

RESOLUTION NO. 2015-147

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING AGREEMENT BETWEEN CITY OF MARINA AND KIMLEY-HORN AND ASSOCIATES, INC. OF SALINAS, CALIFORNIA, TO PROVIDE TRAFFIC ENGINEERING SERVICES FOR THE DUNES ON MONTEREY BAY (“DUNES”) TRAFFIC IMPACT ANALYSIS (TIA) UPDATE; (2) APPROPRIATE \$66,450 FROM PUBLIC FACILITIES IMPACT FEE FUND NO. 29 (ROADWAY AND INTERSECTION IMPACT FEES) TO THE CITY CAPITAL IMPROVEMENT PROJECTS FUND NO. 462. TBD; (3) AUTHORIZE THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES; AND (4) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, on May 31, 2005, along with other entitlements, Marina City Council adopted Resolution No. 2005-127, certifying the Final Environmental Impact Report (FEIR) (SCH. No. 2004091167) for University Villages Specific Plan project (now Dunes on Monterey Bay Specific Plan) in accordance with the California Environmental Quality Act and state and local guidelines, making certain findings and determinations thereto, adopting a statement of overriding considerations, and adopting a mitigation monitoring and reporting program. The Traffic Impact Analysis (Appendix F of the FEIR) contained an analysis of the transportation network for the Specific Plan area, and;

WHEREAS, at the regular meeting of January 28, 2014, the Marina City Council discussed the multimodal corridor and a greenway corridor from Marina beaches to the Ford Ord National Monument and directed staff to look at the feasibility of adopting into current general and specific plans, and other adopted planning documents, an alternative route for TAMC’s multimodal corridor through the City of Marina, and an open space greenway and recreation corridor(s) connecting the Fort Ord Dunes State Park with our two National Park Service land grant, and;

WHEREAS, at the regular meeting of June 3, 2014, the Marina City Council adopted Resolution 2014-58, receiving an informational presentation from TAMC staff regarding the Marina-Salinas Multimodal Corridor Plan and providing conceptual support for Option No. 2 (8th Street/2nd Avenue/Imjin Parkway) as the preferred corridor alignment, and;

WHEREAS, since the certification of the Dunes FEIR, in 2005, there have been a number of changes to evaluated land uses types. These changes, in conjunction with relocation of the multimodal corridor and potential closure of 8th Street for recreational trail and greenway purposes warrant further investigation of associated impacts to traffic operations, and;

WHEREAS, KHA was requested by staff to submit a Scope of Services for a TIA to understand the implications of these changes to the traffic network (“**EXHIBIT A**”), and;

WHEREAS, the update of the Dunes Traffic Impact Analysis (TIA) will evaluate current intersection and road segment operations, validate the need and timing for traffic-related capital improvement projects based on mitigation measures, evaluate relocating the Marina-Salinas Multimodal Corridor from 9th Street to 2nd Avenue/Imjin Parkway, and evaluate closing 8th Street to vehicle traffic between 3rd Avenue and 5th Avenue/California Avenue, and;

WHEREAS, the analysis is needed as part of the environmental review to support the General Plan amendments needed for the above-noted projects.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve agreement between City of Marina and Kimley-Horn and Associates, Inc., (KHA) of Salinas, California, to provide traffic engineering services for the Dunes on Monterey Bay (“Dunes”) Traffic Impact Analysis (TIA) update;
2. Appropriate \$66,450 from Public Facilities Impact Fee Fund No. 29 (Roadway & Intersection Impact Fees) to the City Capital Improvement Projects Fund No. 462.TBD;
3. Authorize the Finance Director to make the necessary accounting and budgetary entries; and
4. Authorize the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 15th day of December 2015 by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O’Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**CITY OF MARINA
AGREEMENT FOR TRAFFIC ENGINEERING SERVICES FOR THE
PROPOSED DUNES TRAFFIC IMPACT ANALYSIS UPDATE**

THIS AGREEMENT is made and entered into on _____, 2015, by and between the City of Marina, a California charter city, hereinafter referred to as the "City," and Kimley-Horn and Associates, Inc., a North Carolina corporation, hereinafter referred to as the "Contractor." City and Contractor are sometimes individually referred to as "party" and collectively as "parties" in this Agreement.

Recitals

- A. City desires to retain Design Professional to provide traffic engineering services for the proposed Dunes on Monterey Bay (“Dunes”) Traffic Impact Analysis (TIA) update.
- B. Contractor represents and warrants that it has the qualifications, experience and personnel necessary to properly perform the services as set forth herein.
- C. City desires to retain Contractor to provide such services.

Terms and Conditions

For of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises contained herein, City and Contractor agree to the following terms and conditions:

1. Scope of Work.

(a) Contractor is hereby hired and retained by the City to work in a cooperative manner with the City to fully and adequately perform those services set forth in Exhibit “A” attached hereto (“Scope of Work”) and by this reference made a part hereof. With prior written notice to Contractor, City may elect to delete certain tasks of the Scope of Work at its sole discretion.

(b) Contractor shall perform all such work with skill and diligence and pursuant to generally accepted standards of practice in effect at the time of performance. Contractor shall provide corrective services without charge to the City for work which fails to meet these standards and which is reported to Contractor in writing within sixty days of discovery. Should Contractor fail or refuse to perform promptly its obligations under this Agreement, the City may render or undertake the performance thereof and the Contractor shall be liable for any expenses thereby incurred.

(c) If services under this Agreement are to be performed by a design professional, as that term is defined in California Civil Code §2782.8(b)(2), design professional certifies that all design professional services shall be provided by a person or persons duly licensed by the State of California to provide the type of services described in Section 1(a). By delivery of completed work, design professional certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws, and the professional standard of care in California.

(d) Contractor is responsible for making an independent evaluation and judgment of all relevant conditions affecting performance of the work, including without limitation site conditions, existing facilities, seismic, geologic, soils, hydrologic, geographic, climatic conditions, applicable federal, state and local laws and regulations and all other contingencies or considerations.

(e) City shall cooperate with Contractor and will furnish all information data, records and reports existing and available to City to enable Contractor to carry out work outlined in Exhibit "A". Contractor shall be entitled to reasonably rely on information, data, records and reports furnished by the City, however, the City makes no warranty as to the accuracy or completeness of any such information, data, records or reports available to it and provided to Contractor which were furnished to the City by a third party. Contractor shall have a duty to bring to the City's attention any deficiency or error it may discover in any information provided to the Contractor by the City or a third party.

2. Term of Agreement & Commencement of Work.

(a) Unless otherwise provided, the term of this Agreement shall begin on the date of its full execution and shall expire on December 31, 2016, unless extended by amendment or terminated earlier as provided herein. The date of full execution is defined as the date when all of the following events have occurred:

(i) This Agreement has been approved by the City's Council or by the board, officer or employee authorized to give such approval, and;

(ii) The office of the City Attorney has indicated in writing its approval of this Agreement as to form, and;

(iii) This Agreement has been signed on behalf of Contractor by the person or persons authorized to bind the Contractor hereto, and;

(iv) This Agreement has been signed on behalf of the City by the person designated to so sign by the City's Council or by the officer or employee authorized to enter into this Contract and is attested to by the Marina City Clerk.

(b) Contractor shall commence work on the Project on or by December 15, 2015. This Agreement may be extended upon written agreement of both parties. Contractor may be required to prepare a written schedule for the work to be performed, which schedule shall be approved by the City and made a part of Exhibit "A", and to perform the work in accordance with the approved schedule.

3. Compensation.

(a) City liability for compensation to Contractor under this Agreement shall only be to the extent of the present appropriation to fund this Agreement. For services to be provided under this Agreement City shall compensate Contractor in an amount not to exceed Sixty-six Thousand Four Hundred Fifty Dollars (\$66,450.00) in accordance with the provisions of this Section and the Cost Estimates attached hereto as Exhibit "B" and incorporated herein by this reference.

