

February 1, 2022

Sarah Hensley
Administrative Services Manager
1100 Bear Creek Parkway
Keller, TX, 76248

Re: Professional Services Agreement for
Old Town Keller Phase II, Step II – S. Elm Street Reconstruction

Dear Sarah Hensley:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) is pleased to submit this letter agreement (the “Agreement”) to the City of Keller, Texas (“Client” or “City”) for providing professional services. Our project understanding, scope of services, schedule, and fee are below.

Project Understanding

The project is located in Old Town Phase II and the limits for the reconstruction of S. Elm Street are from the creek crossing at Big Bear Creek to FM 1709 and Pecan Street from S. Elm Street to Elkhorn Trail.

The project will consist of conceptual design, preparing construction drawings and specifications for the reconstruction of S. Elm Street within the project limits, bidding phase services, and meetings as defined in the scope of services.

Kimley-Horn’s undertaking to provide services extends only to those services specifically described in the Scope of Services. All tasks are considered lump sum unless otherwise noted. Additional information is provided under the Fee and Expenses section of this scope.

Scope of Services

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

Task Summary:

- Task 1 – Project Management
- Task 2 – Agency Coordination
- Task 3 – Community and Council Engagement
- Task 4 – Data Collection and Analysis
- Task 5 – Right-of-Way Documentation, Appraisals, and Negotiations (Hourly)
- Task 6 – Conceptual Design
- Task 7 – S. Elm Street Final Design
- Task 8 – Big Bear Creek Improvement and Crossing Final Design
- Task 9 – Big Bear Creek CLOMR
- Task 10 – S. Elm Street Streetscaping Furniture and Wayfinding Maps
- Task 11 – Alley and Pedestrian Walkway Final Design
- Task 12 – Accessibility Review (Hourly)
- Task 13 – Bidding Phase Services (Hourly)
- Task 14 – Big Bear Creek LOMR
- Task 15 – OTK PH II Trash Consolidation and UDC Updates (Hourly)
- Task 16 – OTK Operations and Maintenance Cost Development (Hourly)
- Task 17 – Additional Services (Hourly)

Task 1: Project Management

- 1.1. *Status Report and Invoicing* – Kimley-Horn will provide status reports outlining what has been completed, what the goals are for the following month, and what information is needed from the City. The status report will be updated and distributed to the project manager with the monthly invoice. Kimley-Horn will also provide schedule updates as needed. Project management will be provided for the duration of the design. The scope is based on 30-month design duration.

Monthly deliverables include invoices and progress reports.

Task 2: Agency Coordination

- 2.1. *Kick-Off Meeting with City Staff* – Prepare for and attend a kick-off meeting with the City to discuss the findings of the data collection. This meeting will be in-person.

2.2. *Design Coordination Meetings*

- 2.2.1. Meetings – Kimley-Horn will conduct and document bi-weekly coordination meetings with the project team and any additional City team members. This task includes up to sixty (60) design coordination meetings.

- 2.2.2. Coordination – Kimley-Horn will coordinate with City Staff regarding the project. Up to one hundred (100) hours will be spent on City coordination. Any additional time spent beyond the allotted one hundred (100) hours will be considered additional service.

2.3. *Franchise Utility Coordination*

- 2.3.1. Meetings – Kimley-Horn will conduct and document up to ten (10) coordination meetings with franchise utility companies.

- 2.3.2. Coordination – Kimley-Horn will coordinate with the franchise utility companies within the study area to determine relocation options. Up to fifty (50) hours will be spent on franchise utility coordination. Any additional time spent beyond the allotted fifty (50) hours will be considered additional service.

Task 3: Community and Council Engagement

The meetings listed below are design coordination meetings with the Parks Board, City Council, and the Community. Any additional meetings beyond what is noted under Task 3 will be considered additional services.

3.1. *City Council Meetings*

Kimley-Horn will prepare for and conduct up to three (3) meetings with City Council. The purpose of both meetings will be to present the design progress to City Council.

- 3.1.1. Conceptual Design Progress Meeting – The focus of this meeting will be to present the conceptual design plan to City Council. Any feedback will be discussed with City staff following the presentation. City staff will direct Kimley-Horn on how to address City Council comments.

- This meeting is anticipated to occur after Task 6 is complete.

3.1.2. Preliminary Design Progress Meeting – The focus of this meeting will be to present the preliminary design plan to City Council. Any feedback will be discussed with City staff following the presentation. City staff will direct Kimley-Horn on how to address City Council comments.

- This meeting is anticipated to occur after Task 7.1 is complete.

3.1.3. Final Plan Design Progress Meeting – The focus of this meeting will be to present the final plan to City Council. Any feedback will be discussed with City staff following the presentation. City staff will direct Kimley-Horn on how to address City Council comments.

- This meeting is anticipated to occur after Task 7.2 is complete.

3.2. *Community Meeting*

Kimley-Horn will prepare, attend, and document as needed up to one (1) community meeting. The City will be responsible for selecting and scheduling the meeting location and distributing notifications to the public.

3.2.1. Pre-Construction Neighborhood Meeting – The focus of the meeting will be to present the final design, traffic control plan, and anticipated construction schedule.

- This meeting will be conducted prior to Task 13.1.

Task 4: Data Collection and Analysis

4.1. *Data Research* – Kimley-Horn will utilize the following data as well as topographic survey collected as part of this task to develop base files. These base files will be utilized during design to analyze existing constraints and issues for the development of the conceptual and final design.

- **Previously Collected Data** – Kimley-Horn will combine survey collected as part of Task 4.2 with the topographic and boundary survey information collected as part of previous projects within Old Town Keller (OTK).
- **Field Observation** – Kimley-Horn will conduct up to one (1) site visit to visually document the existing conditions of the site.
- **Additional Information** – Kimley-Horn will collect the following data to be used during the design of the project:
 - Aerial photography and LiDAR

4.2. *Topographic and Boundary Survey* – Kimley-Horn will prepare a topographic survey to be used for civil engineering design purposes. The topographic survey is to be used in-house and will not be issued as a stand-alone survey document.

- S. Elm Street Limits: From the driveway south of the Big Bear Creek bridge to FM 1709 for a width of 10 LF on either side of the right-of-way or to the nearest building whichever is closer.
- Olive Street/ Bates Street Alley Limits: From Keller Animal Clinic to S. Elm Street for a width of 50 LF including the vacant lot at 116 Bates Street.
- Bates Street/ E. Vine Street Alley Limits: From the parking lot to S. Elm Street for a width of 50 LF.
- Pecan Street Limits: From S. Elm Street to Elkhorn Trail.
- Big Bear Creek Limits: From US 377 to roughly 1,000 LF south of Bear Creek Parkway for the entire width of existing right-of-way.
- Boundary Survey Update: Kimley-Horn will review and update the property owners and right-of-way as needed.

