



# Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Nadia Fahoum, Assistant Civil Engineer

Reviewed by: Robert DuBoux, Public Works Director/City Engineer

Approved by: Steve McClary, City Manager

Date prepared: March 15, 2023

Meeting date: June 26, 2023

Subject: Amendment to Professional Services Agreement with NV5, Inc.

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**RECOMMENDED ACTION:** Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with NV5, Inc. to modify their scope of work for the Pacific Coast Highway Median Improvements and Pacific Coast Highway Signal Synchronization System Improvements Projects.

**FISCAL IMPACT:** No appropriation is required. Funding for this agreement is included in the Adopted Budget for FY 2022-23 in Account No. 310-9066-5100 (PCH Signal Synchronization System Improvements). This project is fully funded through Measure R funds administered by the Los Angeles County Metropolitan Transportation Authority. The original agreement included a total compensation amount of \$1,072,404.14. The proposed amendment will reduce the total amount by \$486,244.92 for a revised total of \$586,159.22.

**WORK PLAN:** This item was included as item 8.i. in the Adopted Work Plan for FY 2022-23.

**DISCUSSION:** On March 14, 2022, Council approved the execution of a professional services agreement with NV5, Inc. (NV5) to provide consulting services for construction management for the Pacific Coast Highway Median Improvements and Pacific Coast Highway Signal Synchronization System Improvements Project. NV5's scope of work under this agreement was to provide full-service construction management for both projects.

On November 3, 2022, the Pacific Coast Highway Signal Synchronization System Improvements Project was advertised in solicitation of bids and on January 26, 2023, sealed bids were publicly opened. The lowest responsible construction bid was accepted by Council and awarded to GMZ Engineering, Inc. in the amount of \$9,776,991 with a contingency amount of \$1,900,000.

The total funds available for the Pacific Coast Highway Signal Synchronization System Improvements Project is \$14,600,000, which includes project design, construction, construction management costs, systems integration, software, etc. To maintain operating within the approved budget amount, the agreement with NV5 requires amending to remove, and modify, consulting services related to construction management services for the Pacific Coast Highway Signal System Synchronization Project.

This amendment with NV5 is to modify the scope of work to remove, and modify, consulting services related to construction management services for the Pacific Coast Highway Signal System Synchronization Project. City staff will perform the majority of the construction management services for the Pacific Coast Highway Signal System Synchronization Project but will retain NV5 to assist as needed, as determined by the City. The scope of work modification will be performed within the new agreement amount of \$586,159.22, which is a reduction from the original agreement amount of \$1,072,404.14. This reduction in NV5's scope of work and associated compensation will keep the project operating within the approved budget amount. No additional compensation is required.

Staff recommends authorizing the City Manager to execute Amendment No. 1 to the professional services agreement with NV5, Inc modifying their scope of work.

ATTACHMENT: Amendment No. 1 to Agreement with NV5, Inc.

**AMENDMENT NO. 1 TO AGREEMENT**

THIS AMENDMENT NO. 1 TO AGREEMENT is made and entered in the City of Malibu on June 26, 2023, by and between the CITY OF MALIBU, hereinafter referred to as City, and NV5, Inc., hereinafter referred to as Consultant.

The City and the Consultant agree as follows:

**RECITALS**

A. On March 14, 2022, the City entered into an Agreement with Consultant for construction management services for the Pacific Coast Highway (PCH) Median Improvements and Pacific Coast Highway (PCH) Signal System Synchronization Projects (the "Agreement").

B. The City desires to amend the Agreement to modify the scope of work to remove, and revise, consulting services related to construction management services for the PCH Signal System Synchronization Project. The Consultant has submitted a proposal for this amendment that is acceptable to the City.

C. The City will perform the day-to-day construction management services for the PCH Signal System Synchronization Project. The PCH Median Improvements Project is under re-evaluation, consultant construction management services will remain for the PCH Median Improvements Projects until the City has definitive answers as to the course of the project.

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

1. Section 1.0 – Scope of the Consultant’s Services, is hereby replaced as set forth in Revised Exhibit A attached hereto.
2. Section 4.0 – Compensation for Services, of this Agreement, is hereby replaced as set forth in Revised Exhibit B attached hereto.
3. The Parties agree that this Amendment will be considered signed when the signature of a party is delivered physically or 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.
4. All terms and conditions of the Agreement not amended by this Amendment No. 1 remain in full force and effect.

This Agreement is executed on \_\_\_\_\_, 2023, at Malibu, California, and effective as of May 25, 2023.

