



CITY OF CAMARILLO
PROFESSIONAL SERVICES AGREEMENT
With
KIMLEY-HORN AND ASSOCIATES, INC.
For
ST-5102 CENTRAL AVENUE BIKE LANE
DESIGN SERVICES

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PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is effective as of September 28, 2022 (“**Effective Date**”), and is between the City of Camarillo, a California municipal corporation and general law city (“**City**”) and Kimley-Horn and Associates, Inc., a North Carolina corporation (“**Consultant**”).

Section 1. Term of Agreement.

Subject to the provisions of Section 20 (Termination of Agreement), the term of this Agreement will be for a period commencing on the Effective Date and will terminate upon the completion of Consultant’s services.

Section 2. Scope and Performance of Services.

- 2.1** Consultant agrees to perform the services set forth in Exhibit A (Scope of Services), which is made a part of this Agreement.
- 2.2** Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculations, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary to perform the services required of Consultant under this Agreement.
- 2.3** Consultant’s designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit B (Key Personnel & Compensation), which is made a part of this Agreement.
- 2.4** Consultant must make every reasonable effort to maintain the stability and continuity of Consultant’s key personnel and subcontractors, if any, listed in Exhibit B to perform the services required under this Agreement. Consultant must notify City and obtain City’s written approval with respect of any changes in key personnel prior to the performance of any services by replacement personnel.
- 2.5** Consultant must obtain City’s prior written approval before utilizing any subcontractors to perform any services under this Agreement. This written approval must include the identity of the subcontractor and the terms of compensation.
- 2.6** Consultant represents that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant must employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.
- 2.7** City may inspect and accept or reject any of Consultant’s work under this Agreement, either during performance or when completed. Acceptance of any of Consultant’s work by City will not constitute a waiver of any of the provisions of this Agreement.
- 2.8** The Consultant must maintain any work site in the City in a safe condition, free of hazards to persons and property resulting from its operations.

Section 3. Additional Services and Changes in Services.

- 3.1** Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Scope of Services or otherwise required by this Agreement, unless such additional services are authorized in advance and in writing by City.
- 3.2** If Consultant believes that additional services are needed to complete the Scope of Services, Consultant will provide the City Manager with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3** City may order changes to the Scope of Services, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and City. The cost or credit to City resulting from changes in the services will be determined by the written agreement between the parties.

Section 4. Familiarity with Services and Site.

- 4.1** By executing this Agreement, Consultant represents that Consultant:
- (a) has thoroughly investigated and considered the Scope of Services to be performed;
 - (b) has carefully considered how the services should be performed;
 - (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by this Agreement, and will maintain all required licenses during the performance of this Agreement.
- 4.2** If services involve work upon any site, Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing its services. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform City of such fact and will not proceed except at Consultant's own risk until written instructions are received from City.

Section 5. Compensation and Payment.

- 5.1** Subject to any limitations set forth in this Agreement, City agrees to pay Consultant on the basis of the hourly rates and fees as specified in Exhibit B (Key Personnel & Compensation). The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit B, unless additional compensation is approved in writing by City.
- 5.2** The use of subconsultants will not be considered a reimbursable expense, and such costs must be applied towards the approved budgeted amount.
- 5.3** Each month during the term of this Agreement, Consultant must furnish City with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in Exhibit B. The invoice must detail

charges by the following categories: labor (by subcategory), reimbursable costs, subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services. If applicable, the invoice must also provide a budget summary including the total amounts previously invoiced and paid, the current invoice amount and the budget remaining.

- 5.4 City will review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by City, the invoice will be returned by City to Consultant for correction and resubmission.
- 5.5 Except as to any charges for work performed or expenses incurred by Consultant that are disputed by City, City will cause Consultant to be paid within 30 days of receipt of Consultant's invoice.
- 5.6 Payment to Consultant for services performed under this Agreement may not be deemed to waive any defects in the services performed by Consultant, even if such defects were known to City at the time of payment.
- 5.7 City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work is found substantially inadequate.

Section 6. Required Documentation Prior to Performance.

- 6.1 Consultant may not perform any services under this Agreement until:
 - (a) Consultant furnishes proof of insurance as required under Exhibit C;
 - (b) Consultant provides City with a Taxpayer Identification Number;
 - (c) Consultant obtains a City business tax certificate and license, if applicable, and provides proof of compliance; and
 - (d) City gives Consultant a written notice to proceed.
- 6.2 The City will have no obligation to pay for any services rendered by Consultant in advance of receiving written authorization to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.

Section 7. Time of Performance; Excusable Delays; Extensions.

- 7.1 Consultant must adhere to all schedules and deadlines set forth in this Agreement.
- 7.2 Consultant will not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of terrorism, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather.
- 7.3 If Consultant is delayed by any cause beyond Consultant's control, City may grant, but is not required to, a time extension for the completion of services. If delay occurs, Consultant must notify City within 48 hours, in writing, of the cause and the extent of the delay and

how such delay interferes with Consultant's performance of services.

Section 8. Cooperation by City.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Scope of Services will be furnished to Consultant in every reasonable way to facilitate, without undue delay, the services to be performed under this Agreement.

Section 9. Project Documents.

9.1 All original computer programs, data, designs, drawings, files, maps, memoranda, models, notes, photographs, reports, studies, surveys and other documents (collectively, "**Project Documents**") prepared, developed or discovered by Consultant in the course of providing services under this Agreement will become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of Consultant. Consultant will take such steps as are necessary to perfect or protect the ownership interest of City in such Project Documents. Upon completion, expiration or termination of this Agreement or upon request by City, Consultant must turn over to City all such original Project Documents in its possession; provided, however, that Consultant may retain copies of Project Documents. City acknowledges and agrees that use of Consultant's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at City's own risk. If necessary, Consultant agrees to execute all appropriate documents to assign to City the copyright or intellectual property rights to the Project Documents created pursuant to this Agreement.

