

## ATTACHMENT 1

### **DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN CITY OF SUNNYVALE AND KIMLEY-HORN AND ASSOCIATES, INC. FOR THE MAUDE AVENUE BIKEWAYS & STREETSCAPES PROJECT**

THIS AGREEMENT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and KIMLEY-HORN AND ASSOCIATES, INC., a corporation. ("CONSULTANT").

WHEREAS, CITY desires to secure professional services necessary for development of a safe and efficient design, preparation of bid documents for Public Works competitive bidding and, construction support for the Maude Avenue Bikeways and Streetscapes project and

WHEREAS, CONSULTANT represents that it, and its sub-consultants, if any, possess the professional qualifications and expertise to provide the required services and are licensed by the State of California to practice engineering in the required disciplines;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

#### 1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "Scope of Work". All exhibits referenced in this Agreement are attached hereto and are incorporated herein by reference. To accomplish that end, CONSULTANT agrees to assign Daniel Carley to this project, to act in the capacity of Project Manager and personally direct the professional services to be provided by CONSULTANT.

Except as specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to satisfactorily complete the services required in this Agreement.

#### 2. Notice to Proceed/Completion of Services

- (a) CONSULTANT shall commence services upon receipt of a Notice to Proceed from CITY. Notice shall be deemed to have occurred three (3) calendar days after deposit in the regular course of the United States mail.
- (b) When CITY determines that CONSULTANT has satisfactorily completed the services defined in Exhibit "A," CITY shall give CONSULTANT written Notice of Final Acceptance, and CONSULTANT shall not incur any further costs hereunder. CONSULTANT may request this determination of completion when, in its opinion, it has satisfactorily completed the Scope of Work (Exhibit "A"), and if so requested, CITY shall make this determination within fourteen (14) days of such request.

#### 3. Time for Performance

The term of this Agreement shall be from the date of execution through project construction, unless otherwise terminated. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A". Extensions of time may be granted by the City Manager upon a showing of good cause.

4. Payment of Fees and Expenses

Payments shall be made to CONSULTANT on a monthly basis as set forth in the attached Exhibit "B" entitled "Compensation Schedule." All compensation will be based on monthly billings as provided in Exhibit "B." Compensation will not be due until said detailed billing is submitted to CITY within a reasonable time before payment is expected to allow for normal CITY processing. An estimate of the percent of total completion associated with the various categories of the services shall be furnished by CONSULTANT with said billing. When applicable, copies of pertinent financial records will be included with the submission of billing(s) for all direct reimbursables. Compensation shall not exceed the amounts set forth in Exhibit "B" for each phase, and shall include services as identified in Exhibit "A" in the amount of Two Hundred Two Thousand Four Hundred Thirty and No/100 Dollars (\$202,430) for the duration of the contract, as well as optional services in an amount not to exceed Four Thousand and No/100 Dollars (\$4,000.00) for the duration of the contract. In no event shall the total amount of compensation payable under this agreement exceed the sum of Two Hundred Six Thousand Four Hundred Thirty and No/100 Dollars (\$206,430.00) unless upon written modification of this Agreement. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707.

CONSULTANT will be reimbursed as promptly as fiscal procedures will permit upon receipt by the CITY 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 in the Compensation Schedule and shall reference the project title. The final invoice must contain the final cost and all credits due CITY. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work.

5. No Assignment of Agreement

CONSULTANT bind themselves, their partners, successors, assigns, executors, and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of CITY. However, claims for money due to or to become due to CONSULTANT from CITY under this Agreement may be assigned to a bank, trust company or other financial institutions, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to CITY. In case of the death of one or more members of CONSULTANT's firm, the surviving member or members shall complete the services covered by this Agreement. Any such assignment shall not relieve CONSULTANT from any liability under the terms of this Agreement.

6. Consultant is an Independent Contractor

CONSULTANT is not an agent or employee of CITY but is an independent contractor with full rights to manage its employees subject to the requirements of the law. All persons employed by CONSULTANT in connection with this Agreement will be employees of CONSULTANT and not employees of CITY in any respect. CONSULTANT is responsible for obtaining statutory Workers' Compensation coverage for its employees.

7. Consultant's Services to be Approved by a Registered Professional

All reports, costs estimates, plans and other documents which may be submitted or furnished by CONSULTANT shall be approved and signed by a qualified registered professional in the State of California. The title sheet for calculations, specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the professional responsible for their preparation.

8. Standard of Workmanship

CONSULTANT represents and maintains that it is skilled in the professional calling necessary to perform the services and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONSULTANT's representations regarding its skills and knowledge. CONSULTANT shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations reports and other documents furnished under the Scope of Work (Exhibit "A") shall be of a quality acceptable to CITY. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well-organized, technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by CITY for similar projects.

9. Responsibility of CONSULTANT

CONSULTANT shall be responsible for the professional quality, technical accuracy and the coordination of the services furnished by it under this Agreement. Neither CITY's review, acceptance nor payment for any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and CONSULTANT shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT's negligent performance of any of the services furnished under this Agreement.