4.3. *Geotechnical Analysis* – Kimley-Horn will, via a subconsultant, obtain borings and perform geotechnical engineering services to provide the following information:

- General soil and groundwater conditions;
- Recommendations for foundation type, depth, and available loading for park amenities, including the use of a monolithic slab on-grade;
- Foundation construction requirements;
- Recommendations for slab support, including an evaluation of the swell characteristics of the subgrade soils; and
- Earthwork recommendations.

4.4. *Subsurface Utility Exploration* – Kimley-Horn will, via a sub-consultant, expose certain utilities using SUE methods and collect survey data on their exposed location. This information will be used during civil engineering design. SUE quality levels B & A are described as follows:

4.4.1. Level B Utility Exploration - QL-B involves the application of appropriate surface geophysical methods to determine the existence and horizontal position of virtually all utilities within the project limits.

- The limits of Level B will be the same as the topographic survey limits listed above SUE fee is based on an average 10 underground utilities. If there are additional utility lines, additional fee may be needed which will be considered additional services.

4.4.2. Level A Test Holes – QL-A, also known as "locating", is the highest level of accuracy presently available and involves nondestructive exposure of underground utilities, and provides the type, size, condition, material, and other characteristics of underground features.

- Kimley-Horn will obtain up to 30 test holes within the limits of the topographic survey area.

Task 5: Right-of-Way Documentation, Appraisals, and Negotiations (Hourly)

5.1. *Right-of-Way Coordination* – Kimley-Horn will coordinate with City Staff, the acquisition sub-consultant, and property owners regarding property negotiations. This coordination may include conference calls, emails, meetings, and exhibit preparation. Kimley-Horn will provide up to one hundred (100) hours of right-of-way coordination.

5.2. *Property Exhibits* – Kimley-Horn will prepare exhibits for each property for proposed right-of-way and easements. Kimley-Horn will prepare up to forty-seven (47) exhibits.

5.3. *Right-of-Way Documentation* – Kimley-Horn will prepare a metes and bounds description and sketch showing the location and dimensions for proposed easements or right-of-way dedications. Right-of-Way dedication and or easement language will either be the unaltered standard language provided by the local jurisdiction, or as agreed to by the Grantor and Grantee and provided complete to Kimley-Horn. The City will file the documents as necessary. Kimley-Horn will prepare documents for the following:

- ROW Documents: Up to seventeen (17) right-of-way documents will be developed. This is an estimate. Not all ROW documents may be required. Right-of-way is for the proposed Alley Alignments.
- Utility Easements: Up to thirty (30) utility easements will be developed for properties along S. Elm Street. This is an estimate. Not all easements may be required.
- Temporary Construction Easements: Up to thirty (30) temporary construction easements will be developed for properties along S. Elm Street. This is an estimate. Not all easements may be required.

5.4. *Appraisal and Right-of-Way Acquisitions* – Kimley-Horn will, via a sub-consultant, perform appraisal and right-of-way acquisition services associated with this project.

- Condemnation is not included as part of this contract and will be considered an additional service.
- Task consists of up to forty-seven (47) appraisals, seventeen (17) right-of-way acquisitions, seventeen (17) utility easements, and thirty (30) temporary construction easement acquisitions.

Task 6: Conceptual Design

6.1. *S. Elm Street*

- Horizontal Geometry Update
 - Kimley-Horn will update the horizontal geometry developed as part of the Tarrant County Bond application based on information collected as part of Task 4.

- Roadway
 - Proposed typical sections
 - Proposed Roadway Improvements – Horizontal geometry for the roadway, sidewalks, streetlights, driveways, and trees (canopy and decorative).
 - Proposed Profile – Station and elevation data of all vertical profile PCs, PTs, PIs, low points, and high points, lengths of vertical curves, grades, K values, and vertical clearances where applicable.
 - Proposed Storm Drain – Horizontal geometry for the proposed storm drain consisting of the mainline, inlets, culvert crossing, and headwalls.
 - Proposed City Utility Improvements – Horizontal geometry for the proposed sanitary sewer line.
 - Existing Features – Horizontal geometry for existing right-of-way, easements, pavement, curbs, retaining walls, storm drain, utility poles, mailboxes (within right-of-way), water meters, fire hydrants, and trees (within right-of-way).
- Roadway Drainage
 - Existing Drainage Area Map – The existing drainage area map (DAM) developed with the OTK PH II Preliminary Drainage Report dated May 8, 2018, the Bates Street Reconstruction Project, and the Bear Creek Pkwy Intersection Improvements Project will be reviewed, updated per the topographic survey, and included in the preliminary plan submittal. The map will indicate existing drainage areas, outfall locations, flow directions, and contour labels.
 - Proposed Drainage Area Maps – Delineate proposed drainage areas using LiDAR contours, the existing DAM, proposed conceptual (30%) design improvements, and proposed runoff calculations. This drainage area map will not be developed using proposed grading and will need to be modified during 60% design. The purpose of this map is to conceptually design the proposed underground internal storm system, place inlets, determine proposed culvert locations, and establish how much runoff will need to be contained within the proposed roadway improvements.
 - Drainage Calculations
 - Runoff Calculations
 - Inlet Calculations
 - Storm Drain Layout

- Plan and Profile Roll-Plot
 - Kimley-Horn will prepare a plan and profile roll-plot for all the S. Elm Street improvements. The exhibit will include:
 - Recommended Big Bear Creek improvements and
 - Roadway and bridge improvements

6.2. Alley

- Kimley-Horn will develop a conceptual layout for an alley between the following blocks within Old Town:
 - Olive St and Bates St Alley
 - Bates St and E. Vine St Alley
- Alley Exhibits
 - Kimley-Horn will prepare a 22"x34" plan view exhibit for each alley location.

6.3. Big Bear Creek Improvements

- Modeling – Kimley-Horn will request effective hydrologic and hydraulic modeling information for Big Bear Creek from the City and FEMA. Kimley-Horn will update the effective hydraulic modeling with on-ground topographic survey and available aerial topographic information for the subject reach to create a revised existing condition hydraulic model. Updates to the hydrologic model are not included as part of this task.
- Improvement Options – Kimley-Horn will prepare up to three conceptual improvement options for floodplain impacts associated with the proposed creek crossing and improvements associated with a pedestrian path and amenity features. The proposed improvements in this task will be planning level in nature and does not include effort for construction level design or grading, proposed improvements for this task will be planning level in nature.
- Deliverables – Consist of up to three hydraulic work maps illustrating the conceptual improvements and results of the analysis, and a list of next steps outlining future items required to design and permit the proposed project. Kimley-Horn will meet with City up to two times to discuss the results of the analysis and address one round of City comments.
 - Kimley-Horn will endeavor to meet City criteria regarding proposed improvements; however, Kimley-Horn cannot guarantee the desired improvements will meet City criteria. Kimley-Horn will utilize FEMA effective flows and City effective Fully developed flows for this analysis. Kimley-Horn assumes that fully developed peak flows for Big Bear Creek will be available from the City.

