

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

# **STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

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AMERICAN CONSULTING ENGINEERS COUNCIL

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AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

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**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between  
the CITY OF KILLEEN (“OWNER”) and Kimley-Horn and Associates, Inc.(“ENGINEER”).

OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows: To provide  
engineering services as described in Exhibit A of this contract in the amount of \$421,550.00

## **ARTICLE 1 - SERVICES OF ENGINEER**

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### **1.01 Scope**

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by Owner, Engineer shall furnish Resident Project Representative (s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

## **ARTICLE 2 - OWNER'S RESPONSIBILITIES**

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### **2.01 General**

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## **ARTICLE 3 - TIMES FOR RENDERING SERVICES**

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### **3.01 General**

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

### **3.02 Suspension**

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

## **ARTICLE 4 - PAYMENTS TO ENGINEER**

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### **4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER**

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

### **4.02 Other Provisions Concerning Payments**

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for

services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C. Engineer shall not incur additional expenses after receipt of notice of termination, and shall make reasonable efforts to minimize costs.

E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

## **ARTICLE 5 - OPINIONS OF COST**

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### **5.01 Opinions of Probable Construction Cost**

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

### **5.02 Designing to Construction Cost Limit**

A. If a Construction Cost limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

### **5.03 Opinions of Total Project Costs**

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

## **ARTICLE 6 - GENERAL CONSIDERATIONS**

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### **6.01 Standards of Performance**

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance or

furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit H.

## **6.02 Authorized Project Representatives**

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

## **6.03 Design without Construction Phase Services**

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

## **6.04 Use of Documents**

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

## **6.05 Insurance**

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

## **6.06 Termination**

A. The obligation to provide further services under this Agreement may be terminated:



1. *For cause,*

a. By either party upon 30 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.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

## **6.07 Controlling Law**

A. This Agreement is to be governed by the law of the State of Texas and venue shall be in Bell County.

## **6.08 Successors, Assigns, and Beneficiaries**

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

## **6.09 Hazardous Environmental Condition**

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

## **6.10 Allocation of Risks**

### **A. Indemnification**

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions

of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. In addition to the indemnity provided under paragraph 6.10.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.10.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

4. The indemnification provision of paragraph 6.10.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

## **6.11 Notices**

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## **6.12 Survival**

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

## **6.13 Severability**

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

## **6.14 Waiver**

A. 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.

## **6.15 Headings**

A. The headings used in this Agreement are for general reference only and do not have special significance.

## **ARTICLE 7 - DEFINITIONS**

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### **7.01 Defined Terms**

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form

and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*--A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in

accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to

ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

## **ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS**

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### **8.01 Exhibits Included**

A. Exhibit A, "ENGINEER's Services," consisting of 17 pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of 2 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 3 pages.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages.

E. Exhibit E, "Notice of Acceptability of Work," consisting of 2 pages.

F. Exhibit F, "Construction Cost Limit," consisting of 1 page.

G. Exhibit G, "Insurance," consisting of 1 page.

H. Exhibit H, "Special Provisions," consisting of 1 page.

I. Exhibit, "DBE Goal," Consisting of 1 page.

## 8.02 Total Agreement

A. This Agreement (consisting of pages 1 to 12 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

By signing this contract, Engineer 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Killeen

ENGINEER: Kimley-Horn and Associates, Inc.

By: Kent Cagle

By:                     

Title: City Manager

Title:                     

Date Signed:                     

Date Signed:                     

Address for giving notices:

Address for giving notices:

P.O. Box 1329

Killeen, TX 76540-1329

Designated Representative (paragraph 6.02.A):

Tony McIlwain, AICP CFM

Designated Representative (paragraph 6.02.A):

Title: Executive Director of Development Services

Title:                     

Phone Number: 254-501-7633

Phone Number:                     

Facsimile Number: 254-501-7628

Facsimile Number:                     

E-Mail Address: tmcilwain@killeentexas.gov

E-Mail Address:

This is **EXHIBIT A**, consisting of 17 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

## **ENGINEER's Services**

In an addition to the services listed herein, see also the scope of services from Kimley-Horn

### **PART 2 -- ADDITIONAL SERVICES**

#### **A2.01 Additional Services Requiring OWNER's Authorization in Advance**

A. If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.
4. Services resulting from OWNER's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.01.A.4.
5. Services required as a result of OWNER's providing incomplete or incorrect Project information with respect to Exhibit B.
6. Providing renderings or models for OWNER's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
8. Furnishing services of ENGINEER's Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.
10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.
13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
15. Providing construction surveys and staking to enable Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the Contract Times set forth in Exhibit C.
17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
18. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.
19. Preparation of operation and maintenance manuals.
20. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
21. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.
22. Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

#### A2.02 Required Additional Services

A. ENGINEER shall perform or furnish, without requesting or receiving specific advance authorization from OWNER, the Additional Services of the types listed below. ENGINEER shall advise OWNER in writing promptly after starting any such Additional Services.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.
2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by OWNER prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.