(b) Invoice(s) in a format and on a schedule acceptable to the City shall be submitted to and be reviewed and verified by the Project Administrator (see Section 5(a)) and forwarded to the

City's Finance Department for payment. City shall notify Contractor of exceptions or disputed items and their dollar value within fifteen days of receipt. Payment of the undisputed amount of the invoice will typically be made approximately thirty days after the invoice is submitted to the Finance Department.

(c) Contractor will maintain clearly identifiable, complete and accurate records with respect to all costs incurred under this Agreement on an industry recognized accounting basis. Contractor shall make available to the representative of City all such books and records related to this Agreement, and the right to examine, copy and audit the same during regular business hours upon 24-hour's notice for a period of four years from the date of final payment under this Agreement.

(d) Contractor shall not receive any compensation for Extra Work without the prior written authorization of City. As used herein, "Extra Work" means any work that is determined by the City to be necessary for the proper completion of the Project but which is not included within the Scope of Work and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement.

(e) Expenses not otherwise addressed in the Scope of Services or the Fee Schedule incurred by Contractor in performing services under this Agreement shall be reviewed and approved in advance by the Project Administrator (Section 5(a)) and reimbursed to Contractor.

4. Termination or Suspension.

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten days written notice of intent to terminate, and (2) provided an opportunity for consultation with the terminating party prior to termination.

(b) If termination for default is effected by the City, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the Contractor at the time of termination may be adjusted to cover any additional costs to the City because of the Contractor's default. If after the termination for failure of Contractor to fulfill its contractual obligations, it is determined that the Contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the City.

(c) The City may terminate or suspend this Agreement at any time for its convenience upon not less than thirty days prior written notice to Contractor. Not later than the effective date of such termination or suspension, Contractor shall discontinue all affected work and deliver all work product and other documents, whether completed or in progress, to the City.

(d) If termination for default is effected by the Contractor or if termination for convenience is effected by the City, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Contractor relating to written commitments that were executed prior to the termination.

5. Project Administrator, Project Manager & Key Personnel.

(a) City designates as its Project Administrator Acting Community Development Director Ms. Theresa Szymanis, AICP CTP, who shall have the authority to act for the City under this Agreement. The Project Administrator or his/her authorized representative shall represent the City in all matters pertaining to the work to be performed pursuant to this Agreement.

(b) Contractor designates Frederik Venter, P.E., as its Project Manager who shall coordinate all phases of the Project. The Project manager shall be available to City at all reasonable times during the Agreement term.

(c) Contractor warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement. Contractor, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of services upon written request of City. Contractor has represented to City that certain key personnel will perform and coordinate the work under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of the City. In the event that City and Contractor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Mr. Frederik Venter, P.E. (Project Manager).

6. Delegation of Work.

(a) If Contractor utilizes any subcontractors, consultants, persons, employees or firms having applicable expertise to assist Contractor in performing the services under this Agreement, Contractor shall obtain City's prior written approval to such employment. Contractor's contract with any subcontractor shall contain a provision making the subcontract subject to all provisions of this Agreement. Contractor will be fully responsible and liable for the administration, completion, presentation and quality of all work performed. City reserves its right to employ other contractors in connection with this Project.

(b) If the work hereunder is performed by a design professional, design professional shall be directly involved with performing the work or shall work through his, her or its employees. The design professional's responsibilities under this Agreement shall not be delegated. The design professional shall be responsible to the City for acts, errors or omissions of his, her or its subcontractors. Negligence of subcontractors or agents retained by the design professional is conclusively deemed to be the negligence of the design professional if not adequately corrected by the design professional. Use of the term subcontractor in any other provision of this Agreement shall not be construed to imply authorization for a design professional to use subcontractors for performance of any professional service under this Agreement.

(c) The City is an intended beneficiary of any work performed by a subcontractor for purposes of establishing a duty of care between the subcontractor and the City.

7. Skill of Employees. Contractor shall ensure that any employees or agents providing services under this Agreement possess the requisite skill, training and experience to properly perform such services.

8. Confidential and Proprietary Information. In the course of performing services under this Agreement Contractor may obtain, receive, and review confidential or proprietary

documents, information or materials that are and shall remain the exclusive property of the City. Should Contractor undertake the work on behalf of other agencies, entities, firms or persons relating to the matters described in the Scope of Work, it is expressly agreed by Contractor that any such confidential or proprietary information or materials shall not be provided or disclosed in any manner to any of Contractor's other clients, or to any other third party, without the City's prior express written consent.

9. Ownership of Data. Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by Contractor, or any subcontractor of any tier, under this Agreement shall be and remain the property of the City for its use in any manner it deems appropriate. Contractor agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City. Contractor shall provide two (2) sets of reproducible of the above-cited items, except for the computer data files which shall consist of one (1) set. Contractor shall use all reasonable efforts to ensure that any electronic files provided to the City will be compatible with the City's computer hardware and software. Contractor makes no representation as to long-term compatibility, usability or readability of the format resulting from the use of software application packages, operating systems or computer hardware differing from those in use by the City at the commencement of this Agreement. Contractor shall be permitted to maintain copies of all such data for its files. City acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work and, should City use these products or data in connection with additions to the work required under this Agreement or for new work without consultation with and without additional compensation to Contractor, Contractor makes no representation as to the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Work and shall have no liability or responsibility whatsoever in connection with such use which shall be at the City's sole risk. Any and all liability arising out of changes made by the City to Contractor's deliverables is waived against Contractor unless City has given Contractor prior written notice of the changes and has received Contractor's written consent to such changes.

10. Conflict of Interest.

(a) Contractor covenants that neither it, nor any officer or principal of its firm has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of the City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of the City in the performance of this Agreement. Contractor shall represent the interest of the City in any discussion or negotiation.

(b) City understands and acknowledges that Contractor may be, as of the date of commencement of services under this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Contractor is unaware of any stated position of the City relative to such projects. Any future position of the City on such projects may result in a conflict of interest for purposes of this section.

(c) No official or employee of the City who is authorized in such capacity on behalf of the City to negotiate, make, accept, or approve, or take part in negotiating, making accepting or

approving this Agreement, during the term of his or her tenure or service with City and for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof or obtain any present or anticipated material benefit arising there from.

11. Disclosure. Contractor may be subject to the appropriate disclosure requirements of the California Fair Political Practices Act, as determined by the City Manager.

12. Non-Discrimination.

(a) During the performance of this Agreement the Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California and the City. In performing this Agreement, Contractor shall not discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (including cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. Contractor shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

(b) Contractor shall include the nondiscrimination and compliance provisions of this Section in all subcontracts.

13. Indemnification & Hold Harmless.

(a) Other than in the performance of professional services by a design professional, which shall be solely as addressed by subsection (b) below, and to the full extent permitted by law, Contractor shall indemnify, defend (with independent counsel reasonably acceptable to the City) and hold harmless City, its Council, boards, commissions, employees, officials and agents ("Indemnified Parties" or in the singular "Indemnified Party") from and against any claims, losses, damages, penalties, fines and judgments, associated investigation and administrative expenses, and defense costs including but not limited to reasonable attorney's fees, court costs, expert witness fees and costs of alternate dispute resolution (collectively "Liabilities"), where same arise out of the performance of this Agreement by Contractor, its officers, employees, agents and sub-contractors. The Contractor's obligation to indemnify applies unless it is adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

(b) To the fullest extent permitted by law (including without limitation California Civil Code Sections 2782.8), when the services to be provided under this Agreement are design professional services to be performed by a design professional, as that term is defined under said section 2782.8, Contractor shall indemnify, protect, defend (with independent counsel reasonably acceptable to the City) and hold harmless City and any Indemnified Party for all Liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of design professional, or the acts or omissions of an officer, employee, agent or subcontractor of the design professional. The design professional's obligation to indemnify applies unless it is adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of an indemnified

party the design professional's indemnification obligation shall be reduced in proportion to the established comparative liability.