6.4. *Big Bear Creek Crossing*

- Kimley-Horn will utilize the information prepared as part of Task 6.3 and will design a conceptual horizontal layout for the crossing at Big Bear Creek. The layout will be Kimley-Horn's recommendation for the crossing which could be a bridge or a culvert.

6.5. *Opinion of Probable Construction Cost (OPCC)*

- Kimley-Horn will prepare an OPCC to be submitted with the Preliminary (60%) Design Submittal.
- Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known at this time and represent only Kimley-Horn's judgement as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

6.6. *Update OTK PH II Overall Rendering* – After the City approves the conceptual design prepared as part of Task 5.1 – 5.5, Kimley-Horn will update the overall OTK PH II Rendering.

30% Design Submittal Deliverables:

1. PDF of Roadway Roll-Plot, Drainage Area Maps, Drainage Calculations, Alley Exhibits, Big Bear Creek Improvement Deliverables, and Updated OTK PH II Rendering.
2. OPCC

Task 7: S. Elm Street Final Design

Kimley-Horn will develop design drawings for S. Elm Street from Big Bear Creek to FM 1709. This task consists of the 60%, 90%, and Bid Package submittals for the S. Elm Street project. Any deliverable prepared as part of Tasks 7, 8, or 10 will be included with the design submittals associated with this Task. There will be no separate deliverables for the roadway, Big Bear Creek crossing, and alleys.

7.1. *Preliminary (60%) Design Submittal*

Following approval of the conceptual design, Kimley-Horn will prepare the preliminary (60%) design submittal. Design drawings for S. Elm Street will consist of:

- Cover and Sheet Index
- Project Control and ROW Map
 - Alignment information including coordinate data for all horizontal alignment PCs, PTs, and PIs.
 - Bearings given on all proposed centerlines or baselines
 - Existing and proposed right-of-way and easement information including property owners, addresses, and easement widths.

- Existing and Proposed Typical Sections
- Traffic and Erosion Control Plan
 - This task consists of a sequence of construction, traffic control phasing diagram, typical sections, and detour routes only. Plan layout of traffic and erosion control phasing will be provided with Task 7.2.
 - Detour Routes – Kimley-Horn will prepare up to three (3) detour routes associated with temporary closure of the intersection. The following phases are assumed to require a detour route:
 - Full road closure on S. Elm Street between the Big Bear Creek crossing and Fitness PAF driveway. Detour route will be provided for S. Elm Street.
 - Full road closure on Pecan Street between S. Elm Street and Elkhorn Trail and S. Elm Street on either side of Pecan Street. Detour route will be provided for S. Elm Street and Pecan Street.
 - Full road closure on S. Elm Street between Bates Street and Taylor Street. Detour route will be provided for S. Elm Street.
- Removal Plan
- Utility Plan
 - Level A SUE Test Hole Plan
 - Water Line Plan and Profile
 - Kimley-Horn will prepare horizontal and vertical design for a 12-inch water line for the length of the project.
 - Plan View – Horizontal geometry for the water line improvements, valves, vaults, fire hydrants, services, and proposed roadway improvements.
 - Profile – Existing and proposed grading profiles, existing water line pipe, proposed water line pipe, pipe slopes, and elevation information.
 - Sewer Line Plan and Profile
 - Kimley-Horn will prepare horizontal and vertical design for a 12-inch sewer line for the length of the project.
 - Plan View – Horizontal geometry for the sewer line improvements, manholes, services, and proposed roadway improvements.
 - Profile – Existing and proposed grading profiles, existing sewer line pipe, proposed sewer line pipe, pipe slopes, and elevation information.

- City Utility Adjustments
 - Adjustments will consist of location and vertical elevation adjustments for existing City utilities that are not going to be relocated/replaced during the water and sewer utility replacements. This will consist of surface adjustments for water and sewer valves and manholes from existing grade to proposed grade as well as new fire hydrant locations.
- Franchise Utility Relocation Plan
 - Plan to include franchise utility conflicts with proposed roadway improvements and locations where franchise utility infrastructure needs to be removed or relocated (power poles, meters, risers, etc).
 - Proposed franchise utility relocations may be shown if provided by the Franchise Utility Companies. Kimley-Horn will not be responsible for designing or specifying proposed utility relocation locations.
 - Oncor or Tri-County illumination design will be included with the illumination plan.
- Drainage
 - Existing and Proposed Drainage Area Maps – Kimley-Horn will update the existing and proposed DAMs developed as part of Task 6 based on proposed grading.
 - Drainage Calculations
 - Runoff Calculations
 - Inlet Calculations
 - HGL Calculations
 - Ditch Calculations (As Needed)
 - Mainline Plan and Profile
 - Two (2) parallel lines from Big Bear Creek to FM 1709 with up to 60” diameter. Outfalls will be a standard cross or parallel TxDOT safety end treatment.
 - Lateral Profiles
- Roadway Paving Plan and Profile
 - Proposed Improvements – Horizontal geometry for proposed horizontal alignments, City utilities (water, sewer, and storm), franchise utilities, curbs, illumination, and driveways.
 - Existing Features – Horizontal geometry for existing right-of-way, easements, pavement, curbs, retaining walls, storm drain, utility poles, mailboxes (within right-of-way), water meters, fire hydrants, and trees (within right-of-way)

- Proposed Profile – Station and elevation data of all vertical profile PCs, PTs, PIs, low points, and high points, lengths of vertical curves, grades, K values, and vertical clearances where applicable.
- Sidewalk Paving Plan
 - Kimley-Horn will design sidewalk along each of the side streets between S. Elm Street and the nearest sidewalk dead-end. Sidewalk extensions will have the following limits from S. Elm Street.
 - Taylor Street – 230 feet
 - Hill Street – 110 feet
 - E. Vine Street – 285 feet
 - Olive Street – 150 feet
 - Pecan Street – 75 feet
- Pecan Street Paving Plan
 - Consisting of proposed horizontal geometry for proposed roadway improvements, sidewalk, and utilities (water, sewer, and storm).
- Preliminary Custom and Standard Paving Details
- Hardscape Plan and Details
 - Horizontal layout of proposed colored and textured pavement surfaces.
 - Pattern and color information for colored and textured pavement surfaces.
- Pavement Marking and Signing Plan
- Rectangular Rapid Flashing Beacon (RRFB) Crossing
 - Kimley-Horn will design a solar powered rectangular rapid flashing beacon (RRFB) at the trail crossing near Riverdance Way.
 - If possible, the existing one will be salvaged and installed on new foundations. If it is not possible to salvage the existing RRFB, a new one will be specified and installed on new foundations.
 - A standard pedestrian push button foundation will be used for the RRFB foundation.
- Illumination Plan
 - Kimley-Horn will provide a photometric analysis for street lighting along S. Elm Street in accordance with City requirements. The photometric analysis will consist of placing light poles and modeling fixtures to meet roadway illumination levels per IES recommendations. Kimley-Horn will design the streetlights using the same poles and fixtures as the ones used on the Bates Street Reconstruction project. The scope