9.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Consultant to any other person or entity without City's prior written approval.

Section 10. Confidential Information; Release of Information.

10.1 All information gained or work product produced by Consultant in performance of this Agreement will be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant may not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

10.2 Consultant, its officers, employees, or agents, may not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the services performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

10.3 If Consultant, or any officer, employee, or agent of Consultant, provides any information or work product (including Project Documents) in violation of this Agreement, then City will have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

10.4 Consultant must promptly notify City should Consultant, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order

or subpoena from any party regarding this Agreement and the services performed under this Agreement. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

- 10.5** All media and press releases, including graphic display information, must be approved and distributed solely by City, unless otherwise agreed to in writing by City. All media interviews regarding the performance of services under this Agreement are prohibited unless expressly authorized by City.

Section 11. Consultant's Books and Records.

- 11.1** Consultant must maintain all documents and records demonstrating or relating to Consultant's performance of services under this Agreement, including ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City under this Agreement. All financial documents or records must be maintained in accordance with generally accepted accounting principles and all other documents must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. All such documents or records must be maintained for at least three years following the final payment under this Agreement.
- 11.2** Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during regular business hours, upon written request by City or its designated representative. Copies of such documents or records must be provided directly to City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Consultant's address indicated for receipt of notices in this Agreement.
- 11.3** Where City has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Consultant's expense. Access to such documents and records must be granted to City, as well as to its successors-in-interest and authorized representatives.

Section 12. Status of Consultant.

- 12.1** Consultant is and will at all times remain a wholly independent contractor and not an officer or employee of City. Consultant has no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.
- 12.2** The personnel performing the services under this Agreement on behalf of Consultant will at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, will have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as provided in this Agreement. Consultant agrees that it will not at any time or in any manner represent that Consultant or any of Consultant's officers, employees

or agents are in any manner officials, officers, or employees of City.

- 12.3** Neither Consultant, nor any of Consultant's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim to any such rights or benefits.

Section 13. Compliance with Applicable Laws.

- 13.1 In General.** Consultant must use the standard of care in its profession to keep itself informed of and comply with all federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement that apply to the services performed by Consultant.
- 13.2 Professional Licenses and Approvals.** Consultant agrees that it will, at its sole cost and expense, obtain and maintain in effect at all times during the term of this Agreement any licenses, permits, insurance and approvals that are legally required for Consultant to practice its profession.
- 13.3 Employment Laws.** Consultant agrees to comply with all applicable federal and state employment laws including those that relate to minimum hours and wages, occupational health and safety, and workers compensation insurance. Consultant further represents that it is an equal opportunity employer and in performing services under this Agreement agrees to comply with all applicable federal and state laws governing equal opportunity employment, and further agrees that it will not discriminate in the employment of persons to perform services under this Agreement on the basis of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any such person, except as may be permitted by California Government Code section 12940.

Section 14. Unauthorized Aliens.

Consultant agrees to comply with all of the applicable provisions of the Federal Immigration and Nationality Act (8 U.S.C. § 1101 and following), as it may be amended, and further agrees not to employ unauthorized aliens as defined under the Act. Should Consultant employ any unauthorized aliens for the performance of any work or services covered by this Agreement, and should any liability or sanctions be imposed against City for the use of unauthorized aliens, Consultant agrees to reimburse City for the amount of all such liabilities or sanctions imposed, together with any and all related costs, including attorneys' fees, incurred by City.

Section 15. Conflicts of Interest.

- 15.1** Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City or that would in any way hinder Consultant's performance of services under this Agreement. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 and following) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 and following), and California Government Code section 1090.
- 15.2** Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Consultant to influence any decision of the City in which Consultant knows or has reason

to know that Consultant, or any officer, principal or employee of Consultant has any of the financial interests listed in Government Code section 87103.

- 15.3** If Consultant discovers that it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant must promptly disclose the relationship to City and take such action as City may direct to remedy the conflict.
- 15.4** City understands and acknowledges that Consultant is, as of the Effective Date, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant represents that, except as otherwise disclosed to City, it is unaware of any stated position of City relative to these projects. Any future position of City on these projects will not be considered a conflict of interest for purposes of this section.

Section 16. Indemnification.

- 16.1** Consultant agrees that it will, to the fullest extent permitted by law, defend, indemnify, and hold harmless City from all Services Claims and Operations Claims (each defined below) related to the performance by Consultant of this Agreement as provided in this section. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to defend, indemnify, and hold harmless City as set forth in this section.
- 16.2** For the purposes of this section, "City" includes City's officers, officials, employees, agents and volunteers, and "Consultant" includes Consultant's officers, officials, employees, agents and subcontractors and any other persons for whom Consultant is legally responsible.
- 16.3** With respect to the performance of professional services under this Agreement where the law establishes a professional standard of care for such services, Consultant agrees to indemnify, and hold harmless City from and against all liabilities, damages, losses, and costs, including but not limited to reimbursement of reasonable attorney's fees and all other costs of defense, to the extent caused by the negligence, recklessness, or willful misconduct of Consultant (collectively, "**Services Claims**").
- 16.4** With respect to the acts and operations of Consultant under this Agreement other than the performance of professional services, Consultant agrees to defend, indemnify, and hold harmless City from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to reasonable attorney's fees and all other costs of defense, to the extent caused, in whole or in part, by the negligence, recklessness, or willful misconduct of Consultant, and excepting only those claims, damages, liabilities, losses, and costs caused by City's sole negligence or willful misconduct (collectively, "**Operations Claims**").
- 16.5** Consultant must notify City within five days of receipt of notice of any Operations Claims or Services Claims made or legal action initiated that arises out of or pertains to Consultant's performance of services under this Agreement.
- 16.6** Consultant's duty to defend Operations Claims is a separate and distinct obligation from Consultant's duty to indemnify City for any Operations Claims. With respect to Operations Claims, Consultant is obligated to defend City in all legal, equitable, administrative, or special proceedings, with counsel reasonably approved by City, immediately upon tender to Consultant of an Operations Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that

persons other than Consultant are responsible for the Operations Claim does not relieve Consultant from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals.