October 13, 2021

Andrew Zagars, P.E.  
City Engineer  
PW-Engineering Division  
3201-A S.W.S Young Drive  
City of Killeen, Texas 76542-6157

***RE: Bunny Trail Preliminary Design  
Austin, Texas***

Dear Mr. Zagars,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or the "Engineer") is pleased to submit this letter agreement (the "Agreement") to City of Killeen (the "Client" or the "City") to provide consulting engineering and sub-consultant services for the referenced project.

#### **PROJECT UNDERSTANDING**

Kimley-Horn will be responsible for the design and preparation of schematic for the Project. The Project generally consists of completion of preliminary schematic design, drainage analysis, survey, subsurface utility engineering, environmental compliance, geotechnical investigation, and traffic analysis for reconstruction improvements to approximately 5,500 linear feet of Bunny Trail from Stan Schlueter Loop to Canadian River Loop. This project will consist of drainage improvements to the intersection of Stan Schlueter Loop and Bunny Trail.

We have included in the following Scope of Service the services that are anticipated to meet the Client's needs for the proposed development.

**(The remainder of this page is intentionally left blank)**

## **SCOPE OF SERVICES**

### **RESPONSIBILITIES OF THE CITY**

In conjunction with and in order for the completion of the professional services detailed below, the City of Killeen agrees to complete the following tasks:

- Schedule and hold a Project Kickoff Meeting and assist in developing the project stakeholders list.
- Attend project coordination meetings, most will be held at the City of Killeen offices.
- Provide As-Built plans and design files for previous projects along Bunny Trail
- Provide timely reviews and comments on interim and milestone submittals in order for the consultant team to maintain agreed upon schedules.

### **SERVICES TO BE PROVIDED BY THE ENGINEER**

The Engineer's Services consist of the services specifically described in Sections 1 through 9 including the specific engineering services to be performed through the following consulting disciplines as subcontractors to the Engineer:

- (1) McGray and McGray Land Surveyors, Inc (McGray) – Survey
- (2) The Rios Group (TRG) – Subsurface Utility Engineering
- (3) Raba Kistner Consultants, Inc. (RKCI) – Geotechnical investigation and Pavement Engineering
- (4) Quality Counts, LLC – Traffic counts

## **1. PROJECT ADMINISTRATION AND COORDINATION SERVICES**

The Engineer will:

- 1.1. Assemble a Project team comprised of the City's representatives and the Engineer's representatives. The Engineer will meet with the Project team at a kickoff meeting to set the production schedule and parameters for all subsequent work, to verify the components within which all Project participants must perform, and to identify all parties and significant deadlines involved in the comprehensive schedule strategy. Based on this information, the Engineer will prepare a detailed schedule of its work for the Project addressing each component of the work to be done, indicating the points of involvement of all project participants. The Engineer will maintain the schedule throughout project development.
- 1.2. Perform general administrative duties associated with the Project, to include monitoring/reporting, scheduling, general correspondence, office administration, and invoicing.

- 1.3. The Engineer will prepare and submit monthly status updates with updated schedule and invoices to the City for review and approval. The Engineer will prepare weekly progress updates.
- 1.4. The Engineer will attend one (1) project kickoff meeting with the City. Meeting minutes and agenda will be prepared by the Engineer for the meeting.
- 1.5. The Engineer will attend up to two (2) coordination meetings with TxDOT. Meeting minutes and agenda will be prepared by the Engineer for the meetings.
- 1.6. The Engineer will perform virtual bi-weekly internal project team coordination meetings estimated at one (1) hour each. Meeting minutes and agenda will be prepared by the Engineer for the meeting.
- 1.7. The Engineer will perform virtual monthly coordination Teams meetings with City estimated at one (1) hour each. Meeting minutes and agenda will be prepared by the Engineer for the meeting.

## **2. ENVIRONMENTAL SERVICES**

The environmental documentation consists of compliance with U.S. Army Corps of Engineers (USACE) and coordination with Texas Historical Commission (THC) as follows:

- 2.1. Aquatic Resources Delineation and Preliminary Jurisdictional Analysis
  - Kimley-Horn will perform an Aquatic Resources Delineation in general accordance with the U.S. Army Corps of Engineers (USACE) 1987 Wetlands Delineation Manual and appropriate USACE Regional Supplement (Great Plains Region) as detailed below.
  - Kimley-Horn will perform a desktop review by locating readily available resource documents which may include aerial photographs, historic topographic maps, soil surveys, U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) maps, National Hydrography Dataset (NHD), Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), historic aerial photographs, and other related data for a desktop review of site conditions.
  - Kimley-Horn will perform a site visit to evaluate the existence and locations of aquatic resources on the site generally following the USACE 1987 Wetlands Delineation Manual and the applicable USACE Regional Supplement. Completion of USACE wetland determination data forms will be completed if applicable. The ordinary high-water mark (OHWM) for streams will be identified in the field. Following the site visit, Kimley-Horn will prepare exhibits showing the boundaries (polygons) and acreage and/or linear footage (if applicable) of aquatic resources identified onsite during the site visit as collected utilizing a GPS with sub-meter accuracy. Kimley-

Horn will provide the Client with PDF and AutoCAD versions of the aquatic resources files in the correct coordinate system.

