



Agenda Item B.4
CONSENT CALENDAR
Meeting Date: July 16, 2019

TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: James Winslow, Senior Project Engineer

SUBJECT: Amendments to Kimley-Horn Public Works Professional Design Services Contracts

RECOMMENDATION:

- A. Authorize the City Manager to execute Amendment No. 2 to Professional Design Services Agreement No. 2017-130 with Kimley-Horn and Associates, Inc. for the Rectangular Rapid Flashing Beacons at Chapel and Pedestrian Hybrid Beacon at Kingston Project (9058), increasing the contract authority by \$6,750 for a total contract amount not-to-exceed \$61,750;
- B. Authorize the City Manager to execute Amendment No. 1 to Professional Design Services Agreement No. 2017-131 with Kimley-Horn and Associates, Inc. for the Rectangular Rapid Flashing Beacons Improvements at School Crossing Project, (9088) increasing the contract authority by \$12,900 for a total contract amount not-to-exceed \$73,400;
- C. Approve an additional budget appropriation of \$15,000 from the Measure A fund balance to account 205-5-9088-706 for the Rectangular Rapid Flashing Beacons Improvements at School Crossing Project.

BACKGROUND:

RRFB at Chapel and PHB at Kingston Project (9058)

The Rectangular Rapid Flashing Beacons (RRFB) at Chapel and Pedestrian Hybrid Beacons (PHB) at Kingston (RRFB at Chapel and PHB at Kingston) Project includes crosswalk improvements at two locations. The locations are the following:

- Chapel Street at Hollister Avenue
 - install a RRFB system,
- Kingston Avenue at Calle Real
 - replace older flashing beacons with a PHB system

In July 2015, staff applied for Highway Safety Improvement Program (HSIP) grant funds for the crosswalk improvements at Chapel and Hollister Avenue and at Kingston Avenue and Calle Real. In November 2015, Caltrans awarded HSIP grant funding to the City in

the amount \$237,780 (with an additional City match of \$26,420) for the Project. Public Works proceeded with soliciting proposals from firms on the Council approved “short-list” of pre-authorized design consultants. Public Works selected Kimley-Horn for the design work and Council authorized the Professional Design Services Contract (No. 2017-130, Attachment 3). Kimley-Horn is wrapping up the final design for the project. The following table outlines the history of Council and City actions on the project.

Date	Action	Entity	Description
July 2015	City applied for Highway Safety Improvement Program (HSIP) grant funds	Caltrans	HSIP grant funds in the amount of \$237,780 (with an additional City match of \$26,420)
December 19, 2017	City authorized Professional Design Services Agreement with Kimley-Horn	Council	Professional Design Services Contract, contract amount \$55,000 (Agreement No. 2017-130) (Attachment 3 available with City Clerk)
December 18, 2018	City authorized Amendment No. 1 to Professional Design Services Agreement with Kimley-Horn	Council	Amendment No. 1 to Professional Design Services Contract extending the term to December 31, 2020 (Attachment 3 available with City Clerk)

RRFB Improvements at School Crossing Project (9088)

The Rectangular Rapid Flashing Beacons (RRFB) Improvements at School Crossing (RRFB Improvements at School Crossing) Project includes crosswalk improvements at three locations. The following school zone crosswalks will have an RRFB system installed:

- Brandon Drive and Cathedral Oaks Road,
- Evergreen Drive and Cathedral Oaks Road, and
- Carlo Drive and Cathedral Oaks Road.

In January 2016, staff applied for a Measure A Grant for three crosswalk improvements along Cathedral Oaks Road. In March 2016, the Santa Barbara County Association of Governments awarded Measure A Grant funding to the City in the amount of \$316,888 with the funds requested in Fiscal Year 2017/18. Public Works proceeded with soliciting proposals from firms on the Council approved “short-list” of pre-authorized design consultants. Public Works selected Kimley-Horn for the design work and Council authorized the Professional Design Services Contract (No. 2017-131, Attachment 4). Kimley-Horn is wrapping up the final design for the project. The following table outlines the history of Council and City actions on the project.

Date	Action	Entity	Description
January 2016	City applied for Measure A grant funds	Santa Barbara County Association of Governments (SBCAG)	Measure A grant funds in the amount of \$316,888
December 19, 2017	City authorized Professional Design Services Agreement with Kimley-Horn	Council	Professional Design Services Contract, contract amount \$60,500 (Agreement No. 2017-131) (Attachment 4 available with City Clerk)

DISCUSSION:

While most of the City's crosswalks are located at intersections with some type of stop control (sign or signal) to facilitate pedestrian crossings, some are not. These uncontrolled crosswalks have various types of improvements based on their use, roadway geometry and roadway vehicle volumes. Public Works identified five locations for safety improvements. Calle Real at Kingston Avenue currently has the older style yellow flashing beacons installed at the crosswalk. Cathedral Oaks at Brandon Drive and Cathedral Oaks at Evergreen Drive do not have the yellow flashing signals at the crosswalk, but there are two flashing yellow advance warning signals at the east and west end of the section of roadway, alerting motorists of the upcoming crosswalks. Cathedral Oaks at Carlo Drive and Hollister Avenue at Chapel Street do not have pedestrian activated signals at the crosswalk.

Public Works conducted field investigations of each site to determine what measures could be implemented to reduce the potential for future pedestrian involved collisions. Accordingly, Public Works recommended and is installing RRFB or PHB (formerly known as a "High-Intensity Activated crossWalk" or HAWK Signal) systems at the various locations described above. The RRFB and PHB systems will help grab drivers' attention and increase pedestrian stop compliance at the crosswalk thereby improving pedestrian safety at these uncontrolled crossing locations.

RRFB at Chapel and PHB at Kingston Project (9058)

Kimley-Horn has completed 90% of the design work for the RRFB at Chapel and PHB at Kingston Project. Additional work was needed to clear the utilities and adjust the design to meet the slopes and grades, and to address time delays caused by significant City staffing changes, heavy project workload, and limited resources. Public Works and Kimley-Horn need to complete the design and prepare the final plans, specifications, and cost estimate in preparation for bidding.

Additional compensation of \$6,750 is necessary for Kimley-Horn to cover the additional unanticipated design work. The increase in the contract authority will cover completing this phase of work. Public Works will return to Council with a request to authorize bidding the project.

RRFB Improvements at School Crossing Project (9088)

Kimley-Horn has completed 75% of the design work for the RRFB Improvements at School Crossing Project. Additional work is needed to complete the Americans with Disabilities (ADA) ramps at two locations, Brandon Drive and Evergreen Drive, due to the complex slopes, clearances, and an extra-wide shoulder/parking area adjacent. The extra-wide shoulder/parking area created opportunities for many design alternatives and preference options. The new Public Works Director's re-evaluation of the layouts and clearer direction on a desired configuration led to project delays, but ultimately resulted in a better designed project for the community. There were also time delays caused by significant City staffing changes, heavy project workload, and limited resources.

