http://www.cityofgoleta.org/i-want-to/view/city-bid-opportunities>.

Each Bidder shall register by providing its street address, e-mail, phone and fax to City at the time of pick-up or request for Bidding Documents ("Registered Bidders"); Addenda, if any, shall be issued via e-mail or CD (no hard copy) only to Registered Bidders. The City reserves the right to extend the Bid Deadline and Bid Opening by issuing an Addendum to Registered Bidders no later than 72 hours prior to the Bid Deadline.

The work includes all labor, material and equipment necessary to widen existing road section, install new concrete sidewalk, curb and gutter, driveway, spandrel/cross gutter, ADA access ramps, drainage improvements, paint striping and signage within the City of Goleta, CA. The contract period is **60 Working Days**.

Any contract entered into pursuant to this notice will incorporate provisions of the California Labor Code. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations per California Labor Code Section 1771.4, including prevailing wage rates and apprenticeship employment standards. Affirmative action to ensure against discrimination in employment practices on the basis of race, color, national origin, ancestry, sex, or religion will also be required. The City hereby affirmatively ensures that all business enterprises will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, sex, or religion in any consideration leading to the award of contract.

Bids must be prepared on the approved bid forms in conformance with the "Bidding Instructions" and the General Provisions and submitted in a sealed envelope plainly marked on the outside, **"SEALED BID FOR FAIRVIEW AVE. SIDEWALK INFILL AT STOW CANYON RD. DO NOT OPEN WITH REGULAR MAIL."** The bid must be accompanied by certified cashier's check, or bidder's bond, made payable to City. The bid security shall be an amount equal to ten percent (10%) of the total maximum amount bid with their proposals as required by California law.

A contract may only be awarded to the lowest responsive and responsible bidder that holds a valid Class "A" Contractor's license or specialty licensing in accordance with the provisions of the California Business and Professions Code.

Within such limits as may be prescribed by law, the City Council of the City of Goleta reserves the right to reject any and all Bids, to accept, reject or waive any variances or informalities in a Bid or in the bidding, or take bids under advisement. Failure to provide proof of the contractor's current registration pursuant to Section 1725.5 of the Labor Code may result in rejection of the bid as non-responsive. Failure to comply with enforcement provisions pursuant to Section 1771.4 of the Labor Code may result in a determination that the bidder is not responsible.

The Contractor Company, including the Responsible Managing Officer (RMO) for the Contractor Company, shall demonstrate a minimum of three (3) years' experience successfully performing projects of substantially similar type, magnitude, and character of the work bid.

Bids shall remain open and valid for a period of ninety (90) days after the Bid Deadline.

Pursuant to Public Contract Code section 22300, the successful bidder may substitute certain securities for funds withheld by City to ensure performance under the Contract or, in the alternative, request the City to make payment of retention to an escrow agent.

Any protest to an intended award of this contract shall be made in writing addressed to the City Clerk prior to the award. Any protest may be considered and acted on by the City Council at the time noticed for award of the contract. To request a copy of the notice of agenda for award, please contact the City Clerk (805) 961-7505 or register on the City's website (www.cityofgoleta.org).

CITY OF GOLETA

Deborah S. Lopez, City Clerk

**SECTION C BID PROPOSAL
FOR
CONSTRUCTION OF FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON
ROAD PROJECT**

TO THE CITY OF GOLETA ("City"):

In accordance with City's Notice Inviting Sealed Bids, the undersigned Bidder hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the above stated Project as set forth in the Plans, Specifications, and Contract Documents, and to perform all Work in the manner and time prescribed therein.

Bidder declares that this Bid is based upon careful examination of the Work site, Plans, Specifications, Bidding Instructions, and all other Contract Documents. If this Bid is accepted for award, Bidder agrees to enter into a contract with City at the unit and/or lump sum prices set forth in the following Bid Schedule. Bidder understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to City of the Bid Security accompanying this Bid.

Bidder understands that a Bid is required for the entire Work, that the estimated quantities set forth in the Bid Schedule are solely for the purpose of comparing Bids, and that final compensation under the Contract will be based upon the actual quantities of Work satisfactorily completed. **THE CITY RESERVES THE RIGHT TO INCREASE OR DECREASE THE AMOUNT OF ANY QUANTITY SHOWN AND TO DELETE ANY ITEM FROM THE CONTRACT.** It is agreed that the unit and/or lump sum prices bid include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amount, and words shall govern over figures.

