

LETTER OF AGREEMENT

This is a Letter of Agreement ("Agreement") between the City of Killeen (referred to herein as "City") and Kimley-Horn and Associates, Inc. (referred to herein as "Contractor"), collectively the "Parties". This Agreement is made this 11th day of August 2021.

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

Scope of Agreement. The purpose of this Agreement is to enlist the services of Contractor to:

Provide Plans, Specifications, and Estimate (PS&E) for a new signal installation at the intersection of Little Nolan Road and WS Young Drive including design of a new channelized right turn lane (the "Project"). Included in the Scope are preparation of contract documents and construction contract administration support. Refer to Exhibit A for the scope of services to be performed.

Term of Agreement. This Agreement shall commence on the 11th day of August 2021 and terminate 300 days after commencement of work on the Project.

Consideration. Contractor agrees to provide the services stated above:

_____ at the rate of \$ _____ per hour; or

X for the lump sum payment of \$ 38,580.00 to be invoiced monthly at a percentage of the work completed.

Independent Contractor. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

Applicable Laws. Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation	Statutory
Automobile Liability	\$500,000 Combined single Limit for each accident (Bodily injury and property damage).
General Liability	\$1,000,000 each occurrence (Bodily injury and property damage).
Professional Liability	\$1,000,000 general aggregate.

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

Subcontracts and Assignments. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

Indemnification. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) to the extent caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

Termination. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

Texas Law. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

Severability. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

Survival. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

Non-waiver. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

Entire Agreement. This Agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all Parties.

By signing this contract, Contractor hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

SIGNED, ACCEPTED AND AGREED TO this 11th day of August, 2021, by the undersigned Parties who acknowledge that they have read and understand this Agreement and that the Agreement is issued in accordance with local, State, and Federal laws, and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

City


Tony D. McIlwain,
AICP, CFM

For Kent Cagle, City Manager
City of Killeen

Digitally signed by Tony D. McIlwain, AICP, CFM
DN: cn=Tony D. McIlwain, AICP, CFM, o=City of
Killeen, ou=Planning and Development Services,
email=tmclwain@killeentexas.gov, c=US
Date: 2021.08.11 08:51:44 -05'00'

Tony D.
McIlwain,
AICP, CFM
Holly
Clements
Digitally signed by
Holly Clements
Date: 2021.08.03
12:36:27 -05'00'

Contractor



Printed: Scott R. Arnold
Title: Vice President

EXHIBIT A

SCOPE OF SERVICES

Kimley-Horn (the "Engineer") will be responsible for the proper, accurate, and adequate design and preparation of plans, specifications, and construction contract documents and for construction contract administration support for the Project. The Project generally includes Plans, Specifications, and Estimate (PS&E) for a new signal installation at Little Nolan Rd and WS Young Dr.

The above intersection is an unsignalized 4-legged intersection and operates under 'Two-Way' stop control on Little Nolan Road. The proposed signal plans will be prepared for control of all 4 legs of the intersection.

Design services related to the design and plan production for this project will be performed in accordance with the current City of Killeen Infrastructure Design and Development Standards Manual (IDDSM) and TxDOT Design and Construction Standards. Plans will be prepared on 11" x 17" sheets and use 2014 TxDOT Specifications.

This project will be developed utilizing Microstation V8i and Bentley Geopak V8i.

Due to the everchanging circumstances surrounding the COVID-19 Virus, situations may arise during the performance of this Agreement that affect availability of resources and staff of Kimley-Horn, the client, other consultants, and public agencies. There could be changes in anticipated delivery times, jurisdictional approvals, and project costs. Kimley-Horn will exercise reasonable efforts to overcome the challenges presented by current circumstances, but Kimley-Horn will not be liable to Client for any delays, expenses, losses, or damages of any kind arising out of the impact of the COVID-19 Virus.

TASK 1 PROJECT MANAGEMENT

Project management spans the entire duration of the project and involves monitoring and coordination of services provided to the City to assure timely and efficient completion of the project.

This task consists of project control and scheduling, documentation, reporting requirements, and quality control. The Engineer will conduct project review and design specific technical meetings under this subtask. The Engineer has assumed the following meetings in this scope:

- (a) One (1) 30% plan review teleconference meeting;
- (b) One (1) field review meeting for design discussion with City staff;
- (c) One (1) 90% design review teleconference

TASK 2 DATA COLLECTION AND SURVEY

A. DATA COLLECTION

The Engineer will conduct field reconnaissance to verify existing conditions at the above location.