Additionally, the Public Works team was able to collaborate internally and construct part of the work by installing the curb ramp, conduits, and striping as part of the FY 2017/18 Pavement Rehabilitation Project – Cathedral Oaks. This led to some delays and the need to remove the items, scope, costs, and specification sections referencing the work from the design, but means the City will not be digging up sections and trenching across the newly repaired roadway on Cathedral Oaks. Public Works and Kimley-Horn need to complete the design and prepare the final plans, specifications, and cost estimate in preparation for bidding.

Additional contract authority of \$12,900 is necessary for Kimley-Horn to cover the additional unanticipated design work and re-design options. The increase in the contract amount will cover completing this phase of work. Public Works will return to Council with a request to authorize bidding the project.

Request for Contract Amendments

Public Works recommends amending the and Kimley-Horn agreements (Attachment 1 and Attachment 2) to complete final design and the plans, specifications, and estimates (PS&E) in preparation for bidding.

FISCAL IMPACTS:RRFB at Chapel and PHB at Kingston Project (9058)

The RRFB at Chapel and PHB at Kingston Project adopted FY 2019/20 Budget includes sufficient funds in the design phase to cover the increase in compensation of \$6,750 for the Kimley-Horn agreement; no additional appropriations are necessary.

Fiscal Year 2019/20 RRFB at Chapel and PHB at Kingston (9058)				
Account	Fund Type	Current FY19/20 Budget	YTD Actual Encumbrances	Total Available Budget
101-5-9058-705	General Fund	\$102,838	-	\$102,838
205-5-9058-704	Measure A	\$9,500		\$9,500
205-5-9058-705	Measure A	\$112,920	-	\$112,920
205-5-9058-706	Measure A	\$18,192	\$9,889	\$8,303
417-5-9058-705	HSIP Grant	\$195,480	-	\$195,480
417-5-9058-706	HSIP Grant	\$2,101	\$2,101-	\$-
	Total	\$441,031	\$11,990	\$429,041

RRFB Improvements at School Crossing Project (9088)

The RRFB Improvements at School Crossing Project adopted FY 2019/20 Budget does not have sufficient funds in the design phase to cover the increase in compensation of \$12,900 for the Kimley-Horn agreement and additional Public Works staff time of approximately \$2,100. Public Works is requesting an increase of \$15,000 budget appropriation from the Measure A fund balance to the RRFB Improvements at School Crossing Project to cover the increase in the contract budget. There is approximately \$178,000 available in estimated Measure A ending fund balance for FY 19/20.

Fiscal Year 2019/20 RRFB Improvements at School Crossing (9088)					
Account	Fund Type	Current FY19/20 Budget*	YTD Actual Encumbrances	Requested Appropriation	Total Amended Budget
101-5-9088-705	General Fund	\$27,059	-	-	\$27,059
205-5-9088-705	Measure A	\$135,243	-	-	\$135,243
205-5-9088-706	Measure A	\$20,636	-	\$15,000	\$35,636
206-5-9088-705	Measure A Grant	\$296,248	-	-	\$296,248
206-5-9088-706	Measure A Grant	\$1,939	-	-	\$1,939
	Total	\$481,125	-	\$15,000	\$496,125

*FY 19/20 Budget includes estimated carryovers of approximately \$392,000.

ALTERNATIVES:

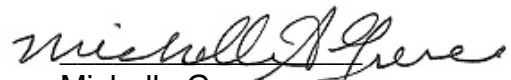
The City Council may elect not to authorize these contract amendments. The Public Works team would need to figure out how to complete the PS&E documents. Doing so could cause delays in the timing of the CIP projects and jeopardize two grant funding sources.

Reviewed By:**Legal Review By:****Approved By:**


Kristine Schmidt
Deputy City Manager



Michael Jenkins
City Attorney



Michelle Greene
City Manager

ATTACHMENTS:

1. Amendment No. 2 for Kimley-Horn and Associates, Inc. Agreement No. 2017-130 for Professional Design Services
2. Amendment No. 1 for Kimley-Horn and Associates, Inc. Agreement No. 2017-131 for Professional Design Services
3. Kimley-Horn and Associates, Inc. Agreement No. 2017-130 for Professional Design Services and Amendment No. 1 (available online only)
4. Kimley-Horn and Associates, Inc. Agreement No. 2017-131 for Professional Design Services (available online only)

ATTACHMENT 1

Amendment No. 2 for Kimley-Horn and Associates, Inc. Agreement No. 2017-130 for
Professional Design Services

**AMENDMENT NO. 2
TO A PROFESSIONAL DESIGN SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This **Amendment No. 2** to a PROFESSIONAL DESIGN SERVICES AGREEMENT is made this 18th day of June, 2019, between the **CITY OF GOLETA**, a municipal corporation ("City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina Corporation ("Consultant") dated December 19, 2017 ("Agreement," Agreement No. 2017-130).

RECITALS

WHEREAS, this Agreement is for the professional engineering services in conjunction with the Rectangular Rapid Flashing Beacons (RRFB) at Chapel and Pedestrian Hybrid Beacon (PHB) at Kingston Project and contains a not-to-exceed amount of \$55,000; and

WHEREAS, on December 18, 2019, the Agreement was amended so as to extend the termination date of the Agreement to December 31, 2020 ("Amendment No. 1"); and

WHEREAS, the Agreement between City and Consultant currently provides in Section 3 Subsection (a) for the total compensation amount not to exceed fifty-five thousand (\$55,000); and

WHEREAS, the parties desire to amend the Agreement so as to provide for additional compensation in the amount of six thousand seven hundred fifty dollars (\$6,750) for professional engineering services; and

WHEREAS, the Agreement between City and Consultant currently provides in Section 3 Subsection (a) that 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 shall be binding upon Consultant until December 31, 2019; and

WHEREAS, the parties desire to amend the Agreement so as to provide an updated Section 3 Subsection (a) that hourly rates and with reimbursement to Consultant for those expenses set forth in Consultant's Schedule of Fees marked Exhibit B-1, attached and incorporated herein and shall be binding upon Consultant until December 31, 2019; and

WHEREAS, the City Council approved this Amendment No. 2, on this 18th day of June, 2019.

AMENDED TERMS

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

1. **Section 3 Subsection (a). COMPENSATION AND PAYMENT** of the Agreement is amended to add an additional authorized amount of \$6,750 and to read in its entirety:

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$61,750 (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-1," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 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.