If awarded the Contract, the undersigned further agrees that in the event of the Bidder's default in executing the Contract and filing the necessary bonds and insurance certificates **WITHIN 10 WORKING DAYS**, not including Saturdays, Sundays and legal holidays, after the City has mailed notice of the award of contract to the Bidder, the proceeds of the Bid Security accompanying this Bid shall become the property of the City and this Bid and the acceptance hereof may, at the City's option, be considered null and void.

**BID PROPOSAL
FOR
CONSTRUCTION OF THE
FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON ROAD PROJECT**

Bids will be received until **December 12, 2018 at 3:00 p.m.** at the City of Goleta, City Hall, 130 Cremona Drive, Suite B, Goleta, CA 93117.

For any questions regarding the Contract Documents, Specifications, Proposal or other Bidding Documents, please contact Melissa Angeles at telephone number (805) 690-5122 or e-mail at mangeles@cityofgoleta.org.

The Project insurance requirements are as per the sample contract as contained herein this Specification.

Approximate Contract Period: **Feb. 18, 2019 – May 10, 2019** (60 working days).

BIDDER SHALL COMPLETE:

Bidder's Name Lash Construction, Inc.
Street Address 721 Carpinteria street
City Santa Barbara State CA Zip Code 93103
Telephone Number (805) 963-3553 Fax Number (805) 965-8189
e-mail mat@lashconstruction.com

The following Addenda are acknowledged:

(Bidder must fill in number and date of each Addendum or may enter the word "none" if appropriate)

Number	Dated	Initials
<u>1</u>	<u>12/3/18</u>	<u>AK</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Lash Construction, Inc.
BIDDER'S NAME

12/12/18
DATE

**FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON ROAD PROJECT
BIDDING SHEET**

The cost of all labor, material, and equipment necessary for the completion of the work itemized, even though not shown or specified, shall be included in the unit price for the various items shown herein. (See Section A2.07.)

The City reserves the right to increase or decrease the quantity of any item or omit items as may be deemed necessary, and the same shall in no way affect or make void the contract, except that appropriate additions or deductions from the contract total price will be made at the stipulated unit price.

The City further reserves the right to reject any or all bids, to waive any informality or irregularity in any bid or the bidding procedure, and to delete any items of work in the award of contract.

Bidders must bid on all items in the Bid Schedule. Item 11, Supplemental Work, has the amount filled in and will be included in the total for the bid. The basis of the bid will be the total of Schedule A. The Bid Alternative, if any, will not be included in the basis of the bid.

BID PROPOSAL FOR CONSTRUCTION OF FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON ROAD PROJECT

BID SCHEDULE

ITEM No	ITEM DESCRIPTION	PAYMENT REFERENCE	TOTAL QUANTITY	UNIT	UNIT PRICE	TOTAL
1	MOBILIZATION, BONDS, AND INSURANCE	9-3.4	1	LS	44,000.00	44,000.00
2	TRAFFIC CONTROL	600 & 601	1	LS	28,500.00	28,500.00
3	WATER POLLUTION CONTROL PROGRAM	7-8.6.5	1	LS	850.00	850.00
4	CLEARING AND GRUBBING	300-1.4	1	LS	23,400.00	23,400.00
5	UNCLASSIFIED (ROADWAY) EXCAVATION	300-2.9	334	CY	77.50	25,865.00
6	UNCLASSIFIED FILL (EMBANKMENT)	300-4.10	16	CY	155.00	2,480.00
7	HOT MIX ASPHALT	302-5.9	290	TON	139.00	40,310.00
8	CLASS 2 AGGREGATE BASE	301-2.4	350	CY	87.00	30,450.00
9	SLURRY SEAL (TYPE II)	302-4.10	27,000	SF	84.00	2,268,000.00
10	REMOVE EXISTING STRIPING AND MARKINGS	314-2.3, 314-3.3	1	LS	3,715.00	3,715.00
11	CURB AND GUTTER	303-5.9	405	LF	45.00	18,225.00
12	RETAINING CURB	303-5.9	60	LF	31.30	1,878.00
13	DRIVEWAY	303-5.9	380	SF	17.25	6,555.00
14	SIDEWALK	303-5.9	2,385	SF	9.50	22,657.50
15	CURB RAMP	303-5.9	655	SF	14.50	9,497.50
16	CROSS GUTTER AND SPANDREL	303-5.9	765	SF	24.00	18,360.00
17	REMOVE TREE	300-1.4	3	EA	500.00	1,500.00
18	RESET ROADSIDE SIGN	314-6.3	3	EA	205.00	615.00
19	RELOCATE MAILBOX	314-7.3	1	EA	500.00	500.00
20	BIORETENTION UNIT	216-4.10	1	LS	75,800.00	75,800.00
21	STRIPING - DETAIL 9 (PAINTED)	314-4.4.7	910	LF	1.40	1,274.00
22	STRIPING - DETAIL 38 (PAINTED)	314-4.4.7	125	LF	7.15	893.75
23	STRIPING - DETAIL 39 (PAINTED)	314-4.4.7	710	LF	2.65	1,881.50
24	STRIPING - DETAIL 39A (PAINTED)	314-4.4.7	200	LF	3.45	690.00
25	12" WHITE LINE (THERMOPLASTIC)	314-4.4.6	66	LF	11.50	759.00
26	PAVEMENT MARKINGS (PAINTED)	314-4.4.7	125	SF	10.35	1,293.75
27	RETROREFLECTIVE PAVEMENT MARKERS (TYPE C)	314-5.7	20	EA	11.50	230.00
28	RETROREFLECTIVE PAVEMENT MARKERS (TYPE G)	314-5.7	6	EA	17.25	103.50
29	WATER METER BOX INCLUDING EXTENSION	306-5.8	2	EA	450.00	900.00
30	2" BACKFLOW ASSEMBLY	306-15.8	1	EA	1,850.00	1,850.00
31	RESET SURVEY MONUMENT	309-4	2	EA	925.00	1,850.00
32	ADJUST UTILITY LID TO FINISHED SURFACE	216-9.3	1	EA	350.00	350.00