(c) All obligations under this section are to be paid by Contractor as incurred by City. The provisions of this Section are not limited by the provisions of sections relating to insurance including provisions of any worker's compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub tier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

(d) If any action or proceeding is brought against any Indemnified Party by reason of any of the matters against which the Contractor has agreed to defend the Indemnified Party, as provided above, Contractor, upon notice from the City, shall defend any Indemnified Party at Contractor's expense by counsel reasonably acceptable to the City. An Indemnified Party need not have first paid for any of the matters to which it is entitled to indemnification in order to be so defended. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the City for reimbursement of reasonable attorney's fees and defense costs.

(e) This obligation to indemnify and defend City, as set forth herein, is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this Section.

14. Insurance.

(a) As a condition precedent to the effectiveness of this Agreement and without limiting Contractor's indemnification of the City, Contractor agrees to obtain and maintain in full force and effect at its own expense the insurance policies set forth in Exhibit "C" "Insurance" attached hereto and made a part hereof. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf, along with copies of all required endorsements. All certificates and endorsements must be received and approved by the City before any work commences. All insurance policies shall be subject to approval by the City Attorney and Risk Manager as to form and content. Specifically, such insurance shall: (1) protect City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium; and (3) be primary with respect to City's insurance program. Contractor's insurance is not expected to respond to claims that may arise from the acts or omissions of the City.

(b) City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required herein by giving Contractor ninety days advance written notice of such change. If such change should result in substantial additional cost of the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to City.

(c) All required insurance must be submitted and approved the City Attorney and Risk Manager prior to the inception of any operations by Contractor.

(d) The required coverage and limits are subject to availability on the open market at reasonable cost as determined by the City. Non availability or non affordability must be documented by a letter from Contractor's insurance broker or agency indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each. Within the foregoing constraints, Contractor's failure to procure or maintain required insurance during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premium in connection therewith and recover all monies so paid from Contractor.

(e) By signing this Agreement, Contractor hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract. Unless otherwise agreed, a waiver of subrogation in favor of the City is required.

15. Independent Contractor. The parties agree that Contractor, its officers, employees and agents, if any, shall be independent contractors with regard to the providing of services under this Agreement, and that Contractor's employees or agents shall not be considered to be employees or agents of the City for any purpose and will not be entitled to any of the benefits City provides for its employees. City shall make no deductions for payroll taxes or Social Security from amounts due Contractor for work or services provided under this Agreement.

16. Claims for Labor and Materials. Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

17. Discounts. Contractor agrees to offer the City any discount terms that are offered to its best customers for the goods and services to be provided herein, and apply such discounts to payment made under this Agreement which meet the discount terms.

18. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

19. Dispute Resolution. If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties shall first meet and confer in a good faith attempt to resolve the matter between themselves. If the dispute is not resolved by meeting and conferring, the matter shall be submitted for formal mediation to a mediator selected mutually by the parties. The expenses of such mediation shall be shared equally between the parties. If the dispute is not or cannot be resolved by mediation, the parties may mutually agree (but only as to those issues of the matter not resolved by mediation) to submit their dispute to arbitration. Before commencement of the arbitration, the parties may elect to have the arbitration proceed on an

23. **Amendments, Changes or Modifications.** This Agreement is not subject to amendment, change or modification except by a writing signed by the authorized representatives of City and Contractor.

24. **Force Majeure.** Notwithstanding any other provisions hereof, neither Contractor nor City shall be held responsible or liable for failure to meet their respective obligations under this Agreement if such failure shall be due to causes beyond Contractor's or the City's control. Such causes include but are not limited to: strike, fire, flood, civil disorder, act of God or of the public enemy, act of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemic, quarantine restriction, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

25. **Attorney's Fees.** In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

26. **Successors and Assigns.** All of the terms, conditions and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this paragraph is intended to affect the limitation on assignment.

27. **Authority to Enter Agreement.** Contractor has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.

28. **Waiver.** A waiver of a default of any term of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

29. **Severability.** Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

30. **Construction, References, Captions.** Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. The captions of the various sections are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement.

31. **Advice of Counsel.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of this Agreement.

32. **Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

33. **Time.** Time is of the essence in this contract.

34. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters as set forth in this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid. . The exhibits attached hereto are incorporated into this Agreement. In the event of a conflict between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

IN WITNESS WHEREOF, Contractor and the City by their duly authorized representatives, have executed this Agreement, on the date first set forth above, at Marina, California.

CITY OF MARINA

CONTRACTOR

By: _____

By: _____

Name: Layne P. Long

Name: _____

Its: City Manager

Its: _____

Date: _____

Date: _____

Approved as to form:

By: _____
City Attorney

Exhibit A – Scope of Work

Exhibit B – Project Cost Estimate

Project Task	Fee Summary
Task 1: Project Management and Meetings	\$ 4,982.00
Task 2: Model Development	\$ 15,520.00
Task 3: Project Trip Generation	\$ 5,750.00
Task 4: Trip Distribution and Assignment	\$ 7,420.00
Task 5: Scenario Analysis	\$ 23,375.00
Task 6: Draft Report	\$ 6,055.00
Task 7: Final Report	\$ 3,335.00

Project Fee Summary Total:	\$ 66,450.00
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Exhibit C - Insurance

Contractor agrees to provide insurance in accordance with the requirements set forth herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the City before any work commences. The City reserves its right to require complete, certified copies of all required insurance policies at any time. The following coverage will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

Commercial General Liability (primary). Commercial general liability insurance covering Contractor's operations (and products where applicable) is required whenever the City is at risk of third party claims which may arise out of Contractor's work or presence on City premises. Contractual liability coverage is a required inclusion in this insurance.

Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or on an ISO or ACORD form providing coverage at least as broad as ISO form CG 00 01 10 01 and approved in advance by the City Attorney and Risk Manager. Total limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence for all coverages. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be two million dollars (\$2,000,000). Contractor must give written notice to the City of any pending claim, action or lawsuit which has or may diminish the aggregate. If any such claim or lawsuit exists, Contractor shall be required, prior to commencing work under this Agreement, to restore the impaired aggregate or prove it has replacement insurance protection to the satisfaction of the City Attorney and Risk Manager.

City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 or forms CG 20 10 10 01 and CG 20 37 10 01. Coverage shall apply on a primary, non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City. Coverage is not expected to respond to the claims which may arise from the acts or omissions of the City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

Umbrella Liability Insurance. Umbrella liability insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage.

Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policies limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies shall have starting and ending dates concurrent with the underlying coverage.

Business Auto. Automobile liability insurance is required where vehicles are used in performing the work under this Agreement or where vehicles are driven off-road on City premises, it is not required for simple commuting unless City is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

If automobile insurance is required for work under this Agreement, primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or on an ISO or ACORD form providing coverage at least as broad as CA 00 01 10 01 approved by the City Attorney and Risk Manager. Coverage shall be endorsed to stated that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible. Limits shall be no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

Workers’ Compensation/Employers’ Liability. Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under California law these coverages (or a copy of the State's Consent to Self-Insure) must be provided if Contractor has any employees at any time during the period of this Agreement. Policy(s) shall be written on a policy form providing workers’ compensation statutory benefits as required by law. Employers’ liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease and shall be scheduled under any umbrella policy described above. Unless otherwise agreed, policy(s) shall be endorsed to waive any right of subrogation as respects the City, its Council, boards and commissions, officers, employees, agents and volunteers.

Property Insurance. Property insurance, in a form and amount approved by the City Attorney and Risk Manager, is required for Contractors having exclusive use of premises or equipment owned or controlled by the City. City is to be named a Loss Payee As Its Interest May Appear in property insurance in which the City has an interest, e.g., as a lien holder. Fire damage legal liability is required for persons occupying a portion of City premises.

Errors and Omissions/Professional Liability. Errors and Omissions or professional liability coverage appropriate to Contractor's profession, in a form and amount approved by the City Attorney and Risk Manager, will be specified on a project-by-project basis if Contractor is working as a licensed professional. Contractor shall maintain such insurance for a period of five years following completion of the project. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) per claim and in annual aggregate. Design professionals shall maintain such insurance in place until the expiration of the warranty period of the Project.