Any acceptance by CITY of plans, specifications, calculations, construction contract documents, reports, diagrams, maps and other material prepared by CONSULTANT shall not, in any respect, absolve CONSULTANT for the responsibility CONSULTANT has in accordance with customary standards of good engineering practice in compliance with applicable Federal, State, County and/or municipal laws, ordinances, regulations, rules and orders.

10. Right of CITY to Inspect Records of CONSULTANT

CITY, through its authorized employees, representatives, or agents, shall have the right, at any and all reasonable times, to audit the books and records including, but not limited to, invoices, vouchers, canceled checks, time cards of CONSULTANT for the purpose of verifying any and all charges made by CONSULTANT in connection with this Agreement. CONSULTANT shall maintain for a minimum period of three (3) years from the date of final payment to CONSULTANT or for any longer period required by law, sufficient books and records in accordance with generally accepted accounting practices to establish the correctness of all charges submitted to CITY by CONSULTANT. Any expenses not so recorded shall be disallowed by CITY.

11. Confidentiality of Material

All ideas, memoranda, specifications, plans, calculations, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for CONSULTANT and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall be held confidential by CONSULTANT and shall not, without the prior written consent of CITY be used for any purposes other than the performance of the Project services, nor be disclosed to an entity not connected with the performance of the Project services. Nothing furnished to CONSULTANT which is otherwise known to CONSULTANT or is or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use CITY's name, insignia or distribute exploitative publicity pertaining to the services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of CITY.

12. No Pledging of CITY's Credit

Under no circumstances shall CONSULTANT have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

13. Ownership of Material

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared, under this Agreement shall be the property of CITY, but CONSULTANT may retain and use copies thereof.

CITY shall not be limited, in any way, in its use of said material, at any time, for work associated with Project. However, CONSULTANT shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to the release of this material to third parties for work other than on Project.

14. Hold Harmless/Indemnification

To the extent permitted by law (including, without limitation, California Civil Code section 2782.8), CONSULTANT agrees to indemnify, defend and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property to the extent arising out of any negligence, recklessness or willful misconduct of CONSULTANT, its officers, employees, agents, contractor, subcontractors or any officer, agent or employee thereof in relation to CONSULTANT's performance under this Agreement. Such defense and indemnification shall not apply in any instance of and to the extent caused by the sole negligence, recklessness or willful misconduct of CITY, its officers, employees, agents or representatives.

15. Insurance Requirements

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates and/or endorsements as specified in Exhibit "C."

16. No Third Party Beneficiary

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

17. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Manuel Pineda, Director of Public Works  
Department of Public Works  
CITY OF SUNNYVALE  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

To CONSULTANT: KIMLEY-HORN AND ASSOCIATES, INC.  
Attn: Daniel Carley  
4637 Chabot Drive, Suite 300  
Pleasanton, CA 94588

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail, by commercial carrier, or hand-delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

18. Waiver

CONSULTANT agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

19. Amendments

No alterations or changes to the terms of this Agreement shall be valid unless made in writing and signed by both parties.

20. Integrated Agreement

This Agreement embodies the agreement between CITY and CONSULTANT and its terms and conditions. No verbal agreements or conversation with any officer, agent or employee of CITY prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon CITY.

21. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

22. California Agreement

This Agreement has been entered into in the State of California and this Agreement shall be governed by California law.

23. Records, Reports and Documentation

CONSULTANT shall maintain complete and accurate records of its operation, including any and all additional records required by CITY in writing. CONSULTANT shall submit to CITY any and all reports concerning its performance under this Agreement that may be requested by CITY in writing. CONSULTANT agrees to assist CITY in meeting CITY's reporting requirements to the state and other agencies with respect to CONSULTANT's work hereunder. All records, reports and documentation relating to the work performed under this Agreement shall be made available to City during the term of this Agreement.

24. Termination of Agreement

- A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

25. Subcontracting

None of the services covered by this Agreement shall be subcontracted without the prior written consent of CITY. Such consent may be issued with notice to proceed if subcontract consultants are listed in the project work plan.

26. Fair Employment

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, condition of physical handicap, religion, ethnic background or marital status, in violation of state or federal law.

27. Changes

CITY or CONSULTANT may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon by CITY and CONSULTANT, shall be incorporated in amendments to this Agreement.

28. Other Agreements

This Agreement shall not prevent either Party from entering into similar agreements with others.

29. Severability Clause

In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

30. Captions

The captions of the various sections, paragraphs and subparagraphs, of the contract are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.

31. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

32. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

KIMLEY-HORN AND ASSOCIATES,  
INC. ("CONSULTANT")

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
\_\_\_\_\_  
Name/Title

By \_\_\_\_\_  
\_\_\_\_\_  
Name/Title



## **Exhibit "A"**

### **SCOPE OF WORK**

The Kimley-Horn team has reviewed the City's Scope of Work, as included in the RFP, and developed a refined project approach that provides a clear and concise outline of actions and milestones required to meet the goals and objectives of this project. Our refined project approach, which is discussed in detail below, will utilize Kimley-Horn's diverse technical expertise, real-world design experience, and effective construction document production to provide City staff and decision-makers with the information needed to successfully design and construct the proposed bikeway and pavement improvements for Maude Avenue.