- Kimley-Horn will prepare a report for the project documenting the results of the aquatic resources delineation performed onsite. The report will address the applicable regulatory framework, describe the assessment methodology, limitations, and findings, provide site-specific conclusions and jurisdictional analysis of identified features, and provide recommendations pertaining to compliance with Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. The report will also include applicable maps/exhibits, site photographs, and data sheets/forms. If the Client provides Kimley-Horn with a preliminary site plan, Kimley-Horn will overlay the site plan with the results of the aquatic resources delineation (aquatic features onsite) to evaluate potential USACE permitting implications (if any). USACE permitting implications will be discussed with the Client.
- This Task does not include consultation with the USACE, including pursuit of a No Permit Required letter, Approved Jurisdictional Determination (AJD), or Department of Army permit.
- It is important for the Client to understand that the Environmental Protection Agency (EPA) and the USACE occasionally issue guidance concerning what they intend to assert jurisdiction over. Changes that impact our strategy or scope will cause additional work and will be addressed as an additional service amendment to this agreement. Observations will be made under the applicable regulatory guidance at the time of the observations.

## 2.2. TXDOT Environmental Checklist

- Kimley-Horn will prepare the appropriate documentation for submittal to the TxDOT Environmental Reviewer to aid in obtaining environmental clearance. Kimley-Horn will complete desktop studies as required by the TXDOT Environmental Issues Checklist for Donation Agreements and Driveways (or equivalent). Kimley-Horn will coordinate with other agencies and TxDOT Environmental Reviewer as appropriate per the checklist. A site visit will be required; however, this will occur as part of the aquatic resources delineation. Appropriate attachments will be added to the checklist. No formal environmental studies or TxDOT NEPA documents will be prepared as part of this scope as we understand they will not be required.

## 2.3. Texas Historical Commission Consultation

- In accordance with the Antiquities Code of Texas, Kimley-Horn will prepare a consultation letter with appropriate project specific information and plans/maps attached for submittal to the Texas Historical Commission (THC) for review. The consultation letter will

be uploaded to the THC's online portal. THC review may take up to 30 days. This task does not include cultural resources studies or surveys.

Deliverables will consist of:

- Draft and Final Aquatic Resources Delineation and Preliminary Jurisdictional Analysis report (PDF)
- Draft and Final TxDOT Environmental Checklist for Donation Agreements and Driveways (or equivalent) (PDF)
- Draft and Final THC Consultant Letter (PDF)

### 3. SURVEYING SERVICES

Surveying services and ROW retracement will be performed via a subconsultant (McGray) for Bunny Trail from Stan Schlueter Loop to Briscoe Dr from ROW to ROW.

3.1. Surveying services will be performed via a subconsultant (McGray) as follows:

- Stan Schlueter Loop and Bunny Trail intersection will be surveyed for approximately 300' west and 600' east of the centerline of Bunny Trail.
- Cross sections shall be taken at 50-foot intervals along with break lines as required, to provide a digital topographic design file at 1-foot contours.
- Locate and identify all above ground features within the survey limits including buildings, fences, visible utilities, sidewalks, driveways, handicap ramps, guardrails, signs, manholes, water valves, telecom boxes, utility poles, mailboxes, irrigation heads, water meters, sanitary sewer cleanouts, etc. The outside limits of dense tree and vegetation growth shall be identified.
- Trees 8-inches and larger in diameter shall be measured, identified and tagged with a point number
- Locate and identify types of existing pavement surfaces for streets, alleys, sidewalks, driveways, etc. Locate and identify existing lane markings and signage in detail (color, width, words, symbols). Locate and identify existing traffic signals including base, mast arms, and control boxes.
- Locate enough property corners to graphically depict the location of right-of-way lines, however the boundary survey will only be for retracement purposes and not sufficient to create any easements.
- Boundary Survey of the existing CVS Pharmacy at the southeast corner of Bunny Trail and Stan Schlueter Loop will be performed.

3.2. The Engineer shall coordinate with The Surveyor and perform QA/QC of survey deliverable files.

Deliverables will consist of:

- 2D Microstation DGN of surveyed areas and ROW retracement
- Digital Terrain Model (DTM) at 1 foot contours.

#### **4. GEOTECHNICAL ENGINEERING SERVICES**

A geotechnical investigation and roadway pavement design will be performed via a subconsultant (RKCI).

