

City of Piedmont COUNCIL AGENDA REPORT

DATE: August 19, 2024

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Consideration of a First Amendment to the City's Agreement with Kimley-Horn at an Amount Not to Exceed (NTE) \$53,200, with an Amended Overall Budget of \$596,725, for Additional Services Related to the City of Piedmont's Clean Water Program and Municipal Regional Permit Compliance for Stormwater, and Amendment of the Contract Term

RECOMMENDATION

By a single motion, take the following actions:

- (1) Approve the proposed first amendment to the City's agreement with Kimley-Horn for additional services related to the City of Piedmont's Clean Water Program and Municipal Regional Permit Compliance for stormwater in the amount of \$53,200.
- (2) Amend the agreement term to expire in February 5, 2026, bringing the total Not-To-Exceed Contract Amount to \$596,725.
- (3) Authorize the City Administrator to execute project related documents.

BACKGROUND

The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit, otherwise referred to as the Municipal Regional Permit (MRP), requires municipal agencies throughout the Bay Area to take actions that help prevent and minimize stormwater pollution entering storm sewer systems and downstream waters. The San Francisco Regional Water Quality Control Board (SFRWQCB) administers the permit under authority delegated by the EPA pursuant to the federal Clean Water Act Section 402. The Alameda County Clean Water Program (ACCWP) helps to organize compliance and reporting efforts among the entirety of Alameda County and aligns standards with over 70 Bay area municipalities permitted under the MRP.

Since 2020, the City has engaged the professional services of Kimley-Horn and Associates, Inc. (Kimley-Horn) to assist with addressing the various and wide-ranging MRP requirements. On February 6, 2023, the City Council approved the award of a contract between the City and Kimley-Horn for a not-to-exceed fee of \$174,913. That contract included an option to renew the contract for two one-year terms, with an escalation for consumer price index (CPI) for "All Urban Consumers for San Francisco-Oakland, California, as published by the United States Department of Labor, Bureau of Labor Statistics, for the period immediately preceding the commencement of the option period in question."

The City is now in need of additional technical support that, in part, reflect substantially new requirements set forth in the re-issued Municipal Regional Permit 3.0 (MRP 3.0), which was authorized by the SFRWQCB and effective July 1, 2022.

DISCUSSION

The Amendment to Contract, Attachment 1, presents a total NTE fee that includes:

- 1) The 23-24 original contract amount of \$174,913;
- 2) The current February 24-25 contract amount of \$179,811 (base amount of compensation and a 2.8% CPI escalation);
- 3) An estimate for the upcoming contract renewal for February 6, 2025 – February 5, 2026, of \$188,801. This estimate was derived from the terms of the original contract which cap the renewal costs to base compensation with an increase of CPI. Without knowing future CPI percentages, City Staff conservatively estimate an escalation of 5%. CPI will likely be lower than 5%, and accordingly, staff is requesting authorization for the City Administrator to execute any necessary documents to reflect the actual amount when it is known; and
- 4) An additional scope of work to reflect new demands for meeting MRP 3.0 requirements. City staff and Kimley-Horn have found that the requirements of MRP 3.0 have been the most time-consuming to date, placing greater demands on professional services than anticipated in the 2023 contract. Recognizing this trend and considering upcoming MRP 3.0 deadlines, the Amendment to Contract includes additional professional services related to three of the MRP 3.0 provisions summarized below.

Provision C. 3 New Development and Redevelopment: Green Infrastructure Implementation

As part of the roadway and pedestrian safety improvements planned at the intersection of Grand and Fairview Avenues, the City will install its first bioretention area treating roadway run-off in the planned bulb outs. The size of the bioretention areas will enable the City to meet the minimum MRP 3.0 requirement for green infrastructure treating run-off to be installed by 2027.

As part of their current contract, Kimley-Horn has been coordinating with the City engineer to develop the bioretention concept at Fairview Ave and Grand Ave. However, additional environmental design expertise is needed to develop detailed landscape architectural construction plans and accurate proper construction and installation of the green infrastructure.

As outlined in Attachment 1, the not-to-exceed fee for Kimley-Horn to develop landscape architectural construction plans is \$13,100. This includes completion of City-approved tree disposition plans, landscape planting plans, landscape irrigation plan, and landscape architectural specifications that will be included in the construction bid package developed with the City engineer.