#### ***Task 1: Project Management***

The Kimley-Horn Project Manager will supervise, coordinate, and monitor all aspects of the project. We will work with the City at the start of the project to establish and understand the standards and policies which will guide the project development. Kimley-Horn will coordinate with the City including providing monthly project status updates. We anticipate holding an initial kick-off meeting with the City to discuss the proposed project approach, potential design challenges, schedule, and deadlines. This meeting would be summarized with meeting minutes.

Our Project Manager, **Daniel Carley, P.E.**, will develop and maintain a critical path method (CPM) project schedule, updating it at each PS&E submittal, and as requested by the City, subject to a maximum of five total updates. In addition, we will provide progress reports to the City on a monthly basis for the expected eight month project duration through PS&E. Kimley-Horn will attend up to four in-person meetings with the City at the progress submittals (kick-off, 50%, and 100% submittals, and one additional meeting), with the rest of our coordination assumed to be via phone or email.

Kimley-Horn follows a structured QA/QC process that will be implemented throughout the life of the project. We have designated a senior roadway engineer to perform independent reviews ahead of major submittals (50% PS&E and 100% PS&E) to review overall constructability and quality of our deliverables. This task also includes time for the QA/QC manager to attend a field visit, either separate or as part of a project kick-off meeting. We will provide a statement of peer review at the 100% PS&E deliverable.

Since the use of e-Builder software and protocols are required for this project, we will send our Project Manager to attend the 4-hour City-provided training session.

We assume the project management task to occur over eight months. Project management during Bidding Support and Construction Support phases are included in Tasks 5 and 6, respectively.

#### ***Deliverables:***

- Attendance at up to four in-person meetings at the City offices
- Up to five schedule updates
- Meeting minutes and action item logs for in-person team meetings
- FTP site hosted by Kimley-Horn
- Statement of Peer Review at the 100% PS&E Deliverable
- Monthly invoices and status updates
- Attendance at e-Builder training
- AutoCAD or PDF files for use in public outreach by City's outreach consultant

#### ***Task 2: Data Gathering***

The Kimley-Horn team will coordinate its efforts to perform field reconnaissance and gather readily available data/information. This task will consist of data collection including field investigation, assembling readily available information provided by the City, topographic surveys, and gathering readily available

utility facility information.

Kimley-Horn assumes the City will provide any as-built information for the various improvements in the area, including past roadway and drainage improvements, as well as existing signal equipment information.

Our team will send out utility request letters to the utility owners in the immediate area to gather information on existing facilities. We will review and compile the received information to incorporate into our proposed design. We will work to identify potential conflicts and our design intent will be to avoid existing utilities. If our design cannot avoid conflicts with an existing facility, additional coordination with the utility owner will occur to address the conflict, including adjustments, relocations, and protection in place. Our scope and fee assume that the utility owner will provide all utility design services related to adjustment, relocation, or protection of their facilities.

In addition to utility facility requests, we will coordinate with PG&E, as dictated by the proposed signal and lighting improvements, to obtain the necessary permits or approvals for service upgrades or modifications to the existing service. Associated application/service fees will be paid by the City.

Kimley-Horn will evaluate the existing pavement condition by engineers experienced in pavement maintenance projects by performing a field walk-through and visual inspection. Potential rehabilitation treatments will be documented in a Pavement Evaluation Memo and discussed with the City prior to including the selected pavement rehabilitation treatment in the 30% plan set. Kimley-Horn assumes the City will provide the R-value for consideration in evaluating the pavement rehabilitation treatments. If the City would like to have physical testing performed, these services can be provided for additional scope and fee.

Our field investigations and visual inspection will also include identifying locations of potential sidewalk replacement where the existing sidewalk is a potential tripping hazard. These locations and recommendations for replacement will be documented in the Pavement and Sidewalk Evaluation Memorandum.

**LCC, Inc.** will support the Kimley-Horn team by providing field topographic surveys. LCC, Inc. will furnish 1"=10ft scale topographic base maps (or scale as directed by City) for the use in design and construction of new curb ramps at each of the intersections referenced below and new intersection improvements at N. Sunnyvale Ave.

We assume the City will provide an aerial photogrammetry file for the Maude Avenue project corridor that has sufficient resolution for use in our plans.

We will perform topographic mapping based on ground level surveys. Survey limits will include the curb return and an additional 10 feet in each direction along the curb line. There are storm drain inlets adjacent to many of the proposed curb ramp upgrades, so the inverts and storm drain pipe size and material will also be documented with the field survey. Survey will include other above ground utility facilities within the survey limits, and major topographic features, such as curbs, poles, signs, fences, trees, striping and pavement markings, grade breaks, and other existing features which may have direct bearing on the final design of the new improvements.

We will establish control points within the project limits for the field survey mapping described in this proposal utilizing RTK GPS, based on Control monuments and data provided by the City. Should the City not have a preference of coordinate systems, or no control data available, we will use NGS Control monuments of record (based on NAD83, with NAVD 88 elevations).

