



## Item No. 11 Town of Atherton

### **CITY COUNCIL STAFF REPORT – CONSENT AGENDA**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER**

**FROM: MICHAEL KASHIWAGI, COMMUNITY SERVICES DIRECTOR**

**DATE: MARCH 16, 2016**

**SUBJECT: AUTHORIZE AN AMENDMENT TO THE AGREEMENT WITH  
KIMLEY-HORN AND ASSOCIATES FOR ADDITIONAL  
SERVICE REQUESTS FOR THE BELBROOK CULVERT REPAIR  
PROJECT**

#### **RECOMMENDATION**

Authorize an amendment to the agreement with Kimley-Horn and Associates (KHA) for additional service requests not to exceed the amount of \$39,900 for the Belbrook Culvert Repair Project.

#### **BACKGROUND**

The Belbrook Culvert was identified in the Atherton Creek Structure Condition Assessment (November 2014) as needing immediate attention. In February 2015, the City Manager authorized Kimley-Horn and Associates to provide civil engineering design services involving the repair of the Belbrook culvert, which includes plans, specifications, and engineer's estimate (PS&E) in the amount of \$24,950.

In November 2015, Kimley-Horn submitted the Bay Area Joint Aquatic Resources Permit Application (JARPA) to the resource agencies, which includes the Regional Water Quality Control Board, U.S. Army Corps of Engineers (USACE), and the California Department of Fish and Wildlife, to obtain the necessary permits. Staff met with the design consultant from Kimley-Horn and Associates at the beginning of the design process. The consultant designs provided a repair option in lieu of replacing the entire culvert, which the Planning Department stated in the Notice of Exemption (NOE), under the exemption status Categorical Exemption Class 1, Section 15301 (C) providing that the project is a replacement of an existing facility with similar construction method and is designed to avoid or minimize environmental effects.

In February 2016, the USACE requested additional information regarding the protection of the endangered species assumed to be in the area, and their habitat. The other agencies will request measures to protect plants, wildlife and water quality.

## **ANALYSIS**

In February 2016, the USACE did not agree with the NOE assessment and requested that additional studies be conducted. The additional studies requested by the resource agencies were not part of the original scope of work proposed. KHA has provided a proposal with the following tasks:

1. Conduct a wetlands delineation study and prepare a report;
2. Provide assistance with obtaining resource agency permits;
3. Prepare a Biological Assessment Report;
4. Prepare a Mitigated Negative Declaration document to satisfy the California Environmental Quality Act (CEQA) requirements. (Optional if the resource agencies request such services);
5. Prepare a Revegetation Plan (Optional if the resource agencies request such services);
6. Prepare a Mitigation and Monitoring Plan (Optional if the resource agencies request such services);

Task Orders 4-6 are currently optional, the resource agencies may request these Task Orders if the wetland delineation report and biological assessment report deems the extent of the construction to repair the culvert as necessary to restore the habitat. Task Orders 4-6 will only be authorized by the Town if required by the resource agencies.

Tasks	Subtotal
Task order #1-3	\$15,400
Task order #4-6 (optional)	\$24,500
Total =	\$39,900

## **POLICY FOCUS**

There are no significant policy issues related to approval of the amendment to the agreement with Kimley-Horn and Associates for the design of the Belbrook Culvert Repair.

## **FISCAL IMPACT**

The cost for these Additional Service requests totals \$39,900. Funds for these services will come from the project in the CIP under Drainage-Belbrook Culvert Repair Project.

## **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not

limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

**ATTACHMENTS**

Amendment to Professional Services Agreement Proposal  
Belbrook Culvert Repair Design Schedule



March 8, 2016

Mr. David Huynh  
91 Ashfield Road  
Atherton, CA 94027

**Re: Amendment to Professional Services Agreement for Civil Services**

Dear Mr. Huynh,

Kimley-Horn and Associates, Inc. (“KHA” or “Consultant”) is submitting this amendment request to our original agreement (the “Agreement”), dated February 26, 2015 with the Town of Atherton (“Client” or “Town”) for Civil Engineering services involving the repair of the Belbrook culvert. The tasks presented below involve out of scope items necessary to complete the resource agency permitting for the project.

### **Scope of Services**

For the Belbrook/Atherton Channel Culvert Placement Project (Project), Kimley-Horn is providing this scope of work to provide tasks and fees associated with the culvert and bank repair work for the Belbrook Road crossing over Atherton Channel. Specifically, this scope includes: 1) conduct a wetlands delineation and prepare a Wetlands Delineation Report; 2) provide as-needed assistance with obtaining resource agency permits, and 3) prepare a Mitigated Negative Declaration document to satisfy the California Environmental Quality Act (CEQA) requirements.