- Design of Gateway Features will match the Bates Street project. This project does not consist of the preparation of additional design options for gateway features.
- Cross-Sections
 - Develop cross-sections at 50-foot station intervals and at driveway and side street centerlines
 - To include curb elevations, sidewalks, roadway and parkway slopes, and ROW locations.
- Opinion of Probable Construction Cost (OPCC)
 - Kimley-Horn will prepare an OPCC to be submitted with the Preliminary (60%) Design Submittal.
 - Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known at this time and represent only Kimley-Horn's judgement as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

60% Design Submittal Deliverables:

1. Compiled PDF plan sets in 11"x17" and 22"x34"
2. OPCC
3. Hard copy plans as requested

7.2. Final (90%) Design Submittal

Following the review of the preliminary (60%) design submittal, Kimley-Horn will respond to one (1) round of comments and will provide a comment response letter with the final (90%) design submittal. The submittal of the preliminary comments by the City is an assumed notice to proceed with final design. The final (90%) design submittal will consist of all the plan sheets prepared as part of the preliminary (60%) plan sheets as well as the following:

- General Notes
- Quantity Summary Sheet
- Pecan Street Grading Plan
 - To include contours shown at 1' intervals as well as station coordinate data, and elevations for all horizontal alignment P.C.'s, P.T.'s, and P.I.'s.

- Driveway and Side Street Plan and Profile
 - Kimley-Horn will provide side street/ driveway designs for the current residential driveways and side streets. Up to twenty (20) side streets and/or driveways will be designed.
 - To include side street and driveway slopes, station and elevations for horizontal geometry points, and a side street or driveway profile with PVI's, slopes, and elevations.

- Traffic and Erosion Control
 - Consisting of: the sequence of construction, typical sections, detour routes, and plan sheets that outline construction traffic control devices, signage, pavement markings, and erosion controls.
 - Roadway Traffic Control Phases – Kimley-Horn will prepare traffic control for up to nine (9) phases of construction. The following phases are assumed:
 - Phase 1: Full road closure on S. Elm Street between the Big Bear Creek crossing and Fitness PAF driveway. Detour route will be provided for S. Elm Street.
 - Phase 2: Half of S. Elm Street from Riverdance Way and Pecan Street.
 - Phase 3: Other half of S. Elm Street from Riverdance Way and Pecan Street.
 - Phase 4: Full road closure on Pecan Street between S. Elm Street and Elkhorn Trail and the intersection of S. Elm Street and Pecan Street. Detour route will be provided for S. Elm Street and Pecan Street.
 - Phase 5: Half of S. Elm Street between Pecan Street and Bates Street.
 - Phase 6: Other half of S. Elm Street between Pecan Street and Bates Street.
 - Phase 7: Full road closure on S. Elm Street between Bates Street and Taylor Street. Detour route will be provided for S. Elm Street.
 - Phase 8: Half of S. Elm Street between Taylor Street and FM 1709.
 - Phase 9: Other half of S. Elm Street between Taylor Street and FM 1709.
 - These phases are included as anticipated phases, during design, it may be determined that the phases will be different. If any additional phases are required for the roadway or intersection, the extra design effort necessary to design additional traffic control phases will be considered additional services.

- Roadway Paving Plan and Profile
 - Consisting of final design notes and labels as well as station, coordinate data, and elevations for all horizontal alignment PCs, PTs, and Pls.

- Curb Ramp Layout and Grading
 - Will only be developed for curb ramps that are not City or TxDOT standard ramps.
- Landscape and Irrigation
 - Consisting of: general notes, location, quantity, and size of City approved plant species, irrigation meters, valves, heads, drip irrigation lines, controller(s), waterline tap, and construction details.
- Standard and Custom Details
- Opinion of Construction Cost (OPCC)
- Project Manual
 - Kimley-Horn will develop a project manual utilizing the City's standard front-end documents (contract forms and contract conditions) and technical specifications applicable to the project.

90% Design Submittal Deliverables:

1. Compiled PDF plan sets in 11"x17" and 22"X34"
2. Compiled PDF Project Manual
3. OPCC
4. Hard copy plans as requested

7.3. Bid Package Submittal

- Following the review of the 90% Design submittal, Kimley-Horn will respond to one (1) round of comments and will provide a comment response letter with the Bid Package Submittal. The submittal of the final design comments by the City is an assumed notice to proceed with preparing the bid package submittal which consists of the signed and sealed construction plan documents and project manual.

Bid Package Submittal Deliverables:

1. Compiled PDF plan sets in 11"x17" and 22"X34"
2. Compiled PDF Project Manual
3. OPCC
4. Hard copy plans as requested

Task 8: Big Bear Creek Improvement and Crossing Final Design**8.1. Preliminary (60%) Design Submittal**

Upon receiving direction and comments from the City on the conceptual design, Kimley-Horn will prepare 60% design drawings for the creek improvements and the creek crossing structure. The design drawings prepared will coincide with the plan set being developed as part of Task 7.1. The creek improvement and crossing sheets will not be prepared as a separate set.

- Creek Improvements

As part of this task, Kimley-Horn will prepare design drawings for Big Bear Creek Improvements. It is assumed that improvements within the creek will be limited to creek grading and sidewalk reconstruction. Any additional improvements requiring more design time will be considered Additional Services. Creek Improvement Sheets will consist of:

- Grading Plan or Cross Sections
 - A Grading Plan with contours, slopes, and elevations if the creek improvement limits are less than 100 LF along the creek on either side of the crossing structure.
 - Cross-Sections every 50' will be provided that show creek and top of bank elevations and slopes if the improvement limits are between 100 LF and 150 LF along the creek on either side of the crossing.
- Sidewalk Improvements and Retaining Wall Plan and Profile
 - Plan View Layout: sidewalk and retaining wall plan view, retaining wall tie in grading, and tie in locations to the proposed S. Elm Street sidewalk and existing trail.
 - Profile View Layout: vertical retaining wall profile along top of wall and sidewalk top of pavement.
- Creek Plan and Profile
 - Plan View Layout: plan view, creek grading, limits of proposed erosion control, proposed creek crossing, and proposed gateway feature locations.
 - Profile View Layout: vertical profile, 100-year water surface elevation, and creek grading.

