

REPORT TO CITY COUNCIL

DATE: JULY 12, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: JESSICA FORTE, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER

SUBJECT: REQUEST TO APPROVE THE FIRST AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES WITH KIMLEY-HORN AND ASSOCIATES, INC., FOR PROFESSIONAL ENGINEERING SERVICES

On February 23, 2023, staff solicited proposals in order to update the City's Transportation Impact Fee (TIF) Program. The scope of work includes developing a TIF Nexus Study that documents the relationship between future development in Agoura Hills and the amount of transportation improvements that are needed to accommodate growth as identified in the City's General Plan Update.

The common way to ensure that future developments pay their fair share for the necessary improvements to the arterial street system is through a mitigation fee that allows the City to collect an amount of money from a developer relative to the expected volume of traffic that a particular type of development, of a particular size, is expected to generate.

On March 23, 2023, the City received proposals from three (3) prospective firms: Iteris, Inc., Kimley-Horn and Associates, Inc. (Kimley-Horn), and Michael Baker International. A selection committee comprised of City staff reviewed and evaluated the proposals, and determined that two firms would be invited back for oral interviews.

The selection committee conducted oral interviews on May 3, 2023, and Kimley-Horn was unanimously selected as the most experienced and qualified to complete this work.

Kimley-Horn has provided on-call traffic engineering services to the City since 2007. In addition, they have assisted with various capital improvement projects, including the Agoura Road Widening and Kanan/Agoura Ultimate Intersection projects.

While not part of the criteria used to score the firms, Kimley-Horn's cost proposal of \$134,910 has been accounted for in the Fiscal Year 2023-2024 Budget. Due to the amount of Kimley-Horn's cost proposal, staff determined Kimley-Horn's current Agreement for Consultant Services could be amended to include the TIF Update rather

than executing a separate agreement. It should be noted the original agreement's not-to-exceed amount would remain the same as previously approved.

Due to an oversight regarding the indemnification language in their current Agreement for Consultant Services, Kimley-Horn is requesting the indemnification section be replaced with the indemnification requirements found in the City's Design Services Agreement which is more in line with the services they provide to the City. Staff supports this request and is consistent with Kimley-Horn's previous agreements.

The proposed First Amendment to the Agreement for Consultant Services has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council approve the First Amendment to the Consultant Services Agreement with Kimley-Horn and Associates, Inc., for professional engineering services.

Attachment: First Amendment to Agreement for Consultant Services

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT:	Kimley-Horn & Associates, Inc.
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Sri Chakravarthy
CONSULTANT'S ADDRESS:	660 South Figueroa St, Ste. 2050 Los Angeles, CA 90017
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Kelly Fisher
COMMENCEMENT DATE:	July 1, 2021
TERMINATION DATE:	June 30, 2024
CONSIDERATION:	Amendment Amount: \$0 Total Contract Price Not to Exceed: \$1,500,000

**FIRST AMENDMENT TO AGREEMENT BETWEEN
CITY OF AGOURA HILLS AND KIMLEY-HORN & ASSOCIATES, INC.**

On-Call Engineering Services

THIS FIRST AMENDMENT is made and entered into as of July 12, 2023, by and between the City of Agoura Hills, a municipal corporation (hereinafter referred to as "City"), and Kimley-Horn & Associates, Inc. a Corporation (hereinafter referred to as "Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. This Amendment is made with the respect to the following facts and purposes:

a. On July 1, 2021, the City and Consultant entered into that certain Agreement entitled "Agreement for Consultant Services", in the amount of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00).

b. The parties now desire to add scope of work, and to amend the Agreement as set forth in this Amendment.

2. Section 9 of the Agreement entitled "**INDEMNIFICATION**" at paragraph "a" is hereby amended to read as follows:

a. Indemnity for Design Professional Services. In the connection with its design professional services, Consultant shall hold harmless and indemnify City, and its elected officials, officers, employees, servants, designated volunteers, and those City agents serving as independent consultants in the role of City officials (collectively, "Indemnitees"), with respect to any and all claims, demands, damages, liabilities, losses, costs or expenses, including reimbursement of attorneys' fees and costs of defense (collectively, "Claims" hereinafter), including but not limited to Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate in whole or in part to the negligence, recklessness, or willful misconduct of Consultant or any of its officers, employees, sub-consultants, or agents in the performance of its professional services under this Agreement.

b. Other Indemnities. In connection with any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense (collectively, "Damages" hereinafter) not covered by Paragraph 8.a. above, Consultant shall defend, hold harmless and indemnify the Indemnitees with respect to any and all Damages, including but not limited to, Damages relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to acts or omissions of Consultant or any of its officers, employees, sub-consultants, or agents in the performance of this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the City, as determined by final arbitration or court decision or by the agreement of the parties. Consultant shall defend Indemnitees in any action or actions filed in connection with any such Damages with counsel of City's choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant's duty to defend pursuant

to this Section 8.b. shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions of Indemnitees.

3. Exhibit "A" to the Agreement is hereby amended by adding thereto the items set forth on Attachment "A" to this Amendment, which is attached hereto and incorporated herein as though set forth in full.

4. Except for the changes specifically set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Chris Anstead,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk
*Date Approved by City
Council* _____

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

Kimley-Horn & Associates, Inc.
660 South Figueroa St., Ste. 2050
Los Angeles, CA 90017
Sri Chakravarthy
213-261-4037

By: _____ 

Print Name: Sri Chakravarthy

Title: Vice President / P.E. 73629

By: _____ 

Print Name: Laura Forinash

Title: Assistant Secretary / P.E. 93146

**[Signatures of Two Corporate Officers
Required]**



ATTACHMENT A

Attached hereto and incorporated herein is the additional scope of work.

- Prepare Traffic Impact Fee Update