4.1. RKCI will perform geotechnical services consisting of the following:

- Drilling 12 pavement borings, spaced at approximate 500 ft intervals. The borings will be advanced to approximate depths of 10 ft below the existing ground surface utilizing a truck mounted drilling rig.
- Samples will be taken using conventional Shelby tube, split-spoon, and NX rock core sampling techniques. The borings will be located in the field utilizing a recreation grade hand-held GPS device. Our scope of service does not include surveying in the boring location. Borings will be backfilled with auger cuttings and bentonite and then patched with asphalt. Two days of traffic control are planned to perform the subsurface soil evaluation.
- Dynamic Cone Penetrometer (DCP) tests will also be performed within the subgrade immediately below the flexible base at this site to measure in-situ subgrade stiffness.
- Water level readings will be recorded for the open boreholes during drilling and at drilling completion. If free water is encountered during drilling, the RKCI geologist will temporarily suspend drilling operations and obtain water level measurements in the open borehole at 5-minute intervals over a 15-minute time period. Water level measurements will also be recorded at completion of drilling prior to backfilling the boreholes with the auger cuttings and spoils generated during the drilling operations.
- Samples collected will be retained in RKCI's laboratory for 30 days after submittal of the final geotechnical report.
- RKCI engineer will make a site visit to document the existing pavement conditions.
- Upon completion of the subsurface exploration, a testing program will be designed to define the strength and classification characteristics of the subgrade soils. The laboratory testing program is anticipated to include moisture content tests, Atterberg Limits (plasticity) tests, sulfate concentration tests, and grain size analyses. However, the actual type and number of laboratory tests will be based on the subsurface conditions encountered in the borings. The laboratory testing will be performed in general accordance with applicable ASTM standards. Two California Bearing Ratio (CBR) tests will be

- performed to estimate the strength of the subgrade soils.
  - The results of the field and laboratory phases of the study will be reviewed by RKCI staff of engineers and geologists. The results of our review, together with the supporting field and laboratory data, will be presented in a written, engineering report. The Geotechnical Engineering Report will include the following information and recommendations, if applicable:
    - A boring location map and boring logs;
    - A summary of the field and laboratory sampling and testing program,
    - A summary of the laboratory test results;
    - A review of general site conditions including descriptions of the site, the subsurface stratigraphy, groundwater conditions, and the presence and condition of fill materials, if encountered.
    - Estimated expansive, soil-related movements using an empirical method for predicting Potential Vertical Rise (PVR) developed by the Texas Department of Transportation;
    - Methods for reducing expansive, soil-related movements;
    - A description of existing pavement distress types and severity;
    - A summary of possible causes of the visible pavement distress;
    - Flexible and rigid pavement component thickness recommendations for Bunny Trail, including full depth asphalt pavement sections.
- 4.2. The Engineer shall coordinate with the Geotechnical Engineer and perform QA/QC of report deliverable files.

Deliverables will consist of:

- One (1) electronic copy of Draft Geotechnical Engineering Report
- One (1) electronic copy of Final Geotechnical Engineering Report

## **5. SUBSURFACE UTILITY ENGINEERING (SUE) SERVICES/ UTILITY COORDINATION SERVICES**

SUE services will be performed via a subconsultant (TRG) for Bunny Trail from Stan Schlueter Loop to Briscoe Dr from ROW to ROW. Stan Schlueter Loop and Bunny Trail intersection will be surveyed for approximately 300' west and 600' east of the centerline of Bunny Trail.

- 5.1. SUE services will be performed via a subconsultant (TRG) as follows:
- TRG will perform SUE services for this project in general accordance with the recommended practices and procedures described in ASCE publication CI/ASCE 38-02 "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data." As described in the publication, four levels have been established to describe and



depict the quality of subsurface utility information. The four quality levels are as follows:

- Quality Level D (QL“D”) – Information obtained from existing utility records.
- Quality Level C (QL“C”) – Surveyed data depicting visible above-ground features supplemented with QL“D” information.
- Quality Level B (QL“B”) – Two-dimensional horizontal information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as “designating,” this level incorporates QL“C” information and provides horizontal positioning of subsurface utilities to within approximately 1.0 foot.
- Quality Level A (QL“A”) – Three-dimensional horizontal and vertical information obtained through non-destructive vacuum excavation equipment to expose utilities at critical points. Also known as “locating,” this level incorporates QL“B” information and provides horizontal and vertical positioning of subsurface utilities to within approximately 0.05 feet.

## Base Services

The scope of the base services of this proposal includes QL“B” SUE services to support the Bunny Trail Reconstruction project in Killeen, Texas. The limits of the SUE investigation consist of along Bunny Trail from Stan Schlueter to Briscoe Dr from Right-of- Way to Right-of-Way. The limits also consists of along Stan Schlueter from the roadway centerline to the southerly ROW line from 300 feet northwest to 600 feet southeast of the Bunny Trail centerline. TRG 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 along with curb inlets, and will be depicted as QL“C” information. Additionally, TRG will attempt to designate utility service lines, however, because these lines are often non-conductive and not shown on records TRG 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.

The survey of SUE field markings is also included in the base services.

## QL“B” – Designating

Following a review of the project scope and available utility records with the project manager, TRG 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. TRG



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 TRG project manager will review the collected survey data, field data, and utility records for accuracy and completeness.

## Additional Services

This proposal also includes the following additional services which require written authorization to proceed from the Client prior to the commencement of work. The additional services consists of up to ten (10) QL“A” SUE test holes at locations that will be provided by the Client following a review of the QL“B” information. The survey of SUE field markings is also included in the additional services.