CITY OF MALIBU:

\_\_\_\_\_  
BRUCE SILVERSTEIN, Mayor

ATTEST:

\_\_\_\_\_  
KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

\_\_\_\_\_  
TREVOR RUSIN, Interim City Attorney

CONSULTANT:

By:   
Title: Senior Vice President

## **REVISED EXHIBIT A SCOPE OF WORK**

The CM consultant for the Pacific Coast Highway (PCH) Raised Median Project and PCH Signal Synchronization Project shall provide construction management services and other engineering services during construction as generally described in this section, and in accordance with Caltrans project requirements. At this time the Pacific Coast Highway (PCH) Raised Median Project is being re-evaluated. Once the City has determined the course of the Project, the project scope of work may change. The scope of work for this project are listed as is until the City has definitive answers. For the Pacific Coast Highway (PCH) Raised Median Project, the CM consultant shall be responsible for comprehensive construction management services including contract administration, submittal review, resident project representative, perform and coordinate inspections and testing, value engineering, progress payment requests, and project close-out and other engineering services during construction as described below for each project. For the PCH Signal Synchronization Project, the CM consultant shall be responsible for performing and coordinating inspections and testing, and on-call construction management services or other engineering services during construction as described below for each project.

**Task No. 1 - Construction management (PCH Median Improvements Only):** Provide full-service construction management services for the PCH Median Improvement Project. The following summary of responsibilities includes scope of work items and tasks that are planned for the CM consultant and will be developed in more detail in the final agreement, based on details proposed by the CM consultant.

- A. Administration of the Construction Contract, acting as the City's representative in dealing with the contractor, to ensure the completion of the work in accordance with the Construction Contracts and in compliance with Caltrans requirements.
- B. Services of Resident Project Representative to be on-site for the daily observation of the contractor's work to ensure that the work is proceeding in accordance with the Contract Documents and for coordination of construction management, testing, and inspection activities. Detailed daily reports of all of the contractors' activities shall be prepared in sufficient detail to document actual production rates and estimate construction costs, including photo and video recording of progress.
- C. Services of qualified inspectors and testing technicians to perform all inspections, tests, and approvals required at the site and at the place of manufacture or fabrication. Written testing and inspection reports, certifications, or approvals shall be maintained and submitted.
- D. Reviewing and determining the acceptability of project schedules required to be submitted by the contractors, including progress schedule, submittal schedule, and schedule of values, equipment and material procurement schedule and delivery, project

safety plan, hazardous materials handling plan, trench safety and shoring plan, and traffic control plan. Using the approved contractor construction schedules and schedule of values, develop cash flow projections for the projects.

- E. Establish construction baselines and benchmarks, not including construction staking, necessary for the contractor to complete the work to the lines and grades shown in the drawings.
- F. Recommend and prepare change orders for contractors or City initiated changes or extra work. The recommendation shall include the CM consultant's own independent cost estimate and change order justification. As appropriate, request the design consultant to review the proposed changes.
- G. Coordinate, schedule, and chair regular progress meetings (and other meetings as needed or directed by the City) with the contractors, Caltrans staff as needed and City project management team regarding construction issues, schedules, progress, and performance.
- H. Develop and implement a project specific safety plan (for each project) for all non-contractor personnel who visit the construction site. Anticipated personnel include the CM consultant and sub-consultants, City staff and consultants, Caltrans staff, funding agency staff, environmental monitors, elected officials, and other City staff.
- I. CM shall prepare and submit quarterly progress reports for each project for City's review and approval. The progress report information will be submitted to Metro for funding requirements. As a reference, City can provide a sample template and format of the quarterly progress report.
- J. Documentation of compliance with environmental permitting and mitigation measures in accordance with the requirements of the environmental documents and regulatory permits.
- K. On-site staff shall participate in environmental and safety education trainings required for the projects.
- L. Maintain a hard copy file of the construction drawings at the CM consultant's local office that is regularly updated with mark-ups of all field changes and as-built conditions for the purpose of reviewing a final set of Record Drawings. Maintain a conformed copy of the construction contracts and specifications at the CM consultant's local office that is regularly updated with all approved modifications and changes, including updated project construction schedules.

- M. Establish, utilize, and maintain a project file database system for use by the City, designer, CM consultant and sub-consultant, and prime and sub-contractors. The file database shall contain all documents relative to the construction phase including drawings, specifications, amendments, daily reports, construction photo and video documentation of project sites prior to, during and post construction, requests for information, change orders, submittals, shop drawings, correspondence, permits, emergency contact information for the contractors and project involved agencies, including other contract information.
  