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

In concurrence and witness whereof, this Amendment No. 2 has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

CONSULTANT

Michelle Greene, City Manager

Jean Fares, Sr. Vice President

ATTEST:

Deborah Lopez, City Clerk

Sri Chakravarthy, Associate

APPROVED AS TO FORM



Winnie Cai, Assistant City Attorney

EXHIBIT B-1 SCHEDULE OF FEES

Exhibit 10-H Cost Proposal Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts (Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

Consultant Kimley-Horn and Associates, Inc. Contract No. _____ Date 5/21/2019

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Sr. Engineer II	Jean Fares	0	\$84.62	\$ -
Sr. Engineer I	Adam Chase, Sri Chakravarthy	6	\$64.92	\$ 389.52
Engineer II		0		\$ -
Engineer I	Carlie Campuzano, Nicole Dias	0	\$49.04	\$ -
Analyst II	Panayiota Georgalis, etc.	30	\$42.32	\$ 1,269.60
Admin. Support	Mitchell Wong, etc.	1	\$29.10	\$ 29.10

LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 1,688.22

b) Anticipated Salary Increases

\$ - (see Escalation Calc attached)

c) Total Direct Labor Costs [(a) + (b)] \$ 1,688.22

FRINGE BENEFITS

d) Fringe Benefits Rate: 42.14%

e) Total Fringe Benefits [(c) x (d)] \$ 711.42

INDIRECT COSTS

f) FCCM Rate: 0.51%

g) FCCM [(c) x (f)] \$8.61

h) General and Administrative Rate: 154.88%

i) Gen & Admin [(c) x (h)] \$2,614.72

j) Total Indirect Costs [(g) + (i)] \$ 2,623.33

FEE (Profit)

q) Rate: 10.00%

k) TOTAL FIXED PROFIT [(c) + (e) + (i) x (q)] \$ 501.44

OTHER DIRECT COSTS (ODC)

l) Travel/Mileage Costs (supported by consultant actual costs)

\$ -

m) Equipment Rental and Supplies (itemize)

\$ -

n) Permit Fees (itemize), Plan sheets (each), Test Holes (each), etc.

\$ -

o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)

\$ -

p) Total Other Direct Costs [(l) + (m) + (n) + (o)] \$ -

TOTAL COST [(c) + (e) + (j) + (k) + (p)] \$ 5,524.40

OTHER DIRECT COSTS (ODC) ITEMIZATION

Travel/Mileage Costs

Mileage

Cost

\$ -

Potholing \$ -

Per Diem

\$ -

Total

\$ -

Permit Fees, Plan Sheets, Test Holes, Etc.

Plotting

\$ -

Total

\$ -

NOTES:

- Employees subject to prevailing wage requirements to be marked with an *.
- ODC items should be based on actual costs and supported by historical data and other documentation.
- ODC items that would be considered "tools of the trade" are not reimbursable.
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost.
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead
- Travel related costs should be pre-approved by the contracting agency. The rates should not exceed the State Department of Personnel Administration (DPA) requirements.

ATTACHMENT 2

Amendment No. 1 for Kimley-Horn and Associates, Inc. Agreement No. 2017-131 for
Professional Design Services

**AMENDMENT NO. 1
TO A PROFESSIONAL DESIGN SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This **Amendment No. 1** to a PROFESSIONAL DESIGN SERVICES AGREEMENT is made this 18th day of June, 2019, between the **CITY OF GOLETA**, a municipal corporation ("City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina Corporation ("Consultant") dated December 19, 2017 ("Agreement," Agreement No. 2017-131).

RECITALS

WHEREAS, this Agreement is for the professional engineering services in conjunction with the Rectangular Rapid Flashing Beacons (RRFB) Improvements at School Crossing Project and contains a not-to-exceed amount of \$60,500; and

WHEREAS, the Agreement between City and Consultant currently provides in Section 3 Subsection (a) for the total compensation amount not to exceed fifty-five thousand (\$60,500); and

WHEREAS, the parties desire to amend the Agreement so as to provide for additional compensation in the amount of twelve thousand nine hundred dollars (\$12,900) for professional engineering services; and

WHEREAS, the Agreement between City and Consultant currently provides in Section 3 Subsection (a) that 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 shall be binding upon Consultant until December 31, 2019; and

WHEREAS, the parties desire to amend the Agreement so as to provide an updated Section 3 Subsection (a) that hourly rates and with reimbursement to Consultant for those expenses set forth in Consultant's Schedule of Fees marked Exhibit B-1, attached and incorporated herein and shall be binding upon Consultant until December 31, 2019; and

WHEREAS, the City Council approved this Amendment No. 1, on this 18th day of June, 2019.

AMENDED TERMS

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

1. **Section 3 Subsection (a). COMPENSATION AND PAYMENT** of the Agreement is amended to add an additional authorized amount of \$12,900 and to read in its entirety:

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$73,400 (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-1," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2019, after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

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

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

CITY OF GOLETA

CONSULTANT

Michelle Greene, City Manager

Jean Fares, Sr. Vice President

ATTEST:

Deborah Lopez, City Clerk

Sri Chakravarthy, Associate

APPROVED AS TO FORM



Winnie Cai, Assistant City Attorney

**EXHIBIT B-1
SCHEDULE OF FEES**

Classification	Rate per hour
Sr. Engineer II	\$276.90
Sr. Engineer I	\$212.44
Engineer II	
Engineer I	\$160.47
Analyst II	\$138.48
Admin Support	\$95.22

ATTACHMENT 3

Kimley-Horn and Associates, Inc. Agreement No. 2017-130 for Professional Design Services
and Amendment No. 1 (available online only)

2017-130

Project Name: Rectangular Rapid Flashing Beacons (RRFB) at Chapel and Pedestrian Hybrid Beacons (PHB) at Kingston and RRFB at Chapel Project

**AGREEMENT FOR PROFESSIONAL DESIGN SERVICES
BETWEEN THE CITY OF GOLETA
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This AGREEMENT FOR PROFESSIONAL DESIGN SERVICES (herein referred to as "AGREEMENT") is made and entered into this 19th day of December, 2017 by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina Corporation (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional design services for the Rectangular Rapid Flashing Beacons (RRFB) at Chapel and Pedestrian Hybrid Beacons (PHB) at Kingston and RRFB at Chapel 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, the CITY noticed a competitive request for proposals and/or qualifications for professional designs services from the City's pre-authorized qualified consultants list for professional traffic engineering services ("short list"); and

WHEREAS, the CONSULTANT was selected based on an evaluation process; and

WHEREAS, the City Council, on this 19th day of December, 2017, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

1. RETENTION AS CONSULTANT

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

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional design services in conjunction with the RRFB at Chapel and

PHB at Kingston and RRFB at Chapel Project. Services shall generally include design, surveying, project management and underground utility location services, 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 \$55,000 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2019, 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.

(c) The method of payment for this contract will be based on actual cost plus a fixed fee. CITY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds CITY's approved overhead rate set forth in the Cost Proposal. In the event, that CITY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by CITY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "a" shall not be exceeded, unless authorized by contract amendment.

(d) Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

(e) When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

(f) Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, CITY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

(g) No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

(h) CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by CITY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due CITY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be mailed to CITY's Contract Administrator at the following address:

City of Goleta
Accounts Payable
ap@cityofgoleta.org
130 Cremona Dr., Ste B
Goleta, CA 93117

(i) Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by CITY's Contract Administrator.

