



City of Palo Alto

City Council Staff Report

(ID # 9723)

Report Type: Consent Calendar

Meeting Date: 12/17/2018

Summary Title: Amendment No.Two to Multi-Year Contract with Triple HS, Inc.

Title: Approval of Amendment Number 2 to Contract Number S16163031 With Triple HS Inc., dba H.T. Harvey & Associates, to Increase the Contract by \$31,150 to Extend the Term Through December 31, 2021 and add Additional Services, for a Total Not-to-Exceed Amount of \$54,029 for the San Francisquito Creek Pump Station Riparian Mitigation Monitoring

From: City Manager

Lead Department: Public Works

Recommendation

Staff recommends that Council approve and authorize the City Manager or his designee to execute contract amendment No. 2 to Contract No. S16163031 with H.T. Harvey & Associates (Attachment A) to increase the compensation by \$31,150 to add further professional services associated with the San Francisquito Creek Storm Water Pump Station Riparian Mitigation Monitoring and to extend the term through December 31, 2021. The increase in compensation includes \$28,317 for basic services and \$2,833 for additional services. The revised total contract amount is not to exceed \$54,029.

Background

The California Regional Water Quality Control Board issued regulatory permit 2006-400320 to the City of Palo Alto for the San Francisquito Creek Stormwater Pump Station and Outfall Project on June 12, 2008. The regulatory permit set forth mitigation requirements and a 10-year, long-term monitoring program of the on-site and off-site habitat mitigation areas. H.T. Harvey & Associates (“HT Harvey”) has been involved with the project for the past eleven years. In 2007, they prepared the pre-construction monitoring survey. Once the San Francisquito Creek Stormwater Pump Station project was completed in 2011, HT Harvey

supported Schaff and Wheeler in preparing the biological as-built report. Lastly, HT Harvey has monitored both sites and prepared the reports required by regulatory agencies since 2010. Based on HT Harvey's knowledge of the sites, the history of the project and their experience reporting for this project, Staff requests an exemption to the competitive solicitation process for this contract amendment No. 2. The current professional services contract with HT Harvey, contract no. S16163031, is valid through December 31, 2018. Since monitoring and reporting is required through Year 10, December 31, 2021, Staff request that the contract be amended to increase the contract term and compensation.

Discussion

Amending the contract with H.T. Harvey & Associates will ensure consistency and continuity in monitoring services, while saving the City time to conduct an RFP and get a new vendor familiarized with the sites and previous reports. To meet the mitigation and monitoring requirements, H.T. Harvey & Associates provided a professional services proposal that extends the monitoring and reporting through the terms required by the regulatory agency. For the above reasons, Staff is requesting an exemption from competitive solicitation as being impractical and unavailable under PAMC 2.30.360(b)(2). As described in the contract amendment No. 2, the consultant will conduct site visits of both on-site and off-site mitigation areas in the spring of each year (2019 and 2020) to assess the vegetation maintenance needs (i.e., watering, protection, and pruning). A sub-consultant will complete a separate inspection of the on-site channel stability in April 2019. In the fall of 2019, the consultant will also inspect the on-site mitigation area to collect quantitative vegetation data (height, plant size, and health). A similar inspection is scheduled for the off-site mitigation area during the fall of 2020. Following these inspections, consistent with the permit requirements, H.T. Harvey & Associates will prepare and submit these reports to the City. Staff will then submit these reports directly to the regulatory agencies for their review as required by the regulatory permit.

Resource Impact

Funding for this contract is available through the Stormwater Management Fund In-House Maintenance budget.

Policy Implications

This recommendation does not represent any changes to existing City policies.

Environmental Review

The project implements a mitigation measure identified in the Mitigated Negative Declaration (MND) for the San Francisquito Creek Storm Water Pump Station Project adopted by the Director of Planning and Community Environment on April 5, 2007, in accordance with the California Environmental Quality Act (CEQA). Therefore, the project is within the scope of and consistent with the MND.

Attachments:

- Pages from S16163031 HT HARVEY Amend 2 FINAL-CLEAN 110121

**AMENDMENT NO. 2 TO CONTRACT NO. S16163031
BETWEEN THE CITY OF PALO ALTO AND
TRIPLE HS, INC., dba H.T. HARVEY & ASSOCIATES**

This Amendment No. 2 (this “Amendment”) to contract no. S16163031 is entered into as of December 10, 2018 by and between the **CITY OF PALO ALTO**, a California chartered municipal corporation (“**CITY**”), and **TRIPLE HS, INC., dba H.T. HARVEY & ASSOCIATES**, a California corporation, located at 983 University Avenue, Bldg. D, Los Gatos, CA 95032 (“**CONSULTANT**”). **CITY** and **CONSULTANT** are also referred to herein collectively as the “Parties.”