- 16.7** Consultant agrees that settlement of any Operations or Services Claim against City requires the consent of City. City agrees that its consent will not be unreasonably withheld provided that Consultant is financially able (based on demonstrated assets including insurance) to fulfill its obligation to indemnify City for the costs of any such settlement as required under this Agreement.
- 16.8** The insurance required to be maintained by Consultant under this Agreement is intended to ensure Consultant's obligations under this section, but the limits of such insurance do not limit the liability of Consultant.
- 16.9** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others as required, Consultant will be fully responsible for all obligations under this section. City's failure to monitor compliance with this requirement imposes no additional obligations on City and will in no way act as a waiver of any rights under this Agreement.
- 16.10** The parties acknowledge and agree that design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code section 2782.8, which allows for claims only to the extent that they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional, and also places limitations on the costs of defense that may be charged to a design professional. The term "design professional," is defined in Section 2782.8, and includes licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors and the business entities that offer such services in accordance with the applicable provisions of the Business and Professions Code. The parties further acknowledge and agree that the provisions of this Section 16 are to be interpreted and applied to the fullest extent permitted by Civil Code section 2782.8.
- 16.11** The provisions of this section will survive the expiration or earlier termination of this Agreement in accordance with the applicable provisions of Exhibit C (Insurance).

Section 17. Insurance.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance coverages listed in Exhibit C (Insurance), which is made a part of this Agreement. All insurance policies are subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager or City Attorney.

Section 18. Assignment.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of City, which may be withheld in the City's sole discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

Section 19. Default; Limitations on Liability.

- 19.1** In the event that Consultant is in default under the terms of this Agreement, City will have no obligation or duty to continue compensating Consultant for any services performed after City provides written notice to Consultant of such default.
- 19.2** Consultant agrees that no City official, officer, employee or agent will be personally liable to Consultant in the event of any default or breach of City, or for any amount which may become due to Consultant, or for any obligations directly or indirectly incurred under this Agreement.
- 19.3** City's liability under this Agreement is limited to payment of Consultant in accordance with the terms of this Agreement and excludes any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

Section 20. Termination of Agreement.

- 20.1** City may terminate this Agreement, with or without cause, at any time by written notice of termination to Consultant. In the event such notice is given, Consultant must cease immediately all work and services in progress.
- 20.2** Consultant may terminate this Agreement at any time upon 30 days' prior written notice of termination to City.
- 20.3** Upon termination of this Agreement by either Consultant or City, all property belonging to City that is in Consultant's possession must be returned to City. Consultant must promptly deliver to City a final invoice for all outstanding services performed and expenses incurred by Consultant as of the date of termination. Compensation for work in progress not based on an hourly rate will be prorated based on the percentage of work completed as of the date of termination.
- 20.4** Consultant acknowledges City's rights to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from City's termination of this Agreement.

Section 21. Notices.

- 21.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other party at its respective address as follows:

To City:

City of Camarillo
601 Carmen Drive
Camarillo, California 93010

Attention: James Campero

Tel. (805) 388-5340
Fax (805) 388-5387
E-Mail jcampero@cityofcamarillo.org

To Consultant:

Kimley-Horn and Associates, Inc.
660 South Figueroa Street, Suite 2050
Los Angeles, California 90017

Attention: Robert Blume

Tel. (213) 261-4041
Fax n/a
E-Mail robert.blume@kimley-horn.com

- 21.2** Notice will be deemed effective on the date personally delivered or electronically transmitted by facsimile. If the notice is mailed, notice will be deemed given three days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 21.3** Any party may change its notice information by giving notice to the other party in compliance with this section.

Section 22. General Provisions.

- 22.1 Authority to Execute; Counterparts.** Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder. This Agreement may be executed in several counterparts, each of which will constitute one and the same instrument and will become binding upon the parties when at least one copy has been signed by both parties.
- 22.2 Entire Agreement.** This Agreement, including the attached Exhibits A through C, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Consultant and City prior to the execution of this Agreement.
- 22.3 Binding Effect.** This Agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties.
- 22.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Consultant and by the City Council or City Manager, as applicable. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 22.5 Electronic Signatures; Counterparts.** This Agreement and any amendment will be considered executed when the signature page of a party is delivered by electronic transmission. Such electronic signatures will have the same effect as an original signature. This Agreement may be executed in multiple counterparts.
- 22.6 Waiver.** Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any services by Consultant will not constitute a waiver of any of the provisions of this Agreement.
- 22.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning. It will not be interpreted strictly for or against either party.
- 22.8 Severability.** If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will not be affected and the Agreement will be read

and construed without the invalid, void or unenforceable provision.

22.9 Venue. In the event of litigation between the parties, venue will be exclusively in a state court in the County of Ventura.

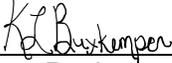
THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF the parties hereby execute this Agreement as follows:

CITY OF CAMARILLO



Greg Ramirez, City Manager

ATTEST:



Kristy Buxkemper, City Clerk

KIMEY-HORN AND ASSOCIATES, INC., a North Carolina corporation



Robert Blume, Vice President



Sri Chakravarth, Assistant Secretary

Camarillo Business Tax Certificated No. 034018 / Expiration Date 12/31/2022

EXHIBIT A
SCOPE OF SERVICES
[Attached]

EXHIBIT A

Kimley-Horn and Associates, Inc. Central Avenue Bike Lanes – City of Camarillo Scope of Work

Task 1.1: Work Plan and Schedule

Kimley-Horn will develop a work plan that identifies the following:

- A Project Development Team (PDT) outlining individual roles and responsibilities
- Project expectations and goals; milestones for major activities and deliverables
- Specific design issues and constraints based on supporting tasks and preliminary layout

Kimley-Horn will work with the environmental team and the city to prepare an integrated project schedule (in Microsoft Project) within the first two weeks following a notice to proceed (NTP).