TOTAL BID

\$ 395,988.50

Lash Construction, Inc.

Company Name of Bidder

12/12/18

Date

DESIGNATION OF SUBCONTRACTORS

Bidder proposes to subcontract certain portions of the Work which are in excess of one-half of one percent (0.5 %) of the total amount bid and to procure materials and equipment from suppliers and vendors. These Subcontractors are identified as follows:

Work to be Performed	Subcontractor License Number	Percent of Total Bid	Subcontractor's Name & Address
Type 2 Road Slurry Bid item # 9	303609 A, C 32	5.1%	Pavement Coatings 736 Mission Rock Rd. Santa Paula, CA 93060
Survey	L.S. 7998	1.24%	Berner E. Camperker 506 E. Main St. Santa Paula, CA 93060
Striping bid items #2, 10, 18, 21-28	838618	2.78%	Interstate Striping 311 Dryden St. Thousand Oaks, CA 91320
Traffic Control Bid item # 2	828 826823 C, 31	1.11%	Total Barricade Service Inc. P.O. Box 7114 Oxnard, CA 93031

BIDDER'S REFERENCES

The following are the names, addresses, and phone numbers for three public agencies for which Bidder has performed similar work within the past two years:

1. Name of Agency: City of Santa Barbara
 Agency Address and Telephone: PO Box 1990, SB, CA 93102
(805) 560-564-5450
 Contact Person: Max Kashanian
 Type of Construction Project: Pedestrian Improvement Project
 Contract Amount: \$1,178,939.00
2. Name of Agency: County of SB Transportation
 Agency Address and Telephone: 123 E. Anapamu St., SB, CA 93101
(805) 739-8762
 Contact Person: Steven Manuel
 Type of Construction Project: Bike Path Improvements
 Contract Amount: \$608,071.00
3. Name of Agency: University of California, Santa Barbara
 Agency Address and Telephone: Santa Barbara, CA 93106-1030
(805) 618-8768
 Contact Person: Chris Kelsey
 Type of Construction Project: Site Improvements
 Contract Amount: \$1,636,098.00

The following are the names, addresses, and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance bonds:

Bond Manager: Hub International Limited
40 E. Alamar, Santa Barbara, CA 93105
(805) 879-9575
Att: Judy Pearen

Bonding Co: Travelers Casualty Surety
21688 Gateway Ctr Drive
Diamond, CA 91765
(805) (909) 612-3674
Att: Eric Block

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Bidder certifies that in all previous contracts or subcontracts, all reports which may have been due under the requirements of any local, State, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

CONTRACTOR'S LICENSE REQUIREMENT

Bidder certifies that Bidder is aware that the Contract cannot be awarded to Bidder unless, at the time of the award, Bidder is the holder of a valid California Contractor's License (Class "A") proper and adequate for the work required by the Contract, and that the failure to obtain proper and adequate licensing for an award of the Contract shall result in the forfeiture of the Bidder's Security.

ELIGIBILITY TO CONTRACT

The successful Bidder shall be prohibited from performing work on this Project with a Subcontractor who is ineligible to perform work on the Project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

BIDDER'S INFORMATION

Bidder certifies that the following information is true and correct:

Bidder's Name Lash Construction, Inc.