(j) For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

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

5. CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by CONSULTANT shall be accomplished under the general direction of, and coordinate with, CITY's "Project Manager", as that staff person is designated by CITY from time to time, and who presently is James Winslow, P.E. 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. PERFORMANCE PERIOD

This contract shall go into effect on December 5, 2017, contingent upon approval by CITY, and CONSULTANT shall commence work after notification to proceed by CITY'S Contract Administrator. The contract shall end on December 31, 2018, unless extended by contract amendment.

CONSULTANT is advised that any recommendation for contract award is not binding on CITY until the contract is fully executed and approved by CITY.

7. PERSONAL SERVICES/NO ASSIGNMENT

This AGREEMENT is for professional services which are personal to CITY. Adam Chase, PE, TE, 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 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.

8. HOLD HARMLESS AND INDEMNITY

(a) **Hold Harmless for CONSULTANT's Damages.** CONSULTANT holds CITY, its elected officials, officers, agents, and employees, harmless from all of CONSULTANT's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to CONSULTANT, to CONSULTANT's employees, to CONSULTANT's contractors or subcontractors, or to the owners of CONSULTANT's firm, which damages, losses, injuries or liability occur during the work required under this AGREEMENT, or

occur while CONSULTANT is on CITY property, or which are connected, directly or indirectly, with CONSULTANT's performance of any activity or work required under this AGREEMENT.

(b) Defense and Indemnity of Third Party Claims/Liability. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, except such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should conflict of interest principles preclude a single lawyer from representing both CITY and CONSULTANT, or should CITY otherwise find CONSULTANT's legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the CONSULTANT's negligent, reckless or wrongful performance. 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 and will survive termination of this AGREEMENT.

(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.

9. 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.

10. 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.

11. 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.

12. TERMINATION BY CITY

CITY reserves the right to terminate this contract upon ten (10) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

CITY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, CITY may proceed with the work in any manner deemed proper by CITY. If CITY terminates this contract with CONSULTANT, CITY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to CITY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

The maximum amount for which the CITY shall be liable if this contract is terminated is \$2,000 dollars.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. USE OF THE TERM "CITY"

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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: Adam Chase, PE, TE
Kimley-Horn and Associates, Inc.
21820 Burbank Blvd., Suite 230
Woodland Hills, CA 91367

28. COST PRINCIPLES

The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the CITY.

29. RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and CITY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, CITY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

30. AUDIT REVIEW PROCEDURES

Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by the CITY'S CHIEF FINANCIAL OFFICER.

Not later than 30 days after issuance of the final audit report, the CONSULTANT may request a review by the CITY'S CHIEF FINANCIAL OFFICER of unresolved audit issues. The request for review will be submitted in writing.

Neither the pendency of a dispute nor its consideration by the CITY will excuse the CONSULTANT from full and timely performance, in accordance with the terms of this contract.

31. SUBCONTRACTING

Nothing contained in this contract or otherwise, shall create any contractual relation between CITY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to CITY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from CITY'S obligation to make payments to the CONSULTANT.

CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by CITY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal, which include MNS, Engineers, for Surveying, Shane Sobecki and C-Below, Inc. for Potholing, Nick Loera. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by CITY.

All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

Any substitution of subconsultant(s) must be approved in writing by CITY's Contract Administrator prior to the start of work by the subconsultant(s).

32. EQUIPMENT PURCHASE

Prior authorization in writing, by the CITY'S Project Manager shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

For purchase of any item, service or consulting work not covered in the CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by the CITY's Contract Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

Any equipment purchased as a result of this contract is subject to the following: "The CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an

acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the CITY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the CONSULTANT may either keep the equipment and credit the CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit the CITY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the CITY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the CITY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

All subcontracts in excess \$25,000 shall contain the above provisions.

33. STATE PREVAILING WAGE RATES

CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

34. CONFLICT OF INTEREST

The CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this contract, or any ensuing CITY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing CITY construction project, which will follow.

The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.

Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

35. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

36. NON DISCRIMINATION STATEMENT OF COMPLIANCE

The CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

During the performance of this CONTRACT, CONSULTANT and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this CONTRACT by reference and made a part hereof as if set forth in full. CONSULTANT

and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other AGREEMENT.

The CONSULTANT shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

The CONSULTANT, with regard to the work performed by it during the AGREEMENT shall act in accordance with Title VI. Specifically, the CONSULTANT shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the AGREEMENT covers a program whose goal is employment.

37. DEBARMENT AND SUSPENSION CERTIFICATION

The CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to CITY.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

38. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

The goal for DBE participation for this contract is 0.0%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract (Exhibit C). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as CITY deems appropriate.

Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.

A DBE firm may be terminated only with prior written approval from CITY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting CITY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).

A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.

A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra

participant, examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to CITY's Contract Administrator within 30 days.

39. CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

40. DISPUTES

Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of CITY's Project Manager and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.

Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by CITY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.

41. INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit CITY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

42. SAFETY

CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY Safety Officer and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

Pursuant to the authority contained in Section 591 of the Vehicle Code, CITY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

43. OWNERSHIP OF DATA

Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in CITY; and no further agreement will be necessary to transfer

ownership to CITY. CONSULTANT shall furnish CITY all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by CITY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by CITY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.

Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

CITY may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

44. CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical, or other data and information relative to CITY's operations, which are designated confidential by CITY and made available to CONSULTANT in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.

Permission to disclose information on one occasion, or public hearing held by CITY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

CONSULTANT shall not comment publicly to the press or any other media regarding the contract or CITY's actions on the same, except to CITY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by CITY, and receipt of CITY'S written permission.

Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than CITY.

45. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

46. EVALUATION OF CONSULTANT

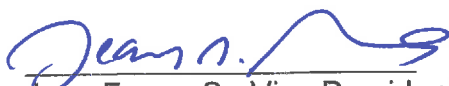
CONSULTANT's performance will be evaluated by CITY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.

In concurrence and witness whereof, this AGREEMENT has been executed by the parties effective on December 19, 2017.

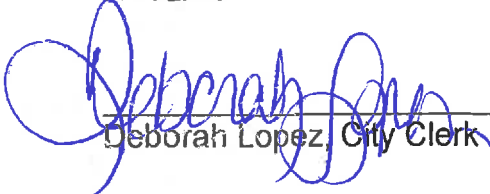
CITY OF GOLETA



Michelle Greene, City Manager

CONSULTANT


Jean Fares, Sr. Vice President
(CA PE No. TR2097)

ATTEST


Deborah Lopez, City Clerk


Sri Chakravarthy, Associate
PE 73629

APPROVED AS TO FORM


Winnie Cai, Deputy City Attorney

**KHACA
03**

EXHIBIT A SCOPE OF WORK

The following tasks shall be performed to provide a Project, Specifications & Estimates (PS&E) package for construction.