### **Task 1. Wetlands Delineation and Report**

WRECO, under contract to Kimley-Horn will conduct a wetlands delineation of the Project area in accordance with the U. S. Army Corps of Engineers (USACE) wetlands delineation manual and regional supplements. WRECO will develop a report with figures presenting the survey findings. The report will include the total potential jurisdictional area within the Project limits. The wetlands delineation will be suitable for submittal to the USACE, which is required for the issuance of a Section 404 permit for the Project.

*Deliverables: Wetland Delineation Report (Draft and Final – PDF)*

### **Task 2. Permit Processing**

On November 24, 2015, a San Francisco Bay Area Joint Aquatic Resource Permit Application (JARPA) was submitted for the Project. The purpose of this application was to obtain necessary resource agency permits from the USACE, the San Francisco Bay Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife (CDFW). To date, the USACE has indicated that none of the Project application documents provide adequate information regarding

how federally-protected species and their habitat will be avoided and protected. Similarly, the CDFW and the RWQCB will require mitigation measures for the protection of special-status plants and wildlife and water quality. WRECO will coordinate with the USACE, RWQCB, and CDFW as-needed in order to obtain the permits necessary for the Project.

### **Task 3. Biological Assessment Report and Associated Mitigation Research**

WRECO will prepare a Biological Assessment Report for potential impacts to California red-legged frog (CRLF) and San Francisco garter snake (SFGS). The BA requires “effects” determination statements in order to satisfy the federal Endangered Species Act. In order to achieve a “no effects” determination, avoidance and minimization measures must be proposed to protect federally-listed species and their habitat. In addition, compensatory mitigation is required for impacts to federally-listed species habitat regardless if the species is known to be present or absent. According to the BRS, the Project will result in 0.006 acre of permanent impacts to CRLF and SFGS habitat. Opportunities to do compensatory mitigation for habitat impacts exist within Atherton Channel corridor in the Project area. WRECO will research opportunities and present them the Town of Atherton (Town) for selection of the preferred methods of avoidance and minimization measures to be implemented during the pre-construction and construction phases of the Project. The chosen methods will be included in the BA. The USFWS typically requires 3:1 mitigation (e.g. restoration or enhancement of 3 acres for every 1 acre disturbed).

*Deliverables: Biological Assessment (Draft and Final – PDF)*

### **Optional Tasks**

#### **Task 4. Mitigated Negative Declaration**

All projects in California are required to be reviewed for potential impacts to the environment under CEQA. The Town of Atherton (Town) filed a Notice of Exemption (NOE) for the Project; however, an NOE is not suitable if the Project could result in significant impacts to special-status species. The Biological Resources Study Report for the Project found that California red-legged frog and San Francisco garter snake could occur in the Atherton Channel within the Project area. An NOE does not address how these species would be protected from Project activity; therefore, it is likely that the RWQCB and CDFW (responsible agencies under CEQA) will require a Mitigated Negative Declaration (MND) for the Project.

Our scope and fee assumes that no other technical reports will be required. If further technical studies are necessary, then Kimley-Horn would consult with City staff for approval.

*Deliverables: Draft and Final MND*

### **Task 5. Prepare Revegetation Plan**

Utilizing CAD engineered drawings of the creek in the Project area, WRECO will develop a planting plan that will designate specific information such as guidance for plant layout, salvaging of existing vegetation for replanting, additional planting requirements, and seed mixes to be utilized.

*Deliverables: Revegetation Plan (Draft and Final – CAD and PDF Files)*

### **Task 6. Develop a Conceptual Mitigation and Monitoring Plan**

WRECO will develop a Draft Conceptual Mitigation and Monitoring Plan (MMP) consistent with agency requirements for compensatory mitigation and monitoring performance. The Draft Conceptual MMP will include a planting plan, specifications, description of monitoring methods, success criteria, and details for implementing proposed mitigation. WRECO will submit the Draft Conceptual MMP to the Town for comments, and we will provide written responses to comments and revisions to the draft document for the final submittal.

*Deliverables: Conceptual Mitigation and Monitoring Plan (Draft and Final – PDF Files)*

### **Services Not Included**

Any other services, including but not limited to the following, are not included in this Agreement but may be provided for an additional fee:

- Traffic Study
- Hydrology Study
- Cultural Resources Study
- Special Status Species Surveys
- Geology and Soils Study
- Environmental Impact Report
- NEPA Compliance
- Air Quality / Greenhouse Gas Assessment
- Long-term biological monitoring

### **Additional Services**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates upon written notification by the Owner.