Business Address P.O. Box 4040 - 721 Carpinteria St.
Santa Barbara, CA 93140

Telephone (805) 963-3553

State Contractor's License No. and Class 373001 - A

Original Date Issued 4/25/1979 Expiration Date 4/30/19

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint venturers, and/or corporate officers having a principal interest in this Bid:

Arthur R. Lash. President

The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this Bid are as follows:

None

All current and prior DBA's, alias, and/or fictitious business names for any principal having an interest in this Bid are as follows:

Lash Construction, Inc.

I declare under penalty of perjury under the laws of the State of California that the above representations are true and correct. Executed this 12 day of December, 2018, at Santa Barbara California.

James A. Lash, Vice-President

Signature and Title of Bidder
or Authorized Representative

(SEAL)

1. Have you ever been disqualified from any government contract?

No

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

James W. Lash Vice President
Signature and Title of Bidder or Authorized Representative

**BID BOND
FOR THE
FAIRVIEW AVENUE SIDEWALK INFILL AT STOW CANYON ROAD PROJECT**

KNOW ALL PERSONS BY THESE PRESENTS that Bidder Lash Construction, Inc., as PRINCIPAL, and Travelers Casualty and Surety Company of America, a corporation organized under the laws of the State of CT and licensed by the State of California to execute bonds and undertakings as sole surety, as SURETY, are held and firmly bound unto the City of Goleta, as CITY, in the penal sum of 10% of Amount Bid in Dollars (\$ 10% of Bid), which is ten percent (10%) of the total amount bid by PRINCIPAL to CITY for the above stated project, for the payment of which sum, PRINCIPAL and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas PRINCIPAL is about to submit a bid to CITY for the above stated project, if such bid is rejected, or if such bid is accepted and a contract is awarded and entered into by PRINCIPAL in the manner and time specified, and PRINCIPAL provides the required payment and performance bonds and insurance coverages to CITY in the manner and time specified, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of CITY.

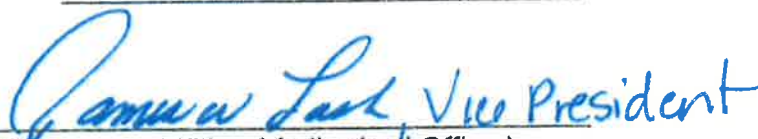
In case suit is brought upon this bond, SURETY further agrees to pay all reasonable attorneys' fees and costs incurred by CITY in an amount fixed by the court. Surety hereby waives the provisions of California Civil Code Sections 2845 and 2849.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this 3rd day of December, 2018.

PRINCIPAL: Lash Construction, Inc.

(Address) 721 Carpinteria St.

Santa Barbara, CA 93103


BY:  Vice President
(Signature and Title of Authorized Officer)

BY: _____
(Signature and Title of Authorized Officer)

CIP 9060-Fairview Avenue Sidewalk Infill at Stow Canyon Road

SURETY: Travelers Casualty and Surety Company of America

(Address) 21688 Gateway Center Drive, Diamond Bar, CA 91765

BY: 
(Signature and Title of Authorized Officer) Judy Pearen, Attorney-In-Fact

BY: _____
(Signature and Title of Authorized Officer)

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment. Also, evidence of the authority of any person signing as attorney-in-fact must be attached.



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Judy Pearen of Santa Barbara, California**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **3rd day of February, 2017**.



State of Connecticut

City of Hartford ss.

By: _____

Robert L. Raney
Robert L. Raney, Senior Vice President

On this the **3rd day of February, 2017**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In **Witness Whereof**, I hereunto set my hand and official seal,

My Commission expires the **30th day of June, 2021**



Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **3rd** day of **December**, 2018.



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

*To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.*

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Barbara)
On December 3, 2018 before me, Michelle L. Pearen, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Judy Pearen
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Bid Bond Document Date: December 3, 2018
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Judy Pearen
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Travelers Casualty and Surety Company of America

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

**NONCOLLUSION DECLARATION TO BE EXECUTED
BY
BIDDER AND SUBMITTED WITH BID**

State of California)
County of Santa Barbara) SS

The undersigned declares:

I am the Vice President of Lash Construction, Inc., the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 12/12/18 [date], at Santa Barbara [city], CA [state]

Signed

James W. Lash

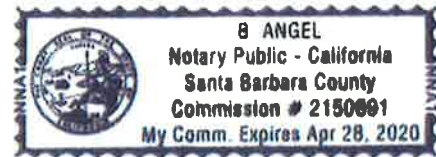
Vice President

Title

Subscribed and sworn to before me this 12 day of December, 2018.