Task 1: PROJECT MANAGEMENT

Task 1.1: Kick-off Meeting

Consultant shall schedule and lead a project kick-off meeting within two weeks of Notice to Proceed (NTP) to discuss project details. Included in this discussion shall be subcontractor, who shall help in the review of:

- Develop a Project Development Team (PDT) outlining individual roles and responsibilities
- Project's expectations and goals
- Specific design issues and constraints based on preliminary layout
- Project schedule indicating milestones, major activities, and deliverables for City review

Task 1.2: Monthly Progress Meetings/Conference Calls

Consultant shall coordinate and attend PDT meetings with City staff and stakeholder representatives at and in-between periodic project milestones up to four PDT meetings and four conference calls. Meeting agendas for the planned meeting and meeting minutes from the previous meetings shall be prepared by Consultant at each meeting and distributed to the City Project Manager and other attendees.

Task 1.3: Project Administration

Consultant shall prepare and distribute project correspondence, billings, and submittals.

- **Schedule** – Consultant shall prepare a project schedule using Microsoft Project within the first two weeks following an NTP. Consultant shall prepare monthly project reports addressing the progress of work including information or decisions required to maintain schedule and complete deliverables, problems encountered that may affect schedule, budget or work products and anticipated work, action items, and shall review activities for the following month.
- **Budget** – Consultant shall track and report project expenditures for each major task element on a monthly basis.
- **Quality Control/Quality Assurance (QC/QA)** – Consultant shall follow standard QC/QA Manual for improvement projects.

Deliverables: PDT meeting agendas, meeting minutes, and action item lists, baseline progress schedule, monthly progress reports, progress schedule updates, and invoicing.

TASK 2: PRELIMINARY DESIGN

Task 2.1: Topographic Survey

Subconsultant shall provide a cross-section survey documenting the lip of gutter, flowline, top of curb, existing or future back of walk, property line, and 10 feet beyond along the project alignment and extending 20 feet beyond the curb returns at the location of the major street crosswalk for all intersections. In addition, the survey shall locate visible structures such as curbs, gutters, striping, signs, manholes, valve covers, trees, fire hydrants, walls, street lights, guy wires, etc. within the limits of the survey.

Deliverables: Survey Mapping Data, AutoCAD drawing with existing utility data.

Task 2.2: Field Investigation and Data Collection

Consultant, with the assistance of the City, shall obtain and review readily available information and reports pertaining to the Project including utilization of horizontal alignment developed as part of prior engineering and studies including utility information, aerial maps, survey and right-of-way data, geotechnical reports, traffic analysis, environmental and biological studies for the Project. Research of City, County, and other agency records shall be conducted for existing horizontal and cadastral survey control. Found notes, maps, and data shall be copied, correlated, and indexed in a survey database.

Task 2.3: Utility Coordination

Consultant shall collect readily available utility information and review the topographic base map to identify existing utilities. A utility base map shall be prepared and sent to utility owners for review and comment. Part of the identification process is to obtain additional utility information from the owners such as as-built record drawings and atlas sheets, as well as determining the facility's function. Finally, the utility base map is revised using the utility owner provided items and information our team has developed over the course of the task.

In addition, Consultant shall attend up to one meeting with SCE for design coordination.

Task 2.4: Right-of-way Coordination

Consultant shall include right-of-way retracement and temporary construction easement exhibits at the both Hollister Avenue at Chapel Street and Calle Real at Kingston Street intersections to support the City's right-of-way documentation.

Deliverables: Utility Base Map, Matrix, First Letter (Identification), Meeting minutes on SCE meeting.

Task 2.5: Preliminary Design of Plans, Specifications, and Estimates (PS&E) for Construction

Title Sheet/General Notes

Consultant shall prepare a title sheet with a vicinity map, location map, utility company contacts, legend and general notes for the project. Because the project shall be treated as two Phases, separate title sheets shall be prepared for each Phase.

Curb Ramp Improvement Plans

Consultant shall prepare curb ramp/curb extension/median island refuge improvement plan sheets. The improvements shall include proposed street improvements consisting of asphalt pavement, concrete sidewalk, ADA ramps, curb and gutter, and asphalt replacement, as needed. Pavement structural calculations shall be assumed on the provided traffic index and worse case soil parameters R-value. Fine grading, spot grade elevations, grade breaks shall be shown on these plans.

Signage and Striping Plans

Consultant shall prepare plans (1" = 20' or 1" = 40') for each location. Consultant shall prepare the signage and striping plans per the latest edition of the California Manual of Traffic Control Devices (CA-MUTCD). These plans shall implement various traffic control devices e.g. pavement stripes, markings, retroreflective markers, object markers, traffic signs. The plans shall incorporate features to support all users, such as bike and pedestrian accommodations.

RRFB/PHB/Street Lighting (Electrical) Plans

Consultant shall prepare plans at 1"=20' for the installation of street lighting, RRFBs and PHB (one plan per location). The plans shall include a pole schedule, general location within parkway or sidewalk, applicable details for pole foundations, assemblies, and equipment.

Bioretention Improvement Plans

Consultant shall prepare the Bioretention Improvement plans within the project limits. We can prepare the bioretention design with several locations combined on each sheet based on proximity to each other. The plans shall show runoff direction, runoff collection and diversion treatments, runoff receiving areas, permeable treatments, urban tree soil water reservoirs, bio-retention treatments and overflow control treatments. Consultant shall require the services of a geotechnical expert to provide recommendations for the treatment details.

Bioretention Details

Consultant shall prepare bioretention treatment details for the project including sub-drainage piping based on the geotechnical recommendations. Typical cross sections shall be prepared to identify depth of soil, gravel underdrain system and any inlet or overflow system for the improvements.

Engineers Opinion of Probable Construction Costs

Consultant shall compile and prepare the Opinion of Probable Construction Costs (OPCC). Contingencies shall be included at the appropriate percentage.

Technical Specifications

Consultant shall prepare the project special provisions as it shall be assumed that the City will provide the "Front-End" documents.

Utility Facility Positive Location

Consultant's team shall prepare and execute a potholing plan (up to 6 potholes) to provide positive identification and location of utility facilities that may conflict with the pole

foundation improvements. Consultant shall have programmed up to 6 standard potholes including perma patch repair (5' to 10' deep). If required, Consultant shall prepare the traffic control and the City shall pay the permitting fees.

Right-of-way Coordination

Consultant shall coordinate right-of-way mapping and support services to facilitate right-of-way adjustments, temporary construction easements or license agreements.

Deliverables: Preliminary Design of plans, specifications, and estimate. Subsurface investigation for up to 6 pothole locations. Right-of-way plats and figures.

TASK 3: FINAL DESIGN

Consultant shall prepare a bid schedule from the Engineer's Estimate to be included in the bid documents. Consultant's final opinion of probable construction cost estimate shall be based upon, and in agreement with, the final items of work with estimated quantities.

The design deliverables shall include: Providing final improvement Plans on Mylar ready for advertising and bidding, along with "camera-ready" Specifications (including appendixes), and a complete Engineer's Estimate, all wet seal stamped and signed by a licensed California Civil Engineer and Traffic Engineer. Final plans shall be submitted on Mylar sheets 24" x 36" in size. The final plans and specifications shall be delivered to the City of Goleta.