RECITALS

A. The Contract (as defined below) was entered into between the Parties on February 11, 2016, for professional services to assist the City with its long-term mitigation monitoring requirements mandated by regulatory permitting agencies for the San Francisquito Creek Storm Water Pump Station (“Project”); and

B. The Parties now wish to amend the Contract to (1) correct typographical errors in Amendment No. 1 (defined below), (2) to increase the compensation from Twenty Two Thousand Eight Hundred Seventy Nine Dollars (\$22,879) to a new not to exceed amount of Fifty Four Thousand Twenty Eight Dollars and Ninety Four Cents (\$54,028.94), (3) to expand the scope of services to include the tasks detailed in Exhibit “A-1” added here, and (4) to extend the term by an additional three years through December 31, 2021, as detailed in this Amendment.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree as follows:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:

- a. **Contract.** The term “Contract” shall mean contract no. S16163031 between **CONSULTANT** and **CITY** as amended by Amendment No. 1.
- b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Correction of Typographical Errors. The date in Sentence 1 of Amendment No.1, stated as “January 23, 2016”, is hereby deleted and replaced to instead read “February 23, 2016”. In addition, Consultant’s description as “a sole proprietor” is hereby deleted and replaced to instead read “a corporation in the State of California”. The Parties understand and agree that the date as it originally appeared—which came before the commencement date of the Contract—was a typographical error, as was the description of the Consultant’s entity type, and that the occurrence and correction of these typographical errors does not alter, impair or otherwise impact either party’s rights and/or obligations under the Contract or this Amendment.

SECTION 3. Section 1, "SCOPE OF SERVICES", of the Contract is hereby amended to read as follows:

"CONSULTANT shall perform the Services described in the attached Exhibit "A" and Exhibit "A-1", in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of the CITY."

SECTION 4. Term. Section 2, "TERM", of the Contract is hereby amended to read as follows:

"The term of this Agreement shall be from the date of its full execution through December 31, 2021 unless terminated earlier pursuant to Section 19 of this Agreement."

SECTION 5. Not to Exceed Compensation. Section 4, "NOT TO EXCEED COMPENSATION", of the Contract is hereby amended to read as follows:

"The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit "A" and Exhibit "A-1", including both payment for professional services and any therein-specified reimbursable expenses, shall not exceed Forty Nine Thousand One Hundred Fifty Three Dollars and Ninety Four Cents (\$49,153.94), per Exhibit "C". In the event Additional Services (defined below) are authorized, the total compensation for Services, Additional Services and reimbursable expenses shall not exceed Fifty four thousand twenty eight dollars and ninety four cents (\$54,028.94), per Exhibit "C". Subject to Exhibit "C", the applicable rates and schedule of payment are set out at Exhibit "C-1" and Exhibit "C-2", each of which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C". CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. "Additional Services" shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit "A" and Exhibit "A-1"."

SECTION 6. Exhibits. The following exhibit(s) to the Contract are hereby added or amended, as indicated below in this Section, to read as set forth in the attachments to this Amendment, which are hereby incorporated into this Amendment, and into the Contract, in full by this reference:

- a. Exhibit "A-1" entitled "SCOPE OF SERVICES" (ADDED)
- b. Exhibit "B" entitled "SCHEDULE OF PERFORMANCE" (AMENDED – REPLACES PREVIOUS)
- c. Exhibit "C" entitled "COMPENSATION" (AMENDED – REPLACES PREVIOUS)
- d. Exhibit "C-2" entitled "HOURLY RATE SCHEDULE" (ADDED)

SECTION 7. Legal Effect. Except as herein modified, all other provisions of the Contract, including any exhibits, shall remain in full force and effect.

SECTION 8. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are hereby fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)

SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment, effective as of the date first above written above.