- Crossing Structure (Bridge or Culvert Crossing)

Based on the crossing type selected during the conceptual design review, Kimley-Horn will prepare a bridge or culvert design. The following are anticipated design parameters for both. If design decisions made by the City increase the scope beyond what is listed below, the additional time required to perform those design tasks will be considered

Additional Services. The crossing will be designed to accommodate the ultimate creek section and will correspond with the design services performed under Task 6.3

- General crossing design parameters (applicable for bridge and culvert)
 - Drainage – Surface drainage will be accommodated by curb inlets at each end of the bridge. The bridge will not utilize an open rail system. Storm water runoff will not surface flow and discharge directly into the floodplain from the top of the bridge or culvert. If a closed system is necessary for drainage, water quality, or aesthetic purposes, this will be considered an additional service.
 - Alignment – Tangent/in-line with the roadway
 - Approximate Length – 80 linear feet
- Crossing Option 1 - Bridge:
 - Aesthetic Enhancements: Standard railings and decorative pilasters or columns at four locations.
 - Materials and Design Parameters: Materials to be specified in accordance with the TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, 2014. Bridge layouts and details will be developed and detailed in accordance with TxDOT requirements (Bridge Detailing Manual and Bridge Design Manual). It is assumed that this bridge will be designed in accordance with current LRFD requirements, which are supported by current TxDOT standard drawings, and that the current TxDOT standards will be used to the maximum extent practical.
 - Bridge Design Sheets:
 - Typical Section(s)
 - Plan and Profile
 - Plan View Layout: plan view, creek grading, limits of proposed erosion control, bent locations, abutment locations, proposed gateway feature locations, and proposed decorative bridge pilaster locations.
 - Profile View Layout: vertical profile, low chord, 100-year water surface elevation, bent locations, abutment locations, and creek grading.
- Crossing Option 2 - Culvert:
 - Aesthetic Enhancements: Standard railings, decorative façade, and decorative pilasters or columns at four locations.
 - Materials and Design Parameters: Materials to be specified in accordance with the TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, 2014. Culvert layouts and details will be developed and detailed in accordance with TxDOT requirements and using

standard TxDOT details. The current TxDOT standards and details will be used to the maximum extent practical.

- Culvert Design Sheets:
 - Typical Section(s)
 - Culvert Plan and Profile
 - Plan View Layout: plan view, creek grading, limits of proposed erosion control, proposed culvert size and dimensions, proposed gateway feature locations, proposed decorative bridge pilaster locations, and proposed façade.
 - Profile View Layout: vertical profile, 100-year water surface elevation, culvert box sizes, and creek grading.
 - Headwall Elevation View

8.2. *Final (90%) Design Submittal*

The 90% design sheets shall be submitted with the Task 7.2 deliverable and will consist of all the plan sheets developed as part of Task 8.1 as well as the below plan sheets:

- Creek Improvements
 - Retaining wall structural details
- Crossing Structure (Bridge or Culvert Crossing)
 - Crossing Option 1 - Bridge:
 - Embankment/Abutment Protection Details;
 - Foundation Layout;
 - Substructure Details;
 - Slab Plan;
 - Framing Plan;
 - Span Unit Details;
 - Prestressed Beam Design Sheet;
 - Rail and Aesthetics; and
 - Decorative Pilaster Details.
 - Crossing Option 2 - Culvert:
 - Embankment/Abutment Protection Details;
 - Headwall foundation layout;

- Rail and Aesthetics; and
- Decorative Pilaster Details.

8.3. Bid Package Submittal

- Kimley-Horn will prepare the creek improvements and crossing bid package sheets to be included with the Task 7.3 Bid Package Submittal.

Task 9: Big Bear Creek CLOMR

Kimley-Horn will prepare a CLOMR submittal for the subject reach of Big Bear Creek. The subject reach of Big Bear Creek will be from the upstream face of U.S. 377 to a point approximately 1,000 linear feet downstream of Bear Creek Parkway. The FEMA floodplain within the subject reach is designated as Zone AE floodplain with floodway.

Kimley-Horn will create a proposed condition hydraulic model based on the City selected improvement option prepared in Task 6. Proposed improvements are assumed to consist of an expanded roadway crossing at Big Bear Creek and planning level improvements associated with creek beautification, a pedestrian path, and amenity features. Kimley-Horn will prepare an existing and proposed floodway model associated with the subject reach one time as part of this task. Flows used in this task will be taken from the FEMA effective FIS for Big Bear Creek. No hydrologic modeling is included in this task.

The CLOMR request will be processed by FEMA only after FEMA receives documentation from the requestor that demonstrates compliance with the Endangered Species Act (ESA). Compliance would require one of the following:

- No potential for “Take” exists, meaning that the project has no potential to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect threatened or endangered species; or
- An Incidental Take Permit from the Services.

Kimley-Horn will perform a field investigation and a review of readily available databases relevant to Federal listed species. Based on the findings, Kimley-Horn will make a determination regarding endangered species. The fee included as part of this task assumes that the findings will result in a determination of no potential for “Take”.

Kimley-Horn anticipates the ESA submittal to FEMA will consist of the following:

- Project Location;
- Project Description;
- Listed Species Biological Requirements;
- Findings Relative to Listed Species.

Kimley-Horn will submit the statement to FEMA as part of the CLOMR. If the field investigation reveals an outcome other than “no potential for Take exists,” Kimley-Horn can perform a detailed study and produce the additional documentation as an additional service.

Kimley-Horn anticipates the CLOMR submittal will consist of the following items:

- Report Text;
- Revised Existing Condition Hydraulic Modeling;
- Proposed Condition Hydraulic Modeling;
- Revised Existing Condition Floodplain Work Maps;
- Proposed Condition Floodplain Work Maps;
- Conceptual Grading, Creek, and Roadway Crossing Improvements
- ESA Compliance;
- FEMA Forms; and
- Digital Files.

CLOMR Deliverables:

1. Kimley-Horn will submit the CLOMR submittal package as described to the City and FEMA for review and approval.
 - 1.1. **Note: Kimley-Horn will endeavor to obtain approval of the CLOMR request from the City and FEMA; however, Kimley-Horn cannot guarantee approval will be granted.**
2. The current FEMA CLOMR review fee of \$6,500.
 - 2.1. **Note: This fee is included in this project task and will be paid for by the Engineer. If the fee increases in cost after the execution of this contract, the increased amount will be considered additional services.**

Task 10: S. Elm Street Streetscaping Furniture and Wayfinding Maps

10.1. Preliminary (60%) Design Submittal

To be included with the S. Elm Street 60% Design Plan Set (Task 7.1), Kimley-Horn will prepare up to 10 rendering options for benches and up to 6 wayfinding maps (up to 16 total renderings). Kimley-Horn will receive direction from the City on which option to move forward with prior to starting Task 7.2.