TASK 4: BID/CONSTRUCTION ADMINISTRATION

Task 4.1: Bid Advertising Support

Consultant shall assist the City in the advertising, bidding, and selection process. Consultant has provided an estimated budget of twenty (20) hours for the tasks described below:

- Copies of Drawings and Contracts Documents

- Pre-bid Meeting

- Questions and Addenda During Advertising

Task 4.2: Construction Management

Consultant shall provide an estimated budget of twenty (20) hours for the tasks described below:

- Meetings

- Questions During Construction and Requests for Information (RFIs)

- Contractor Submittals

- Plan Revisions

- Record Drawings

- Owner of Project Documents

EXHIBIT B SCHEDULE OF FEES

Exhibit 10-H Cost Proposal Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts (Design Engineering and Environmental Studies)

Note: Make-up is Not Allowed

Consultant Kimley-Horn and Associates, Inc. Contract No. _____ Date 9/21/2017

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Sr. Engineer II	Jean Fares	1	\$82.22	\$ 82.22
Sr. Engineer I	Adam Chase, Sri Chakravarthy	48	\$61.06	\$ 2,930.88
Engineer II				\$ -
Engineer I	Carlie Campuzano, Nicole Dias	38	\$45.20	\$ 1,717.60
Analyst II	Panayiota Georgalis, etc.	157	\$34.86	\$ 5,473.02
Admin. Support	Mitchell Wong, etc.	6	\$25.74	\$ 154.44

LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 10,358.16

b) Anticipated Salary Increases

\$ - (see Escalation Calculation)

c) Total Direct Labor Costs [(a) + (b)] \$ 10,358.16

FRINGE BENEFITS

d) Fringe Benefits Rate: 42.14%

e) Total Fringe Benefits [(c) x (d)] \$ 4,364.93

INDIRECT COSTS

f) FCCM Rate: 0.51%

g) FCCM [(c) x (f)] \$52.83

h) General and Administrative Rate: 15.488%

i) Gen & Admin [(c) x (h)] \$16,042.72

j) Total Indirect Costs [(g) + (i)] \$ 16,095.54

FEE (Profit)

q) Rate: 10.00%

k) TOTAL FIXED PROFIT [(c) + (e) + (j) x (q)] \$ 3,076.58

OTHER DIRECT COSTS (ODC)

l) Travel Mileage Costs (supported by consultant actual costs)

\$ 348.75

m) Equipment Rental and Supplies (itemize)

\$ -

n) Permit Fees (itemize). Plan sheets (each). Test Holes (each), etc

\$ 7,350.00

o) Subconsultant Costs (attach detailed cost proposal in same format as prime consultant estimate for each subconsultant)

\$ 11,765.31

p) Total Other Direct Costs [(l) + (m) + (n) + (o)] \$ 19,464.06

TOTAL COST [(c) + (e) + (j) + (k) + (p)] \$ 53,359.27

OTHER DIRECT COSTS (ODC) ITEMIZATION

Travel/Mileage Costs

Cost

Mileage

\$ 240.75

Potholing \$ 6,500.00

Per Diem

\$ 108.00

Total

\$ 348.75

Permit Fees, Plan Sheets, Test Holes, Etc.

Plotting

\$ 850.00

Total

\$ 850.00

NOTES

- Employees subject to prevailing wage requirements to be marked with an *
- ODC items should be based on actual costs and supported by historical data and other documentation
- ODC items that would be considered "tools of the trade" are not reimbursable
- ODC items should be consistently billed directly to all clients, not just when client will pay for them as a direct cost
- ODC items when incurred for the same purpose, in like circumstances, should not be included in any indirect cost pool or in overhead
- Travel related costs should be pre-approved by the contracting agency. The rates should not exceed the State Department of Personnel Administration (DPA) requirements

Exhibit C **Disadvantaged Business Enterprise forms 10-O1 and 10-O2**

Local Assistance Procedures Manual

Exhibit 10-O1
Consultant Proposal DBE Commitment

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: City of Goleta 2. Contract DBE Goal: 0%
 3. Project Description: Rectangular Rapid Flashing Beacons at Chapel and Pedestrian Hybrid Beacon at Kingston and RREBS at School Zone Projects
 4. Project Location: City of Goleta, CA
 5. Consultant's Name: Kimley-Horn and Associates, Inc. 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Material's Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
None			
Local Agency to Complete this Section			
17. Local Agency Contract Number		11. TOTAL CLAIMED DBE PARTICIPATION	0 %
18. Federal-Aid Project Number			
19. Proposed Contract Execution Date			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
20. Local Agency Representative's Signature	21. Date	12. Preparer's Signature	13. Date
22. Local Agency Representative's Name	23. Phone	Jean B. Fares	7/18/17
24. Local Agency Representative's Title		14. Preparer's Name	747-930-8100
		Sr. Vice President	15. Phone
		16. Preparer's Title	

DISTRIBUTION: Original - Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For a format request call (916) 654-6410 or TDD (916) 654-3850 or write Records and Forms Management, 1120 N Street, MS 89, Sacramento, CA 95814.

Page 1 of 2
 July 23, 2015

1. Local Agency:	City of Gilroy	2. Contact DBE Goal:	0%
3. Project Description:	Rectangular Rapid Flashing Beacons at Chaparral Pedestrian Hybrid Beacon at Kingston and RRBs at School Zone Projects		
4. Project Location:	City of Gilroy, CA		
5. Consultant's Name:	Kimley-Horn and Associates, Inc.	6. Prime Certified DBE:	<input type="checkbox"/>
		7. Total Contract Award Amount:	\$53,359.21
8. Total Dollar Amount for <u>ALL</u> Subconsultants:	\$18,765.41	9. Total Number of <u>ALL</u> Subconsultants:	2

10 Description of Work, Service, or Materials Supplied	11 DBE Certification Number	12 DBE Contact Information	13 DBE Dollar Amount
Name:			
Local Agency to Complete this Section			
20 Local Agency Contract Number		14 TOTAL CLAIMED DBE PARTICIPATION	\$ 0
21 Federal Aid Project Number			
22 Contract Execution Date:			0 %
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT! Identify all DBE firms being claimed for credit regardless of tier. Written confirmation of each listed DBE is required.	
23 Local Agency Representative's Signature	24 Date	15 Preparer's Signature <i>Jean B. Fares</i>	16 Date 3/8/17
25 Local Agency Representative's Name	26 Phone	17 Preparer's Name Sr. Vice President	18 Phone 747-900-8100
27 Local Agency Representative's Title		19 Preparer's Title	

DISTRIBUTION 1. Original - Local Agency
2. Copy - Contracts District Local Assistance Engineer (DLAL). Failure to submit to DLAL within 30 days of contract execution may result in deobligation of federal funds on contract.

ADA Notice: For individuals with disabilities, for a document in alternative formats, for a sign at (916) 654-6100 or TDD (916) 654-3550 or at a Relay and Voice Mail at 1120 H Street, MS 69, Sacramento, CA 95815.