Kimley-Horn will prepare monthly progress reports addressing the progress of work completed. Monthly progress reports will provide current information regarding the project schedule and completion of deliverables, any issues encountered that may affect schedule, budget, or work products and anticipated work or action items needed for the following month.

Kimley-Horn will attend up to two (2) site visit walks with Staff to discuss the project.

Kimley-Horn will plan for and provide Quality Control/Quality Assurance (QC/QA), which consists of documenting our process whereby deliverables are checked prior to formal submission and tracking and include the filing of project-related correspondence and documentation. The QC/QA Manager will also monitor and review project activities and deliverable schedules.

Deliverables:

- Attend up to three PDT meetings, with related coordination and agenda preparation, meeting minutes, and action item lists
- Baseline progress schedule, monthly progress reports, and progress schedule updates (one electronic file [Adobe PDF] copy and one hard copy)
- Attend up to two site visit walks

Task 1.2: Kick-off Meeting

Kimley-Horn will help coordinate and lead a project kick-off meeting within two weeks of NTP to discuss project details with the city and the Environmental Team. We will help coordinate and prepare the agenda, meeting minutes, and follow-up with action items from the meeting.

Deliverables:

- Kickoff meeting materials including agenda, meeting minutes, and action item lists.

EXHIBIT A

Task 1.3: Data Collection

Kimley-Horn will collect and review readily available data from the City and County including GIS files, as-builts, traffic data, geotechnical studies, master plans, and other readily available related supporting information for the project.

Deliverables:

- List of required data from the City

Task 1.4: Surveying and Mapping

Encompass Consultant Group (ECG) will complete the surveying and mapping for the project including the following tasks.

Horizontal & Vertical Survey Control Network

ECG will perform field survey to search for and recover existing record monuments sufficient in number to compile the record documents. The monuments will be tied to the project control survey and will be used to orient the boundary to the project mapping datum.

Aerial Control and Mapping

ECG will perform control survey for the purpose of establishing horizontal and vertical positions on aerial targets for aerial mapping and orthophoto production of the mapping limits. Aerial photography of the project site will be obtained. Aerial photography will be captured at an accuracy that is suitable to compile topographic mapping at a scale of 1-inch equals 20 feet, with a 1-foot contour interval. The photography will be processed to create a single ortho-rectified photo of the project site for the project limits.

ECG will also perform field survey to locate pavement, curbs, driveways, walks, building footprints, fences, walls, planters, and visible surface utilities, together with topographic features such as tops, toes, flow lines, grade breaks, etc. within the project. Pavement and surface materials will also be identified. Trees larger than 4" in diameter will be located and included in the mapping.

The mapping will be compiled at a scale of 1" = 20' with a 1-foot contour interval. Each surveyed feature will be clearly labeled or noted by symbol as identified in the field, and the field survey data will be combined with the aerial data for a single site digital terrain model.

Right-of-Way (ROW)

ECG will provide research of pertinent recorded maps and documents. Site rights of way based on the information contained in the latest available assessor site information will be compiled. The computed rights of way will be added to the AutoCAD base map. Resolving boundary problems, such as conflicting descriptions and misclosures, are beyond the scope of this proposal. One permanent roadway easement plat and legal and one temporary construction easement is included in this scope.

EXHIBIT A

Supplemental Topographic Survey

One (1) field day and corresponding office support time has been set aside to allow the design team to request supplemental measurements or investigations during the design process.

Deliverables

- AutoCAD drawing files via email, FTP or DVD as appropriate and a PDF signed and sealed digitally by a California Licensed Lands Surveyor. Hardcopies available upon request.
- Roadway Easement Plat and Legal
- Temporary Construction Easement definition

Task 1.6: Geotechnical Investigation

YEH Associates (YEH) will be completing the geotechnical support and investigations for the project including field exploration and testing to characterize subsurface conditions, geotechnical analyses for pavement design and geotechnical considerations for design and construction of the drainage and culvert improvements including the following tasks.

Initiation and Data Review

The team will initiate the project by collecting and reviewing background information provided by the city that may be pertinent to the geotechnical evaluation, request a base map showing the site topography, coordinate site access, and review the scope and schedule for geotechnical services. Yeh will visit the site to review the widening footprint, impacted drainages, existing pavement conditions, surface conditions and terrain, and pertinent features relative to field exploration and project design. Prepare a geotechnical exploration plan for review with project team. Attend a kickoff meeting. We assume that site access will all be within existing public rights of way and no environmental permits, documents, or monitoring will be required.

Permits, Utility Coordination, Health and Safety

Yeh will submit the geotechnical exploration and traffic control plans to the City of Camarillo with our application and obtain an encroachment permit for borings within the city right-of-way. It is assumed that City permit fees will be waived. Prepare a health and safety plan for the field work, visit the site to mark the locations of the planned explorations, and notify Underground Services Alert (USA) to contact utility companies to review the locations and mark any buried utilities at the site, and coordinate the field exploration program and site access with the project team, County, and subcontractors.

Subsurface Exploration Program – Drilling

Perform a field exploration program consisting of drilling six (6) hollow stem auger borings along the northeast lane or shoulder of Central Avenue to depths ranging from 5 to 15 feet below the ground surface to support pavement design, improvements to the earthen drainage ditch, and for use in field percolation testing. One boring will be drilled to 30 feet below the ground surface to support proposed improvements to the existing culvert. The holes will be drilled using a truck-mounted rig equipped with 8-inch hollow stem augers. The borings will be sampled at selected intervals using drive samplers, thin-walled tube samples or by taking cuttings from the auger

EXHIBIT A

flights depending on the subsurface conditions encountered. The existing pavement structural section will be measured where borings are in pavement. Borings used for percolation testing (4 total) will be sited off the paved roadway. Traffic control during drilling and percolation testing will consist of providing a shoulder closure or lane closure with flagging. Borings not used for percolation testing will be backfilled with excavated cuttings mixed with dry cement and hydrated to the ground surface. Borings in pavement areas will be surface patched with rapid set concrete dyed black.