LCC, Inc. will research County and City record maps (subdivision, parcel maps, records of survey, corner

records, and right-of-way maps) for information about the right-of-way (ROW) and property lines within the limits of survey. For locations where more accurate ROW is required by the proposed improvements, LCC will locate and tie in existing property corners and monuments found in the field, and we will determine the existing ROW and property lines from title, record map, and field information. This ROW data will then be incorporated into the project base maps for up to five properties.

We assume a Traffic Control Vehicle will not be required by the City for our field work, however we will continuously use standard safety precautions (cones and “Survey Party” warning signs) for work in and adjacent to the roadway.

We have not included in this proposal any costs relating to the following: setting of boundary corners; preparing any permanent or temporary easements; setting monuments during or after construction; performing and preparing a Record of Survey or Corner Record; preparation of plat and/ or legal descriptions; obtaining Title Reports; contracting with a subconsultant to locate existing underground utilities; or construction staking or services. Services not included may be provided by request at our standard rates.

We assume no topographic survey information will be required at the Bishop Elementary School parking lot. Our proposed scope does not include any survey, upgrades or improvements to any existing driveways throughout the Maude Avenue project corridor. If the City would like to include improvements to any driveways, we can provide the additional topographic survey and design for additional fee. We assume locations of sidewalk repair/reconstruction identified in the field evaluation will be shown on the plans schematically.

We assume that curb return ADA ramp upgrades and/or new ramps (23 total) will be required at the following locations:

- » **San Angelo Ave. (2 curb ramps)**
- » **Stowell Ave. (2 curb ramps)**
- » **N. Murphy Ave. (2 curb ramps)**
- » **Borregas Ave. (4 curb ramps)**
- » **N. Sunnyvale Ave. (1 curb ramp)**
- » **N. Bayview Ave. (4 curb ramps)**
- » **Morse Ave. (4 curb ramps)**
- » **Roosevelt Ave. (2 curb ramps)**
- » **Worley Ave. (2 curb ramps)**

Based on the layout of the signal equipment developed in the 50% PS&E design phase, **EXARO** will perform potholing to positively locate existing utilities and aid in the placement of the proposed signal pole locations to depths of six feet and at a width of 1' x 1'. If additional potholes are required, they can be provided for additional fee, upon direction to proceed by the City.

Per the MUTCD, we will perform a traffic study/warrant analysis to determine if In-Roadway Warning Lights (IRWL) are compatible with the safety and operation of the nearby intersections if installed at the intersection of Maude Ave and Morse Ave. If the traffic study shows that safety and operations are satisfactory, and the City decides to include IRWL at this intersection, we will include the required plan sheets and design details necessary for construction.

We assume the data collection task to occur over two months.

#### *Optional Task: Pavement Coring*

Based on the proposed pavement rehabilitation treatment, coring of the existing pavement may be

required by the City. A coring plan will be prepared and reviewed with the City prior to commencement of coring activities. We assume the cores would be cold patched and traffic control would not include flaggers. The services for the selected coring plan will be provided for additional fee.

***Deliverables:***

- AutoCAD files of the topographic base files (upon request of the City)
- Pavement and Sidewalk Evaluation Memorandum (PDF)
- Pothole results
- IRLW Traffic Study/Warrant Analysis

***Task 3: Environmental Services***

The following environmental scope of work has been developed based on the following key assumptions:

- CEQA compliance document will be prepared by City Staff.
- Supporting technical documents will be developed pursuant to both NEPA and CEQA guidelines as administered by the Department (Caltrans) and FHWA.
- One project design alternative is assessed through environmental review.

Our work program will be initiated with the kick-off meeting/discussion which will define the parameters of the analysis, scheduling, and understanding of the project. The Kimley-Horn team will evaluate the necessary information with respect to the project. Project research will include coordination with appropriate City departments to acquire relevant environmental data, previous studies for the area, and other available files, exhibits, maps and reference documents. Environmental issues that may require further detailed study or that may delay or affect the viability of the project will be documented.

***Preliminary Environmental Study (PES) Form and Area of Potential Effects (APE) Map***

Environmental issues that may require further detailed study are documented in the PES for City/Caltrans concurrence prior to the initiation of the technical study work program. Kimley-Horn will draft a PES Form for City review with respect to the proposed project details. The City reviewed PES Form will be submitted to Caltrans for review and approval. Kimley-Horn will be available for one site visit with Caltrans and the City to review the area and take comments on the PES Form. The Caltrans approved PES form will act as the work scope for the required NEPA compliance documentation.

As part of this task, Kimley-Horn will draft the Area of Potential Effects (APE) map for both Archaeology and Historic Architecture in coordination with the City and Caltrans. Once the City has reviewed and approved the

APE map, the APE Map will be submitted, with the PES Form, for Caltrans Professionally Qualified Staff (PQS) approval. The APE map will then provide the cultural resources boundaries for the Caltrans PQS-prepared Screened Undertaking, as discussed in Task 2.

