



March 12, 2018

John Elias – Park Operations Manager
City of Coppell
265 E. Parkway Blvd.
Coppell, TX 75019

Re: On-Street Bicycle Lane Design
Professional Services Agreement

Dear Mr. Elias:

Kimley-Horn and Associates, Inc. ("Kimley-Horn") is pleased to submit this letter agreement (the "Agreement") to the City of Coppell ("Client" or "City") for providing design for various on-street bicycle facilities.

Project Understanding

Kimley-Horn understands the City has an adopted bike plan. The City is implementing the plan to install on-street bike lanes and routes. Kimley-Horn understands the following sections for roadways have been identified:

- Moore Road (from Andy Brown Park to Belt Line Road) – This roadway is identified on the Bicycle and Pedestrian Master Plan as a Bike Lane facility. This roadway is approximately 10,000 linear feet. Particular attention will be paid to the following intersections: Parkway Boulevard; Stringfellow Drive; Villawood; Sandy Lake Road; Bethel School Road and Belt Line Road.
- Heartz Road (from Sandy Lake Road to Parkway Boulevard) - This roadway is identified on the Bicycle and Pedestrian Master Plan as a Bike Lane facility. This roadway is approximately 3,000 linear feet. Particular attention will be paid to the Park Valley Drive intersection.
- Riverchase Drive (from Sandy Lake Road to MacArthur Boulevard) This roadway is identified on the Bicycle and Pedestrian Master Plan as a Bike Lane facility. This roadway is approximately 7,400 linear feet.
- Fairway Drive – (from Riverchase Drive to Belt Line Road) This roadway is not identified on the Bicycle and Pedestrian Master Plan but provides a critical connection to the Cottonbelt Rail-to-Trail. This roadway is approximately 1,000 linear feet.

Kimley-Horn understands this project consists of the design for signage and pavement markings depicting on-street bicycle lanes with supporting directional signage consistent with the bikeway recommendations of the Bicycle and Pedestrian Master Plan. Each roadway is anticipated to include the following tasks:

Task 1: Data Collection, Base Map Development, and Field Observation
Task 2: Cross Section Development and Conceptual Layout
Task 3: Meetings
Task 4: Design Services
Task 5: Bidding and Construction Phase Services

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

Task 1 – Data Collection, Base Map Development and Field Observation

- A. Data Collection: The City will provide the Kimley-Horn with the following documents/information:

- Bicycle and Pedestrian Master Plan and any associated renderings/concepts for proposed roadways;
- Current bicycle details and specifications (if available);
- Record drawings for projects identified (if available);
- CADD files for current projects identified (if available); and
- City Contacts – The CITY will provide contact information for the applicable CITY staff to be involved with the current projects identified in the Project Understanding.

The City will provide the Consultant the most current ArcGIS shapefiles and layerfiles for the following datasets (NAD 83 State Plane, North Central Texas Zone coordinates):

- Bicycle and Pedestrian Master Plan; and
- Most recent digital orthophotograph (DOQ) of Dallas for the projects identified.

- B. Base Map Development. Kimley-Horn will create electronic base maps in AutoCAD for each of the roadways. These base maps will be created using aeriels and consist of the existing curbs, striping, and signage. The base maps will be verified during the field observation.
- C. Field Observation - Kimley-Horn will prepare base maps for and attend a two-day long field observation meeting for the four (4) corridors identified in the Project Understanding. During this field observation, Kimley-Horn will conduct field measurements and note signage and striping for each of the roadways identified in the Project Understanding. These field measurements will be used in Task 2 and Task 4.

Task 2 – Cross Section Development and Conceptual Layout

- A. Cross Section Development. Using the data collected in Task 1, Kimley-Horn will evaluate the cross section for bike lane facilities for the roadways identified in the Project Understanding. It is anticipated that the cross sections will included separated (buffer) bike lanes, two-way on-street trails (cycle track), or bike lanes.
- B. Conceptual Layout. Kimley-Horn will create electronic layouts (roll plots) and prepare preliminary designs for the bicycle marking plans based on schematic field observation (Task 1) for the project corridors identified in the Project Understanding. Kimley-Horn will use the cross sections identified in Task 2 as the basis of the design concept for each facility.

The conceptual layout will be reviewed and approved by the City prior start of Task 5. The conceptual layout will be used for meetings (Task 4) and will be considered 60% design.

Task 3 – Meetings

- A. Concept Review Meeting (City Staff). Kimley-Horn will prepare for and attend a meeting with the City to discuss the preliminary concepts.
- B. Final Design Review Meeting (City Staff). Kimley-Horn will prepare for and attend a meeting with the City to discuss the final preferred concept.
- C. Miscellaneous Meetings. Kimley-Horn will prepare content for (power point or exhibits) and attend up to four (4) meetings as requested by City staff.

Task 4 – Design Services

Kimley-Horn will create preliminary design plans (90%) for the bicycle pavement marking and signage plans based on schematic field observation (Task 1) and conceptual layout (Task 2) for the project corridors identified in the Project Understanding. It is assumed that none of the preliminary design plans will require curb relocation or signal modifications as part of this scope. It is assumed that minor survey and ramp/sidewalk maybe needed for spot locations to transition to off-street in up to two locations.