Signature B Angel
Notary Public

(Notary Seal)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Santa Barbara)On December 12, 2018 before me, Bernadette Angel, Notary Public,
Date Here Insert Name and Title of the Officerpersonally appeared James W. Lash
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature B. Angel
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

**STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES
CONCERNING THE CONTRACTOR'S LICENSING LAWS**

[Business & Professions Code § 7028.15; Public Contract Code § 20103.5]

The undersigned, a duly authorized representative of the Bidder, certify that I am aware of the following provisions of California law and that I, or the company/individual on whose behalf this Bid is being submitted, hold a currently valid California contractor's license as set forth below:

Business & Professions Code § 7028.15:

- a) It is a misdemeanor for any person to submit a bid to a public agency to engage in the business or act in the capacity of a contractor within the State of California without having a license therefor, except in any of the following cases:
 - (1) The person is particularly exempted from this chapter.
 - (2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20103.5 of the Public Contract Code.

- b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the total amount bid of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

- c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.
- d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a bidder who is not licensed in accordance with this chapter shall be considered non-responsive and shall be rejected by the public agency.

Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid.

Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

- f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.
- g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, agent or volunteer of the public agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the City that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The City shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement.

Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

Bidder:

License No.: 373001 Class A Expiration date: 4/30/19
 Date 12/12/18 Signature *Samuel Park*

DECLARATION OF ELIGIBILITY TO CONTRACT
[Labor Code §§ 1777.1 and 1777.7; Public Contract Code § 6109]

The undersigned, a duly authorized representative of the Bidder, certifies and declares that:

1. The Bidder is aware of Sections 1771.1 and 1777.7 of the California Labor Code, which prohibit a contractor or subcontractor who has been found by the Labor Commissioner or the Director of Industrial Relations to be in violation of certain provisions of the Labor Code, from bidding on, being awarded, or performing work as a subcontractor on a Public Works project for specified periods of time.
2. The Bidder is not ineligible to bid on, be awarded or perform work as a subcontractor on a Public Works project by virtue of the foregoing provisions of Sections 1771.1 or 1777.7 of the California Labor Code or any other provision of law.
3. The Bidder is aware of California Public Contract Code Section 6109, which states:

"(a) A public entity, as defined in Section 1100 [of the Public Contract Code], may not permit a contractor or subcontractor who is ineligible to bid or work on, or be awarded, a Public Works project pursuant to Section 1771.1 or 1777.7 of the Labor Code to bid on, be awarded, or perform work as a subcontractor on a Public Works project. Every Public Works project shall contain a provision prohibiting a contractor from performing work on a Public Works project with a subcontractor who is ineligible to perform work on the Public Works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

(b) Any contract on a Public Works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a Public Works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the awarding body. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project."
4. The Bidder has investigated the eligibility of each and every subcontractor the contractor intends to use on this Public Works project, and determined that none of them is ineligible to perform work as a subcontractor on a Public Works project by virtue of the foregoing provisions of the Public Contract Code, Sections 1771.1 and 1777.7 of the Labor Code, or any other provision of law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of December, 2018, at Santa Barbara California.

Signature: James W. Lash

Name: James W. Lash

Title: Vice President

Name of Company: Lash Construction, Inc.

Note: Signature must be acknowledged before a notary public. Attach appropriate acknowledgment.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

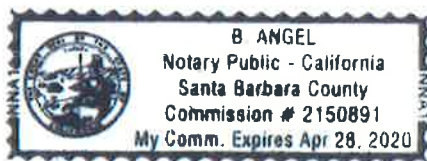
State of California)

County of Santa Barbara)On December 12, 2018 before me, Bernadette Angel, Notary Public
Date Here Insert Name and Title of the Officerpersonally appeared James W. Lash
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature B. Angel
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____



Fairview Ave Sidewalk Infill at
Stow Canyon Road
PROJECT NO. 9060
BID NO. 05-18

Addendum No. 1
December 3, 2018

Bid Opening: Wednesday, December 12, 2018 at 3:00 P.M. (no change)

1. REPLACE:

BID PROPOSAL, PAGE C-4, BID PROPOSAL. The Bid Proposal shall be removed and replaced in its entirety with the revised Bid Proposal included in this Addendum. The following change has been made:

a.) Item No. 9, Slurry Seal (Type II), the quantity has been revised to 27,000 SF.