***Technical Study Work Program***

Kimley-Horn proposes to prepare technical studies in conformance with NEPA, pertinent FHWA regulations, Caltrans' *Environmental Handbook*, and CEQA. Kimley-Horn will coordinate with Caltrans staff to formalize the specific content and format requirements for each study. These studies will be prepared to comply with both CEQA and NEPA.

Based upon our recent projects within Caltrans District 4, a review of the project as presented in the RFP, and a review of the Caltrans PES Form, Kimley-Horn anticipates that the following technical resources would be addressed by Caltrans staff or within the context of the environmental document, which is anticipated to be a Categorical Exemption (CE) under CEQA and a Categorical Exclusion (CatEx) under NEPA. It is our understanding that the technical studies will be prepared to support both the CE and the

CatEX; however, the City will prepare the CE for CEQA purposes. Should the City and Caltrans review the PES Form and require more analysis on the following resources, Kimley-Horn can provide this analysis under a separate scope of work and fee.

- Air quality can be addressed within the context of the environmental document (CE/CatEx) for construction purposes and would not require a technical study. In addition, the project is exempt from air quality conformity based on 40 CFR 93.126, Table 2, which lists Bicycle and Pedestrian Facilities Projects and Pavement Resurfacing and/or Rehabilitation Projects, as exempt from the requirement that a conformity determination be made.
- Noise can be addressed within the context of the environmental document (CE/CatEx) for construction purposes and would not require a technical study.
- Traffic impacts during construction can be addressed within the context of the environmental document (CE/CatEx) using the previously prepared Traffic Study for this corridor.
- Loss of parking, while not specifically a CEQA or NEPA environmental issue, can be addressed within the context of the environmental document (CE/CatEx) using the previously prepared Traffic Study for this corridor.
- Biological resources can be addressed within the context of the environmental document (CE/CatEx) for construction purposes and would not require a technical study.
- Water quality can be addressed within the context of the environmental document (CE/CatEx) for construction purposes because the project site is within FEMA Zone X and does not cross a water resources; therefore, a technical study would not be required.
- Location Hydraulic Study/ Summary Floodplain Encroachment Report will not be required because the entire project length is within FEMA Zone X (FEMA FIRM Panel 06085C045H)
- Land Use and Community Impact Technical Memorandum will be prepared, as requested by the City.

The Kimley-Horn team has developed the following technical study work plan to satisfy the City and Caltrans environmental requirements (budgets for the following tasks assume responses on two (2) consolidated sets of City/Caltrans review comments).

### *Hazardous Materials Memorandum*

Kimley-Horn will prepare a Phase I Initial Site Assessment (ISA) Checklist and attached Hazardous Materials Memorandum (Memorandum) for the project. The ISA Checklist and Memorandum will be prepared to support the CEQA and NEPA environmental documents for the proposed project.

Kimley-Horn will document the existing hazards and hazardous materials conditions at the project site via regulatory database research and site reconnaissance. Kimley-Horn will review Federal, tribal, State, and local agency records regarding known hazardous material sites/handlers. Identified regulatory sites, within the project boundaries, will be listed within a technical memorandum. Kimley-Horn will utilize the industry's standard database provider, Environmental Data Resources, Inc. (EDR), in order to obtain the regulatory database information. Kimley-Horn will prepare a memorandum that discusses the EDR database report and identifies the potential of environmental conditions within the project site as a result of the reported regulatory properties both on- and off-site, if any.

Kimley-Horn will perform a site visit, which will consist of a visual examination of the project site for visual evidence of potential environmental concerns, as outlined in the ISA Checklist and the Caltrans SER. No subsurface investigations would occur for this ISA Checklist and Memorandum. Kimley-Horn will document the findings within the ISA Checklist. Should Caltrans review the PES and require more analysis, Kimley-Horn can provide this analysis under a separate scope of work and fee.

### *Cultural Resources and Section 106 Compliance*

The goal of the cultural resources work is to meet the requirements for cultural resources pursuant to the First Amended - Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Office and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California (PA) effective January 1, 2014.

**APE Map.** Kimley-Horn will work with environmental subconsultants to prepare the APE map. The APE map will then provide the cultural resources boundaries for the cultural resources reports (Historic Property Survey Report which includes the Archaeological Survey Report).

**Archival Research.** A record search for previous studies and recorded cultural sites will be requested from the Northwest Information Center (CHRIS), Sonoma State University, Rohnert Park, to include the project area and a 1/4-mile radius of the project area. Other background research into the prehistory, ethnography, and history of the project area will be undertaken as appropriate at nearby research facilities. Particular emphasis will be placed on locating USGS and county maps that show historic ownership and land use in the project area.

**Native American Consultation.** The Native American Heritage Commission (NAHC) in Sacramento and persons on its consultants list for Santa Clara County will be contacted to determine if they have information regarding archaeological sites and Traditional Properties in that project area and immediate surrounding area. These individuals will be requested to respond within two weeks, but response time may take up to one month. Late responses will be submitted as an appendix to the report.

**Archaeological Survey.** An on-foot archaeological survey of the project area will be undertaken. All open areas (not covered by asphalt and concrete) will be inspected for such cultural evidence as historic artifacts and features and prehistoric indicators like midden soil, flaked lithics, groundstone, and shell. Any necessary standard DPR 523 forms (Primary Record and Archaeological Site Record) will be completed.