### QL“A” – Locating

TRG will utilize non-destructive vacuum excavation equipment to excavate test holes at the requested locations. To layout the test holes, TRG will follow the QL“B” – Designating procedures described above. Once each utility is located, TRG 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. If necessary, TRG can core pavement up to a depth of 12 inches. Asphalt surfaces will be repaired with an asphalt cold patch, and concrete cores will be epoxied in place, flush with the surrounding surface. TRG 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.

TRG 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.

TRG 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 be required. TRG will obtain all required City permits and ensure that coordination and compliance with the City is provided.
- Designed traffic control plans will not be required. It is assumed that Texas Department of Transportation (TxDOT) standard TCP details will be utilized for all required lane closures.

- Non-routine traffic control measures will be required. TRG will acquire the services of a qualified Maintenance-Of-Traffic (MOT) Subcontractor, and ensure that adequate traffic control is provided.
  - The coring of pavement will be required at up to five (5) locations.
- 5.2. Attend an initial utility coordination meeting with all utility owners within corridor to notify owners of project and begin coordination of potential conflicts and resolutions. Prepare and distribute minutes from the utility coordination meeting.
  - 5.3. Attend up to three (3) coordination meetings with individual utility owners to facilitate additional coordination of utility adjustments, conflict resolutions, and utility agreements.
  - 5.4. Determine which utilities will conflict with proposed construction and develop Utility Conflict Matrix.
  - 5.5. Update and maintain a utility layout in the Microstation V8. This layout shall include all existing utilities which are to remain in place or be abandoned, and all adjusted utilities. This layout will be utilized to monitor the necessity and evaluate alternatives. The Engineer will utilize the layout of existing utilities as prepared, and make a determination of the following:
    - Facilities in conflict with the proposed project that are to be relocated.
    - Facilities to be abandoned in place.
    - Facilities to remain in service and in place.

Deliverables will consist of:

- Electronic files will be provided in MicroStation format along with PDFs and photos.
- Quality Level-B 2D Utility Designation will be 11-in. x 17-in. SUE plan sheets depicting the findings of the investigation.
- 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. (As authorized)
- Exhibit showing utilities in conflict with proposed construction

## **6. PUBLIC INVOLVEMENT SERVICES**

This task consists of public involvement services for support and attendance for up to one (1) open house public meeting.

- 6.1. Public meeting concept roll plot showing typical sections and plan view elements
- 6.2. Prepare and attend for one public meeting (limited to 2 Senior Professional Engineers, 1 Professional Engineer, and 1 Analyst)
- 6.3. Prepare public meeting advertisements consisting of newspaper and social media advertisement.

- 6.4. Prepare a public meeting summary which will consist of information provided at the meeting, public comments, and responses to public comments.

Deliverables will consist of:

- Public meeting roll plot
- Public meeting advertisement and letters
- Public meeting summary report

## **7. SCHEMATIC DESIGN SERVICES**

This task consists of design services for the 30% preliminary schematic. The Engineer will:

- 7.1. Obtain and review available record drawings, aerial photography, and any site development plans under review by the City.
- 7.2. Perform a site visit to evaluate site and traffic characteristics, topography, utilities, and potential environmental issues.
- 7.3. Develop project design criteria
- 7.4. Evaluate and design horizontal alignment for Bunny Trail
- 7.5. Evaluate and design vertical profile utilizing Microstation V8 and Geopak roadway design software.
- 7.6. Prepare preliminary horizontal roadway geometrics to be included on the schematic
- 7.7. Prepare existing and proposed typical sections to be included on the schematic based on preliminary analysis results
- 7.8. Intersection configurations and Geometrics
  - Preliminary intersection geometrics for Alamocitos Creek Dr and Stan Schlueter Loop
- 7.9. Prepare preliminary cross sections at a spacing no less than 100 feet and at driveways and intersections. These cross-sections will show pavement and subgrade, right-of-way limits, side slopes, pavement cross-slopes, curbs, and sidewalks.
- 7.10. Prepare one 30% opinion of probable construction cost (OPCC)
- 7.11. Prepare one 30% Draft Preliminary Design Schematic roll plot. The preliminary design schematic will be limited to existing topography and utilities, horizontal alignments, vertical profile design, intersection horizontal alignments and profiles (where applicable), identified easements, roadway typical sections, drainage improvements, existing and proposed right-of-way, existing and proposed pavement edges, proposed sidewalks, and proposed lane striping.
- 7.12. Prepare a preliminary construction contract timeline
- 7.13. The Engineer will perform Quality Control/Quality Assurance on each deliverable.
- 7.14. Attend up to one (1) Design Review meeting with the City for the 30% schematic roll plot. Prepare meeting minutes and distribute to project

attendees. Prepare comment responses for comments received during design review submittals.

- 7.15. Prepare one Final 30% Preliminary Design Schematic roll plot addressing City comments
- 7.16. KH will analyze potential areas for the placement of street trees and landscaping enhancements along the limits of roadway improvements. A list of potential tree and plant species will be developed for use as a guide during the design phase. A schematic plan markup will indicate areas that can accommodate the placement of street trees and landscape enhancements and will be presented to the City.