2. DELETE/ADD:

SPECIAL PROVISIONS, SECTION F

Delete Paragraph 2.9.2 of the Standard Specifications for Public Works Construction 2015 (Greenbook) and substitute the following in the Special Provisions, Section F:

Construction Surveys: Contractor shall be responsible for all project control and construction surveying and for referencing, replacement and recording of survey monuments, and shall include this in the bid. No grade setting, staking or survey services will be performed by the Engineer. Surveying shall be performed by a Land Surveyor registered in the State of California to perform these services. The Engineer reserves the right to check the Contractor's work at any time during the project. Checks performed by the Engineer will not relieve the Contractor from responsibility to properly locate and construct the Work in accordance with these Contract Documents

Construction surveys and staking will be included in payment for other bid items of work and no additional compensation will be provided.

3. ADD:

APPENDIX A, CONCRETE BID QUANTITY EXHIBIT. Appendix A shall be added to the end of Section F – SPECIAL PROVISIONS of the Standard Specifications, along with the following exhibit:

- Fairview Ave. Sidewalk Infill at Stow Canyon Road Concrete Bid Quantity Exhibit

4. DELETE/ADD:

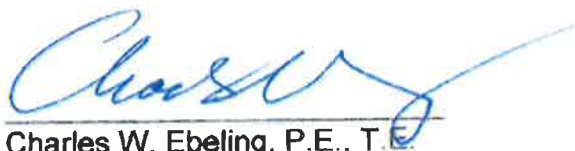
SPECIAL PROVISIONS, PAGE F-32, PUBLIC NOTIFICATION

DELETE: A sample door hanger notice is included as a part of this specification (see Appendix E).

ADD: A sample door hanger notice is included as a part of this specification (see Appendix B) and is added after Appendix A in Section F – SPECIAL PROVISIONS of the Standard Specifications, along with the following exhibit:

- Notice to Area Businesses, Residents & Schools

Approved by:



Charles W. Ebeling, P.E., T.E.
Public Works Director

--END--

ATTACHMENT 2

Professional Services Agreement for Construction Management with Filippin
Engineering, Inc.

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

This AGREEMENT FOR PROFESSIONAL DESIGN SERVICES (herein referred to as "AGREEMENT") is made and entered into this 15th day of January, 2019, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **FILIPPIN ENGINEERING, INC.** a California Corporation herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional Construction Management Inspection and Materials Testing services for the Fairview Avenue/Stow Canyon Road Infill Project; 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, CONSULTANT was approved by Council on December 20, 2016 and placed on a short list of pre-approved Consultants for Engineering Design services after review of a Request for Qualifications based selection; and

WHEREAS, the City Council, on this 15th day of January, 2019, 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 Construction Management Inspection and Materials Testing services in conjunction with Fairview Avenue/Stow Canyon Road Infill Project Services shall generally include as more particularly set forth in the Scope of Work, attached as Exhibit "A," and incorporated herein.

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 \$86,800 (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 June 30, 2020, 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 in 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 Melissa Angeles. 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 June 30, 2020 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.

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. Kelly Wheeler, P.E., QSD, 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.

- Fugro Consultants, Inc. - Materials Testing 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 in the 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 and in the aggregate.

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. 12-87), 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: Kelly Wheeler, P.E., QSD
Filippin Engineering Inc.
354 S. Fairview Ave., Suite D
Goleta, CA 93117

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

CONSULTANT

Michelle Greene, City Manager

Gino Filippin, President

ATTEST

Deborah Lopez, City Clerk

Kelly R. Wheeler, Vice President

APPROVED AS TO FORM



Winnie Cai, Assistant City Attorney

EXHIBIT A SCOPE OF WORK

TASK 1.0 PRE-CONSTRUCTION PHASE SERVICES (TOTAL 48 HOURS)

Kick-off Meeting – The Consultant shall work with City staff to review procedures, establish a roles and responsibilities matrix, and review and verify mutual understanding of contract documents and construction issues.

Review Design Documents – The Consultant shall review design documents to confirm that the project can physically be assembled as designed.

Contract Administration – The Consultant shall establish document control procedures and Construction Management procedures to ensure organized, complete, and effective construction management and documentation at the onset and throughout the project duration.

Submittal Processing – The Consultant shall establish a list of submittals that will be required of the contractor per the specifications and plans, along with designation of submittals critical to schedule to review the designer and the contractor.

Preconstruction Conference – The Consultant shall prepare an agenda, chair the briefing, and prepare minutes documenting the meeting held with Owner, Engineer, Contractor, Utility Companies, Construction Manager, Regulatory Agency, and other pertinent parties prior to construction.

Preconstruction Condition Documentation – The Consultant shall digitally photograph and video graph the site and adjoining area in the pre-construction condition. These records will be shared with the City and Contractor staff and will be logged with date and time of acquisition.