The Engineer will coordinate with 811 utility locate services and the City of Killeen utility locate service to determine approximate locations of underground utilities and overhead power. The limits of the utility locating will be within the Right-of-Way (ROW), extending approx. 200 feet down each intersection leg (4 legs) from the center of the intersection. The Engineer will coordinate with the City to determine approximate the existing ROW boundaries.

The Engineer will rely on the City to provide GIS shapefiles showing locations of their utilities and property lines, obtain copies of utility plans in the area, obtain copies of plans for any improvements constructed in the area outside of the survey and Subsurface Utility Engineering (SUE) limits in Task 2.B.

B. SURVEY

Proposed survey includes QL“B” SUE services at the intersection of W S Young Drive and Little Nolan Drive in Killeen, Texas. The limits of the SUE investigation are shown in red in the Exhibit below:



The Engineer or its subconsultant will attempt to designate the following utilities within this area: potable water, reclaimed water, chilled water, natural gas/crude oil/refined product pipelines, communication duct banks, fiber optic, cable television, telephone, and electric. Wastewater and storm drain facilities will be inverted at manholes, and will be depicted as QL“C” information. Additionally, the Engineer or its subconsultant will attempt to designate utility service lines, however, because these lines are often non-conductive and not shown on records the Engineer

or its subconsultant cannot guarantee all service lines will be included in the final deliverables. Irrigation lines and an inventory of overhead utilities are excluded from this scope of work.

This proposal also includes one (1) QL“A” SUE test hole at a location that will be provided by the Client.

It is assumed that the QL“A” and QL“B” SUE investigations will occur concurrently in a single mobilization.

The survey of SUE field markings is also included in this scope of work. It is assumed that the Client will provide the necessary survey control information.

Any necessary Right-Of-Entry (ROE) permits or right-of-way permits will be provided by the Client prior to the start of field work.

QL“B” – Designating

Following a review of the project scope and available utility records with the project manager, the Engineer or its subconsultant field personnel will begin designating the approximate horizontal position of known subsurface utilities within the project area. A suite of geophysical equipment that includes magnetic and electromagnetic induction will be used to designate conductive utilities. Where access is available, a sonde will be inserted into non-conductive utilities to provide a medium for transmission which can then be designated using geophysical equipment. Non-conductive utilities can also be designated using other proven methods, such as rodding and probing. The Engineer or its subconsultant will make a reasonable attempt to designate Unknown utilities identified during field work; however, no guarantee is made that all Unknown utilities will be designated. Utilities will be marked and labeled to distinguish type and ownership. Field data depicting the designated utilities, as well as relevant surface features, will be produced to ensure accuracy and completeness of subsequent survey data. The Engineer or its subconsultant project manager will review the collected survey data, field data, and utility records for accuracy and completeness.

QL“A” – Locating

The Engineer or its subconsultant will utilize non-destructive vacuum excavation equipment to excavate test holes at the requested locations. To layout the test holes, the Engineer or its subconsultant will follow the QL“B” – Designating procedures described above. Once each utility is located, the Engineer or its subconsultant will record the size, type, material, and depth. Test holes will be uniquely marked. Excavations will be backfilled by mechanical means with the appropriate material, and the original surface will be restored. The Engineer assumes that flowable fill will not be required when backfilling test holes and that full-section pavement repair (including sidewalks) will not be required to restore the original pavement surface. If requested, these services can be provided at an additional cost.

The Engineer or its subconsultant will establish any necessary routine traffic control measures at no additional cost. However, if non-routine traffic control measures (lane closures, traffic detours, flagpersons, etc.) are required, this service will be invoiced as a direct expense. Due to the risk of damage, TRG will not attempt to probe or excavate test holes on AC water lines unless approval is obtained from the owner in advance. Additionally, excavation in rock, or to a depth greater than 18 feet is considered beyond the scope of this proposal. The Engineer or its subconsultant has made the following assumptions with regard to the test holes on this project:

- All test holes will be accessible to truck-mounted vacuum excavation equipment.
- Right-Of-Way (ROW) permits from the City of Killeen (COK) will not be required. If they are required, it is assumed they will be provided to the Engineer or its subconsultant at no cost.
- Designed traffic control plans will not be required.
- Non-routine traffic control measures will not be required.
- The coring of pavement will not be required.

