

## **AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR**

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and MNS Engineers, Inc. with an address at 201 N. Calle Cesar Chavez, Suite 300, Santa Barbara, CA 93103 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**WHEREAS**, COUNTY executed a Master Service Agreement Purchase Requisition CN19144 with CONTRACTOR in the amount of \$25,000 for the period of December 15, 2015 to September 30, 2016 to complete Phase I design services for the Union Valley Parkway Barrier Wall project;

**WHEREAS**, pursuant to Purchase Requisition CN19144, CONTRACTOR completed Phase I design services for Union Valley Parkway Barrier Wall project and was paid \$14,255, an amount CONTRACTOR agrees represents payment in full for Phase I design services;

**WHEREAS**, the scope of this Agreement includes the work completed pursuant to Purchase Requisition CN19144, and this Agreement authorizes payment for the work completed pursuant to CN19144 for which CONTRACTOR has already been paid in full; and

**WHEREAS**, this Agreement is intended to cancel, nullify, and supersede Purchase Agreement CN19144

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**1. RECITALS**

The Recitals hereto form a material part of this Agreement, are true and correct, and by this reference are incorporated herein and made a part hereof.

**2. PRIOR AGREEMENTS N/A**

**3. DESIGNATED REPRESENTATIVE**

Chris Sneddon at phone number (805) 568-3064 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Shawn Kowalewski at phone number (805) 456-3540 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

**4. NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Chris Sneddon, Public Works Transportation, 123 E. Anapamu Street, Santa Barbara CA, 93101, [csneddo@cosbpw.net](mailto:csneddo@cosbpw.net), FAX: (805) 568-3019.

To CONTRACTOR: Shawn Kowalewski, MNS Engineers, Inc. 201 N. Calle Cesar Chavez, Suite 300, Santa Barbara, CA 93103, [skowalewski@mnsengineers.com](mailto:skowalewski@mnsengineers.com)

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

**5. SCOPE OF SERVICES**

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

**6. TERM**

CONTRACTOR shall commence performance on 12/14/16 and end performance upon completion, but no later than 6/30/18 unless otherwise directed by COUNTY or unless earlier terminated.

**7. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

**8. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

**9. STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise

any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

**10. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

**11. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

**12. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

**13. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

#### **14. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

#### **15. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

#### **16. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

#### **17. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

#### **18. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

#### **19. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

## 20. **NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

## 21. **TERMINATION**

- A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
  2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

**22. SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

**23. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**24. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**25. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

**26. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

**27. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

**28. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**29. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

**30. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

**31. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**32. AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

**33. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

**34. PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and MNS Engineers, Inc.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by COUNTY.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

**RECOMMENDED FOR APPROVAL:**

Scott D. McGolpin, PE  
Public Works Director

By: \_\_\_\_\_  
Department Head

**CONTRACTOR:**

MNS Engineers, Inc.

By: \_\_\_\_\_  
Authorized Representative

Name: Shawn Kowalewski

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Michael C. Ghizzoni  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Theodore A. Fallati, CPA  
Auditor-Controller

By: \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**

Risk Management

By: \_\_\_\_\_  
Risk Manager  
Ray Aromatorio



## EXHIBIT A

### STATEMENT OF WORK

#### **See attached Exhibit A-1**

Shawn Kowalewski shall be the individual(s) personally responsible for providing all services hereunder. CONTRACTOR may not substitute other persons without the prior written approval of COUNTY's designated representative.

**Suspension for Convenience.** COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to 60 days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

# UVP & Woodmere Barrier Walls

## Scope of Work

### Phase 2 – Environmental & Engineering

The phase of the project includes the completion of the environmental documentation, preparation of the plans, specifications and estimates, and the acquisition of construction entitlements from the State for the UVP (Wall 1) portion of the project.

The project priorities are:

1. Woodmere Walls: Focus on completing the Wall 2A, 2B and 2C plan set first. This wall has fewer regulatory process to negotiate and can be constructed as soon as the plans are complete and signed-off by stakeholders.
2. UVP Walls: On a parallel, but separate development track, complete the NEPA documentation and the PS&E for the UVP Wall (Wall 1). Though the environmental documentation is anticipated to be minor, the regulatory process is expected add many months to the project development schedule. This project will lag the Woodmere Walls.

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#### Task 2.1: Utility Investigation

MNS will use Underground Service Alert (USA) notification services to determine the active utility providers in the project area. Using our local knowledge, we will complete the list of utility providers and add our local contacts.

Utility correspondence will utilize Caltrans Right of Way Manual documentation formats.