Contractor and City further agree as follows:

a) This Exhibit supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

b) Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

d) Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

e) For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or toward performance of this Agreement.

f) All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, Contractor's employees, or agents from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.

g) Unless otherwise approved by City, Contractor's insurance shall be written by insurers authorized and admitted to do business in the State of California with a minimum "Best's" Insurance Guide Rating of "A:VII." Self-insurance will not be considered to comply with these insurance specifications.

h) In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

i) Contractor agrees to provide evidence of the insurance required herein, satisfactory to City Attorney and Risk Manager, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional endorsement to Contractor's general liability and umbrella liability policies using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City within ten days of City's request for said copies.

j) Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Contractor agrees to require all subcontractors or other parties hired for this Project to provide workers' compensation insurance as required herein and general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City, will be submitted to City for review. Contractor acknowledges that such contracts or agreements may require modification if the insurance requirements do not reflect the requirements herein. Failure of City to request copies of such agreements will not impose any liability on City, its Council, boards and commissions, officers, employees, agents and volunteers.

m) If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

n) Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

o) Coverage will not be limited to the specific location or individual entity designated as the address of the Project. Contractor agrees to have its coverage endorsed so that all coverage limits required pursuant to this requirement are available separately for each and every location at which Contractor conducts operations of any type on behalf of City. Contractor warrants that these limits will not be reduced or exhausted except for losses attributable to those specific locations and not by losses attributable to any other operations of Contractor.

p) Contractor agrees not to attempt to avoid its defense and indemnity obligations to City, its Council, boards and commissions, officers, employees, agents and volunteers by using as a defense Contractor's statutory immunity under workers' compensation or similar statutes.

r) Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Contractor and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with City or its employees.

s) Contractor shall maintain commercial general liability, and if necessary, commercial umbrella liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence for at least three years following substantial completion of the work.



December 9, 2015

Mr. Nourdin Khayata, PE
Engineering Division, City of Marina
211 Hillcrest Avenue
Marina, CA 93933

RE: Proposal for an update of the Dunes of Monterey Bay (formerly University Villages) Traffic Impact Analysis in Marina, CA

Dear Mr. Khayata:

Kimley-Horn and Associates, Inc. (Kimley-Horn) is pleased to submit this proposal to provide traffic engineering services for the proposed The Dunes on Monterey Bay (“Dunes”) Traffic Impact Analysis (TIA) update. The Dunes project area is located just east of Highway 1 and south of Imjin Parkway, in the City of Marina, California.

The purpose of the Dunes TIA update is to understand current intersection and road segment operations and validate the need and timing for traffic-related capital improvement program (CIP) projects based on mitigation measures. The Dunes TIA update will also evaluate changes to the circulation network, as shown in the Street Hierarchy Plan, including (a) relocating the Marina-Salinas Multimodal Corridor to a new alignment through the project area (i.e., from 9th Street to 2nd Avenue/Imjin Parkway) and (b) closing 8th Street to vehicle traffic between 3rd Avenue and 5th Avenue/California Avenue.



This letter is in accordance with your request and based on information that you have provided to date concerning the project, and constitutes a proposal setting forth our proposed Scope of Services, Schedule, and Fee. This proposal includes the following information:

1. Project Understanding/Approach
2. Scope of Work

3. Schedule
4. Fee Estimate

Project Understanding / Approach

The Dunes is a mixed-use, planned community located on approximately 429 acres of the former Fort Ord military base. The Final Environmental Impact Report (FEIR) for the project was certified in 2005. The purpose of the original FEIR TIA was to study the traffic impact associated with planned development within the Dunes project area. The year 2004 represented the baseline for evaluating “Existing Conditions,” and the traffic analysis assumed year 2013 as the project buildout year. A variety of residential, commercial and other land uses were utilized to understand their combined influence on road and intersection operating conditions, which were evaluated based on the level of service (LOS) concept. Altogether, project buildout in the FEIR TIA included 1,237 residential units, 1,122,055 square feet (sf) of retail uses, 809,171 sf of business park, 561,850 sf of government type offices, 10,000 sf of general office, and various other land uses such as a multiplex theater, gas station, community building, soccer fields, a possible transit center, a church, and “opportunity phase” development.

A portion of the Dunes project has been built or is under construction, including the regional retail component (Dunes Shopping Center), movie theater (Cinemark), single- and multi-family housing, Peninsula Wellness Center, VA Clinic, and hotel rooms (Marriott Springhill Suites). In light of the economic downturn of 2007-2009, the remaining portions of the Dunes project (aka project buildout) are now anticipated to be complete by the year 2020.

Since the certification of the FEIR, in 2005, there have been a number of changes to evaluated land use types and the proposed circulation network that warrant taking another look at current and projected traffic operations. For instance, the Peninsula Wellness Center, a medical facility, was constructed in 2011 instead of a grocery store and associated service retail shops at the south east corner of Imjin Parkway and 2nd Avenue. In 2014, the Marina City Council provided conceptual support for a new route of the Marina-Salinas Multimodal Corridor (MSMMC) that follows 9th Street to 2nd Avenue and Imjin Parkway instead of 9th Street to 5th Avenue/Inter-Garrison Road. Also in 2014, the Marina City Council supported the trail and greenway concept proposed by the proponents of the “Fort Ord Recreational Trail and Greenway,” which includes closing 8th Street to vehicle traffic between 3rd Avenue and 5th Avenue/California Avenue.

The intent of the tasks included in this Scope of Services is to evaluate the effects of the above-noted land use type and circulation changes on the traffic operations of transportation facilities as compared to the analysis in the original 2005 FEIR TIA. This study will be conducted for implementation purposes, i.e., to determine what CIP infrastructure is required per the latest Dunes development applications and for Dunes project buildout by year 2020. In addition, a 2035 analysis will be conducted to determine CIP requirements for General Plan Buildout.

The Scope of Services provides a step-by-step description of our methodology to conduct and document the traffic impact analysis.

Scope of Services

Analysis Scenarios:

The TIA will be based on the following scenarios:

1. Dunes Baseline Conditions – Current traffic counts and roadways plus approved project trips and conditions.
2. Cumulative Plus Dunes Project Conditions – Current traffic counts plus the latest General Plan buildout traffic volumes and geometric improvements plus traffic generated by the Dunes.

The weekday AM peak period is currently assumed from 7:00 AM to 9:00 AM. The weekday PM peak period is assumed from 4:00 PM to 6:00 PM.

Below is a list of proposed transportation facilities for the capacity analysis. Most of these facilities were analyzed by the 2005 FEIR TIA. The intersections with an asterisk (*) were not including in the original traffic analysis, but are needed to understand potential changes to the circulation network, as shown in the Street Hierarchy Plan.

Intersections:

1. 5th Avenue/California Avenue Extension/Imjin Parkway (Use 2012/2013 data)
2. Imjin Road/Imjin Parkway-Imjin Road (Use 2012/2013 data)
3. 2nd Avenue/General Stilwell Drive*
4. 2nd Avenue/10th Street*
5. 2nd Avenue/9th Street*
6. 2nd Avenue/8th Street
7. 4th Avenue-General Jim Moore Boulevard/9th Street*
8. 4th Avenue-General Jim Moore Boulevard/8th Street
9. Imjin Road/9th Street*
10. Imjin Road/8th Street
11. 2nd Avenue/3rd Street
12. 3rd Avenue/9th Street*
13. 3rd Avenue/8th Street*
14. 5th Avenue/9th Street*
15. 5th Avenue/8th Street*
16. Imjin Parkway/2nd Avenue (Use 2012/2013 data)
17. Imjin Parkway/Abrams Drive (Use 2012/2013 data)

Task 1: Project Management and Meetings

Kimley-Horn will attend one (1) initial meeting/conference call with the City staff to review the scope of services, project schedule, discuss project goals, and formulate the project analysis needs. Some of the issues to be discussed are as follows:

- Study area land use and road network assumptions
- Verify analysis scenarios

- Confirm analysis peak hour periods
- Confirm assumptions for approved project volumes, background/planned growth volumes, and Cumulative traffic volumes
- Other information deemed necessary for execution of the project.