Deliverables

The Engineer will provide the following as a final deliverable to the Client:

- A utility file in CAD format depicting all designated and located utilities. The Client will
- provide TRG with any necessary background files for use in completing the final deliverables.
- A summary sheet of all test hole coordinate data and depth information.
- 8.5" x 11" Test Hole Data Forms for all test hole locations completed. These plans will
- be signed and sealed by a Professional Engineer and delivered to the Client in electronic
- PDF form.
- 11" x 17" SUE Plan Sheets depicting all designated and located utilities. These plans
- will be signed and sealed by a Professional Engineer and delivered to the Client in
- electronic PDF form.

TASK 3 PLANS, SPECIFICATIONS & ESTIMATE

A. SIGNAL DESIGN PLANS

The Engineer will develop plans to install a new traffic signal at the intersection of Little Nolan Rd and WS Young Dr.

- (a) The signal plans will be prepared at a scale of 1"=40' and will include the following sheets:
- (i) Cover sheet including project name, location map, signature blocks, and applicable standards.
 - (ii) Existing Conditions sheet will show locations of existing traffic control devices, underground, and overhead utilities at the intersection based on the survey.
 - (iii) Signal Layout sheet will show the locations of proposed signal poles, pedestrian poles, signal heads, communication equipment, electrical conduits, ground boxes, signal cabinet, new electrical service, existing utilities, and right of way. Locations of pedestrian poles and pedestrian access ramps will be designed in conformance with ADA requirements. Due to lateral and vertical clearance required from an overhead electric line (per the State law), the Engineer will coordinate with the City before finalizing locations of signal poles, where applicable.
 - (iv) Roadway Layout sheet will show the proposed typical pavement section for the pavement widening to match the existing pavement section of W S Young, station and offset for proposed curb lines, a point table for any channelized islands, removal, and SW3P. It is not anticipated a deceleration lane for the channelized right turn will be needed and will be considered additional services.
 - (v) Signal Elevation sheet will show placement of signal heads on a mast-arm and vertical clearance required for the mast-arm.
 - (vi) Conduit Chart and Electrical Wiring sheet will show the type and number of electrical wires in each conduit run. A new electrical service will be designed to support total electrical load due to the new traffic signal and safety lighting at the intersection. The electrical service will include two separate circuits for traffic signal and illumination. At the 30% field review meeting, the Engineer will coordinate with the City and local electric service provider to determine location of new electrical service.
 - (vii) Phasing & Detection sheet will show the proposed phasing at each intersection. Phasing and signal-heads for left-turn movements will be designed in conformance with 2011 Texas MUTCD. Video detection details for each movement will also be shown.
 - (viii) Pavement Markings sheet
 - (ix) Quantities sheet will be provided for the intersection.
- (b) The Engineer will use latest TxDOT general notes issued by the Waco District or general notes provided by the City and update appropriately as required for traffic signals.

B. STANDARDS, SPECIFICATIONS, AND ESTIMATE

- (a) The Engineer will download the appropriate City and TxDOT standards from the City or State web site, as appropriate. Standards that require modification will be corrected and sealed by the Engineer. All other standards will have their title blocks filled out with the applicable project data and printed for inclusion in the final plan set.
- (b) The Engineer will provide a list of applicable special specifications for traffic signals. If needed, the Engineer will develop or modify up to four (4) unique special specifications where an existing statewide specification is unavailable.
- (c) An opinion of probable construction cost will be prepared at the 90% and prior to final PS&E submittal and supplied to the City in Microsoft Excel format.

DELIVERABLES

- 1. 30% Plans Submittal
 - (a) Existing Conditions
 - (b) Proposed Signal Layout
 - (c) Proposed Roadway Layout
 - (d) Signal Elevation
- 2. 90% Plans Submittal
 - (a) Title Sheet & Index
 - (b) General Notes
 - (c) Existing Conditions
 - (d) Proposed Signal Layout
 - (e) Proposed Roadway Layout
 - (f) Signal Elevation
 - (g) Electrical Wiring
 - (h) Phasing and Detection
 - (i) Signs and Markings
 - (j) APS Load Switch Assignment
 - (k) Estimated Quantities
 - (l) City/TxDOT Standards (including Traffic Control Plans standards)
 - (m) Opinion of Probable Construction Cost Estimate
- 3. 100% Plans Submittal
 - (a) Address any comments to plan sheets from 90% submittal
 - (b) Issue signed and sealed plan sheets
 - (c) Final cost estimate

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Project Manual;
- Bid Phase Services;
- Construction Phase Services;
- Traffic signal warrant studies;
- Updates to plans due to modification of project scopes by the Client;
- Attendance at public meetings;
- Geotechnical Engineering;
- Retaining wall design;
- Structural analysis or design; and
- Additional meetings other than those listed in the scope.