- N. Establish, utilize, and maintain a certified payroll file system for use by the City, designer, CM consultant and sub-consultant, and prime and sub-contractors. The file database shall contain all documents relative to certified payroll, such as to receive and log copies, conduct periodic interviews of labor in the field, and monitor the changing labor compliance regulations. Jobsite postings of wage-rate information and required labor compliance will be verified. In addition to the following services:
  - I. Monitoring and enforcing the proper reporting of prevailing wages, fringe benefits, and apprenticeship utilization if required
  - II. Notifying the Construction Manager to withhold of contract payments as necessary for underpayment and violations, and imposing of penalties for non-compliance
  - III. Recommendations, collection, and distribution of wage restrictions
  - IV. Provide closeout certification accepting final labor compliance documentation services
  
- O. Coordinate and document requests for clarifications/information issued by contractors and the responses. The CM consultant is expected to handle most such requests in the field, passing only specialized requests to the City or design consultant for response.
  
- P. Receive, document, coordinate, review, and process submittals and shop drawings issued by contractors and the responses. The CM consultant shall prepare written review comments/responses for each submittal and shop drawing and interpret the contract drawings and specifications in reviewing the documents so that the design intent of the project is implemented. It is expected the CM consultant will handle and process such documents in the field, passing only the specialized ones (as determined by the City) to the City or design consultant for response.
  
- Q. Coordinate and lead project close-out negotiations with the contractor and provide written verification that all payments, lien releases, and final change orders have been completed and documented.
  
- R. Make presentations to City Council, Commissions, Agencies, and/or interest groups and constituents, as directed by City Staff.

- S. Submit monthly invoicing for each project separately including names and title, hours and rates, identifying the tasks billed on each invoice, invoicing amount to-date including remaining balance, and supporting documentation for sub-consultant work.

### **Task No. 2 - Eliminated**

~~**Task No. 2 – Startup and Commissioning:** Provide contract administration services, on-site observations, and coordination during the start-up and commissioning period during which the contractors will connect and bring online the new fiber optics, CCTV's, traffic system control systems, PCH facilities and equipment, tested and integrated with Malibu City Hall, and Caltrans District 7, Transportation Management Centers. Coordinate and implement procedures for start-up, testing, commissioning, integration, and acceptance of the completed work for both individual components and as a complete system.~~

**Task No. 3 - Post-Construction Services (PCH Median Improvements Only):** Prepare and submit a final Construction Summary Report for the PCH Median Improvement Project. The report shall be a well-organized record of the completed infrastructure and include the Record Drawings prepared by the contractor, operations manuals furnished by the contractor, and any third-party agreements related to the equipment and its construction, all warranty documentations as required, integration and operations. Visit the project, with the City and designer, to observe any apparent defects that may be discovered at the end of the warranty period and make recommendations regarding any replacements or corrections required.

**Task No. 4 - Quality Management Plan (QMP):** The Construction Manager shall prepare Construction Quality Management Plan (QMP) for the PCH Raised Median Project and PCH Signal Synchronization Project to be submitted for review and approval by Caltrans. The approved QMP's shall be kept current for each project.

**Task No. 5 - Material Testing / Inspections (PCH Signal Synchronization Only):** Provide the services of qualified inspectors and testing technicians to perform all inspections, tests, and approvals required at the site and at the place of manufacture or fabrication. Written testing and inspection reports, certifications, or approvals shall be maintained and submitted.

**Task No. 6 - On-Call Construction Management Services (PCH Signal Synchronization Only):** Provide construction management coordination and other engineering services during construction on an on-call basis. The work will include, but not limited to, coordinating material testing, conducting coordination meetings with Caltrans, and attending other construction-related meetings. This task will be performed on an as needed basis and will be initiated by the City.

# EXHIBIT B



## Fee Schedule

### PCH Median Improvements Project and PCH Signal Synchronization Project

Task	Amount
Task 1 – Construction Management -PCH Median Improvements	\$ 369,133.14
<del>Task 2 – Startup and Commissioning (Eliminated)</del>	<del>\$ 0.00</del>
Task 3 – Post-Construction Services - PCH Median Improvements Only	\$ 11,140.00
Task 4: QMP - PCH Median & Signal Synch	\$ 15,200.00
Task 5: Material Testing Source Inspection - PCH Signal Synronization Only	\$ 90,686.08
Task 6: On-Call Construction Management Services - PCH Signal Synchroniation Only)	\$ 100,000.00
<b>Total</b>	<b>\$ 586,159.22</b>