Kimley-Horn will prepare options for rendering options for benches, trash cans, and wayfinding signs that includes locations for the following street furniture:

- Benches – Kimley-Horn will prepare renderings for up to 10 custom bench designs to be used along S. Elm Street. The benches will be large enough to accommodate 2 adults and will conform to similar requirements specified in the Bates Street Bench Call for Art. The City may select up to two (2) custom benches to be utilized along S. Elm Street.
- Trash cans – Kimley-Horn will utilize the same trash cans specified on the Bates Street Reconstruction project.

- OTK Wayfinding Maps – Kimley-Horn will prepare renderings for up to 6 wayfinding sign options along S. Elm Street.

10.2. *Final (90%) Design Submittal*

Upon receiving direction and comments from the City on the Preliminary Design Renderings (Task 10.1), Kimley-Horn will prepare 90% design drawings for the proposed benches, trash cans, and wayfinding maps. The design drawings prepared will coincide with the plan set being developed as part of Task 7.2. The bench, trash can, and wayfinding maps design sheets will not be prepared as a separate set.

- Bench Design Sheets
 - Kimley-Horn will provide a schematic for the locations of benches, custom construction details for up to two (2) benches, and any applicable product details. It is assumed the benches will be custom and specific to Old Town Keller.
- Trash Can Design Sheets
 - Kimley-Horn will provide a schematic for the locations of trash cans, construction details, and any applicable product details. It is assumed the trash cans will be the same ones used on the Bates Street Reconstruction project.
- OTK Wayfinding Signs
 - Kimley-Horn will provide schematic locations for the wayfinding signs and construction details.

10.3. *Bid Package Submittal*

- Kimley-Horn will prepare the Streetscaping Furniture and Wayfinding Maps bid package sheets to be included with the Task 7.3 Bid Package Submittal.

Task 11: Alley and Pedestrian Walkway Final Design

This task will only be performed with the authorization of the City. City to provide authorization after Task 6 is complete. Kimley-Horn will develop design drawings for the conceptual pedestrian walkway and alleys developed as part of Task 6. The proposed alleys and pedestrian walkway are between Olive Street and Bates Street and Bates Street and E. Vine Street. The design drawings will coincide with the plan set being developed as part of Task 7.

11.1. *Preliminary (60%) Design Submittal*

Upon receiving direction and comments from the City on the conceptual design, Kimley-Horn will prepare 60% design drawings for the proposed pedestrian walkway and alleys. The design drawings prepared will coincide with the plan set being developed as part of Task 7.1. The alley design sheets will not be prepared as a separate set.

- Project Control and ROW Map
 - Project Control and ROW Maps will be prepared for both proposed alleys and pedestrian walkway.
 - Alignment information including coordinate data for all horizontal alignment PCs, PTs, and PIs.
 - Bearings given on all proposed centerlines or baselines
 - Existing and proposed right-of-way and easement information including property owners, addresses, and easement widths.
- Existing and Proposed Typical Sections
- Traffic and Erosion Control Plan
- Removal Plan
- Franchise Utility Relocation Plan
 - Kimley-Horn will coordinate with the franchise utility companies for future utility improvements.
 - Plan to include proposed conduit, ground boxes, and proposed relocated and/or new franchise utility infrastructure (power poles, meters, risers, etc).
 - Proposed franchise utility relocations may be shown if provided by the Franchise Utility Companies. Kimley-Horn will not be responsible for designing or specifying proposed utility relocation locations.
- Drainage
 - Existing and Proposed Drainage Area Maps – Kimley-Horn will update the existing and proposed drainage area maps developed as part of Task 6 based on proposed grading, pedestrian walkway, and alley design
 - Drainage Calculations – Kimley-Horn will prepare additional drainage design for the alleys consisting of:
 - Runoff Calculations
 - Inlet Calculations
 - HGL Calculations
 - Ditch Calculations (As Needed)
 - Lateral and Mainline Plan and Profile
 - Trench Drain Layout and Product List

- Alley Paving Plan
 - Paving Plan sheets will be prepared for the alley between Olive Street and Bates Street and the alley between Bates Street and E. Vine Street.
 - Proposed Improvements – Horizontal geometry for proposed horizontal alley geometry, franchise utilities, sidewalk crossings, adjacent property improvements proposed fencing, driveways, right-of-way, and access easements.
 - Existing Features – Horizontal geometry for existing right-of-way, easements, pavement, curbs, retaining walls, storm drain, utility poles, mailboxes (within right-of-way), water meters, fire hydrants, and trees (within right-of-way)
- Pedestrian Walkway Paving Plan
 - Paving Plan sheets will be prepared for the pedestrian walkway between Olive Street and Bates Street and the alley between Bates Street and E. Vine Street.
 - Proposed Improvements – Horizontal geometry for proposed horizontal pedestrian walkway geometry, franchise utilities, sidewalk crossings, adjacent property improvements proposed fencing, right-of-way, and pedestrian easements.
 - Existing Features – Horizontal geometry for existing right-of-way, easements, pavement, curbs, retaining walls, storm drain, utility poles, mailboxes (within right-of-way), water meters, fire hydrants, and trees (within right-of-way).
- Preliminary Custom and Standard Paving Details
- Hardscape Plan and Details
 - Horizontal layout of proposed colored and textured pavement surfaces.
 - Pattern and color information for colored and textured pavement surfaces.
- Illumination Plan
 - Kimley-Horn will provide a photometric analysis for each alley and pedestrian walkway in accordance with City requirements. The photometric analysis will consist of placing illumination poles and modeling fixtures to meet alley and pedestrian illumination level requirements. Kimley-Horn will design the streetlights using the same poles as the ones used on the Bates Street Reconstruction project. The scope assumes up to 12 light poles along each alley and 10 light poles along the pedestrian walkways. Design of additional light poles will be considered additional services.
 - Kimley-Horn will prepare construction drawings that will consist of ground boxes, structural foundation details, conduit, wiring, and power pedestals. It is assumed the City will construct all the electrical and illumination equipment necessary for the street light system. It is also assumed Tri-County or Oncor will provide power to the street light system.
 - Kimley-Horn will coordinate with Tri-County or Oncor as part of Task 2.