**AMENDMENT NO. 1
TO A PROFESSIONAL DESIGN SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This **Amendment No. 1** to a PROFESSIONAL DESIGN SERVICES AGREEMENT and between the **City of Goleta**, a municipal corporation ("City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina Corporation ("Consultant") dated December 19, 2017 ("Agreement," Agreement No. 2017-130) is made this 18th day of December, 2018.

RECITALS

WHEREAS, this Agreement is for professional design services for the Rectangular Rapid Flashing Beacons (RRFB) at Chapel and Pedestrian Hybrid Beacons (PHB) at Kingston and RRFB at Chapel Project; and

WHEREAS, the Agreement between City and Consultant currently provides in Section 3 that 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 shall be binding upon Consultant until December 31, 2019; and

WHEREAS, the parties desire to extend the date of binding rates in Section 3 to December 31, 2020; and

WHEREAS, the Agreement between City and Consultant currently provides in Section 6 for the termination of the Agreement on December 31, 2018; and

WHEREAS, the parties desire to amend the Agreement so as to extend the termination of the Agreement to December 31, 2020; and

WHEREAS, the City Council approved this Amendment No. 1, on this 18th day of December, 2018.

AMENDED TERMS

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

1. **Section 3 Subsection (a). COMPENSATION AND PAYMENT** of the Agreement is amended to add extend the termination date to December 31, 2020 and to read in its entirety:

(a) Maximum and Rate. The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$55,000 (herein "not to exceed amount"), and shall be earned as the work progresses.

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 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.

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


The term of this Agreement is from the date first written above to December 31, 2020, unless the term of this Agreement is extended or the Agreement is terminated as provided for herein.

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

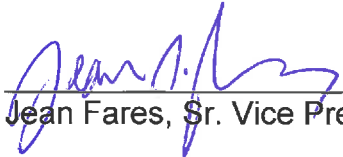
3. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect.

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

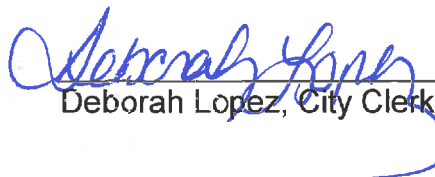
CITY OF GOLETA



Michelle Greene, City Manager

CONSULTANT

 , PE TR2097
Jean Fares, Sr. Vice President

ATTEST:


Deborah Lopez, City Clerk

 , PE CA 63123
Sri Chakravarthy, Associate
ANSSA PHANEUF

APPROVED AS TO FORM


Winnie Cai, Assistant City Attorney

KNACA
25

ATTACHMENT 4

Kimley-Horn and Associates, Inc. Agreement No. 2017-131 for Professional Design
Services (available online only)

**AGREEMENT FOR PROFESSIONAL DESIGN SERVICES
BETWEEN THE CITY OF GOLETA
AND
KIMLEY-HORN AND ASSOCIATES, INC.**

This AGREEMENT FOR PROFESSIONAL DESIGN SERVICES (herein referred to as "AGREEMENT") is made and entered into this 19th day of December, 2017 by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and, **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina Corporation (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional design services for the Rectangular Rapid Flashing Beacons (RRFB) Improvements at School Crossing 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, the CITY noticed a competitive request for proposals for professional designs services from the City's pre-authorized qualified consultants list for professional traffic engineering services ("short list"); and

WHEREAS, the CONSULTANT was selected based on an evaluation process; and

WHEREAS, the City Council, on this 19th day of December, 2017, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

1. RETENTION AS CONSULTANT

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

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional design services in conjunction with the Rectangular Rapid Flashing Beacons (RRFB) Improvements at School Crossing Project. RRFB Improvements at School Crossing Project will replace older yellow

advance flashing beacons at two school crosswalks at Cathedral Oaks Road and Brandon Drive and Cathedral Oaks Road and Evergreen Drive by installing RRFBs; and will install a new RRFB at Cathedral Oaks Road and Carlo Drive. Services shall generally include design, surveying and project management services, 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 \$60,500 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2019, 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 advance. Unless CITY and CONSULTANT have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. The applicable hourly rates for extra services shall be at the hourly rates set forth in the compensation exhibit. Any compensation for extra services shall be part of the total compensation and shall not increase the not to exceed amount identified in Section 3.

5. CITY PROJECT MANAGER AND SERVICES BY CITY

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

6. TERM, PROGRESS AND COMPLETION

The term of this AGREEMENT is from the date first written above to December 31, 2019, 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. Adam Chase, PE, TE, 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 subcontracted or assigned without the City's prior written consent. The following work will be performed by the following subcontractor:

- MNS, Engineers, Surveying, Shane Sobecki

9. HOLD HARMLESS AND INDEMNITY

(a) **Hold Harmless for CONSULTANT's Damages.** CONSULTANT holds CITY, its elected officials, officers, agents, and employees, harmless from all of CONSULTANT's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to CONSULTANT, to CONSULTANT's employees, to CONSULTANT's contractors or subcontractors, or to the owners of CONSULTANT's firm, which damages, losses, injuries or liability occur during the work required under this AGREEMENT, or occur while CONSULTANT is on CITY property, or which are connected, directly or indirectly, with CONSULTANT's performance of any activity or work required under this AGREEMENT.

(b) **Defense and Indemnity of Third Party Claims/Liability.** CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, except such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should conflict of interest principles preclude a single lawyer from representing both CITY and CONSULTANT, or should CITY otherwise find CONSULTANT's legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the CONSULTANT's negligent, reckless or wrongful performance. 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 and will survive termination of this AGREEMENT.

(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. 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.

22. 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.

23. 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.

24. USE OF THE TERM "CITY"

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

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. **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: Adam Chase, PE, TE
Kimley-Horn and Associates, Inc.
21820 Burbank Blvd., Suite 230
Woodland Hills, CA 91367

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

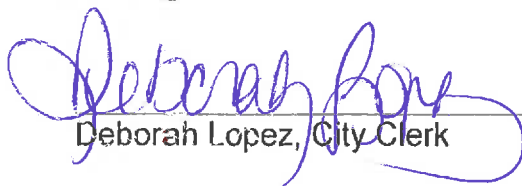

Michelle Greene, City Manager

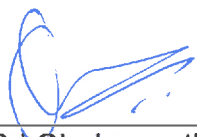
CONSULTANT


Jean Fares, Sr. Vice President

**KHACA
03**

ATTEST


Deborah Lopez, City Clerk


Sri Chakravarthy, Associate
PE 73629

APPROVED AS TO FORM


Winnie Cai, Deputy City Attorney

EXHIBIT A SCOPE OF WORK

The following tasks shall be performed to provide a PS&E package for construction.

Task 1: PROJECT MANAGEMENT

Task 1.1: Kick-off Meeting

Consultant shall schedule and lead a project kick-off meeting within two weeks of Notice to Proceed (NTP) to discuss project details. Included in this discussion shall be subcontractor, who shall help in the review of:

- Develop a Project Development Team (PDT) outlining individual roles and responsibilities
- Project's expectations and goals
- Specific design issues and constraints based on preliminary layout
- Project schedule indicating milestones, major activities, and deliverables for City review

Task 1.2: Monthly Progress Meetings/Conference Calls

Consultant shall coordinate and attend PDT meetings with City staff and stakeholder representatives at and in-between periodic project milestones up to four PDT meetings and four conference calls. Meeting agendas for the planned meeting and meeting minutes from the previous meetings shall be prepared by Consultant at each meeting and distributed to the City Project Manager and other attendees.