In addition to the initial meeting, Kimley-Horn will attend one (1) additional meeting, which could consist of City staff or Planning Commission hearing, City Council meeting, etc. Additional meetings beyond the two (2) assumed in this task (for example, City staff or Planning Commission hearing, City Council meetings, etc.) will be attended only with the client's prior authorization and billed on a Time and Materials basis.

Project invoicing, correspondence, and other external project management functions are included as part of this task.

Task 2: Review of the Dunes Land Uses, Approved/Built Projects, and Background Growth Information

Kimley-Horn will review, in close collaboration with City staff, project related material consisting of the project description, land use quantities/unit totals, site access locations, potential queuing, the 2005 FEIR, recent local traffic studies, and available traffic data within the study area (to be provided by the City), and agency and regional transportation planning documents (consisting of general plan circulation elements). Based on the information in the review, a table will be prepared comparing the land uses in the 2005 FEIR to existing development land use types. Kimley-Horn will rely upon the accuracy and completeness of all documents, reports, plans and specifications provided by the City or by others. Verifying the accuracy and completeness of such items is not part of this scope of services.

Task 3: Project Trip Generation

This task will estimate the total number of net new vehicle trips expected to be generated by the proposed development and compare the results to the traffic analysis in the 2005 FEIR TIA. The primary source of trip generation rates will be *Trip Generation* (9th Edition) published by the Institute of Transportation Engineers (ITE) and *Vehicular Traffic Generation Rates* (2003) published by San Diego Association of Governments (SANDAG). These rates will be adjusted accordingly for the specific site conditions. Project trip generation volumes will be estimated for weekday Daily, AM and PM peak hours.

The total number of generated trips were reduced by five percent to account for "captured trips." In addition, a five percent internal trip reduction was applied to account for the vision for this new mixed-use, planned community "as a fully integrated, sustainable, pedestrian friendly place, incorporating residential, employment, shopping and recreational opportunities, as well as the anticipated provision for and use of other modes of transit" (FEIR TIA, p. 26). As part of Task 4, Kimley-Horn will evaluate whether or not the Dunes project could continue to account for a five percent trip reduction given the new alignment of the Marina-Salinas Multimodal Corridor alignment is no longer fully integrated with planned land uses along that corridor.

Task 4: Trip Distribution and Assignment

The distribution of traffic on the roadway system will be based on existing traffic patterns and locations of land uses within the City and the latest AMBAG 2014 model. The project trip generation will be assigned to the roadway network based on the newly assumed project trip distribution.

To evaluate the closure of 8th Street and the impacts to the road network, Kimley-Horn will develop the following trip distribution and assignment scheme: 9th Street connection to 2nd Avenue and no 8th Street connection. This will allow for the evaluation of trip redistribution from 8th Street to 9th Street.

Task 5: Dunes Baseline Conditions

Dunes Baseline Conditions represent existing traffic plus approved projects trips at buildout.

Kimley-Horn will conduct one site visit to observe the physical characteristics of the surrounding roadway network, identify existing roadway cross-sections, intersection lane configurations, traffic control devices, observe existing traffic operations, surrounding land uses, and the locations of existing and future pedestrian, bicycle, and transit facilities.

Task 6: Cumulative Plus Project Analysis

The Cumulative Plus Project traffic volumes are assumed to represent existing traffic plus General Plan buildout, including approved projects trips and the Dunes trips.

For this analysis, it is assumed that cumulative intersection volumes will be estimated based on the buildout data from the AMBAG 2014 model. The 2014 AMBAG model will be updated to reflect ITE land use types for existing development or projects under construction and changes to the road network. For the study intersections and roadway segments not included in the model, cumulative traffic volumes will be estimated based on adjustment factors developed in coordination with City staff. Kimley-Horn will use the cumulative volumes to perform peak hour capacity analysis for study intersections and roadway segments.

Task 7: Mitigation Analysis and Recommendations

Kimley-Horn will compare the capacity analysis results for the analysis scenarios to the established significance criteria to determine intersections and roadway segments operating at an undesirable level of service (LOS) under both scenarios, i.e., Dunes Baseline Conditions with the original MSMMC alignment and Cumulative Plus Dunes Project Conditions with the new MSMMC alignment and closure of 8th Street. The transportation facilities operating at an undesirable LOS will be compared to the facilities with significant impacts identified in the previous analysis.

Kimley-Horn will develop feasible potential mitigation measures for intersections and roadway segments operating at an undesirable LOS. These may include, but are not limited to, lane re-configuration, installation of traffic signals or roundabouts, minor widening to accommodate turn lanes, changes to signal phasing, timing, or coordination. Mitigation measures will be developed in concept and tested for effective improvement in LOS. One potential mitigation improvement

alternative will be developed for each significant impact identified. This scope of work does not include preliminary design of mitigation or cost estimates.

Kimley-Horn will utilize Multimodal HCM 2010 to analyze intersection and link operations along the new MSMMC. This analysis will provide LOS scores for pedestrians, bicyclists and transit-riders. These scores may be compared directly to vehicular LOS scores for the same intersections.

Task 8: Documentation

Prior to completing the full analysis described in the tasks above, Kimley-Horn will submit an initial memorandum to the City staff which will include the project description, a summary of the assumptions used, trip generation estimates, assumed trip distribution, and assignment.

After approval of the admin draft memorandum by the City staff, Kimley-Horn will prepare a draft memorandum summarized in text, tables, and figures to explain the technical evaluation and recommendations. The draft memorandum will be submitted in electronic format only. Kimley-Horn will respond to one set of non-conflicting comments from the City/Project Team. Responses to comments will be integrated into a Final Memorandum.

Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope the Client requests, will be considered additional services and will be performed at our then current hourly rates.

Optional Tasks

The following services are not included in this cost proposal, but can be provided at an additional cost:

- Attendance at any meetings or hearings not identified in this scope, such as additional City staff/agency meetings, Planning Commission meetings, or City Council meetings.
- Traffic or parking count data collection at additional locations or time periods not identified in this scope (e.g. Sunday, mid-day, etc.).
- Capacity analysis (level of service analysis) for additional locations or analysis scenarios.
- Revision of our analysis or report based on change in project description, updated traffic volumes or other factors.

Schedule

We will provide our services as expeditiously as practicable to meet a mutually agreed upon schedule.

Fee Proposal

Kimley-Horn will perform the Scope of Services in the tasks above on a time and materials basis in an amount not to exceed \$66,450. The fee assumes cost savings realized from using data obtained from previous studies performed in the area, such as Imjin Parkway Widening Traffic Report (February 13, 2015).

Task	Description	Amount
1	Project Management and Meetings	\$ 4,982
2	Model development	\$ 15,520
3	Project Trip Generation	\$ 5,755
4	Trip Distribution and Assignment	\$ 7,428
5-7	Scenario Analysis	\$ 23,375
8	Documentation	
	Draft Report	\$ 6,055
	Final Report	\$ 3,335
Total		\$ 66,450

All permitting, application, and similar project fees will be paid directly by the Client. Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services performed or actual services performed and expenses incurred as of the invoice date. Payment will be due within 45 days of your receipt of the invoice.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the City of Marina.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, offers its clients the option to receive electronic invoices. These invoices come via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please select a billing method from the choices below:

____ Please email all invoices to _____@_____.

____ Please email invoices to _____@_____. AND provide a hard copy to the address listed above to the attention of _____ (or provide alternative address).

____ Please ONLY provide a hard copy invoice to the address listed above to the attention of _____ (or provide alternative address).

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

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

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Alex Zabyshny, PE #71342



Frederik Venter, PE #C64621

Attachment – Standard Provisions

City of Marina

By:

_____, President/Vice President

(Date)

(Print or Type Name)

(Email Address)

Attest:

_____, Secretary/Assistant Secretary

(Print or Type Name)

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

(1) **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities described herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
- (c) Provide to the Consultant all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
- (d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
- (e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.
- (g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
- (i) Bear all costs incidental to the responsibilities of the Client.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Compensation shall be paid to the Consultant in accordance with the following provisions:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant for the duration of the project and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay

Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

(c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 25 days of receipt.