Furthermore, as outlined in Attachment 1, the not-to-exceed fee for Kimley-Horn to complete on-site inspections is \$2,600. This scope includes visits to the construction site to observe if construction is generally proceeding in accordance with the contract documents and keeping the City informed of the general progress of the work.

Provision C.6 Construction Site Controls: Storm Water Pollution Prevention Plan (SWRPP) Review and Inspections

Provision C.6 of the MRP lays out the requirements and framework for jurisdictions to “prevent construction site discharges of pollutants into the storm drains.” As part of this Provision, the City of Piedmont and the Water Board have the authority to deem construction sites as High Priority, requiring them to undergo, at a minimum, monthly inspections during the rainy season (October – April) on construction sites, even if they disturb less than one acre.

Through C.6, the City can also ask that site owners submit a Storm Waste Pollution Prevention Plan (SWPPP) for sites determined to be High Priority. SWPPPs provide greater detail in the best management practices to be implemented on-site during construction to prevent discharges into the storm drains than standard erosion and sediment control plans. For sites disturbing one or more than an acre SWPPPs are required to be submitted to the State, who review and approve plans as well as conduct inspections. However, for High Priority Sites under an acre, the City can ask for a SWPPP without requiring its submittal to the State.

As outlined in Attachment 1, the Amendment to Contract’s scope of work includes Kimley-Horn professional services to review SWPPPs submitted to the City for High Priority Sites to ensure compliance with local, state, and federal regulations. The scope of work also includes Kimley-Horn staff conducting on-site monthly inspections and any necessary additional inspections during the rainy season. Costs for these tasks are not to exceed \$21,500. However, all of these costs are reimbursable from the site owner as part of building permit review process.

Provision C.10 Trash Load Reduction: Private Land Development Area Compliance

With the implementation of MRP 3.0 in 2022, the City is now required to develop a compliance strategy for Private Lands Drainage Areas (PLDA) that are connected to the storm drainage system. By July 1, 2025, the City must ensure that private lands with high trash generation and drainage to storm drain inlets (not owned or operated by the City but connected to its storm water systems) have full trash capture systems or equivalent measures, unless there is a trash capture device downstream of these private lands.

As outlined in Attachment 1, the NTE fee for Kimley-Horn to support the City's planning and preparation for complying with PLDA full trash capture requirements is \$16,000. This scope of work includes:

1. PLDA confirmation and assessment of existing conditions: \$4,000.

2. Preparation of communications fact sheet to engage property owners within a PLDA, informing them about the current state of their existing storm drains (taken from Task 1), provide an explanation of the requirements outlined in MRP 3.0, and provide a list of the necessary steps that need to be taken to comply with the requirements. This fact sheet is intended to be tailored to individual sites, be educational and collaborative with property owners: \$5,500.
3. Identification of existing practices at the PLDAs and conducting site visits to identify existing trash capture controls and opportunities for improvement: \$3,000.
4. Development of three options for the City to discuss compliance with property owners, who will ultimately be responsible for implementing these trash controls to meet the MRP requirement by June 25, 2025: \$3,500.

REVIEW BY CITY ATTORNEY:

The proposed modifications to the Contract have been reviewed and approved by the City Attorney.

CONCLUSION, COUNCIL ACTION AND NEXT STEPS:

The City consistently works with ACCWP and consultants to meet the requirements of the MRP. However, requirements continue to expand and deepen, driving the City to launch new programs and projects that have defined deadlines. The recommended Amendment to Contract allows the City to continue to meet its obligations under the MRP 3.0 with the expertise of professional services delivered by Kimley-Horn.

FISCAL IMPACT

On February 6, 2023, the City Council approved the award of the most current contract between the City and Kimley-Horn. This Amendment to the Contract with Kimley-Horn provides for additional professional services, extends the term of the contract to February 5, 2026, and accordingly, updates the NTE to \$596,725 in Sewer Funds. The additional scope of work for Provision C.6 for SWPPP review and on-site inspections, in the NTE amount of \$21,500 is reimbursable from private property owners as part of building permit review processes. If less consultant assistance is required for the scope of work and/or the CPI is less than estimated, the fiscal impact will be adjusted accordingly. A summary is provided in the below table:

Date	Amount	
Agreement year one - 2023	\$	174,913
Agreement year two - 2024	\$	179,881
Agreement year three - 2025	\$	188,801
Original Authorization	\$	543,595
Amendment No. 1	\$	53,200
Revised Authorization	\$	596,795

ATTACHMENTS

	<u>Pages</u>
1	6 - 12 Amendment to Contract

By: Daniel Gonzales, Public Works Director
Deniz Ergun, Sustainability Program Manager
Nancy Kent, Parks & Projects Manager

AMENDMENT TO CONTRACT

This Amendment to Contract (“Amendment”) is made and entered into on this Second day of August, 2024 (the “Effective Date”) by and between the City of Piedmont, a California municipal corporation (“City”), and Kimley-Horn and Associates, Inc. (“Independent Contractor”).