The Engineer will provide the following deliverables during this task:

- Draft 30% Preliminary Design Schematic - Two (2) copies and one (1) electronic copy of the roll plots at a scale of 1 inch = 50 feet
- Final 30% Preliminary Design Schematic - Two (2) copies and one (1) electronic copy of the roll plots at a scale of 1 inch = 50 feet
- Two (2) copies and one (1) electronic copy of the 30% Cross Sections
- One (1) copy and one (1) electronic copy of Opinions of Probable Construction Cost for 30% Preliminary Design Schematic

## **8. DRAINAGE DESIGN SERVICES**

Drainage design services consist of a drainage study to analyze existing and proposed conditions for compliance with City of Killeen Criteria along the Bunny Trail Corridor. Where deficiencies exist, recommended improvements will be included with associated costs in the Preliminary Drainage Report and overall Opinion of Probable Construction Cost (OPCC).

The Engineer will:

- 8.1. Data Collection: obtain studies, models, terrain, surveys, field reconnaissance, and plans
- 8.2. Existing and Proposed Storm Sewer Model – A StormCAD model to reflect existing and proposed conditions will be built and analyzed to determine the proposed size of pipes required to meet the City of Killeen Drainage Criteria. This task consists of the following:
  - Drainage area delineation
  - Time of Concentration calculations
  - Runoff Coefficients
  - Flow rates
  - Inlet capacity and spread calculations
  - Pipe hydraulic calculations
- 8.3. Culvert Crossing – Analyze one culvert crossing near Cotton Patch Drive
- 8.4. Prepare a Preliminary Drainage Design Report summarizing findings

described above

The Engineer will provide the following deliverables during this task:

- One (1) PDF copy of the Preliminary Drainage Design Report

## 9. TRAFFIC SERVICES

This task includes traffic analysis to evaluate and confirm appropriate lane geometry along Bunny Trail and at intersections of Stan Schlueter Loop and Alamocitos Creek Dr along the roadway. The Engineer will:

- 9.1. Obtain existing traffic count data at the following intersections:
  - 4-hour (7a-9a, 4p-6p) Turning Movement Counts at Stan Schlueter & Bunny Trail
  - 12-hour TMC (6a-6p) Turning Movement Count at Alamocitos Creek Dr/Breeder Ln & Bunny Trail
  - 24-hour Tube Count (Bi-directional) at crosswalk at Canadian River Loop (North location) and Bunny Trail at Haynes Elementary School
  - 4 hour ped count at crosswalk at Canadian River Loop (North location)/Bunny Trail at Haynes Elementary School and at Briar Patch Lane/Bunny Trail at Roy J Smith Middle School
- 9.2. Obtain existing signal timing data from the City at Stan Schlueter Loop and Bunny Trail for the AM and PM peak periods
- 9.3. Develop a traffic model for the intersection Stan Schlueter Loop and Bunny Trail of using Synchro software to simulate existing conditions for AM and PM peak periods.
- 9.4. Evaluate level of service for turning movements at Stan Schlueter Loop at Bunny Trail intersection for potential lane configuration changes and addition of turn lane capacity and signal equipment and signal timing adjustments
- 9.5. Evaluate potential road diets, addition of a median, median opening locations, and possibility of adding bicycle facilities in a cross section evaluation for up to 3 different corridor segments based on existing and proposed Right-of-Way and traffic data collected
- 9.6. Conduct a signal warrant analysis at the intersection of Alamocitos Creek Dr / Breeder Ln and Bunny Trail
- 9.7. Conduct a Pedestrian Hybrid Beacon (PHB) analysis for the North crosswalk location at Canadian River Loop and Bunny Trail and for the crosswalk near Briar Patch Lane and Bunny Trail
- 9.8. Summarize findings and recommendations of the traffic study in a Technical Memorandum.

The Engineer will provide the following deliverables during this task:

- Technical Memorandum summarizing findings and recommendations of the traffic analysis.