Percolation Testing

Perform percolation testing in four selected borings in the unpaved shoulder of Central Avenue. Tests will be performed to depths ranging between 5 and 10 feet deep. The borings will be prepared for testing during the drilling activities by reaming the sides of the borehole to remove smeared material, setting a temporary slotted or perforated casing in the hole, backfilling the annular space between the casing and borehole with gravel, and pre-soaking the test interval overnight in advance of the testing. Perform testing in general accordance with the latest version of the Ventura County Technical Guidance Manual for field percolation testing. Remove the temporary casings at the end of testing; however, the gravel used to support the borehole within the testing interval will remain in the hole. The remaining hole will be backfilled with excavated cuttings to match the adjacent grade.

Laboratory Testing

Laboratory tests could consist of tests for unit weight and moisture content, soil classification, strength, compaction, corrosivity, hydraulic conductivity, or R-value based on visual properties of selected samples recovered from the borings. The actual types and numbers of tests will be assigned based on the results of the drilling.

Draft - Geotechnical Report

Yeh will summarize the data collected, perform geotechnical analyses, and prepare a Geotechnical Report for the design of the project. A draft of the report will be prepared and issued in electronic document file (PDF) format for review by the project team. The report will provide logs of the explorations, percolation test results, laboratory test results, and a map showing the locations of the explorations and field testing. The report will provide a discussion of the following:

- Geologic setting
- Soil and groundwater conditions encountered
- Potential for geologic hazards to impact the project
- Results of field percolation tests and recommended correction factors, as applicable
- Soil corrosion potential
- Discussion of the surface condition of the existing pavement based on visual observations
- Proposed roadway structural section based on R-value testing and a traffic index (TI) provided by the city

EXHIBIT A

- Grading and slope preparation for improvements to the earthen drainage ditch
- Recommended parameters for design of shallow foundations or retaining walls as needed for widening the Las Posas Drain box culvert and channel slopes
- Construction considerations regarding:
 - Excavation characteristics of the soil and rock encountered
 - Suitability of excavated onsite soil for reuse as compacted fill or structure backfill
 - Temporary slopes, shoring, and/or dewatering
 - Requirements for temporary cuts or shoring adjacent to existing roadways, structures, or property
 - Suggested material specifications

Final – Geotechnical Report

Yeh will issue the final Geotechnical Report after incorporating comments and input from the design team. This scope of work assumes that the final report will not involve addressing new alignments, changes in the project or additional field exploration not discussed in this proposal. One PDF copy of the final report will be submitted unless otherwise requested.

Deliverables

- Draft and Final Geotechnical Report

Task 1.7: 30% Design and Contact Utility Owners

Utility Coordination

The Kimley-Horn team will coordinate with the city to identify utility agencies to send initial letters (“A” Letters) to request utility as-built information for the project location. Utility information will be incorporated into the project base mapping.

Kimley-Horn will continue with the utility notification process. Conflict letters (“B” Letters) will be sent out to the appropriate utility agencies to reflect the proposed improvements and assess the locations of their facilities as incorporated into the base mapping. Potential conflicts will be identified and follow-up coordination will be conducted to resolve the conflicts or provide for relocation. If necessary, new, or revised service locations will be coordinated with the various utilities for electric and phone service. Notice to relocate letters (“C” Letters), if necessary, will be sent out to the appropriate utility agencies after final design is approved.

The Kimley-Horn team will conduct vacuum excavation potholing of utilities that require positive locating to help resolve the potential conflicts and support the final design. Locations of potholes will be identified and utilities pre-marking through Dig Alert prior to potholing. After utilities are located, excavations will be backfilled with cuttings from the excavation and the pavement will be repaired with black colored concrete.

A Utility Matrix will be created to track correspondence and coordination with the various utility owners and the ultimate disposition of each utility within the project limits.

EXHIBIT A

Deliverables:

- Utility Matrix
- Letters: “A”, “B” and “C”

30% Conceptual Design and Opinion of Construction Costs (OPCC)

The Kimley-Horn team will prepare up to two (2) schematic alternative layouts of the project limits. These features will show from a plan view and supporting typical sections e.g. Right-of-Way, private properties, grading limits, utilities, trees, driveways, roadway widening, culvert locations, drainage improvements, HMA grind and overlay, pavement striping and signing. The conceptual designs will be consistent with Camarillo’s recently adopted Local Road Safety Plan We have included the two alternatives below:

Alternative 1: Widen Central to provide 3’ buffers and 5’ Class II Bike Lanes on both sides of the road, including the extension of the culvert, with concrete lined infiltration trench (ditch).

Alternative 2: Widen Central to provide 3’ buffers and 5’ Class II Bike Lanes on Central between the County Line and W. Ponderosa Drive/Del Norte Road on both sides, with a Class I Bike Path along the north side of Central. This also includes the extension of the culvert, the concrete lined infiltration trench (ditch), like Alternative 1.

This analysis will include options and assess whether modifications to existing culvert are needed. The channel appears to be owned by the city and the Ventura County Watershed Protection District. Based on existing as-built information, Kimley-Horn will analyze the existing channel conditions and options for potential widening, including box extension or cantilever widening of the box to provide additional roadway width on Central Avenue.

Existing flow data is assumed not to be available for the channel. Kimley-Horn will perform hydraulic analysis of the existing channel to provide pre and post channel hydraulics assessment. The assessment will assume a channel design flow based upon existing dimensions and geometry. The team will prepare structural calculations and details for the box modifications. Existing utility impacts will also be identified for potential relocation and reconnection to the box.