(d) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and general liability insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client's expense.

(9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services

are provided. No warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(12) **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**

(a) If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor

shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of California. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

December 8, 2015

Item No. **11a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 15, 2015

REQUEST TO CONSIDER ADOPTING RESOLUTION NO. 2015-, (1) APPROVING AGREEMENT BETWEEN CITY OF MARINA AND KIMLEY-HORN AND ASSOCIATES, INC. OF SALINAS, CALIFORNIA, TO PROVIDE TRAFFIC ENGINEERING SERVICES FOR THE DUNES ON MONTEREY BAY (“DUNES”) TRAFFIC IMPACT ANALYSIS (TIA) UPDATE; (2) APPROPRIATE \$66,450 FROM PUBLIC FACILITIES IMPACT FEE FUND NO. 29 (ROADWAY & INTERSECTION IMPACT FEES) TO THE CITY CAPITAL IMPROVEMENT PROJECTS FUND NO. 462. TBD; (3) AUTHORIZE THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES; AND (4) AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

REQUEST:

It is requested that the City Council:

1. Consider adopting Resolution No. 2015-, approving agreement between City of Marina and Kimley-Horn and Associates, Inc., (KHA) of Salinas, California, to provide traffic engineering services for the Dunes on Monterey Bay (“Dunes”) Traffic Impact Analysis (TIA) update;
2. Appropriate \$66,450 from Public Facilities Impact Fee Fund No. 29 (Roadway & Intersection Impact Fees) to the City Capital Improvement Projects Fund No. 462.TBD;
3. Authorize the Finance Director to make the necessary accounting and budgetary entries; and
4. Authorize the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney.

BACKGROUND:

The update of the Dunes Traffic Impact Analysis (TIA) will evaluate current intersection and road segment operations, validate the need and timing for traffic-related capital improvement projects based on mitigation measures, evaluate relocating the Marina-Salinas Multimodal Corridor from 9th Street to 2nd Avenue/Imjin Parkway, and evaluate closing 8th Street to vehicle traffic between 3rd Avenue and 5th Avenue/California Avenue.

On May 31, 2005, along with other entitlements, the Marina City Council adopted Resolution No. 2005-127, certifying the Final Environmental Impact Report (FEIR) (SCH. No. 2004091167) for University Villages Specific Plan project (now Dunes on Monterey Bay Specific Plan) in accordance with the California Environmental Quality Act (CEQA) and state and local guidelines, making certain findings and determinations thereto, adopting a statement of overriding considerations, and adopting a mitigation monitoring and reporting

program. The Traffic Impact Analysis (Appendix F of the FEIR) contained an analysis of the transportation network for the Specific Plan area.

In August 2013, the Transportation Agency for Monterey County (TAMC) Board of Directors approved a contract with KHA to develop the Marina-Salinas Multimodal Corridor Plan. The Dunes on Monterey Bay Specific Plan shows the multimodal corridor within a 94' right-of-way on 9th Street to 5th Avenue/California Avenue.

In early 2014, CSUMB professors Fred Watson and Scott Waltz released an open proposal called the "Fort Ord Recreational Trail and Greenway" (FORTAG) for a conceptual greenway corridor with recreational trails on former Fort Ord land. The proposed FORTAG trail includes a connection to Hilltop Park, located north of 8th Street, south of 9th Street, east of 3rd Avenue and west of 4th Avenue. The FORTAG trail proposes a closure of 8th Street, which forms the southern boundary of a portion of the Dunes Specific Plan area to avoid bicyclists and pedestrians having to cross the street to and from the park. General Plan Policy 4.33 states that 8th Street is designated as a two-lane arterial, but may be expanded to four lanes when warranted. Development standards for the portion of 8th Street within the Dunes project area are attached ("**EXHIBIT A**")."

At the regular meeting of January 28, 2014, the Marina City Council discussed the multimodal corridor and a greenway corridor from Marina beaches to the Ford Ord National Monument and provided direction to staff as follows:

- Motion 1 directed staff to: (a) look at the feasibility of adopting into current general and specific plans, and other adopted planning documents, an alternative route for TAMC's multimodal corridor through the City of Marina, that route being identified in the TAMC map as "segments 1A to 2A to 2B to 3C to 3F1.B, and to specifically exclude segments 1B, 3A, 3B, 4B and SA to the extent each is within city limits" (staff clarification: the alternative route for the multimodal corridor that follows 9th Street to 2nd Avenue and Imjin Parkway instead of 9th Street to 5th Avenue/Inter-Garrison Road or 8th Street/Imjin Road includes segments 1A to 2A to 2B to 3C and excludes segments 1B, 3A/B, 4A/B and 6A); (b) report to council no later than March 2014 on feasibility and/or required changes/amendments in these adopted plans to accommodate this route, if any, and the process to amend any adopted plans; and (c) to immediately report to TAMC in its multimodal corridor planning and feasibility procedures that the City of Marina wants consideration given to the route identified herein as a preferred alternative to the route identified in the 2010 MOU.
- Motion 2 directed staff to: (a) look at feasibility of adopting into current general and specific plans, and other adopted, planning documents, open space greenway and recreation corridor(s) connecting the Fort Ord Dunes State Park with our two National Park Service land grants (commonly known as the Water City Roller Hockey and Marina Equestrian Center) through to the Jerry Smith Corridor abutting the Fort Ord National Monument; (b) report to council no later than March 2014 on feasibility and/or required changes/amendments in these adopted plans, if any, and the process to amend any adopted plans; and (c) to meet with appropriate jurisdictions, organizations and agencies, including CSUMB, TAMC, County of Monterey, to advance the planning of open space greenway and recreation corridor(s)

through lands within their collective jurisdictions between the Pacific Ocean and the Fort Ord National Monument.

At the regular meeting of June 3, 2014, the Marina City Council adopted Resolution 2014-58, receiving an informational presentation from TAMC staff regarding the Marina-Salinas Multimodal Corridor Plan and providing conceptual support for Option No. 2 (8th Street/2nd Avenue/Imjin Parkway) as the preferred corridor alignment.

On November 20, 2014, Marina City Council and the Marina Planning Commission held a joint special meeting and study session to discuss the policy, environmental and infrastructure implications of creating a greenway corridor from Fort Ord Dunes State Park to Jerry Smith Corridor abutting Fort Ord National Monument. At this meeting, the City Council adopted Action Minutes, that the City Council:

- support the concept substantially presented by “Exhibit C” incorporated by reference of a trail and greenway system and a process to progress with that concept;
- inclusive of City parks and residential and the connection to those;
- how this can be done on lands that the City controls;
- that we come back with some design features such as widths of different segments;
- that we propose this concept as Marina’s contribution to the FORA Urban Design Guideline process;
- that we direct staff to work with Fred Watson to get more refined maps that include potential trails across Cypress Knolls, EDC parcels, Marina Equestrian Center and the Airport;
- that we direct staff to talk with FAA for trail incorporation to appropriate planning documents that FAA controls; and
- that staff seek expeditiously as appropriate for addressing solutions to habitat management take.

“Exhibit C”



ANALYSIS:

The Dunes is a mixed-use, planned community located on approximately 429 acres of the former Fort Ord military base. The planned land uses and road network are included within “EXHIBIT A”.

Original Traffic Impact Analysis

The purpose of the original FEIR TIA (May 31, 2005) was to study the traffic impact associated with planned development within the Dunes Specific Plan area. A variety of residential, commercial and other land uses were assessed to understand their combined influence on road and intersection operating conditions, which were evaluated based on the expected level of service (LOS). Altogether, project build-out in the FEIR TIA included 1,237 residential units, 1,122,055 square feet (sf) of retail uses, 809,171 sf of business park, 561,850 sf of government type offices, 10,000 sf of general office, and various other land uses such as a multiplex theater, gas station, community building, soccer fields, a possible transit center, a church, and “opportunity phase” development.