PRECONSTRUCTION PHASE DELIVERABLES:

- a. Notice to Proceed for the Contractor
- b. Proposed Submittal List
- c. Preconstruction Meeting Agenda
- d. Preconstruction Meeting Minutes
- e. Preconstruction Condition Documentation

TASK 2. CONSTRUCTION PHASE SERVICES (TOTAL 480 HOURS)

Construction Management Plan/Coordination of Contract Execution – The Consultant shall prepare a Construction Management Plan. The purpose of the Plan is to define the roles and responsibilities of each of the participating parties. The Plan will address the flow of communications and decision-making so that at all times during the construction process, all relevant parties are involved.

Project Communication and Coordination – The Consultant shall prepare logs, files, transmittals, agendas, minutes, and other documents as necessary to assure comprehensive dissemination of information, as well as the ability to locate documents in the future. Correspondence will be handled in accordance with procedures established in the Construction Management Plan and per the Caltrans Local Assistance Procedures Manual (LAPM).

Project Schedule – The Consultant shall maintain a master schedule of all phases, approval processes, and other pertinent actions required by the City, consultants, and contractors, with

monthly updates. Monthly, Consultant shall compare the Contractor's progress to the then-current schedule. Consultant shall also verify that all assumptions regarding logic and items included are still valid.

Submittal Management – The Consultant shall log and distribute submittals (e.g. shop drawings, color samples, product “cut sheets”, and other information) to the Engineer or appropriate reviewer. Prior to receipt, Consultant shall identify submittal requirements and their relationship to the critical path schedule, to remind the Contractor of submittals that could impact the schedule. Copies of the submittal log will be included with each weekly coordination meeting’s agenda/minutes, and Consultant shall follow up to assure appropriate and timely response by the Engineer.

RFI Management – The Consultant shall maintain a log system for Requests for Clarification and Requests for Information that is updated and included with transmittals and weekly meeting agendas/minutes. Within the Construction Manager’s authority (established in the Construction Management Plan), responses shall be made in the field and logged accordingly. Otherwise, responses shall be facilitated by the appropriate person(s) so that no unwarranted delays are experienced.

Materials Management – The Consultant shall maintain a document log to track the status of Requests for Clarification, Requests for Information, submittals, and similar items. To the extent possible, Construction Manager shall respond; otherwise, the request shall be forwarded to appropriate City and Engineer personnel for review. Logs for these requests shall be included with all meeting agendas and minutes and shall be reviewed to assure timely response.

Change Order Management – The Consultant shall establish a Potential Change Order (PCO) process and shall track all items and issues that are likely to result in change orders. A log shall be established indicating the type of each PCO, the potential impacts to cost, schedule, and other matters, as well as an action deadline. The log shall be attached to weekly meeting agenda/minutes and shall be reviewed in the weekly meetings. Consultant shall review all Contractor Requests for Change Orders, to determine whether appropriate procedure has been followed and the necessary information has been provided. Requests shall be logged and distributed to the City, with documentation as necessary such as inspection reports, sketches, photos or other materials necessary for evaluation. Consultant shall make a recommendation as to the disposition of each change order request. Upon City review and determination, Consultant shall prepare Change Orders for signature by City staff using the City’s template, obtain Contractor signature, and facilitate approval by the City and distribution thereafter.

Construction Observation/Inspection – The Consultant shall perform daily inspection/monitoring of construction activities and determine that work follows the project plans, specifications, and permits. Consultant shall be responsible for observation and documentation of all construction tasks and will follow City procedures. The Inspector’s Daily Reports shall include information such as workers and equipment actively engaged in the project, weather conditions, work accomplished that day, records of T&M work performed, pictures, documentation of conversations with Contractor personnel, and problems anticipated or encountered.

Labor Compliance Monitoring – The Consultant shall perform labor compliance checks as required by Title 29, Part 5 (29CFR 5) of the Code of Federal Regulations and the United States Department of Labor. This shall include verification of upload to the DIR, collection and spot checking of Contractor submitted certified payroll reports and performing labor compliance interviews. Consultant shall follow the frequency and procedures recommended in the LAPM.

Quality assurance and materials testing

Reporting and Record Keeping – The Consultant shall keep records in accordance with the Caltrans LAPM. Consultant shall file all project documentation electronically and keep a hard copy binder of all documentation for turnover to the City upon project completion. Documentation shall be available for City review at all times.

Safety – The Consultant shall provide documentation and monitoring of Contractor's construction operations for safety practices per CAL-OSHA and project Traffic Control Plan. Contractor shall remain the sole responsible party for safety requirements. Consultant shall monitor per Contractor's safety program and notify Contractor and City of any observed deficiencies.