- The following services are considered additional services: photometric analysis of street lighting exterior to project and 3D renderings.
- Electrical Layout
 - Kimley-Horn will provide a set of electrical design drawings. Electrical receptacles will be included within each planter bed for decorations, irrigation, and the sound system. The scope assumes up to 10 receptacles that are 20A (120V). Design of additional receptacles or receptacles beyond 20A (120V) receptacles such as for food trucks will be considered additional services. Design drawings will consist of:
 - Plan View – Electrical conduit layout, wiring layout, ground box layout, cable feeds to the different circuits, voltage drop calculations, pedestal service size requirements, and pedestal service placement.
 - Details – Product specifications and details for electrical receptacles, ground boxes, and pedestal services.
- Sound System Layout
 - Kimley-Horn will prepare construction drawings for a sound system. Sound system components will include speakers in each planter bed along the proposed pedestrian walkways (up to 50 speakers), conduit, and speaker wiring. The sound system design will also consist of setting up a control system. Sound system features will include playing ambient music such as sounds and music and public address (PA) capabilities. Design of additional sound system components will be considered additional services. Design drawings will consist of:
 - Plan View – Speaker layout, wiring and conduit layout, and control system details.
 - Details – Product specifications and details for speakers and control system.
- Landscape plan
 - Kimley-Horn will prepare a landscape plan rendering including a plant palette, reference images, and plant locations.
- Streetscaping Furniture and Amenities
 - Kimley-Horn will prepare a layout that consists of locations for the following street furniture:
 - Benches
 - Trash cans
 - Pedestrian Scale OTK Wayfinding Maps
 - Custom details and product information will be provided.

- Opinion of Probable Construction Cost (OPCC)

11.2. Final (90%) Design Submittal

Upon receiving direction and comments from the City on the preliminary design, Kimley-Horn will prepare 90% design drawings for the proposed alleys. The design drawings prepared will coincide with the plan set being developed as part of Task 7.2. The alley design sheets will not be prepared as a separate set.

- General Notes
- Quantity Summary Sheet
- Alley Grading Plan
 - A grading plan will be prepared for each proposed alley.
 - Consisting of contours shown at 1' intervals as well as station coordinate data, and elevations for all horizontal alignment P.C.'s, P.T.'s, and P.I.'s.
- Pedestrian Walkway Grading Plan
 - A grading plan will be prepared for each proposed pedestrian walkway
 - Consisting of contours shown at 1' intervals as well as station coordinate data, and elevations for all horizontal alignment P.C.'s, P.T.'s, and P.I.'s.
- Landscape and Irrigation
 - Consisting of: general notes, location, quantity, and size of City approved plant species, irrigation meters, valves, heads, drip irrigation lines, controller(s), waterline tap, and construction details.

11.3. Bid Package Submittal

- Kimley-Horn will prepare the alley and pedestrian walkway bid package sheets to be included with the Task 7.3 Bid Package Submittal.

Task 12: Accessibility Review (Hourly)

Kimley-Horn will utilize a subconsultant that is a Registered Accessibility Specialist (RAS) for the purposes of reviewing the plans for conformance with the Texas Accessibility Standards (TAS). Kimley-Horn will coordinate with the RAS for project registration with the Texas Department of Licensing and Regulation (TDLR), and project inspection upon completion of construction. Kimley-Horn will make one (1) round of revisions to the plans based on comments received from the RAS. Inspection and registration fees for TDLR are included in this fee.

Task 13: Bidding Phase Services (Hourly)

Kimley-Horn will provide support for the bidding and construction of S. Elm Street. The bidding and construction phase services are based on a 4-month construction schedule.

13.1. Bidding Support

- Project Management and City Coordination: Kimley-Horn will continue coordinating with the City and providing project management services.
- Pre-Bid Meeting: Kimley-Horn will attend the pre-bid meeting.
- Bid Tabulations: Kimley-Horn will tabulate the bids received and evaluate compliance of bids with the bidding documents. Kimley-Horn will prepare a written summary of this tabulation and evaluation and will provide a recommendation of award of contract.
- Requests for Information: Kimley-Horn will respond to reasonable and appropriate Contractor requests for information during bidding in the form of an addenda. Requests for information will be received and responded to until an agreed upon date prior to the established bid opening date. The addenda will be issued to all registered plan holders.
- Bid Opening: Kimley-Horn will attend the bid opening
- Addenda: Kimley-Horn will incorporate all addenda into the contract documents and issue conformed sets.

Task Duration:

1. Kimley-Horn will perform bidding services for up to twenty-five (25) hours. Any additional time spent performing bid phase services will be considered additional services.

Task 14: Big Bear Creek LOMR

14.1. Topographic Survey

- Following the roadway improvements within the floodplain, Kimley-Horn will prepare a topographic survey of the constructed improvements.
- The survey data is to be used in-house and will not be issued as a stand-alone survey document. The survey will be conducted to include the specifications set forth by National Mapping Standards and FEMA mapping standards. Elevations obtained on hard surfaces, such as paving will be expressed to the nearest 0.01 feet and on natural ground surfaces to the nearest 0.10 feet. Survey will be tied to a City benchmark system. By authorizing this task, the Client gives permission to access the properties necessary to conduct the survey.

14.2. *Big Bear Creek LOMR*

Kimley-Horn will prepare a LOMR submittal for the subject reach of Big Bear Creek for South Elm Street constructed improvements to the City and to the Federal Emergency Management Agency (FEMA). The subject reach of Big Bear Creek will be from the upstream face of U.S. 377 to a point approximately 1000 linear feet downstream of Big Bear Creek Parkway. The FEMA floodplain within the subject reach is designated as Zone AE floodplain with floodway.

Kimley-Horn will update the proposed condition model prepared in Task 6 based on constructed roadway improvements to prepare a post-project condition hydraulic model. Constructed improvements are assumed to consist of an expanded roadway crossing at Big Bear Creek and grading in the creek associated with a proposed river walk. Flows used in this task will be taken from the FEMA effective FIS for Big Bear Creek. No hydrologic modeling is included in this task.

Kimley-Horn anticipates the LOMR submittal will consist of the following items:

- Report Text;
- Pre-Project Condition Hydraulic Modeling;
- Post-Project Condition Hydraulic Modeling;
- Pre-Project Condition Floodplain Work Maps;
- Post-Project Condition Floodplain Work Maps;
- Certified Topographic Exhibit;
- FEMA Forms; and
- Digital Files.