Vehicle trips were based upon trip rates published for various “land use types” in the Institute of Transportation Engineers’ (ITE) *Trip Generation* (7th Edition, 2003) and San Diego Association of Governments (SANDAG) *Vehicular Traffic Generation Rates* (2003). The total number of generated trips were reduced by five percent to account for captured trips.¹ In addition, a five percent internal trip reduction was applied to account for the vision for this new mixed-use, planned community “as a fully integrated, sustainable, pedestrian friendly place, incorporating residential, employment, shopping and recreational opportunities, as well as the anticipated provision for and use of other modes of transit” (FEIR TIA, p. 26).

The distribution of the estimated project trips from the Dunes project area to the Monterey Peninsula and the surrounding region was based on the origin/destination matrices provided by the Association of Monterey Bay Area Governments (AMBAG). The location and proximity of other existing and future land uses adjacent to the Dunes project site boundaries, including CSUMB campus activities, were considered in the project trip distribution.

Project Status and Existing Conditions (as of 2015)

A portion of the Dunes project has been built or is under construction, including the regional retail component (Dunes Shopping Center), movie theater (Cinemark), single- and multi-family housing, Peninsula Wellness Center, VA Clinic, and hotel rooms (Marriott Springhill Suites).

Since the certification of the Dunes FEIR, in 2005, there have been a number of changes to evaluate land use types. For example, the Peninsula Wellness Center, a medical facility, was constructed instead of a grocery store and associated service retail shops at the south east corner of Imjin Parkway and 2nd Avenue.

Also within the vicinity of the Dunes Specific Plan area, land use changes have taken place, including the addition of Monterey Peninsula College (MPC) satellite campus at Imjin Parkway and 3rd Avenue and development of the Promontory student dormitory housing at

¹ “Captured trips” are trips that do not enter or leave the driveways of a project’s boundary within a mixed-use development such as the Dunes project.

8th Street and Imjin Road. Neither were anticipated at the time of the Dunes project. Future additional student housing north of CSUMB campus is planned as Promontory 2.

These changes, in conjunction with relocation of the multimodal corridor and potential closure of 8th Street for recreational trail and greenway purposes warrant further investigation of associated impacts to traffic operations. An updated traffic analysis is needed as part of the environmental review to support the General Plan amendments needed for these projects.

Scope of Services

KHA was requested by staff to submit a Scope of Services for a TIA to understand the implications of these changes to the traffic network.

The proposed TIA update would evaluate the effects of the land use and circulation changes. Traffic operations on the existing and planned road network would be compared to the traffic analysis in the original FEIR TIA. If intersections and roadway segments are found to operate at an undesirable LOS with these changes, KHA would specify feasible mitigation measures. These measures may include, but are not limited to, lane re-configuration, installation of traffic signals, minor widening to accommodate turn lanes, changes to signal phasing, timing, or coordination. It is unknown at this time whether or not the results of the traffic analysis would require implementation of new mitigation measures to reduce identified traffic impacts. It will also inform the timing of the measures required by the 2005 FEIR, given contextual changes.

To evaluate the closure of 8th Street and the impacts to the road network, the proposed TIA update would include trip redistribution from 8th Street to 9th Street. In addition, to understand the operation of transit and bicycle facilities along the new multimodal corridor, KHA would utilize a new methodology, Multimodal HCM 2010, to analyze intersection operations along the new multimodal corridor. Also, KHA would evaluate whether or not the Dunes project could continue to account for a five percent trip reduction given that the new alignment of the multimodal corridor is no longer fully integrated with planned land uses along that corridor.

CSUMB on Potential 8th Street Closure

With regards to the potential closure of 8th Street, the following stakeholders were contacted.

CSUMB is in the process of updating their Master Plan. The Master Plan includes a development framework, which incorporates land use, transportation and circulation, utilities, and infrastructure systems on campus and defines CSUMB's physical relationship with the surrounding jurisdictions. At recent public workshops and presentations on the Master Plan update, the FORTAG trail network has been proposed to help maximize bike and pedestrian access on campus and to regional trails ("**EXHIBIT B**"). In addition, campus planners are considering closing vehicle access along Inter-garrison through campus to minimize east-west through traffic and prioritize pedestrian, bike and transit access.

In a telephone conversation with staff, Anya Spear, Associate Director of Campus Planning, expressed her support for the FORTAG trail network and is looking for the traffic analysis to understand local and regional traffic impacts from closing 8th Street. She also noted that there are few east-west connections for vehicles on former Fort Ord land.

In a follow-up telephone conversation with staff, Christopher Placo, Associate Vice President of Campus Planning, noted that CSUMB does not have a position on whether or not 8th

Street should be closed or remain open to east-west vehicle traffic, and that the FORTAG trail network could work with or without closing 8th Street. He further commented that for CSUMB to implement their Master Plan, either 8th or 9th Street would be needed to handle traffic around the campus. He opined that 9th Street appears to be well designed and may have sufficient east-west capacity.

FISCAL IMPACT:

Should the City Council approve this request for additional funding, adequate funding is available for a total appropriation of \$66,450 to the project account 462.TBD from the Public Facilities Impact Fees Fund No. 29, Roadway Impact Fees (\$33,225) and Intersection Impact Fees (\$33,225).

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Justin Meek, AICP
Senior Planner
Community Development Department
City of Marina

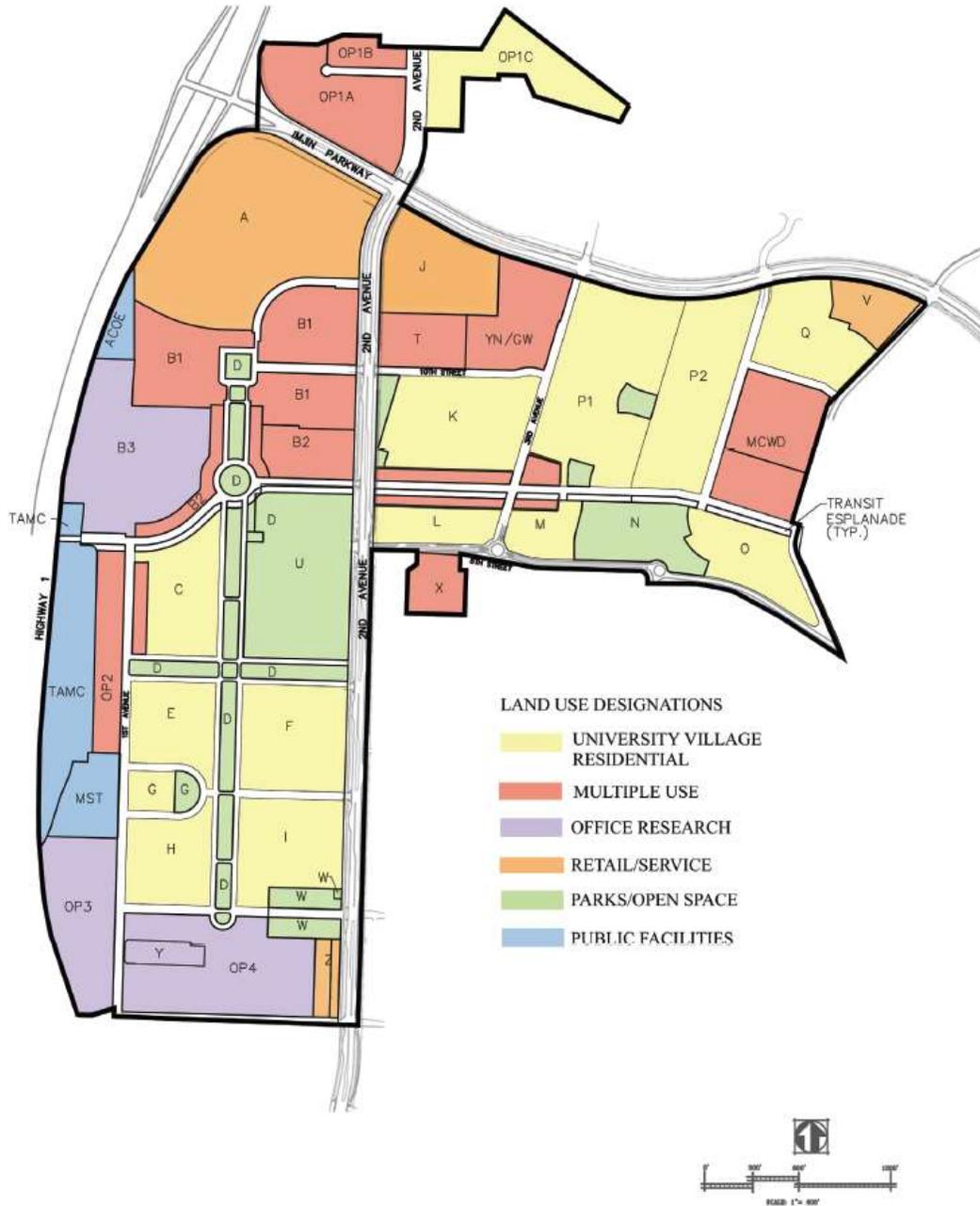
REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Acting City Engineer, Engineering Division
Community Development Department
City of Marina