Following review, we will walk the site with the city to discuss sensitive locations or areas that may need to extend or be modified. We will provide opinion on probable construction costs (OPCC) for each conceptual alternative.

Deliverables:

- Up to two alternative layouts, with up to one revision from City Staff
- OPCC for each alternative

EXHIBIT A

Task 1.8: Right of Way Services

The Kimley-Horn team will identify areas and ownership of potential ROW impacts, including for roadway easements, temporary access and temporary construction easements that may be needed. Kimley-Horn will summarize the areas of impact including ownership and type of impacts based upon the preliminary concepts..

Hamner, Jewell & Associates (HJA) will provide ROW Support Services and maintain ongoing general consultation and project coordination with the team and coordinate ROW requirements based on the preliminary engineering concepts.

ROW services will be provided in accordance with all applicable local and State Regulations. ROW services are anticipated to include a permanent easement and/or temporary construction easement (“TCE”) for the modification of a drainage culvert near the intersection of Central Avenue at West Ponderosa Drive in the City of Camarillo. HJA will order a preliminary title report and be available to prepare an appraisal report for parcel APN 152-0-10-140 (Owner: Montgomery Properties, LLC) if necessary.

In addition to the easement acquisition support, the project will require coordination with Miriam’s Fruit Stand, located on Central Avenue. HJA will support the team with this coordination to include coordination with the property owner on the proposed improvements related to their operations.

Deliverables:

- Items related to this task.

Task 1.9: Grant Support Services

Kimley-Horn will provide grant assistance and support the City’s efforts with the Active Transportation Program (ATP) or other application for grant funding of the project construction. This is anticipated to include assistance with grant writing content, development of a clear understanding of the project application to meet the required guidelines, and preparation of exhibits.

Kimley-Horn will help develop the grant approach and assemble existing project data and graphic representation of the information. Team will assist with required grant application technical work and utilize existing information.

Kimley-Horn will assist the city with preparation of the draft grant applications, assist with the final grant formatting and create a project themed application template and cover. Kimley-Horn will prepare maps, graphics, and proposed project renderings to support the application including the following:

- Project Location Map
- Project Schedule Graphic
- Typical Cross-Section Graphic

EXHIBIT A

- Before/After Project Renderings

Deliverables:

- Items related to this task.

Task 2 – Plans, Specifications and Estimates (PS&E)

Task 2.1: Preparation of Construction Documents (65% PS&E)

The Kimley-Horn team will continue from the approved 30% conceptual design with the following plan sheets:

Title Sheet/General Notes/Key Map and Line Index

The Kimley-Horn team will prepare a title sheet with a vicinity map, location map, utility company contacts, legend, and general notes for the project (two (2) sheets).

General Cross-Sections

The Kimley-Horn team will prepare typical sections consisting of roadway improvements, with structural pavement sections, variable widths, showing drainage, roadway, utility impacts, cross slopes, curb and gutter, and lane widths (one (1) sheet).

Demolition and Utility Plans

The Kimley-Horn team will prepare horizontal double stacked layout plan sheets for the project limits. Demolition and utility components will show the demolition, disposal, removal and/or relocation of observable structures, utilities, landscaping, signs, curbs, and gutters required to facilitate the proposed design and roadway widening (two (2) sheets at 1" =40').

Street Improvement Plans

The Kimley-Horn team will prepare Street Improvement Plans for the project limits. The improvements will include but not be limited to pavement improvements, curb, and gutter, retaining walls, drainage improvements, driveway conforms, and grading. Fine grading, spot grade elevations, and grade breaks will be shown on the profiles (up to six (6) sheets at 1" =40' Horizontal and 1" =8' Vertical scale).

We will implement Ventura County Low Impact Development (LID) Best Management Practices (BMPs) utilizing the geotechnical infiltration testing results. We will then recommend the use of one or more of the following: infiltration trench techniques to collect runoff and manage it.

In preparation for the plans, we will prepare calculations to determine the infiltration volumes for the affected watersheds using the Ventura County or similar methods to size each bioretention device. It is assumed that existing storm drain infrastructure and hydraulic calculations for these devices will not be required since if affected, they will be replaced with equivalent devices. Calculations will be available to the City upon request.

EXHIBIT A

Construction Details

The Kimley-Horn team will prepare construction details as necessary for private property conforms. The details will include driveway conforms, tie-in locations, additional layout, grading, and spot grades to support the construction. Additional details for drainage treatments to support the grading layout and other various supporting infrastructure associated with the project will be included (up to four (4) sheets).

Drainage Improvement Plans

The Kimley-Horn team will prepare drainage improvements plans for the project limits. The improvements will include but not be limited to drainage layouts, features, pipe layout, profiles, connections, culverts, structural design of box extension or cantilevered structures, and details associated with drainage improvements (up to six (6) sheets at 1" =40').

Signing and Striping Plans

The Kimley-Horn team will prepare signing and striping plans for the project limits. Kimley-Horn will prepare the signage and striping plans per the latest edition of the California Manual of Traffic Control Devices (CA-MUTCD). These plans will implement various traffic control devices e.g., pavement stripes, markings, retroreflective markers, object markers, traffic signs. The plans will incorporate features to support all users, such as bike and pedestrian accommodations (two (2) sheets double staked at 1" = 40').

Stormwater Pollution Prevention Plan with Erosion Control Plans

Kimley-Horn will prepare a Storm Water Pollution Prevention Plan ("SWPPP") report required by the city, Ventura County, and the State Water Resource Control Board (SWRCB). This report will incorporate the Erosion Control Plan and details for the construction site. Preparation of a SWPPP requires risk calculations that will further define the SWPPP requirements. We will gather and post required documents to the State Water Boards Storm Water Multi-Application and Report Tracking System (SMARTS). This includes posting the Notice of Intent and SWPPP.