**Archaeological Survey Report.** The ASR will be prepared following the guidelines in the Caltrans Standard Environmental Reference (SER), Volume 2, Exhibit 5.1. It will include a summary of the records search results, Native American consultations, brief historic and ethnographic background sections, description of field methodology, results of the survey, and necessary maps. It will also include any site records prepared for the project area. The ASR will be submitted to the City and Caltrans for review and approval.

Note: The APE has not yet been formally developed and/or approved. It will be prepared prior to this task. The APE must be set by the City and Caltrans and accepted and signed by both the City and Caltrans prior to submittal of the ASR.

**Historic Properties Survey Report (HPSR).** The HPSR will be prepared following the guidelines in Caltrans SER, Volume 2, Exhibit 2.6. The HPSR is a summary report that includes the final draft of the APE map, discusses documentation efforts, the findings of the ASR (and, if necessary, an Extended Phase I ASR), and summarizes the National Register eligibility conclusions for cultural resources. The document also provides evidence of coordination with Native American groups, local government, and other interested persons and organizations, and requests the concurrence of the State Office of Historic Preservation if needed. The final draft of the ASR will be attached as an appendix. The HPSR and appendices will be submitted to Caltrans PQS for review and revisions will be made as necessary.



Because no right-of-way acquisition and no full- or partial-takes of private property are anticipated, no Historic Resources Evaluation Report (HRER) will be necessary for this project. If property right-of-way acquisitions are required, the City and Caltrans will be consulted and a historic evaluation may be necessary. This proposal also does not include possible additional work, such as an Extended Phase 1 Archaeological Survey. If such work is needed, a separate Scope of Work and Budget will be prepared.

### *CEQA Compliance*

Kimley-Horn will prepare the technical studies to support the CEQA CE. However, it is our understanding that the City will prepare the CE. If the City determines that they would rather have Kimley-Horn prepare the CE, a separate scope and fee will be provided to the City.

### *NEPA Compliance*

Kimley-Horn will prepare the technical package to provide Caltrans in support of the NEPA CatEx. This package will include the supporting technical studies identified above, as well as the City's approved CEQA CE. Kimley-Horn will work with Caltrans to draft the NEPA CatEx pursuant to Section 23 USC 326, 23 CFR 771 activity (c)(3). KIMLEY-HORN will also prepare a Draft Environmental Commitments Record (ECR), if necessary, which will be submitted to Caltrans for review and approval. Should any of the studies identify the need to prepare the more time consuming Environmental Assessment, a separate scope and fee will be provided to the City.

### *Environmental Coordination and Meeting Attendance*

Kimley-Horn anticipates meetings with City and Caltrans staff. **Christa Redd** will attend up to three meetings with City and Caltrans staff, including the PES site visit, kick-off meeting, and one Project Development Team meeting. Attendance by environmental team members at public meetings or hearings are not anticipated for this project.

### *Land Use and Community Impact Technical Memorandum*

Based on similar local assistance projects in Sunnyvale, Kimley-Horn, will prepare a Community Impact Memorandum to address the community impacts, in this case benefits, of the proposed project. Kimley-Horn will prepare the Community Impact Memorandum in conformance with NEPA, pertinent FHWA regulations, Caltrans' *Environmental Handbook*, and CEQA. The Memorandum will be prepared per the Caltrans Environmental Handbook, Volume 4, *Community Impacts Assessment*, as well as the Local Assistance Procedures Manual, Chapter 6, *Environmental Procedures*. Kimley-Horn will coordinate with City and Caltrans staff to formalize the specific content and format requirements for the study.

Kimley-Horn will use the City's General Plan adopted in 2011, Fair Oaks Junction Sense of Place Plan adopted in 2012, and other related plans as well as environmental studies, in addition to U.S. Census Bureau, California Department of Finance Census and Survey, and any other sources available which provide information to develop the neighborhood characteristics within the project study area. Our scope assumes that there will be no right-of-way acquisition and that no relocations will be necessary. The Community Impact Memorandum will provide existing conditions, impact analysis, and will provide conclusions of the impacts in a condensed manner to discern the benefits of community connectivity and discuss the conclusion of the project's growth inducing potential. If, through consultation with the City and Caltrans, a full Community Impact Assessment or a Relocation Impact Memorandum (or Study) is determined to be necessary, a separate scope and fee will be provided to the City.

### ***Deliverables***

- One Draft PDF copy of the PES and APE for City/Caltrans review
- One Final PDF copy of the PES and APE for City/ Caltrans review and approval

- One Draft PDF copy of each technical memoranda (studies) for City/Caltrans review
- One Final PDF copy of each technical memoranda (studies) for City/Caltrans review and approval
- Five Final copies for of each technical memoranda (studies) for Caltrans NEPA processing
- One PDF copy of the Draft CE for Caltrans review and approval
- CEQA documentation for filing at the County Recorder's Office
- Photometric analysis report
- NEPA clearance documentation
- Land Use and Community Impact Technical Memorandum

#### ***Task 4: Final Design Development (50%, 100%, Final)***

Kimley-Horn will advance the design options selected by the City at the kick-off meeting and we will develop the final design PS&E package for construction documents, supporting documents and applications.