CITY OF PALO ALTO

TRIPLE HS, INC, dba H.T. HARVEY & ASSOCIATES

City Manager

DocuSigned by:
By: *Daniel D. Stephens*
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Name: Daniel D. Stephens

Title: vice President

APPROVED AS TO FORM:

City Attorney or designee
(Required on Contracts over \$25,000)

Attachments:

- Exhibit "A-1" entitled "SCOPE OF SERVICES" (ADDED)
- Exhibit "B" entitled "SCHEDULE OF PERFORMANCE" (AMENDED – REPLACES PREVIOUS)
- Exhibit "C" entitled "COMPENSATION" (AMENDED – REPLACES PREVIOUS)
- Exhibit "C-2" entitled "HOURLY RATE SCHEDULE" (ADDED)

EXHIBIT "A-1"
SCOPE OF SERVICES, AMENDMENT NO. 2
(ADDED)

The Consultant shall provide continuing ecological consulting services to the City regarding the long-term monitoring and reporting of the San Francisquito Creek Pump Station project's habitat mitigation areas. The project's permits and associated Habitat Mitigation and Monitoring Plan (MMP) set forth a 10-year long-term monitoring program (Schaaf & Wheeler 2007). Per Exhibit "A", Consultant performed the Year 7 monitoring in fiscal years 2016-2017 and 2017-2018. The scope of services in this Exhibit "A-1" covers subsequent years' vegetation monitoring, per the MPP, for the on-site and off-site mitigation areas as detailed below.

In addition, under this Exhibit "A-1" scope of services, Consultant will prepare a technical memorandum during fall 2018 to respond to Regional Water Quality Control Board (RWQCB) concerns at the off-site mitigation area, as detailed below. Consultant's sub-consultant, Schaaf & Wheeler, will continue monitoring the hydraulic function and physical stability of the on-site discharge channel in MPP Year 10 (2019) in accordance with the MMP, as detailed below. Additionally, as detailed below, Consultant will conduct MMP vegetation maintenance inspections at the on-site and off-site mitigation areas during the remaining MMP monitoring years—MPP Year 10.

Task 1. Fiscal Year 2019 (July 1, 2018-June 30, 2019)

Task 1a. Off-Site Conditions Memorandum. The RWQCB raised concerns about ongoing vegetation maintenance at the off-site mitigation area in response to the MMP Year 7 monitoring report. In response to these concerns, Consultant will prepare an off-site conditions technical memorandum to document the species and installation date of all installed mitigation plants at the off-site mitigation area in order to compare maintenance and replanting efforts with the originally installed plants. The memorandum will include a figure that shows the location of each mitigation plant. The memorandum will characterize the current status of the off-site mitigation area and present site management recommendations to facilitate the City's negotiations with the RWQCB regarding whether the duration of the monitoring period should be retained at 10 years or increased. Consultant will participate in two site visits with the City's maintenance contractor (Grassroots Ecology) and the City during preparation of this memorandum. City will take a lead role in coordination and communications with the RWQCB.

Task 1b. Vegetation Maintenance Recommendations. Consultant's restoration ecologist will conduct one site visit at the off-site mitigation area and one visit at the on-site mitigation area annually during the early part of the growing season (April to June) in 2019 to assess vegetation maintenance needs. Consultant does not anticipate that replacement planting or irrigation will be necessary. However, vegetation maintenance may be necessary depending on the trajectory of both native and nonnative, invasive vegetation establishment and the outcome of coordination with the RWQCB. The visit to the onsite area will coincide with the visit to the offsite area.

Following the inspections, Consultant will prepare and submit a vegetation maintenance recommendations memorandum to the City for distribution to Grassroots Ecology.

Task 1c. On-site Channel Stability Monitoring. Consultant's sub-consultant, Schaaf & Wheeler, will provide a qualified hydrologist to assess the physical stability of the pump station discharge channel. Channel stability will be assessed once in April 2019 (following the wet season). Consultant's team will notify the City at least two weeks prior to a site visit so that the City can coordinate with the Santa Clara Valley Water District to provide site access. Channel stability assessment includes:

- a) General qualitative assessment of overall channel stability, with an emphasis on channel scour, sedimentation, bed vegetation and armoring, channel migration, and any perceived threats to the adjacent banks or levees.
- b) Measured depths of scour immediately downstream of each longitudinal channel stabilizer. Depths will be measured to the top of the stabilizer at the channel centerline as creek conditions allow. (Some local scour/pool creation is anticipated). Site visits will be timed to coincide with low tide.
- c) Written and photo-documentation describing the site visit, channel condition comparisons to previous visits, potential concerns, and if warranted, recommendations for corrective action. This documentation will be suitable for inclusion in the monitoring report that is submitted to the regulatory agencies.

Channel stability monitoring results and documentation will be incorporated into the on-site annual monitoring report prepared under Task 2a.

Task 1 Deliverables: The Off-site Conditions Memorandum and 2019 Vegetation Maintenance Recommendations memorandum. (Channel stability monitoring results and documentation will be incorporated into the on-site annual monitoring report prepared under Task 2a.)