MNS will send utility identification letters to the utility owners in the area. We recommend that the letters be mailed on County letterhead or utilize a County prepared cover letter to clearly define this as a public project. These letters describe the project and request identification of facilities within the project limits including record drawings and atlas sheets.

MNS will utilize this information to preliminarily map the utilities on the project plans.

MNS will send utility verification letters to the utility owners who previously indicated that they have facilities in the project limits. The verification letter includes a strip map of the project including utility facilities described by topographic mapping, record drawings and atlas sheets. Utility owners will be requested to respond within 30 days.

MNS will identify potential project vs. utility conflicts.

#### Assumptions:

- Utilities on UVP well mapped for the UVP interchange project and provided by Caltrans in CAD format.
- Utility conflicts are not anticipated. Therefore, this work is for documentation of notification to utility owners.
- Utility coordination per Caltrans Right of Way Manual is not required.

# UVP & Woodmere Barrier Walls

## Scope of Work

### Deliverables:

- Develop utility owner list (USA notification and local knowledge).
- Utility identification letters and map.
- Utility verification letters and map.

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### **Task 2.2: Environmental Document**

Rincon will prepare an IS-MND for the project. The IS-MND will focus on the issue areas of aesthetics, biological resources (tree removal and nesting birds), and construction impacts, and will briefly discuss other issues from the County's CEQA thresholds.

The MND will include all of the components defined in Section 15071 of the CEQA Guidelines as follows:

- A brief description of the proposed project, including the common name of the project;
- The location of the project, shown on a map and the name of the project proponent;
- A proposed finding that the project will not have a significant effect on the environment;
- An attached copy of the Initial Study documenting reasons to support the findings; and
- Mitigation measures, if any, included to avoid potentially significant effects.

Preparation of the IS-MND will include:

#### *Kickoff Meeting*

Within one week of authorization to proceed, Rincon staff will organize a conference call kickoff meeting with County staff to review and finalize study objectives, confirm our approach to the environmental evaluation, fine tune the overall project schedule, and establish an operational protocol.

#### *Project Description*

The Project Description will include descriptions of project characteristics relevant to the analysis as well as required discretionary approvals. The project description will include textual, tabular, and graphic presentation. Up to 4 graphics figures will be provided. The Project Description will be submitted within one week of the kick-off meeting and receipt of information regarding the project.

#### *Administrative Draft IS-MND*

Using the County's preferred IS-MND format, Rincon will prepare the IS-MND for the project in accordance with Section 15063(d) of the CEQA Guidelines, which defines the required contents of an IS-MND. Each of the environmental issue areas included in the CEQA environmental checklist form will be addressed at a level of detail sufficient to allow the County to make determinations of significance.

# UVP & Woodmere Barrier Walls

## Scope of Work

The impact evaluation will focus on the issue areas of Aesthetics, Biological Resources, and Construction Impacts. The aesthetics evaluation will address visual impacts from Highway 101, Union Valley Parkway, and Woodmere Avenue. Rincon will evaluate project impacts to existing trees, as well as potential impacts on nesting birds, and will identify mitigation measures as necessary. Construction impacts related to air contaminant and noise emissions will be described. Rincon will also conduct a records search for known cultural resources and hazardous materials. The noise technical study previously completed by Rincon will be summarized. The lack of project impacts with respect to other environmental issue areas will be discussed briefly.

Where appropriate, impacts will be quantified. If existing data does not allow definitive quantification, reasonable assumptions will be used to qualitatively forecast potential impacts. Mitigation measures, if necessary, will be presented in wording that can be directly incorporated into project design and applied as conditions of approval.

The Administrative Draft IS-MND will be provided within 3 weeks of approval of the project description.

### *Draft IS-MND*

After County review of the Administrative Draft IS-MND, Rincon will revise the document, as needed, to reflect the County's comments. Rincon will respond to one round of consolidated County comments on the Administrative Draft IS-MND. This task also involves the production, editorial work and communication processes anticipated to publish the Draft IS-MND for public review and comment.

Rincon will prepare the Notice of Intent to Adopt (NOI), print 15 hard copies of the IS-MND, and will mail the documents to the State Clearinghouse. It is assumed that the County will publish the notice in a newspaper of general circulation, develop a mailing list, and mail the NOI and/or document to relevant agencies and interested citizens.

Rincon will deliver the Draft IS-MND and NOI within two weeks of receipt of comments on the Administrative Draft IS-MND.