R E C I T A L S

A. City and Independent Contractor entered into a Contract, dated February 6, 2023 (“Original Contract” and, together with this Amendment, “Contract”), under which Independent Contractor provides certain project management, owner’s representative, and other services to the City in connection with the City’s compliance with the Municipal Regional Permit (MRP) program (“Program”).

B. On December 28, 2023, the City and Independent Contractor mutually agreed to renew the Contract, with an expiration date of February 5, 2025.

C. The parties now wish to amend the Original Contract to: (1) add as additional services the scope of services (“Kimley-Horn Professional Services Amended Services Scope”) described in Exhibit A attached hereto and incorporated herein; (2) increase the not-to-exceed (NTE) to \$596,725, which reflects the Original Contract amount of \$174,913, the renewal amount for services from February 5, 2024 through February 5, 2025 in the amount of \$179,811, the additional services provided in Exhibit A to this Contract in the amount of \$52,300, and the additional anticipated amount for services from February 5, 2025 through February 6, 2026 in the amount of \$188,801, which takes into account a Consumer Price Index adjustment as specified in the Original Contract, and (3) update the term of the Contract to expire on February 5, 2026.

D. All capitalized terms not otherwise defined in this Amendment shall have the respective meanings provided in the Original Contract.

A G R E E M E N T

NOW, THEREFORE, the parties hereto agree as follows:

1. The parties agree that the Recitals set forth above are true and correct and are incorporated herein.
2. The Parties hereby approve Exhibit A, the “Kimley-Horn Professional Services Amendment Services Scope,” attached hereto and incorporated herein, as additional services under the Contract.
3. The Parties hereby amend Section 4 of the Contract to read in its entirety as follows: “City will pay the Independent Contractor for the satisfactory performance of the Services the not-to-exceed amount of for the services described in Section 3 above. Total compensation under this Contract shall not exceed \$596,725 and costs incurred, or work performed by Independent Contractor in excess of this amount is at Independent Contractor's sole risk. City shall issue

payment within 30 days of the receipt of invoice for satisfactory completion of the services completed for said billing period.”

4. The Parties hereby amend Section 5 of the Contract to read in its entirety as follows:

“This Contract shall begin on the Effective Date. Unless otherwise terminated as provided in this Contract, this Contract shall terminate on February 5, 2026.”

5. Unless explicitly amended by this Amendment, all terms and provisions of the Contract shall remain in full force and effect.

[Signature Page Follows]

CONTRACTOR

Kimley-Horn and Associates, Inc.

By: _____
[Title]

CITY

CITY OF PIEDMONT, a California municipal corporation

By: _____
XXXXXXXXX, [Title]

ATTEST:

Anna Brown, City Clerk

APPROVED AS TO FORM:

Michelle Marchetta Kenyon, City Attorney
Deepa Sharma, Assistant City Attorney

Exhibit A

Kimley-Horn Professional Services Amended Services Scope, Additional Services

Task 9: Compliance of C.10, Private Land Drainage Areas (PLDAs)

Total Scope for Compliance of C.10, Private Land Drainage Areas (PLDAs): \$16,000

1. PLDA Confirmation + Existing Condition Assessment: \$4,000 (Lump Sum)
Confirmation of Private Land Drainage Areas (PLDAs) in the project area and assessment of the current trash management status.
2. Communication Strategy Fact Sheet: \$5,500 (Lump Sum)
Preparation of a fact sheet for City of Piedmont staff to engage property owners within a PLDA, informing them about the upcoming requirement and explaining how the City plans to collaborate with property owners in the near future. Please note that Kimley-Horn's attendance at these discussions is not included in this scope, but can be provided as an additional service for an extra fee. The City will conduct visits to property owners for these initial discussions.
3. PLDA Site Visits: \$3,000 (Lump Sum)
Identification of existing practices at the PLDAs aimed at controlling trash loads from entering the storm drain system. This will involve obtaining necessary permissions to access the sites, conducting preparatory work to understand the drainage on site at the PLDAs, reviewing examples of trash controls implemented by businesses in the Bay Area or municipalities with similar regulations, and conducting site visits to identify existing trash capture controls and opportunities for improvement.
4. Alternative Development + Selection: \$3,500 (Lump Sum)
Based on the information gathered from site visits and review of existing trash control actions, Kimley-Horn will prepare up to three options for the City to discuss with property owners who will ultimately be responsible for implementing these trash controls to meet the MRP requirement. This process will involve drafting up to three options, City review, revising options, and selecting the most feasible option (s) for discussion with property owners and subsequent implementation by June 25, 2025.