Task 2. Fiscal Year 2020 (July 1, 2019-June 30, 2020)

Task 2a. On-site Annual Vegetation Monitoring Year 10 (2019). Consultant's restoration ecologist(s) will monitor the on-site mitigation area in accordance with the requirements outlined in the project's MMP. Monitoring will be conducted in Monitoring Year 10 (2019). Field surveys will be conducted in the late summer/fall to collect quantitative vegetation data (plant height, stem diameter, canopy diameter, and health and vigor) and take photographs from fixed photo-documentation points. Consultant's team will notify the City at least two weeks prior to a site visit so that the City can coordinate with the Santa Clara Valley Water District to provide site access. Channel stability monitoring completed under Task 1c will be incorporated into this monitoring effort.

Consultant's restoration ecologists will prepare an annual monitoring report for review and approval by the City. This task includes one round of minor revisions to the report based on comments provided by the City. The report will be in a format suitable for submittal to the regulatory agencies by December 31 of the required monitoring year, containing the following

sections:

- a) Executive Summary
- b) Introduction
- c) Methods
- d) Results and Discussion
- e) Management Recommendations
- f) Photo-Documentation

The San Francisquito Creek Flood Protection Project removed a portion of the City's on-site mitigation area in 2016 and mitigated for this impact elsewhere per the flood protection project's permits. During the 2016 vegetation monitoring field work, Consultant mapped the flood protection project's impact on the surface area and configuration of the City's mitigation site. This effort will be repeated if Consultant's field observations determine that the flood protection project's impacts changed substantially since 2016. Consultant will then incorporate this information into the Year 10 (2019) Annual Monitoring Report in the form of a plan view map and written summary.

Task 2b. Off-site Vegetation Maintenance Recommendations. Consultant's restoration ecologist will conduct two site visits at the off-site mitigation area during the early part of the growing season (March to June) in 2020 to assess vegetation maintenance needs. Consultant does not anticipate that replacement planting or irrigation will be necessary. However, vegetation maintenance may be necessary depending on the trajectory of both native and nonnative, invasive vegetation establishment and the outcome of consultation with the RWQCB. Following the inspections, Consultant will prepare and submit a vegetation maintenance recommendations memorandum to the City for distribution to Grassroots Ecology.

Task 2 Deliverables: On-site Final Year 10 (2019) Annual Monitoring Report and 2020 Off-site Vegetation Maintenance Recommendations.

Task 3. Fiscal Year 2021 (July 1, 2020-June 30, 2021)

Task 3a. Off-site Annual Vegetation Monitoring Year 10 (2020). Consultant's restoration ecologist(s) will monitor the off-site mitigation area in accordance with the requirements outlined in the project's MMP or with revised success criteria determined in consultation with the RWQCB. Monitoring will be conducted in Monitoring Year 10 (2020). Field surveys will be conducted in the late summer/fall to collect quantitative vegetation data (plant height, stem diameter, canopy diameter, and health and vigor) and take photographs from fixed photo-documentation points.

Consultant's restoration ecologists will prepare an annual monitoring report for review and approval by the City. The task includes one round of minor revisions to the report based on comments provided by the City. The report will be in a format suitable for submittal to the regulatory agencies by December 31 of the required monitoring year, containing the following sections:

- a) Executive Summary
- b) Introduction
- c) Methods

- d) Results and Discussion
- e) Management Recommendations
- f) Photo-Documentation

Assuming final success criteria are met, Consultant will assist the City with regulatory agency communications to obtain agency sign-off that the City's mitigation obligations have been met. The City will take a lead role in coordination and communications with the regulatory agencies. If final success criteria are not met at either on-site or off-site mitigation area, the remedial measures and potential additional monitoring are not included in this scope.

Deliverable: Off-site Year 10 (2020) Annual Monitoring Report

EXHIBIT "B"
SCHEDULE OF PERFORMANCE, AMENDMENT NO. 2
 (AMENDED – REPLACES PREVIOUS)

CONSULTANT shall perform the Services so as to complete each milestone within the completion by date specified below. The time to complete each milestone may be increased or decreased by mutual written agreement of the project managers for CONSULTANT and CITY so long as all work is completed within the term of the Agreement. CONSULTANT shall provide a detailed schedule of work consistent with the schedule below within 2 weeks of receipt of the notice to proceed.