We assume the final design task will occur over eight months and we anticipate preparing the following type and number of sheets for the construction plans at the final bid set submittal:

Cover.....	1 sheet
Horizontal Control.....	1 sheet
Layout Plans.....	2 sheet
Construction Details .....	5 sheets
Drainage Plans and Details.....	4 sheets
Utility Plans and Details .....	3 sheets
Pavement Rehabilitation Plans and Details.....	4 sheets
Signing and Striping Plans and Quantities.....	2 sheets
Signal Modification Plans and Quantities .....	3 sheets
In-Pavement Lighted Crosswalk Plans .....	2 sheets
Landscape and Planting Plans and Details.....	2 sheets (1 planting + detail)
Irrigation Plans and Details .....	2 sheets (1 plan +1 details/schedules)
<b>Total.....</b>	<b>31 sheets</b>

#### ***Task 4.1: 50% PS&E***

The 50% plans will include the sheets above with limited details and vertical design information. The construction detail sheets for the proposed curb ramp designs, as well as proposed drainage improvements, will provide limited vertical design information. We will fully design a maximum of 6 curb return ramps on the construction detail sheets. The remaining curb ramp designs will include curb return profiles and standard detail callouts only. Proposed drainage horizontal layout (as needed) will be provided at this design level.

Included with the signal modification, street lighting analysis will be performed at the Maude Ave/Sunnyvale Ave intersection and a photometric analysis will be provided to the City. The analysis will be based on the City's selected LED fixture and Caltrans and City lighting standards.



We assume the City will be provide a set of specifications in CSI format from a recent City project that can be used as a go-by for creation of our project specifications.

***Deliverables:***

- 50% Plans (PDF and three (3) hardcopies, 24"x36", bond)
- Equipment/Appurtenances cut sheets
- Utility Coordination Documentation
- Updated Project Schedule
- 50% Engineer's Opinion of Probable Construction Cost (OPCC) (PDF and three (3) hardcopies, 11"x17", bond)
- Table of Contents list for technical specifications
- Survey information (AutoCAD 2015 format)
- Proposed potholing plan and potholing results
- Proposed coring plan (if required)
- CD containing PDFs of submitted documents
- Documentation of discussions with VTA for bus stop relocation

***Task 4.3: 100% PS&E***

Based on one set of non-conflicting City review comments with only minor changes to the plans, Kimley-Horn will advance the design and plans to the 100% design level. Significant design or plan changes will be considered additional scope and can be performed for additional fee.

***Deliverables:***

- 100% Plans (six (6) hardcopies, 24"x36", bond)
- 100% Specifications (six (6) hardcopies)
- Updated Project Schedule
- 100% Engineer's OPCC
- Responses to City's review comments on 75% submittal with return markups
- Construction E-76 application submitted to Caltrans
- CD containing PDFs of submittal documents
- PG&E service applications obtained (as needed)
- Documentation of support from VTA for bus stop relocation
- DBE calculation sheets for design services
- Applications for Right of Way Certification and Utility Certification
- E-76 Submitted for Construction Authorization

***Task 4.4: Final PS&E***

Based on one set of non-conflicting City review comments with only minor changes to the plans, Kimley-Horn will advance the design and plans to the final/bid design level. Significant design or plan changes will be considered additional scope and can be performed for additional fee.

***Deliverables:***

- Bid Plans (one (1) signed hardcopy, 24"x36", bond)
- Bid Specifications (one (1) single-sided hardcopy with signed technical specifications)
- Final Project Schedule
- Final OPCC
- Responses to City's review comments on 100% submittal with return markups
- CD containing PDFs of submittal documents

### ***Task 5: Bidding Support***

The Kimley-Horn team will provide support to the City during the bidding phase by reviewing and responding to bidders' questions and RFIs, and providing addenda to the construction documents subject to the allocated budget for this task. Our scope includes up to 25 hours for bidding support.

We assume the bidding support task to occur over two months.

#### ***Deliverables:***

- Responses to RFIs and addenda

### ***Task 6: Construction Support***

The Kimley-Horn team will coordinate with and provide support to the City during construction for the following services. Our scope includes up to 50 hours for construction support.

1. Attend and prepare information for an internal handoff meeting to discuss possible construction issues and items of special consideration for the construction management team.
2. Attend the pre-construction meeting.
3. Attend up to three periodic construction progress meetings as directed by the City.
4. Participate in the final inspection and development of punch lists. We will observe the construction and provide recommendations for the City to consider for generating the final punch list.
5. Review and response to appropriate RFIs, which may include revisions and clarifications of design details and specifications.
6. Review and response to material submittals.
7. Review and response to proposed substitutions, if any, for conformance to the construction documents.
8. Review and response to proposed changes to the contract (Request for Quotations and Contract Change Orders).
9. Prepare Record Drawings based upon red-lines provided by the contractor and field reviews performed by the City construction management team. Kimley-Horn will not inspect the contractor's work, but rather, periodically observe and bring any possible discrepancies with the construction documents to the City's construction management team.
10. Participate in the "Lessons Learned Meeting" at the end of the project. We assume the construction support task to occur over six months.