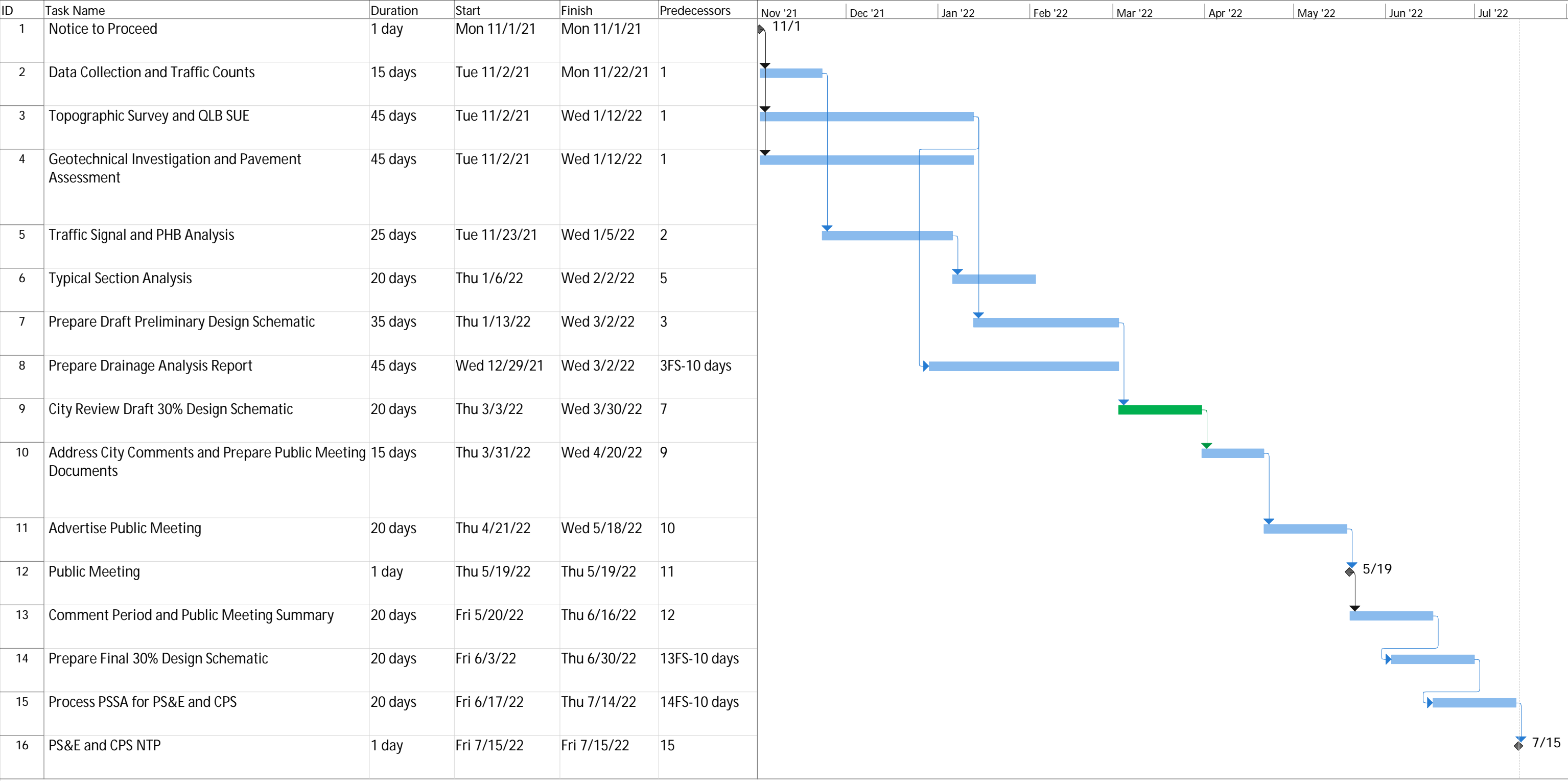
The following services are not included in this Agreement at present and are specifically considered to be additional services:

- a. PS&E services
- b. Right-of-Way/easement acquisition and/or condemnation assistance;
- c. Construction Phase and Bidding Phase services
- d. Illumination design services
- e. Franchise Utility relocation design
- f. Floodplain analysis or delineation
- g. Construction inspection, construction staking, and material testing
- h. Appearing as an expert witness in any litigation for the City.
- i. Formal coordination with the USFWS
- j. Threatened and endangered species presence/absence surveys
- k. Section 6(f) or 4(f) analysis
- l. Historic resources survey or archeological testing, data recovery, or construction-phase monitoring
- m. Geologic Assessment
- n. Hazardous Materials Phase I or II analysis
- o. USACE Pre-Construction Notification or Individual Permit preparation
- p. Preparing final conditions Letter of Map Revision for FEMA

## **SCHEDULE**

We will provide our services as expeditiously as practicable as shown in Exhibit A

Exhibit A - Proposed Project Schedule



Project: Bunny Trail  
Date: Wed 10/13/21

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress

This is **EXHIBIT B**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

### **OWNER's Responsibilities**

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Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors



or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

This is **EXHIBIT C**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

Payments to ENGINEER for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

Base Services Total: \$391,750.00

**ARTICLE 4 -- PAYMENTS TO THE ENGINEER**

**C4.01 *For Basic Services Having A Determined Scope***

A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, except for services of ENGINEER's Resident Project Representative and Post-Construction Phase, services, if any, as follows:

1. Progress payments shall be based upon monthly percentage completion of the amounts of the following services below:

a. Project Admin and Coord Services	<u>\$33,200.00</u>
b. Environmental Services	<u>\$14,500.00</u>
c. Surveying Services	<u>\$59,900.00</u>
d. Geotechnical Engr Services	<u>\$34,500.00</u>
e. Sue Services (QLB)/Utility Coord Services	<u>\$57,800.00</u>
f. Public Involvement Services	<u>\$16,800.00</u>
g. Schematic Design Services	<u>\$91,400.00</u>
h. Drainage Design Services	<u>\$46,300.00</u>
i. Traffic Services	<u>\$35,500.00</u>
j. Expenses	<u>\$1,850.00</u>

2. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total amount unless approved in writing by the OWNER.