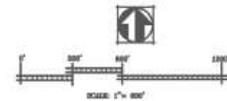
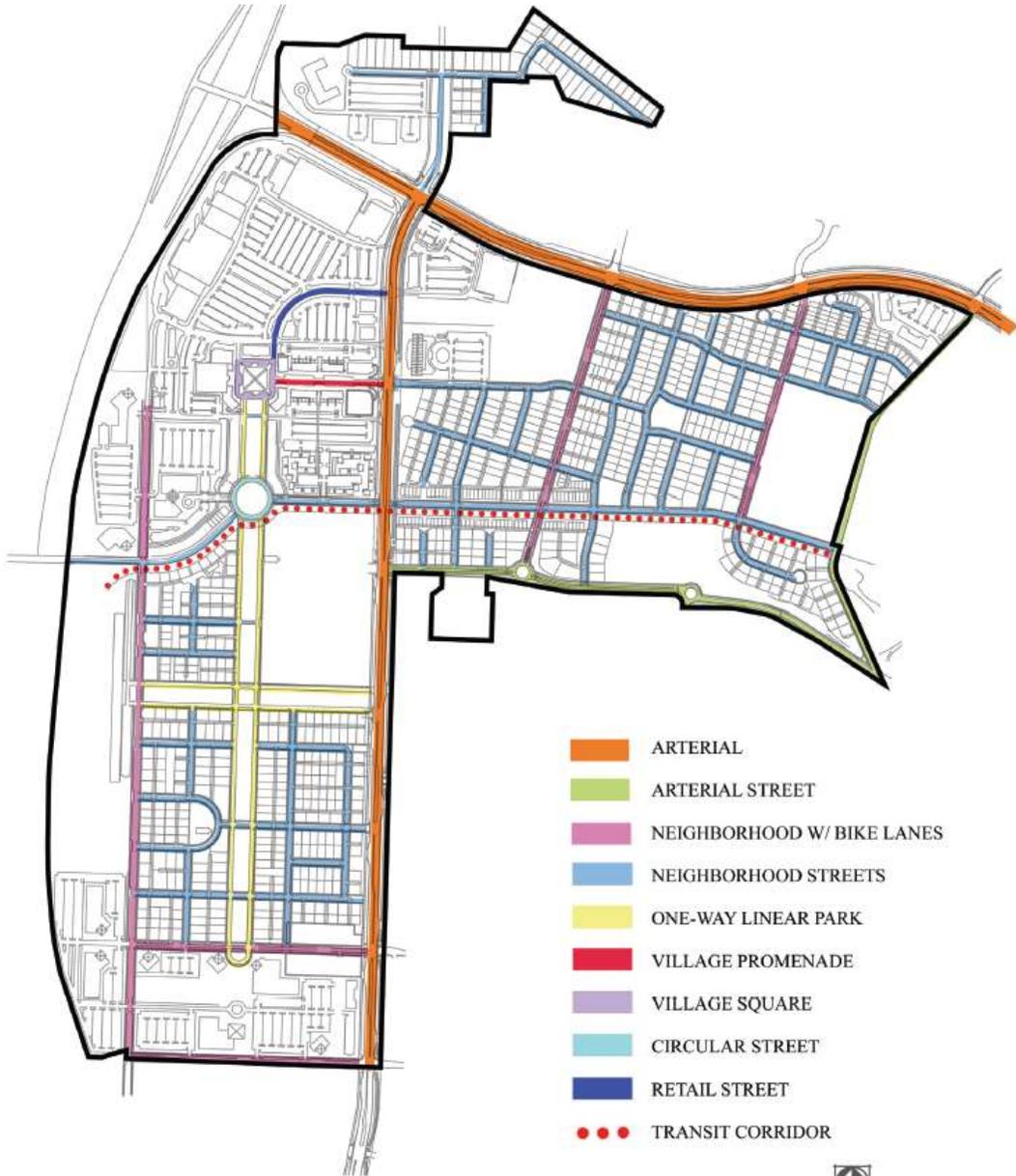
Theresa Szymanis, AICP CTP
Acting Director, Community Development Department
City of Marina

Layne P. Long
City Manager
City of Marina

LAND USE PLAN



STREET HIERARCHY PLAN



CIRCULATION - 8TH STREET BETWEEN 2ND AVE AND CALIFORNIA AVE

This two lane arterial forms the boundary between University Villages and the CSUMB campus. It is a regional link between development to the east, and 2nd Ave, which runs north/south. It is intended to be a medium volume street with a design speed of 35 miles per hour.

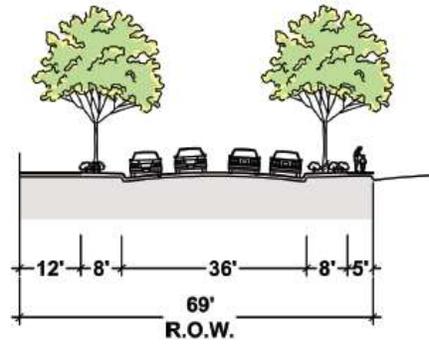
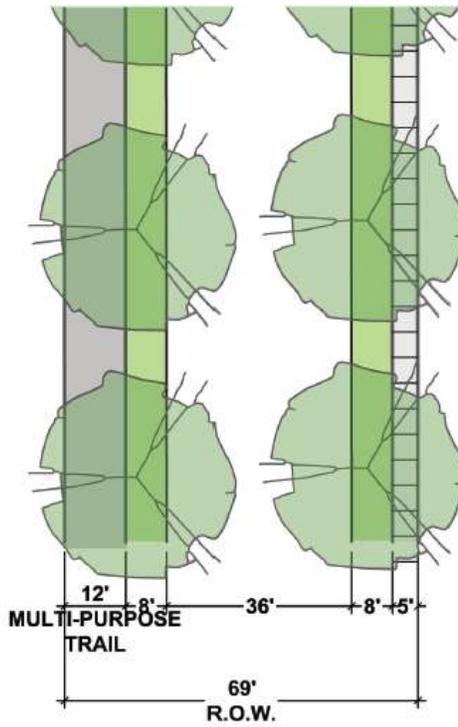
8th Street consists of a 36-foot wide road section within a 69-foot right of way. The paved section can accommodate two 11-foot wide travel lanes, and on street parking on both sides. The roadway has vertical curb and gutter, and curb returns have a 17-foot radius.

A 5-foot wide sidewalk is provided on the north side of the street and separated from the parking areas by an 8-foot wide parkway strip. On the south side is a 12-foot wide multi-purpose trail for pedestrians and bicycles. It is separated from the parking areas by an 8-foot wide parkway strip. Direct vehicular access is not permitted from residential lots to the street.

Roundabouts are allowed at intersections along this portion of 8th street. Final engineering shall determine their locations.

Additional lanes at key intersections may be added as final engineering determine their need.

CIRCULATION - 8TH STREET BETWEEN 2ND AVE AND CALIFORNIA AVE



“EXHIBIT B” to the Staff Report

Conceptual CSUMB Master Plan Bicycle Route & Pedestrian Path Maps