### **Schedule**

We will provide our services as expeditiously as practicable based on the attached schedule. Some Tasks may be able to run concurrently. Delays due to third party actions are excluded from the approximate deliverable schedule.

## Fee and Expenses

KHA will perform the services in Tasks 1 through 3 for the total lump sum labor fee below. Individual task amounts are informational only. In addition to the lump sum labor fee, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. All permitting, application, and similar project fees will be paid directly by the Town. Any subcontractor costs incurred for services beyond those in Tasks 1 through 3 will be at KHA cost plus a 15% mark-up for review and coordination. Optional tasks are provided should the Town and/or resource agencies request such services be provided.

### Tasks

Task 1	Wetlands Delineation and Report	\$ 5,000.00
Task 2	Permit Processing	\$ 3,200.00
Task 3	Biological Assessment Report	<u>\$ 7,000.00</u>
	<i>Subtotal</i>	\$ 15,200.00

### Optional Tasks

Task 4	Mitigated Negative Declaration	\$ 15,000.00
Task 5	Revegetation Plan	\$ 5,000.00
Task 6	Mitigation and Monitoring Plan	<u>\$ 4,500.00</u>
	<i>Subtotal</i>	\$ 24,500.00

**KHA Reimbursable Allowance** \$200.00

**Total Budget (Tasks 1 – 3 + Reimbursables)** **\$15,400.00**

**Total Optional Budget (Tasks 4 – 6)** **\$24,500.00**

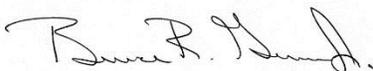
Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Reimbursable expenses will be invoiced based upon expenses incurred. Reimbursables include reproductions, travel, courier services, etc. Payment will be due within 25 days of your invoice receipt.

## Closure

We will commence services only after we have received a fully-executed agreement. Fees and times stated in this proposal are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Respectfully,  
**KIMLEY-HORN AND ASSOCIATES, INC.**



Bruce R. Grove Jr.  
 Project Director / Environmental Services

## Belbrook/Atherton Channel Culvert Replacement Project Town of Atherton

ID	Task Name	Duration	Start	Finish	Feb	Mar	Apr	May	Jun	Jul
					1	<b>Project Management</b>	<b>76 days</b>	<b>Tue 3/1/16</b>	<b>Wed 6/15/16</b>	
2	<b>Notice to Proceed</b>	<b>1 day</b>	<b>Tue 3/1/16</b>	<b>Tue 3/1/16</b>						
3	<b>Task 1. Wetlands Delineation and Report</b>	<b>19 days</b>	<b>Tue 3/1/16</b>	<b>Fri 3/25/16</b>						
4	Perform Wetlands Delineation and Submit Report	11 days	Tue 3/1/16	Tue 3/15/16						
5	Town Review	8 days	Wed 3/16/16	Fri 3/25/16						
6	<b>Task 2. Coordination with Resource Agencies/Permitting</b>	<b>58 days</b>	<b>Fri 3/25/16</b>	<b>Wed 6/15/16</b>						
7	<b>U.S. Army Corps of Engineers</b>	<b>58 days</b>	<b>Fri 3/25/16</b>	<b>Wed 6/15/16</b>						
8	Submit Wetlands Delineation Report	1 day	Fri 3/25/16	Fri 3/25/16						
9	Submit Revised Biological Resources Study with Effects Determination	21 days	Mon 3/28/16	Mon 4/25/16						
10	Provide Any Requested Documents	36 days	Tue 4/26/16	Wed 6/15/16						
11	<b>Regional Water Quality Control Board</b>	<b>47 days</b>	<b>Mon 4/11/16</b>	<b>Wed 6/15/16</b>						
12	Provide MND and Any Requested Documents	47 days	Mon 4/11/16	Wed 6/15/16						
13	<b>Task 3. Mitigated Negative Declaration (MND)</b>	<b>61 days</b>	<b>Tue 3/1/16</b>	<b>Tue 5/24/16</b>						
14	CEQA Preparation	23 days	Tue 3/1/16	Thu 3/31/16						
15	Town Review	14 days	Fri 4/1/16	Wed 4/20/16						
16	Public Review (Mandatory 30 calendar days)	23 days	Thu 4/21/16	Mon 5/23/16						
17	File MND with the County	1 day	Tue 5/24/16	Tue 5/24/16						