Milestones**Completion By:**Exhibit "A" Tasks:

- | | | |
|----|--|--------------------|
| 1. | Maintenance Recommendations Memo (On- & Off-site) | September 30, 2016 |
| 2. | Annual Monitoring Report (On-site)
Channel Stability Monitoring | December 31, 2016 |
| 3. | Maintenance Recommendations Memo (On- & Off-site) | September 30, 2017 |
| 4. | Annual Monitoring Report (Off-site) | December 31, 2017 |
| 5. | Maintenance Recommendations Memo (On- & Off-site) | September 30, 2018 |

Exhibit "A-1" Tasks:

- | | | |
|-----|---|--------------------|
| 6. | Task 1a. Off-Site Conditions Memorandum | January 31, 2019 |
| 7. | Task 1b. Vegetation Maintenance Recommendations | June 30, 2019 |
| 8. | Task 1c. On-site Channel Stability Monitoring | June 30, 2019 |
| 9. | Task 2a. On-site Annual Vegetation Monitoring and Report
(including Channel Stability from Task 1c) for Year 10 (2019) | September 30, 2019 |
| 10. | Task 2b. Off-site Vegetation Maintenance Recommendations | June 30, 2020 |
| 11. | Task 3a. Off-site Annual Vegetation Monitoring and Report for
Year 10 (2020) | December 31, 2020* |

*Report will be submitted by City to regulatory agencies in December of 2020. Consultant will remain "on-call" for Additional Services to City through December 31, 2021, in case of regulatory agency further requests/orders following such agencies' review of the report.

EXHIBIT “C”
COMPENSATION, AMENDMENT NO. 2
(AMENDED – REPLACES PREVIOUS)

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement, and as set forth in the budget schedule below. Compensation shall be calculated based on the hourly rate schedule attached as Exhibit C-1 and/or Exhibit “C-2”, as applicable, up to the not to exceed budget amount for each task set forth below.

CONSULTANT shall perform the tasks and categories of work as outlined and budgeted below. The CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories listed below provided the total compensation for Basic Services, including reimbursable expenses, and the total compensation for Additional Services do not exceed the amounts set forth in Section 4 of this Agreement.

BUDGET SCHEDULE	NOT TO EXCEED AMOUNT
<u>Exhibit “A” Tasks:</u>	
Year 1 (Vegetation maintenance visit)	\$1,112
Year 2 (On-site annual monitoring, data analysis, and report preparation. Includes hydrologic monitoring by sub-consultant Schaaf & Wheeler. Vegetation maintenance visit.)	\$13,203
Year 3 (Off-site annual monitoring, data analysis, and report preparation. Vegetation maintenance visit)	\$6,522
<u>Exhibit “A-1” Tasks:</u>	
Task 1a (Off-site Conditions Memorandum)	\$6,214.00
Task 1b (Vegetation Maintenance Recommendations)	\$1,629.00
Task 1c (On- Site Channel Stability Monitoring)	\$3,476.00
Task 2a (On-site Annual Vegetation Monitoring Year 10 (2019))	\$7,772.38

Task 2b (Off-site Vegetation Maintenance Recommendations)	\$1,677.87
Task 3a (Off-site Vegetation Monitoring Year 10 (2020))	\$7,320.21
<u>Exhibits "A" and "A-1":</u>	
Sub-total Basic Services	\$48,926.46
Reimbursable Expenses	\$227.48
Total Basic Services and Reimbursable Expenses	\$49,153.94
Additional Services (Not to Exceed)	\$4,875.00
<i>Maximum Total Compensation</i>	<i>\$54,028.94</i>

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are: **\$227.48**

A. Travel outside the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto’s policy for reimbursement of travel and meal expenses.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges are reimbursable at actual cost.

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense anticipated to be more than **\$0** shall be approved in advance by the CITY’s project manager.

ADDITIONAL SERVICES

The CONSULTANT shall provide Additional Services (as defined in Section 4, “Compensation”) only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed

maximum compensation, including reimbursable expense, for such services based on the rates set forth in Exhibit "C-1" and/or Exhibit "C-2", as applicable. The Additional Services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY's project manager and CONSULTANT prior to commencement of the services. Payment for any Additional Services is subject to all requirements and restrictions in this Agreement.

EXHIBIT "C-2"
HOURLY RATE SCHEDULE, AMENDMENT NO. 2
(ADDED)

Hourly Rates for H.T. Harvey & Associates (Effective January 1, 2019)

1.	Principal, Restoration Ecology	\$235
2.	Senior Restoration Ecology	\$161
3.	Restoration Biologist	\$107
4.	GIS Analyst	\$112
5.	Technical Support	\$85