Task 1.3: Project Administration

Consultant shall prepare and distribute project correspondence, billings, and submittals.

- **Schedule** – Consultant shall prepare a project schedule using Microsoft Project within the first two weeks following an Notice To Proceed. Consultant shall prepare monthly project reports addressing the progress of work including information or decisions required to maintain schedule and complete deliverables, problems encountered that may affect schedule, budget or work products and anticipated work, action items, and shall review activities for the following month.
- **Budget** – Consultant shall track and report project expenditures for each major task element on a monthly basis.
- **Quality Control/Quality Assurance (QC/QA)** – Consultant shall follow standard QC/QA Manual for improvement projects.

Deliverables: PDT meeting agendas, meeting minutes, and action item lists, baseline progress schedule, monthly progress reports, progress schedule updates, and invoicing.

TASK 2: PRELIMINARY DESIGN

Task 2.1: Topographic Survey

Subconsultant shall provide a cross-section survey documenting the lip of gutter, flowline, top of curb, existing or future back of walk, property line, and 10 feet beyond along the project alignment and extending 20 feet beyond the curb returns at the location of the major street crosswalk for all intersections. In addition, the survey shall locate visible structures such as curbs, gutters, striping, signs, manholes, valve covers, trees, fire hydrants, walls, street lights, guy wires, etc. within the limits of the survey.

Deliverables: Survey Mapping Data, AutoCAD drawing with existing utility data.

Task 2.2: Field Investigation and Data Collection

Consultant, with the assistance of the City, shall obtain and review readily available information and reports pertaining to the Project including utilization of horizontal alignment developed as part of prior engineering and studies including utility information, aerial maps, survey and right-of-way data, geotechnical reports, traffic analysis, environmental and biological studies for the Project. Research of City, County, and other agency records shall be conducted for existing horizontal and cadastral survey control. Found notes, maps, and data shall be copied, correlated, and indexed in a survey database.

Task 2.3: Utility Coordination

Consultant shall collect readily available utility information and review the topographic base map to identify existing utilities. A utility base map shall be prepared and sent to utility owners for review and comment. Part of the identification process is to obtain additional utility information from the owners such as as-built record drawings and atlas sheets, as well as determining the facility's function. Finally, the utility base map is revised using the utility owner provided items and information our team has developed over the course of the task.

In addition, Consultant shall attend up to one meeting with SCE for design coordination.

Deliverables: Utility Base Map, Matrix, First Letter (Identification), Meeting minutes on SCE meeting.

Task 2.4: Preliminary Design of Plans, Specifications, and Estimates (PS&E) for Construction

Title Sheet/General Notes

Consultant shall prepare a title sheet with a vicinity map, location map, utility company contacts, legend and general notes for the project. Because the project shall be treated as two Phases, separate title sheets shall be prepared for each Phase.

Curb Ramp Improvement Plans

Consultant shall prepare curb ramp/curb extension/median island refuge improvement plan sheets. The improvements shall include proposed street improvements consisting of asphalt pavement, concrete sidewalk, ADA ramps, curb and gutter, and asphalt replacement, as needed. Pavement structural calculations shall be assumed on the

provided traffic index and worse case soil parameters R-value. Fine grading, spot grade elevations, grade breaks shall be shown on these plans.

Signage and Striping Plans

Consultant shall prepare plans (1" = 20' or 1" = 40') for each location. Consultant shall prepare the signage and striping plans per the latest edition of the California Manual of Traffic Control Devices (CA-MUTCD). These plans shall implement various traffic control devices e.g. pavement stripes, markings, retroreflective markers, object markers, traffic signs. The plans shall incorporate features to support all users, such as bike and pedestrian accommodations.

RRFB/PHB/Street Lighting (Electrical) Plans

Consultant shall prepare plans at 1"=20' for the installation of street lighting, RRFBs and PHB (one plan per location). The plans shall include a pole schedule, general location within parkway or sidewalk, applicable details for pole foundations, assemblies, and equipment.

Bioretention Improvement Plans

Consultant shall prepare the Bioretention Improvement plans within the project limits. We can prepare the bioretention design with several locations combined on each sheet based on proximity to each other. The plans shall show runoff direction, runoff collection and diversion treatments, runoff receiving areas, permeable treatments, urban tree soil water reservoirs, bio-retention treatments and overflow control treatments. Consultant shall require the services of a geotechnical expert to provide recommendations for the treatment details.

Bioretention Details

Consultant shall prepare bioretention treatment details for the project including sub-drainage piping based on the geotechnical recommendations. Typical cross sections shall be prepared to identify depth of soil, gravel underdrain system and any inlet or overflow system for the improvements.

Engineers Opinion of Probable Construction Costs

Consultant shall compile and prepare the Opinion of Probable Construction Costs (OPCC). Contingencies shall be included at the appropriate percentage.

Technical Specifications

Consultant shall prepare the project special provisions as it shall be assumed that the City will provide the "Front-End" documents.

Deliverables: Preliminary Design of plans, specifications, and estimate. Subsurface investigation for up to 6 pothole locations.

TASK 3: FINAL DESIGN

Consultant shall prepare a bid schedule from the Engineer's Estimate to be included in the bid documents. Consultant's final opinion of probable construction cost estimate shall be based upon, and in agreement with, the final items of work with estimated quantities.

The design deliverables shall include: Providing final improvement Plans on Mylar ready for advertising and bidding, along with "camera-ready" Specifications (including appendixes), and a complete Engineer's Estimate, all wet seal stamped and signed by a licensed California Civil Engineer and Traffic Engineer. Final plans shall be submitted on Mylar sheets 24" x 36" in size. The final plans and specifications shall be delivered to the City of Goleta.

TASK 4: BID/CONSTRUCTION ADMINISTRATION

Task 4.1: Bid Advertising Support

Consultant shall assist the City in the advertising, bidding, and selection process. Consultant has provided an estimated budget of twenty (20) hours for the tasks described below:

- Copies of Drawings and Contracts Documents

- Pre-bid Meeting

- Questions and Addenda During Advertising

Task 4.2: Construction Management

Consultant shall provide an estimated budget of twenty (20) hours for the tasks described below:

- Meetings

- Questions During Construction and Requests for Information (RFIs)

- Contractor Submittals

- Plan Revisions

- Record Drawings

- Owner of Project Documents

**EXHIBIT B
SCHEDULE OF FEES**

Classification	Rate per hour
Sr. Engineer II	\$ 269.05
Sr. Engineer I	\$ 199.81
Engineer II	\$ 147.91
Engineer I	\$ 147.91
Analyst II	\$ 114.07
Admin Support	\$ 84.23