#### ***Deliverables:***

- Responses to RFIs, submittals, and revised details, plans, or specifications
- Record drawings prepared in AutoCAD and provided to the City in AutoCAD and PDF formats

## Exhibit "B"

### COMPENSATION SCHEDULE

City of Sunnyvale - REVISED FEE 7/11/16  
 Proposal For: Maude Avenue Bikeway and Streetscapes  
 Kimley-Horn and Associates, Inc.

Tasks		Labor												Subconsultants			ODCs	Total	
Task #	Task Description	Project Manager	QA/QC Manager	Principal-in-Charge	Sr. Professional	Professional II	Professional II	Professional I	Professional I	Analyst I	Project Support	Admin. Support	Total Hours	Total Labor Costs	Surveying	Potholing	Environmental	Other Direct Costs	Total Fee
		Daniel Carley	Mike Hollingsworth	John Pulliam	Varies	Varies	Varies	Varies	Varies	Varies	Varies	Varies			LCC	EXARO			
		\$180.00	\$290.00	\$265.00	\$280.00	\$215.00	\$190.00	\$180.00	\$150.00	\$125.00	\$125.00	\$90.00			Fee/Hr or LS	Fee/Hr or LS	Fee/Hr or LS		
1	Project Management	64	20	0	0	0	2	0	4	0	18	8	116	\$21,270					\$21,470
	In-Person Meetings (4 total)	16							4				20	\$3,480				\$200	\$3,680
	Project Coordination	35										4	39	\$6,660					\$6,660
	e-Builder Training	4											4	\$720					\$720
	Project Administration (9 months)	9									18	4	31	\$4,230					\$4,230
	QC/QA and Constructability (2 submittals, 1 field meeting)		20				2						22	\$6,180					\$6,180
2	Data Gathering, Pavement and Sidewalk Evaluation	23	10	0	0	2	0	12	12	33	0	4	96	\$15,915					\$52,015
	Field Visits	4						8		8			20	\$3,160	\$25,000	\$10,000		\$100	\$38,260
	Utility Coordination	2								10			12	\$1,610	\$1,000				\$2,610
	PG&E Coordination	10						4	8	5			27	\$4,345					\$4,345
	In-Roadway Warning Light Warrant Analysis	1				2			4	10			17	\$2,460					\$2,460
	Pavement and Sidewalk Evaluation	6	10									4	20	\$4,340					\$4,340
3	Environmental Services	0	0	0	12	60	0	0	0	90	0	7	169	\$28,140					\$34,940
	Environmental Review & Documents				8	52				50		5	115	\$20,120			\$4,300	\$2,500	\$26,920
	Land Use and Community Impact Technical Memorandum				4	8				40		2	54	\$8,020					\$8,020
4	Final Design Development	105	10	31	6	0	25	20	60	225	0	10	492	\$78,070					\$79,170
	50% Design	60	4	15	4		12	10	40	130		4	279	\$43,745				\$500	\$44,245
	100% Design	30	4	12	2		8	8	15	70		4	153	\$24,620				\$500	\$25,120
	Bid Package	15	2	4			5	2	5	25		2	60	\$9,705				\$100	\$9,805
5	Bidding Support Services	19	0	2	0	0	2	0	0	0	0	2	25	\$4,510					\$4,510
	Bid Support	19		2			2					2	25	\$4,510				\$0	\$4,510
6	Construction Support Services	30	0	15	0	0	5	0	0	0	0	0	50	\$10,325					\$10,325
	Construction Support	30		15			5						50	\$10,325				\$0	\$10,325
	Proposal Subtotal	241	40	48	18	62	34	32	76	348	18	31	948	\$158,230	\$26,000	\$10,000	\$4,300	\$3,900	\$202,430
	Optional Services																		
A	Coring for Pavement Rehabilitation (per day)													\$0		\$4,000		-	\$4,000
B														\$0				-	\$0
	Total Optional Services	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$4,000	\$0	\$0	\$4,000
	Total Including Optional Services	241	40	48	18	62	34	32	76	348	18	31	948	\$158,230	\$26,000	\$14,000	\$4,300	\$3,900	\$206,430

## Exhibit "C"

### INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Consultant, his agents, representatives, or employees.

**Minimum Scope and Limits of Insurance:** Consultant shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form CG 0001 is required.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 is required.
3. **Workers' Compensation** and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.
4. **Errors and Omissions** Liability Insurance appropriate to the Consultants Profession: \$1,000,000 per occurrence and \$2,000,000 aggregate.

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

### **Other Insurance Provisions**

The **general liability** and **automobile liability** policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.
2. For any claims related to this project, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.

### **Claims Made Coverage**

If the General Liability and/or Errors & Omissions coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Consultant must purchase an extended period coverage for a minimum of five years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Sunnyvale for review.

### **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

### **Verification of Coverage**

Consultant shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.