Kimley-Horn will prepare erosion control plans indicating proposed wet weather Best Management Practices (BMP's) to mitigate erosion from the project site to the storm drain systems. These plans show the city standard erosion control notes and locate suggested temporary BMP devices, staging areas, and other BMPs. The design will follow standard California Stormwater Quality Association (CASQA) BMP handbooks (up to six (6) sheets at 1" =40').

Engineers Opinion of Probable Construction Costs

Kimley-Horn will revise, compile, and prepare the Opinion of Probable Construction Costs (OPCC). Contingencies will be included at the appropriate percentage per the level of design for each design submittal.

EXHIBIT A

Technical Specifications

Kimley-Horn will prepare the project special provisions outline for the technical specifications. It is assumed that the city will provide the “Front-End” documents, these will be based on the latest APWA Greenbook Standard Specifications.

Deliverables:

- 65% preliminary design plans, outline specifications and OPCC

Task 2.2: 95% Submittal

The Kimley-Horn team will prepare the 95% submittal based on one round of consolidated, non-conflicting comments received from the city from the 65% PS&E submittal. We will continue with development of the 95% specifications based upon the outline specifications provided with the 65% submittal, develop the construction details and remaining design information to complete a draft of the final PS&E documents.

The Kimley-Horn team will prepare a bid schedule from the Engineer’s OPCC to be included in the bid documents. We will also provide a comment response matrix on how we are addressing City comments.

Deliverables:

- 95% Construction Documents: Plans, Technical Specifications, and OPCC
- Comment response matrix

Task 2.3: Final Submittal

Kimley-Horn will provide the following design deliverables: final improvement Plans ready for advertising and bidding, along with final technical specifications, and a complete Engineer’s OPCC all signed by a licensed California Professional Engineers.

Deliverables:

- Construction Documents: Signed Plans, Technical Specifications, and OPCC
- Comment response matrix

Task 3.1 Bid Support Services:

The Kimley-Horn team will provide design support services during Construction to include, but not limited to the following at City request:

- Attend preconstruction meeting
- Respond to Requests for Information (RFIs)
- Review submittals
- Provide field surveying support
- Attend construction meetings
- Project site inspections
- Review change order requests

EXHIBIT A

- Assist with final reviews and preparation of punchlist
- Prepare Record Drawings upon Final Completion

These services will be completed on a time and materials basis as requested by the city.

Deliverables:

- Items related to this task.

Schedule:

An initial draft schedule is being provided. Coordination with the Environmental Team and requirements will be included and combined once the contract is initiated.

Fee:

Attached is a hours and fee summary as well as a standard rate schedule for the project, that may be adjusted with a mutually agreed to amendment.

City of Camarillo
Central Avenue Bike Lanes

		Kimley-Horn and Associates, Inc.							
Name Category/Title	Billing Rate	Bob Blume	Yiota Georgalis	Sr.	Professional	Analyst II	Project Support		
		Sr. Prof. II	Professional	Professional I					
		\$360.00	\$175.00	\$235.00	\$175.00	\$150.00	\$120.00		
Task 1		54	160	60	116	392	34	816	\$ 144,720.00
1.1	Work Plan and Schedule	8	8			0	8	24	\$ 5,240.00
1.2	Kick-off Meeting	4	8			16	2	30	\$ 5,480.00
1.3	Data Collection	4	8			40	2	54	\$ 9,080.00
1.4	Surveying	4	8			8	2	22	\$ 4,280.00
1.5	Geotechnical Investigation	4	8			8	2	22	\$ 4,280.00
1.6	Preliminary Alternatives	10	48	14	30	120	8	230	\$ 39,500.00
1.7	30% Design and Contact Utility Owners	12	48	38	36	120	4	258	\$ 46,430.00
1.8	Right of Way Acquisition Support Services	4	8		10		2	24	\$ 4,830.00
1.9	Grant Services	4	16	8	40	80	4	152	\$ 25,600.00
Task 2	Plans, Specifications, and	32	204	58	138	660	32	1124	\$ 187,840.00
2.1	65% Submittal	8	80	16	50	240	8	402	\$ 66,350.00
2.2	95% Submittal	8	80	16	64	240	8	416	\$ 68,800.00
2.3	100% Submittal	8	24	12	16	120	8	188	\$ 31,660.00
3.1	Construction Support Services	8	20	14	8	60	8	118	\$ 21,030.00
	TOTAL HOURS:	86	364	118	254	1052	66	1940	
	Project Subtotal Labor:	\$ 30,960.00	\$ 63,700.00	\$ 27,730.00	\$ 44,450.00	\$ 157,800.00	\$ 7,920.00		\$ 332,560.00
	Other Direct Costs								\$140,683.80
	Labor Escalation								
	Travel/Mileage								\$ 1,500.00
	Potholing Allowance								\$ 20,000.00
	Traffic Control								\$ 5,000.00
	Outside Printing								\$ 5,000.00
	Courier/Fed Ex/Etc.								
	*ECG (Surveying and Mapping) (Task 1.4)								\$ 33,770.00
	*Yeh and Associates, Inc. (YEH) (Geotechnical and ADL) (Tasks 1.5 and 1.5b)								\$ 49,893.80
	*Hamner Jewel and Associates (ROW Support) (Task 1.8)								\$ 25,520.00
	TOTAL COST:								\$ 473,243.80

*Includes 10% markup on subs

EXHIBIT B

KEY PERSONNEL & COMPENSATION

1. Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement is Robert Blume, Vice President.