The bicycle lane and route pavement marking plans will generally include:

- Existing marking and/or marker removal (as needed);
- Proposed bike lane/route signing;
- General Notes;
- Quantities; and
- Proposed bike lane/route pavement markings.

Kimley-Horn will utilize the following design guidelines:

- City design standards;
- AASHTO's Guide for the Development of Bicycle Facilities;
- National Association of City Transportation Officials (NACTO) Urban Bikeway Design Guide;
- Texas Manual on Uniform Traffic Control Devices (TMUTCD); and
- Texas Department of Transportation standards.

Following completion of the preliminary design plans (90%), the Consultant will respond to one (1) round of comments. The Consultant will revise the preliminary design plans (90%) based on City comments and submit final design plans (100%).

Task 5 – Bidding and Construction Phase Services

- A. Bidding. Kimley-Horn anticipates that the project will be bid in one bid package.
 - This includes the printing up to three (3) sets for bidder distribution. The entire plan set will be made available and are anticipated to be distributed electronically.
 - o Final plans

- o Final contract documents
 - o Final opinion of probable construction cost – Note: Because Kimley-Horn 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. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.
 - o Furnishing additional copies of review documents and/or bid documents in excess of the number of the same identified above will be considered as Additional Services
 - Issue bid documents to prospective bidders
 - Maintain a list of bidders to whom bidding documents have been issued
 - Prepare for and conduct a pre-bid meeting with prospective bidders
 - Issue addenda as appropriate to interpret, clarify, or expand the bidding documents
 - Attend the Bid Opening
 - Tabulate the bids received and evaluate the compliance of the bids received with the bidding documents.
 - Prepare a written summary of this tabulation and evaluation together with a letter addressing the award of the construction contract
- B. Construction Phase Services. Kimley-Horn will prepare for and attend and/or conduct construction coordination meetings for the corridors listed in the Project Understanding. Kimley-Horn will respond to reasonable and appropriate Contractor requests for information (RFIs) and issue necessary clarifications and interpretations of the design plans. Any orders authorizing variations will be made by the City. If requested, Kimley-Horn will conduct site visits to the corridors listed above prior to and during construction. It is anticipated that up to five (5) hours will be needed for each corridor listed in the Project Understanding (20 hours). Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement:

- Meetings in addition to the ones identified in the Scope of Services above.
- Services related to development of the City's project financing and/or budget.
- Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the City.
- Performance of miscellaneous and supplemental services related to the project as requested by the City.

Additional Services

Any services not specifically provided for in the above scope will be provided upon written authorization from the Client, and billed as additional services and performed at our then current hourly rates.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following: existing topographic survey, ROW information, and design parameters.

Schedule

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

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 - 5 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1 Data Collection, Base Map Development, and Field Observation	\$13,500.00
Task 2 Cross Section Development and Conceptual Layout	\$ 9,000.00
Task 3 Meetings	\$11,500.00
Task 4 Design Services	\$37,500.00
Task 5 Bidding and Construction Phase Services	\$ 8,000.00
Total Lump Sum Fee	\$79,500.00

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

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 City of Coppell, Texas.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

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.

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.



Jeffrey Whitacre, P.E., AICP, PTP
Project Manager



Scott R. Arnold, P.E.
Assistant Secretary

CITY OF COPPELL, TEXAS
A Municipality

(Date)

(Print or Type Name and Title)

(Email Address)

_____, Witness

(Print or Type Name)

Attachments – Standard Provisions
Standard Rate Schedule

Kimley-Horn and Associates, Inc.

Standard Rate Schedule

(Hourly Rate)

Senior Professional I	\$240 - \$265
Senior Professional II	\$180 - \$250
Professional	\$160 - \$210
Senior Technical Support	\$115 - \$190
Technical Support	\$70 - \$100
Analyst	\$105 - \$175
Support Staff	\$ 75 - \$ 115

Effective July 2017

KIMLEY-HORN AND ASSOCIATES, INC.

STANDARD PROVISIONS

(1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. 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 herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative, 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 and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay 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.
- (g) Obtain any independent accounting, legal, insurance, cost estimating and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes 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, Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Client shall pay Consultant as follows:

- (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 and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the rate of 12% per year beginning on the 25th day. If the Client fails to make any payment due 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.
- (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) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- (e) 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 and data 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 or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization 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 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.

(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 the costs of construction and materials, are made solely based on its judgment as a 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, or upon thirty days' written notice for the convenience of the terminating party. 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.

(8) **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 performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO THE CLIENT AND THE CONSULTANT, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY 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 OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY 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. THIS SECTION 9 IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION 9 SHALL REQUIRE THE CLIENT TO INDEMNIFY THE CONSULTANT.

(10) **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.

(11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

(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 American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within two years of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the

Consultant actually becomes aware. 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 prepares construction documents 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) 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 it 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 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 Texas. 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. 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.