Task 10 – High Priority Site SWPPP Review

Total Scope for Stormwater Pollution Prevent Plan Review: \$21,500

SWPPP Review: \$3,500 (Lump Sum)

Kimley-Horn will conduct a thorough review of the Stormwater Pollution Prevention Plan (SWPPP) for compliance with local, state, and federal regulations. Kimley-Horn will evaluate the SWPPP's effectiveness in preventing or minimizing stormwater pollution. The review will identify any deficiencies or areas of non-compliance in the SWPPP. Kimley-Horn will provide recommendations for corrective actions or improvements to ensure compliance. This scope assumes two rounds of review and one meeting. This scope of work is for a single project.

Inspections: \$18,000 (Lump Sum)

Kimley-Horn will conduct a total of nine inspections throughout the rainy season, which spans from October to April. These inspections will specifically focus on monitoring the effectiveness of

the installed Best Management Practices (BMPs) at high priority sites. It's important to note that these inspections are not state-level Stormwater Pollution Prevention Plan (SWPPP) certified.

During the inspections, our team will primarily assess the adequacy and effectiveness of the site-specific BMPs implemented to meet the requirements of C.6. We will also be conducting visual observations to identify any actual discharges of sediment and/or construction-related materials into storm drains and/or water bodies. Additionally, we will be looking for evidence of sediment and/or construction-related material discharges into storm drains and/or water bodies, as well as any illicit connections or potential for illicit connections.

If any actual or potential problems are identified during the inspections, the City will be promptly notified and corrections will be required within a timely manner.

Please keep in mind that this scope of work does not include state-level SWPPP certification and is specifically tailored to a single project.

Task 11 – Planting and Irrigation Plans

Total Scope for Landscape Architecture Services: \$15,700

1. Landscape Architectural Construction Documents (CD): \$13,100 (Lump Sum)

Kimley-Horn will prepare one set of Landscape Architectural Construction Documents to the City for review and eventual approval. Based on correspondence with the City, preliminary or conceptual plans will not be required, prior to preparing CDs. The plans will be full-Size (24x36") black and white and provided in PDF format. Kimley-Horn will revise the plans and specifications up to two (2) times, based on reasonable and consolidated City comments. Revisions beyond those identified above may be provided as an additional service. The following deliverables are expected as part of this task:

Tree Disposition Plans:

Kimley-Horn will prepare one set of Tree Disposition plans, notes and details indicating the removal of all existing trees within the limits shown in *Figure 1*. Kimley-Horn will endeavor to replace the trees at the City's prescribed street tree replacement ratio of 1:1, but will defer to the City's Public Works Department to provide final determination on tree locations, quantities and species.