### *Final IS-MND*

Though not specifically required as part of the MND process, Rincon recommends preparation of written responses to all comments on the IS-MND. After receipt of all comments received by the County, Rincon will prepare written responses. For purposes of this proposal, we have assumed that the response to comments will require 6 hours of professional time. The draft responses to comments will be provided within one week of the close of the public comment period. We reserve the right to reexamine and renegotiate this task once the public review period is closed and the time required for this task is known with greater certainty.

# UVP & Woodmere Barrier Walls

## Scope of Work

After County review of the draft responses to comments, Rincon will print ten copies of the Final IS-MND and deliver them to the County.

### Assumptions:

- Tree removals are identified.
- Technical studies are not required.
- Project is not controversial – adjacent property-owners are project proponents.
- Attendance or presentations at public meetings or hearings is not required.
- County will be the CEQA lead agency.
- Federal funding or federal approvals, and therefore NEPA clearance, are not required.
- County staff will prepare and file a Notice of Determination (NOD) with the State Clearinghouse and the County Clerk's office upon adoption of the MND.
- County will be responsible for the filing fees, including the Fish and Wildlife fee.
- Environmental permits will not be required for construction activities.
- Aerially deposited lead (ADL) is not anticipated in the State right of way of the project.

### Deliverables:

- Environmental documentation kick-off meeting with agenda and minutes.
- Project description.
- Administrative Draft IS-MND.
- Draft IS-MND.
- Final IS-MND.

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### **Task 2.3: Preliminary (65%) PS&E**

Preliminary PS&E will be developed to 65% complete after certification of the environmental document. Development of the project documents will be in accordance with the latest edition of the Santa Barbara County "Engineering Design Standards (2011)," Caltrans "Highway Design Manual," and AASHTO "A Policy on Geometric Design of Highways and Streets." The design will be prepared using English units and drafted in accordance with County standards.

The existing right-of-way and proposed right-of-way acquisition outline, temporary and permanent easements and utility easements will be determined and plotted on the 65% plans.

The barrier walls do not meet the design requirements for a Caltrans Standard Plan wall due to the high seismicity at the project location. The Caltrans Standard Plan will need to be modified for this project, with supporting calculations.

Plans and design work will be included in each submittal for the following:

- UVP Barrier Wall PS&E
  - Title sheet (1 sheet)
  - Barrier Wall General Plan (1 sheet)
  - Barrier Wall Foundation Plan (1 sheets)

# UVP & Woodmere Barrier Walls

## Scope of Work

- Barrier Wall Typical Sections and Details (1 sheet)
- Woodmere Barrier Wall PS&E
  - Title sheet (1 sheet)
  - Wall General Plan (1 sheet)
  - Barrier Wall Foundation Plan (1 sheet)
  - Barrier Wall Typical Sections and Details (1 sheet)

This approach follows Caltrans-style plan sets, with the following clarifications:

- Removal/demolition plans are not needed or desired. The methodology regarding removals and demolition will follow Caltrans standard practice: objects in the way of the proposed work shall be removed. It is anticipated that most of the existing improvements within the right of way will be removed.
- No utility plans. Existing utilities will be shown on the wall foundation plans.
- No drainage plans.
- No contour grading plans. If grading is required, the contours will be shown on the wall layout plan.
- All quantity tables are excluded from the plan sets.

As part of the 65% submittal, MNS will prepare an estimate of probable construction costs based on detailed quantity takeoffs and current unit prices. A reasonable upward adjustment will be applied to all bid quantities that may vary during construction to allow for any necessary design adjustments. The final estimate format will be the standard Caltrans estimating system. Quantities for all contract items, including cost of lump sum items, will be substantiated by calculations.

Quantity calculations will be neat and orderly and will show all sketches, diagrams, and dimensions necessary to allow them to be independently used by field engineers. All quantity calculations will be independently checked and substantiated with independent calculations.

### Assumptions:

- Plan set is similar to Caltrans and County standard plan set expectations.
- Traffic control plan to be prepared by contractor.
- Log of test borings (LOTB) is not required. References will be made to UVP interchange geotechnical report and LOTBs.
- No utility conflicts are identified or anticipated.
- Drainage patterns will not be changed. Sheet flow from road to walls will be accommodated with scuppers or openings in the wall.
- County will incorporate special provisions into contract boilerplate and general provisions.
- SWPPP to be prepared by contractor.

### Deliverables:

- 65% plans and Engineer's estimate.
- Unmodified Caltrans standard special provisions.
- Identification of right of way needs.

# UVP & Woodmere Barrier Walls

## Scope of Work

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### **Task 2.4: Draft (95%) PS&E**

MNS will meet with the County to review comments on the 65% plan sets. Response to comments will be documented in a Comment Resolution Matrix and included with the 95% submittal. The plan set will be updated to reflect the comment resolutions.