2. Total compensation under this Agreement, including reimbursement for actual expenses, may not exceed: \$473,243.80

KEY PERSONNEL:

Name	Title/Position
Robert Blume	Senior Professional II
Yiota Georgalis	Professional

SUBCONSULTANTS:

Name
Encompass Consulting Group
Yeh and Associates, Inc.
Hamner, Jewell and Associates

FEE SCHEDULE – See Attached

Rate Schedule

<u>Classification</u>	<u>Billing Rate per Hour</u>
Analyst I	\$135
Analyst II	\$150
Professional	\$175
Sr. Professional I	\$235
Sr. Professional II	\$360
Sr. Technical Support	\$185
Technical Support	\$115
Project Support	\$120

Other Direct Costs: Outside Printing/Reproduction, Delivery Services/USPS, Misc. Field Equipment/Supplies, and Travel Expenses will be billed at actual cost plus. Mileage will be billed at the Federal Rate.

Subconsultants: Subconsultants will be billed at cost plus 10%.

EXHIBIT C
INSURANCE

1. **Required Insurance.** Before commencing any services, Consultant must procure and maintain in full force and effect during the term of this Agreement the following types of insurance with at least the minimum coverage listed and subject to the applicable additional requirements set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability	\$3,000,000 / \$6,000,000 aggregate
Business Automobile Liability	\$1,000,000
Workers' Compensation	Statutory
Professional Liability	\$3,000,000

2. **Insurance Rating.** All insurance required to be maintained by Consultant must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A- or better and Financial Size Category Class VII or better by the latest edition of A.M. Best's Key Rating Guide, unless otherwise approved by City's legal counsel.
3. **Commercial General Liability Insurance.** The commercial general liability insurance must meet or exceed the requirements of Insurance Services Office (ISO) form CG 00 01, and must be provided on a per occurrence basis for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. The insurance must be on an "occurrence" not a "claims made" basis. Defense costs must be paid in addition to limits. There must be no cross-liability exclusion for claims or suits by one insured against another. The insurance must include a waiver of subrogation applicable to the insurance or self-insurance, a primary and non-contributory endorsement, and an additional insured endorsement, all in favor of the City, its officers, employees and agents, and volunteers. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
4. **Business Automobile Insurance.** The business automobile insurance coverage must be at least as broad as ISO Business Auto Coverage form CA 00 01, covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount stated above per combined single limit for each accident. Such insurance must include both a waiver of subrogation applicable to the insurance or self-insurance, and a primary and non-contributory endorsement, both in favor of the City, its officers, employees, agents, and volunteers.
5. **Workers' Compensation.** If Consultant has any employees, Consultant must maintain workers' compensation insurance (statutory limits) and employer's liability insurance (with limits of at least \$1,000,000). Such insurance must include a waiver of subrogation endorsement in favor of City, its officers, employees, agents, and volunteers.
6. **Professional Liability (Errors & Omissions) Insurance.** The professional liability insurance must cover the services to be performed under this Agreement. The coverage must be provided on a "claims made" basis. Consultant must maintain continuous coverage through a period not less than three years after the completion of the services required under this Agreement.
7. **Umbrella or Excess Liability Insurance.** If an excess or umbrella liability policy is used to meet minimum limit requirements, the insurance must provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella or excess liability policy must include a "drop-down provision" requiring the policy to respond in the event that any primary insurance that would otherwise have applied proves to be uncollectable in whole or in part for any reason. Coverage must be provided on a "pay-on-behalf" basis, with defense costs payable in

addition to policy limits. There may be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. The policy must "follow form" to the underlying primary policy. Coverage must be applicable to all insureds under the primary policies. The insurance must contain or be endorsed to contain a waiver of subrogation applicable to the insurance or self-insurance, and a primary and non-contributory endorsement for the benefit of City. The scope of coverage provided is subject to approval of City following receipt of the required proof of insurance.

- 8. Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by City. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$50,000 without prior written approval by City in its sole discretion. At the option of City, either the insurer will reduce or eliminate such deductibles or self-insured retentions with respect to the City's additional insureds or Consultant will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.
- 9. Certificates of Insurance and Endorsements; Notice of Termination or Changes to Policies.** Prior to commencing any services under this Agreement, Consultant must file with the City certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or certified copies of policies as may reasonably be required by City. These certificates of insurance and endorsements must be in a form approved by the City's legal counsel. Consultant must maintain current certificates and endorsements on file with City during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination or cancellation of the required coverage, will be effective except upon 30 days' prior written notice to City by certified mail, return receipt requested (except for nonpayment for which a 10-day notice is required). The delivery to City of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the City's right to require compliance. In the event that Consultant's policies are materially changed, Consultant must provide the City with at least 30 days' prior written notice of the applicable changes. City reserves the right to require complete, certified copies of all required insurance policies at any time.
- 10. Failure to Maintain Required Insurance.** If Consultant, for any reason, fails to have in place at all times during the term of this Agreement all of the required insurance coverage, the City may, but is not obligated to, obtain such coverage at Consultant's expense and deduct the cost from the sums due Consultant. Alternatively, City may terminate the Agreement.
- 11. Effect of Coverage.** The existence of the required insurance coverage under this Agreement will not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Should any coverage carried by the Consultant or any subcontractor of any tier have limits of liability that exceed the limits or have broader coverage than required in this Agreement, those higher limits and that broader coverage are deemed to apply for the benefit of any person or organization included as an additional insured and those limits and broader coverage will become the required minimum limits and insurance coverage in all sections of this Agreement. Any insurance proceeds available to City in excess of the limits and coverages required by this Agreement, and which is applicable to a given loss, must be made available to City to compensate it for such losses.
- 12. Required Insurance for Subconsultants/Subcontractors.** Consultant agrees to ensure that any subconsultants/subcontractors providing services under this Agreement provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to review and monitor all such coverage and assumes responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement.
- 13. Right to Revise Insurance Specifications.** City reserves the right to change the amounts and types of insurance required by giving Consultant at least 90 days advance written notice of such change.

If such change results in substantial additional cost to Consultant, the parties may renegotiate Consultant's compensation.

14. **Timely Notice of Claims.** Consultant must give City prompt notice of claims made of lawsuits initiated that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability insurance policies.