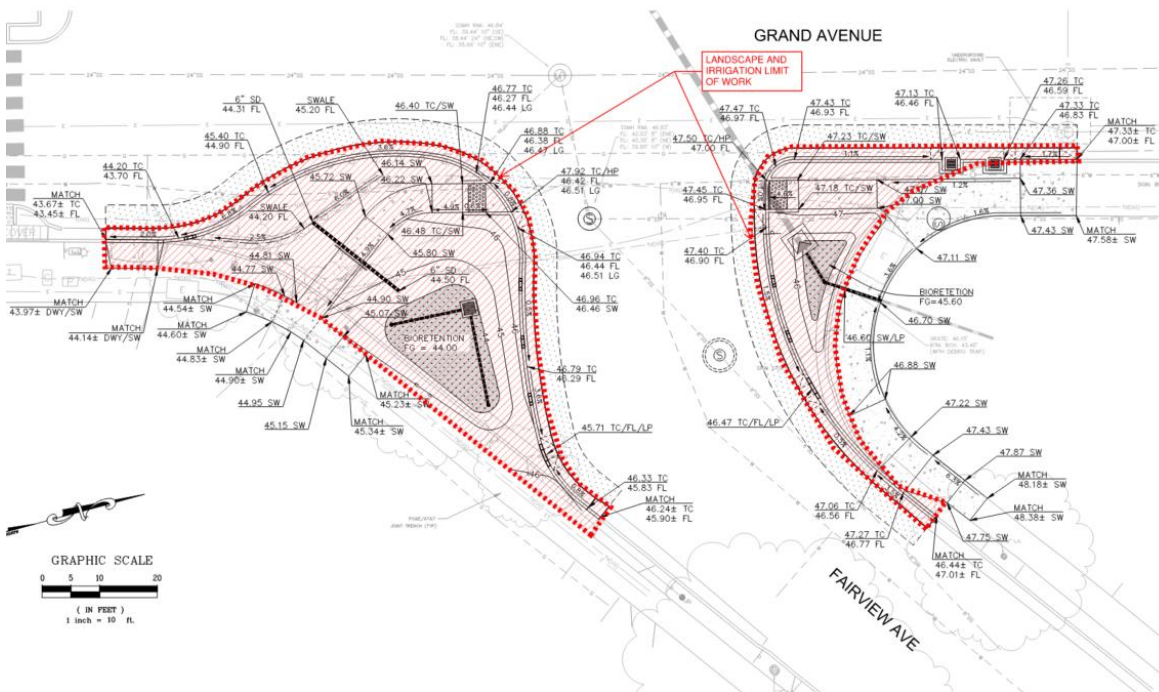


Figure 1 - landscape and irrigation limit of work

Landscape Planting Plans:

Kimley-Horn will prepare a preliminary planting layout sketch and plant list for Public Works to review and provide input. Kimley-Horn will also prepare one (1) set of Planting Plans for the area within the limits shown in Figure 1, consisting of a detailed layout of proposed plantings with a plant schedule identifying species, quantities, sizes, spacing, Water Use Classification of Landscape Species (WUCOLS) rating, applicable notes and details for implementation. Planting within the two (2) identified bioretention areas will be per the Alameda County C.3 Stormwater Technical Guidance.

Landscape Irrigation Plans:

Kimley-Horn will review available water pressure information and prepare one set of Irrigation Plans, notes and details for the area within the limits shown in Figure 1, indicating required irrigation system equipment to achieve 100% coverage. Such appurtenances may include: irrigation point of connection, backflow prevention device, controller, weather sensor, main lines, sleeves, lateral lines, and drip emitters. The plans will consist of applicable irrigation details, notes, calculations, and water use summary tables per plant type and emitter. The irrigation design will meet the specifications set forth in the State and City's Water Efficient Landscape Ordinances.

Landscape Architectural Specifications:

Kimley-Horn will prepare written landscape planting and irrigation technical specifications, per the City's typical format and general guidelines.

2. Design Services During Construction: \$2,600 (Hourly)

Kimley-Horn will conduct up to four (4) on-site construction observation visits during the construction

phase. Kimley-Horn will make visits at intervals as directed by City in order to observe the progress of the work. Such visits and observations by Kimley-Horn are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, and similar methods of general observation of the work based on Kimley-Horn's exercise of professional judgment. Based on information obtained during such visits and such observations, Kimley-Horn will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Kimley-Horn will keep Client informed of the general progress of the work. Kimley-Horn assumes up to twelve (12) hours of effort attributed to the City-requested site visits. As part of this task, Kimley-Horn will respond to additional requests by the City for support services beyond the four (4) site visits. Those additional requests will be performed at our then current hourly rates.

Additional Landscape Services

Any services not specifically provided for in the above scope, as well as any changes in scope made at the Client's request, will be considered additional services, and will be performed at our then current hourly rates. This will require approval in writing before any work shall continue.

Additional services Kimley-Horn can provide include, but are not limited to, the following:

1. Water Pressure readings and/or pump station design
2. Color rendered plan, exhibits and or 3D modeling/imagery
3. Signage Monumentation design and/or detailing
4. Value Engineering
5. Submittal and/or Permitting Fees
6. Existing Plant Inventory, Tree Protection Plans or Landscape Preservation Plans beyond those identified in this letter agreement
7. Fence/ Railing design and detailing
8. Warranty and/or Maintenance Administration
9. Recycled water system design and/or permitting
10. Arborist report
11. Hardscape plans
12. Landscape Imagery Board