Quantity calculations and independently developed quantity check calculations will be developed from the checked plans. After quantity calculations are complete, MNS will update the Engineer's Estimate and will also prepare a draft set of special provisions based on the outline prepared in the previous submittal.

#### Deliverables:

- 95% plans, special provisions, and engineer's estimate.
  - Review comment and response matrix and meeting.
- 

### **Task 2.5: Mitigation Monitoring and Reporting Program**

Rincon will prepare a Mitigation Monitoring and Reporting Program (MMRP) in accordance with State law and County standard format requirements. The plan will include: implementation responsibility, timing, monitoring requirements, and standards for success.

#### Deliverables:

- Mitigation Monitoring and Reporting Program.
- 

### **Task 2.6: Final PS&E**

Upon receipt of comments on the 95% submittal package, MNS will schedule a review session with the County to discuss review comments and resolve any conflicting comments.

Final technical special provisions will be modified to address any County comments, changes to the plans, or unique revisions to coordinate them with the County boilerplate. Plans and specifications will be compared a final time for consistency between the plans, specifications and estimate quantities. Under this task, a Resident Engineer's (RE) File will be prepared, with information necessary for the RE to administer the construction.

#### Assumptions:

- Encroachment permit process is identified project development method.
- County will pay Caltrans permit fees, if any.
- One revision and resubmittal iteration of encroachment permit application and package.
- County will complete the storm water data report (SWDR).

#### Deliverables:

- Signed and sealed full size archival "original" plan sets for County signatures.
- Signed final complete set of contract documents including special provisions.
- Electronic and hard copy of Engineer's estimate with checked quantity calculations.

# UVP & Woodmere Barrier Walls

## Scope of Work

- AutoCAD plans on CD; responses to County comments and original redline drawings.
- Draft and final Caltrans encroachment permit application submittal.

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## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$76,974.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Exhibit B-1** (Schedule of Fees). Invoices submitted for payment that are based upon **Exhibit B-1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

# Exhibit B-1

## MNS Engineers, Inc. - Team Resource Estimate Phase 2 - Environmental Documentation, Permitting & Final Engineering Professional Engineering Services for County of Santa Barbara Public Works Department

Hourly Rates	MNS Engineers								Rincon Consultants									
	Principal Engineer	Project Engineer	CADD Manager	Supervising CADD Technician	MNS Engineers Resource Hours	MNS Engineers Resource Costs	MNS Engineers Reimbursable Expenses	MNS Engineers Total Costs	Principal	Project Manager	Associate	Graphics	Clerical	Rincon Consultants Resource Hours	Rincon Consultants Resource Costs	Rincon Consultants Reimbursable Expenses	Subconsultant Markup	Subconsultant Total Costs
	\$220	\$150	\$140	\$120					\$195	\$125	\$85	\$85	\$65				15%	

																		Task Sub-Total	
2.1 Utility Investigation	2	20		8	30	\$4,400		\$4,400											\$4,400
2.2 Environmental Document <sup>1</sup>									9	26	47	10	12	104	\$10,630	\$1,875	\$1,876	\$14,381	\$14,381
2.3 Preliminary (65%) PS&E <sup>2</sup>	28	102	8	40	178	\$27,380	\$70	\$27,450											\$27,450
2.4 Draft (95%) PS&E <sup>2</sup>	8	40	4	32	84	\$12,160	\$70	\$12,230											\$12,230
2.5 Mitigation Monitoring & Reporting Program <sup>1</sup>									4	4			3	11	\$1,475		\$221	\$1,696	\$1,696
2.6 Final PS&E <sup>2</sup>	16	24	8	12	60	\$9,680	\$140	\$9,820											\$9,820
Sub-Total Hours	54	186	20	92	352	\$53,620	\$280	\$53,900	13	30	47	10	15	115	\$12,105	\$1,875	\$2,097	\$16,077	\$69,977
Sub-Total Costs	\$11,880	\$27,900	\$2,800	\$11,040	Hours				\$2,535	\$3,750	\$3,995	\$850	\$975						

**Notes:**

<sup>1</sup> This task is only for the UVP segment of the project.

<sup>2</sup> Two packages will be prepared: one for UVP Barrier Wall (Wall 1) and one for Woodmere Barrier Walls (Walls 2A, 2B & 2C).

## EXHIBIT C

### Indemnification and Insurance Requirements (For Design Professional Contracts)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, costs, expenses (including but not limited to attorneys' fees), judgments and/or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR and its employees, subcontractors, or agents in the performance of services under this Agreement, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the COUNTY.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance Coverage  
shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by

the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

**B. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.