Jobsite Weekly Progress Meetings – The Consultant shall utilize a template, customized for each project, to prepare agendas and minutes, along with attachments such as schedule updates, logs, and other pertinent information. Agendas/ minutes and attachments shall be distributed by email several days prior to each meeting. Minutes shall be clear in assigning responsibility and timeframes for action items.

Payment Application Review – The Consultant shall review the contractor's progress pay estimates in accordance with the construction contract. Payments on progress estimates shall be supported by source documents that represent measured quantities. A complete and accurate pay estimate shall be forwarded to the City for payment. Consultant shall maintain a current estimate of overall construction costs.

CONSTRUCTION PHASE DELIVERABLES:

- a. Weekly Meeting Agendas & Minutes
- b. Submittal Log & Tracking of Response
- c. RFI Log and Tracking of Response
- d. Shop Drawing/Sample Log and Tracking of Response
- e. CCO Log and Tracking of Response
- f. Independent Cost Evaluation of all PCO's
- g. Materials Testing Log and Reports
- h. Weekly Statements of Working Days
- i. Record Drawings
- j. Labor Compliance Log
- k. SWPPP Compliance Log
- l. Daily Inspection Reports
- m. Daily Photographic Records
- n. Collect Contractor SWPPP reports & upload to SMARTS
- o. Organize & Assemble Documentation for Closeout
- p. Documentation in accordance with LAPM

TASK 3. POST-CONSTRUCTION PHASE SERVICES (TOTAL 32 HOURS)

Final Inspection and Punch List – The Consultant shall provide final inspection and prepare list of project construction deficiencies for resolution by Contractor.

Record Drawings – The Consultant shall provide final mark-ups of the project drawings to reflect Contractor provided as-built drawings and all changes made to the contract documents for preparation of final record drawings by the designer.

Final Documentation Turnover – The Consultant shall provide the City with all operations and maintenance manuals, along with all project documentation in hard copy (in binders) and electronic files. All documentation shall be filed in accordance with LAPM categories and recommendations.

Final Project Report – Upon completion of construction contract, Consultant shall prepare a final report to the City summarizing all expenditures and change orders, showing pictures and providing a final accounting of all project expenditures in relation to the budget.

Notice of Completion – Upon completion of all punch list items, Consultant shall prepare a Notice of Completion, Statement of Final Quantities, and any final documentation requested by the City. Thereafter, the Contractor's final payment shall be processed.

CLOSE-OUT PHASE DELIVERABLES:

- a. Final mark-ups for preparation of Record Drawings
- b. Final Punchlist
- c. Operations and Maintenance Manuals
- d. Hard Copy of all Project Files organized in Compliance with LAPM
- e. Electronic copy of all Project Files identical to hard copy binders
- f. Notice of Completion Statement of Final Quantities and/or Final Balancing Change Order

TASK 4. MATERIALS TESTING

Materials Testing - Materials testing subconsultant will be Fugro Consultants. Subconsultant shall provide materials sampling and testing in accordance with the contract documents and the City's QAP. Consultant shall track materials incorporated into the project.

EXHIBIT B SCHEDULE OF FEES

Engineering

Engineering Technician	\$ 85.00
Senior Engineering Technician	\$ 105.00
Junior Engineer	\$ 135.00
Assistant Engineer	\$ 140.00
Associate Engineer	\$ 145.00
Senior Engineer	\$ 175.00
Principal Engineer	\$ 188.00

Construction Management

Assistant Construction Manager	\$ 145.00
Associate Construction Manager	\$ 155.00
Senior Construction Manager	\$ 175.00
Principal Construction Manager	\$ 188.00
Senior Construction Inspector (PW)	\$ 140.00
Chief Inspector/Owner's Rep (PW)	\$ 145.00
(PW) Prevailing Wage	

General

Technical/Clerical Support	\$ 75.00	Sub-Consultant	Cost + 10%
Office Engineer	\$ 95.00	Reimbursable Expenses	Cost + 5%
Senior Program Manager	\$ 180.00	Outside Consultant	Cost + 10%

Note 1: Reimbursable expenses include postage, shipping, outside plot and copy reproduction costs.

Note 2: On prevailing wage assignments, overtime rates for construction inspection = 1.3 X regular rate. Double time rates = 1.5 X regular rates. Overtime will not be performed unless authorized in writing by the client. Overtime is incurred as defined on the prevailing wage determination for construction inspector.

Note 3: Prevailing wage rates subject to change each year for multiple-year contracts in conjunction with labor increases required by law. For multi-year assignments, all staff rates anticipated to follow standard proportional adjustments based on magnitude of Prevailing Wage rate changes.