3. The amount includes compensation for ENGINEER's services and services of ENGINEER's Consultants, if any. Appropriate amounts have been incorporated to account for labor, overhead, profit, and Reimbursable Expenses.

4. The portion of the amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed during the billing period.

5. If more prime contracts are awarded for work designed or specified by ENGINEER for this Project than identified in Exhibit A, the ENGINEER shall be compensated an additional amount to be negotiated; however, in no case shall the amount of compensation exceed eighteen percent (18%) of the Project's estimated construction costs for all Basic Services for each prime contract added.

**Additional Services**

Task 1 Sue Services (QL A)	<u>\$29,800.00</u>
Additional Services Total	<u>\$29,800.00</u>

Grand Total \$421,550.00

## FEE AND EXPENSE

Kimley-Horn will perform the tasks noted below on a lump sum (LS) basis. The services in this agreement will be billed as follows.

<b><u>Base Services</u></b>			
Task 1	PROJECT ADMIN AND COORD SERVICES	\$	33,200.00 LS
Task 2	ENVIRONMENTAL SERVICES	\$	14,500.00 LS
Task 3	SURVEYING SERVICES	\$	59,900.00 LS
Task 4	GEOTECHNICAL ENGINEERING SERVICES	\$	34,500.00 LS
Task 5	SUE SERVICES(QLB)/UTILITY COORD SERVICES	\$	57,800.00 LS
Task 6	PUBLIC INVOLVEMENT SERVICES	\$	16,800.00 LS
Task 7	SCHEMATIC DESIGN SERVICES	\$	91,400.00 LS
Task 8	DRAINAGE DESIGN SERVICES	\$	46,300.00 LS
Task 9	TRAFFIC SERVICES	\$	35,500.00 LS
	EXPENSES	\$	1,850.00 LS
Base Services Total		\$	391,750.00 LS
<b><u>Additional Services</u></b>			
Task 1	SUE SERVICES (QL A)	\$	29,800.00 LS
Additional Services Total		\$	29,800.00 LS
<b>Grand Total</b>		<b>\$</b>	<b>421,550.00 LS</b>

For all tasks, direct reimbursable expenses such as express delivery services, air travel, and other direct expenses will be billed at cost. All permitting, application, and similar project fees will be paid directly by the Client.

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.



**HOURLY RATE SCHEDULE**  
**KIMLEY-HORN AND ASSOCIATES, INC.**

<b>Classification</b>	<b>(Hourly Rate)</b>
Analyst	\$110 - \$180
Professional	\$165 - \$215
Senior Professional I	\$185 - \$255
Senior Professional II	\$245 - \$295
Senior Technical Support	\$120 - \$195
Support Staff	\$80 - \$120
Technical Support	\$90- \$105

*Effective through October 31, 2022*

*Subject to annual adjustment thereafter*

This is **EXHIBIT D**, consisting of 4 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

NOT APPLICABLE

NOT APPLICABLE

NOT APPLICABLE

NOT APPLICABLE



This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

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## NOTICE OF ACCEPTABILITY OF WORK

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PROJECT: \_\_\_\_\_

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NOT APPLICABLE

NOT APPLICABLE

This is **EXHIBIT F**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

**Construction Cost Limit**

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Not Applicable

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

## **Insurance**

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

### **G6.05 Insurance**

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

- |   |              |
|---|--------------|
| a. Workers' Compensation:                               | Statutory    |
| b. Employer's Liability --                              |              |
| 1) Each Accident:                                       | \$ 500,000   |
| 2) Disease, Policy Limit:                               | \$ 500,000   |
| 3) Disease, Each Employee:                              | \$ 500,000   |
| c. General Liability --                                 |              |
| 1) Each Occurrence (Bodily Injury and Property Damage): | \$ 1,000,000 |
| 2) General Aggregate:                                   | \$ 2,000,000 |
| d. Excess or Umbrella Liability --                      |              |
| 1) Each Occurrence:                                     | \$ 4,000,000 |
| 2) General Aggregate:                                   | \$ 4,000,000 |
| e. Automobile Liability --                              |              |
| 1) Bodily Injury:                                       |              |
| a) Each Accident  | \$ _____     |
| 2) Property Damage:                                     |              |
| a) Each Accident  | \$ _____     |

[or]

- |   |            |
|---|------------|
| 1) Combined Single Limit<br>(Bodily Injury and Property Damage):<br>Each Accident | \$ 500,000 |
|---|------------|

f. Other (specify): On all policies except Workers Compensation and Professional Liability - "City of Killeen is named as Additional Insured on the General Liability and Auto Liability policies."

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

**Special Provisions**

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No Further Agreements

This is **EXHIBIT I**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER\_\_\_\_\_

ENGINEER\_\_\_\_\_

**DBE Goal**

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NOT APPLICABLE