LOMR Deliverables:

1. Kimley-Horn will submit the LOMR submittal package as described to the City and FEMA for review and approval.
 - 1.1. **Note: Kimley-Horn will endeavor to obtain approval of the LOMR request from the City and FEMA; however, Kimley-Horn cannot guarantee approval will be granted.**
2. The current FEMA CLOMR review fee of \$8,500.
 - 2.1. **Note: This fee is included in this project task and will be paid for by the Engineer. If the fee increases in cost after the execution of this contract, the increased amount will be considered additional services.**

Task 15: OTK PH II Trash Consolidation and UDC Updates (Hourly)

15.1. *Trash Consolidation*

- Kimley-Horn will provide recommendations for proposed locations for trash consolidation for the following side streets:
 - Taylor Street

- E. Hill Street
- E. Vine Street
- Olive Street
- Pecan Street
- Proposed trash consolidation locations may be placed within the existing street right-of-way or identified outside of the street right-of-way. For locations outside of the existing street right-of-way, Kimley-Horn will propose the design of an access driveway, proposed right-of-way width, and foundation size for trash collection pad.

15.2. *UDC Updates*

- Kimley-Horn will provide recommendations for updates to the City’s unified development code based on proposed trash consolidation locations.

Task 16: OTK Operations and Maintenance Cost Development

16.1. *Operations and Maintenance Cost Development*

Kimley-Horn will assist the City in developing a framework for tracking Operations and Maintenance and Capital Replacement costs and schedules for amenities within Old Town Keller. The purpose of this task is to identify and document the business processes and attribute information required to support these management systems and pilot test the data buildout. Kimley-Horn anticipates the following actions under this task:

- Strategy Meeting Workshop
- Development Meetings – Kimley-Horn will conduct up to five (5) meetings with the City.
- Pilot Area Development – Kimley-Horn will prepare an Operations, Maintenance, and Replacement Budget and Schedule for the pilot area. The deliverable will include a GIS map of the established items (attributes) and an excel spreadsheet indicating timeframes for replacement and maintenance and their associated budgets. The Pilot Area is:
 - OTK PH I – Previously improved OTK area west of US 377
 - Bear Creek Parkway Roundabout
 - Bates Street

Task Duration:

1. Kimley-Horn will prioritize completing Bear Creek Parkway Roundabout and Bates Street portions of the pilot area before incorporating OTK PH I. If Kimley-Horn is not able to complete preparing OTK PH I as part of the pilot area, additional time required to complete OTK PH I will be considered additional services.

Task Deliverables:

1. GIS Map of the pilot area and an excel spreadsheet of replacement and maintenance schedule and budgets.

Task 17: Additional Services (Hourly)

This task shall be used for additional services not included in Tasks 1 – 16. This task will be invoiced hourly for an amount not to exceed the amount listed in the Fee summary. Kimley-Horn will not perform any services using this task unless authorized by the City. This task is optional and is at the discretion of the City to use the Task or not.

Additional Services

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

- Additional renderings
- Additional meetings with the City, public, parks board, and/or city council
- Right-of-way or easement acquisition
- Additional survey
- Design iterations beyond what is included in the design.
- Additional photometrics or utility design not listed under the scope of services;
- Renderings or any visualizations not listed under the scope of services;
- Services related to warranty claims, enforcement and inspection after final completion;
- Assist the City as an expert witness in litigation in connection with the project or in hearings before approving and regulatory agencies;
- Redesign to reflect project scope changes requested by the City, required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor; and
- Any services not listed above.

Schedule

Tasks 1 – 15 will be completed based on the attached schedule. Any delays to the schedule by the City, council, or Kimley-Horn will require an updated schedule. The schedule will be revised based on a mutually agreed upon timeframe.

Additional services, if desired, will be performed within a mutually agreed upon schedule, once authorized by the Client in writing.

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

Fee and Expenses

Lump Sum Tasks:

Kimley-Horn will perform the services in Tasks 1 through 4, 6 through 11, and 14 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1: Project Management	\$ 20,410
Task 2: Agency Coordination	\$ 66,540
Task 3: Community and Council Engagement	\$ 23,440
Task 4: Data Collection and Analysis	\$ 164,560
Task 6: Conceptual Design	\$ 124,390
Task 7: S. Elm Street Final Design	\$ 698,820
Task 8: Big Bear Creek Improvement and Crossing Final Design	\$ 204,390
Task 9: Big Bear Creek CLOMR	\$ 39,230
Task 10: S. Elm Street Streetscaping Furniture and Wayfinding Maps	\$ 245,220
Task 11: Alley and Pedestrian Walkway Final Design	\$ 87,080
<u>Task 14: Big Bear Creek LOMR</u>	<u>\$ 50,740</u>
Total Lump Sum Fee	\$ 1,724,820

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Hourly Not to Exceed

Kimley-Horn will perform the services in Tasks 5, 12, 13, 15, 16 and 17 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 5: Right-of-Way Documentation, Appraisals, and Negotiations (Hourly)	\$ 520,580
Task 12: Accessibility Review (Hourly)	\$ 5,800
Task 13: Bidding Phase Services (Hourly)	\$ 28,310
Task 15: OTK PH II Trash Consolidation and UDC Updates (Hourly)	\$ 27,800
Task 16: OTK Operations and Maintenance Cost Development	\$ 25,000
<u>Task 17: Additional Services (Hourly)</u>	<u>\$ 15,000</u>
Maximum Labor Fee	\$ 622,490

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses

will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

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

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

_____ Please email all invoices to _____

_____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute one copy of this Agreement in the spaces provided below, retain the executed copy, and provide an electronic copy to us. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

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

Very truly yours,
KIMLEY-HORN AND ASSOCIATES, INC.



Sam Fries, P.E.
Project Manager



Scott R. Arnold, P.E.
Vice President

CITY OF KELLER, TEXAS
A Municipality

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

Attachment – Rate Schedule
Attachment – Standard Provisions
Attachment – Schedule

Kimley-Horn and Associates, Inc.

Standard Rate Schedule

(Hourly Rate)

Analyst	\$120 - \$200
Professional	\$180 - \$230
Senior Professional I	\$220 - \$285
Senior Professional II	\$265 - \$300
Senior Technical Support	\$145 - \$210
Support Staff	\$90 - \$130
Technical Support	\$90 - \$135

Effective through June 30, 2022

Subject to periodic adjustment thereafter

KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS

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

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

- (a) Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- (g) Obtain any independent accounting, legal, insurance, cost estimating and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

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

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

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the rate of 12% per year beginning on the 25th day. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
- (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
- (d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- (e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the

Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

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

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

(8) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO THE CLIENT AND THE CONSULTANT, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE CONSULTANT AND THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSES, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR ANY WARRANTY, EXPRESS OR IMPLIED, OF THE CONSULTANT OR THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED TWICE THE TOTAL COMPENSATION RECEIVED BY THE CONSULTANT UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. HIGHER LIMITS OF LIABILITY MAY BE NEGOTIATED FOR ADDITIONAL FEE. THIS SECTION 9 IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION 9 SHALL REQUIRE THE CLIENT TO INDEMNIFY THE CONSULTANT.

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

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

(12) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

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

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

or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) Construction Phase Services.

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

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

(c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

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

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

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