



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	3/17/15
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

Approval of an Engineering Services Agreement by and between the City of Plano and Kimley-Horn and Associates, Inc. in the amount of \$172,594 for the design services for arterial side path improvements at designated locations along the City's on-street bicycle route system; and authorizing the City Manager to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2014-15; 2015-16	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	1,572,714	3,104,286	0	4,677,000
Encumbered/Expended Amount	-1,572,714	-1,736,026	0	-3,308,740
This Item	0	-115,062	-57,532	-172,594
BALANCE	0	1,253,198	-57,532	1,195,666

FUND(S): PARK IMPROVEMENT CIP

COMMENTS: Funding is available for this item in the 2014-15 Park Improvement CIP. The Engineering Services Agreement, in the amount of \$172,594, will leave a project balance of \$1,195,666 available for future expenditures related to the 09 Trail Connections project. Future year expenditures will utilize funds carried forward from the current year CIP.

STRATEGIC PLAN GOAL: Obtaining professional design services for future arterial side path improvements relates to the City's goals of Financially Strong City with Service Excellence and Safe Large City.

SUMMARY OF ITEM

The City of Plano has a 168 mile network of numbered and signed on-street bicycle routes. At several locations, the bike routes cross major arterials to connect two collector streets that do not align, called an arterial jog. For example, when traveling east on Tulane Drive, the bicyclist must turn south and travel on Coit Road to then continue east on Matterhorn Drive. Constructed off street side paths at arterial jogs will decrease the crossing distance of the arterial by indicating to bicyclists where to cross, improve bicyclist safety by reducing the time spent on the arterial, and improve motorist awareness and response by directing all bicycle traffic to the traffic signal.

The estimated construction cost for this project is \$850,000. The total design fee is \$172,594. The fee includes field observations, schematic designs, surveying, construction plans, Texas Accessibility Standards compliance for each location, and reimbursable expenses for the project. The surveying accounts for a third of the fee, or



CITY OF PLANO COUNCIL AGENDA ITEM

\$60,000, as the project will require thirty separate locations to be surveyed. The fee is higher than typical for a project of this size due to the work being spread out over thirty different locations. The total fee is 20% of the estimated construction cost.

Kimley-Horn and Associates, Inc. is on the 2014-15 list of qualified consultants for Engineering Services.

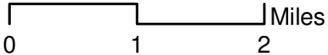
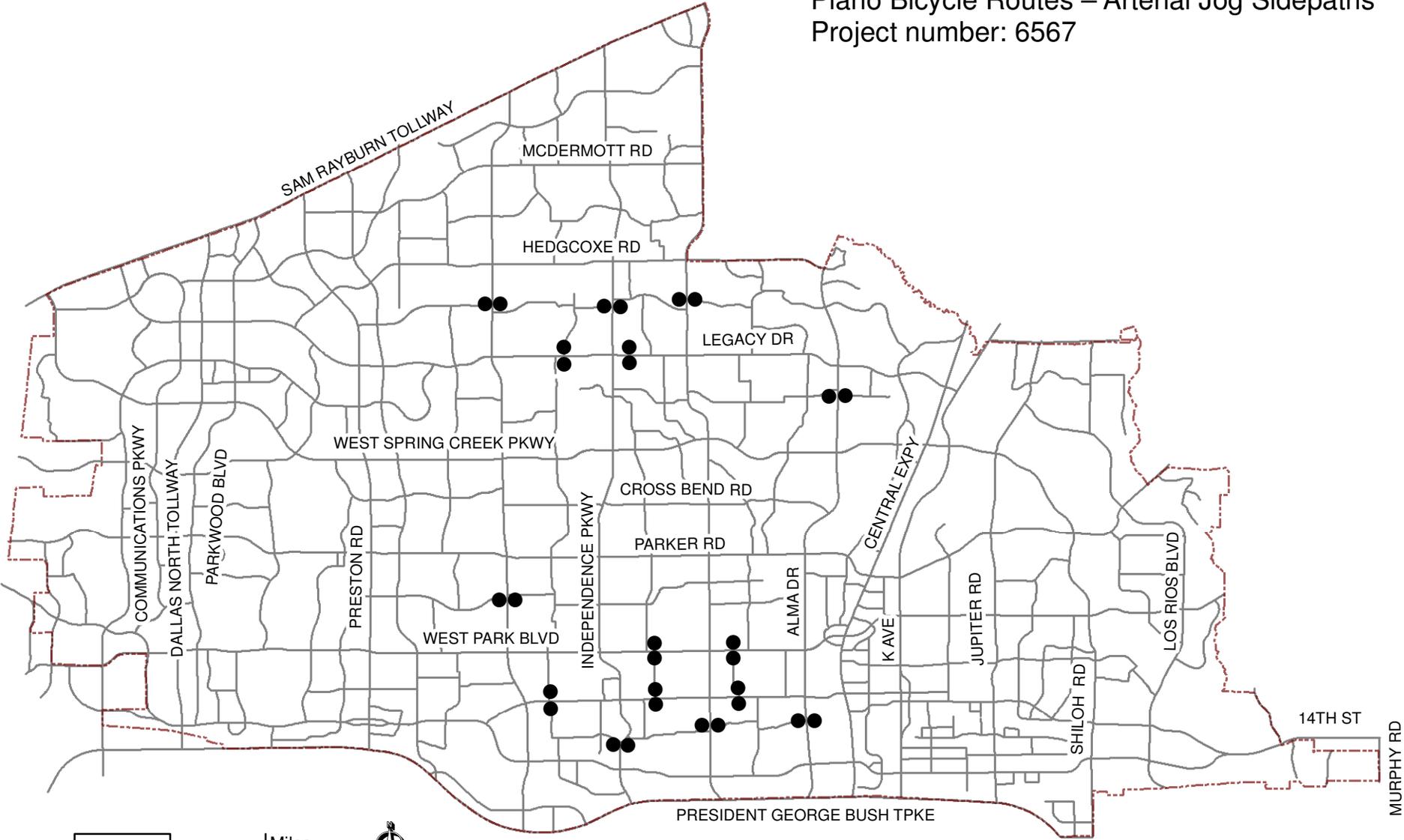
Project Location Map:

<http://goo.gl/egVgtU>

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map Engineering Services Agreement	



LOCATION MAP
Plano Bicycle Routes – Arterial Jog Sidepaths
Project number: 6567



PLANO BIKE ROUTES-ARTERIAL JOG SIDEPATHS

PROJECT NO. 6567

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **KIMLEY-HORN AND ASSOCIATES, INC.**, a **NORTH CAROLINA** Corporation, licensed to do business in the State of Texas, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **PLANO BIKE ROUTES-ARTERIAL JOG SIDEPATHS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of the Engineer

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. Scope of Services

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

III. Schedule of Work

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

V. Information to be Provided by the City

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

VI. Insurance

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY THE ENGINEER'S, OR ITS OFFICER'S, AGENT'S, EMPLOYEE'S, CONSULTANT'S, REPRESENTATIVE'S OR ANY OTHER ENTITY OVER WHICH THE ENGINEER

EXERCISES CONTROL'S, NEGLIGENCE, INTENTIONALLY TORTIOUS CONDUCT, INFRINGEMENT UPON INTELLECTUAL PROPERTY RIGHTS, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE CITY AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

IX. Assignment and Subletting

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of

the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

X. Audits and Records/Prohibited Interest

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

XII. Engineer's Opinion of Probable Construction Costs

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent.

City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano
Parks Department
Attn: Renee Jordan
P.O. Box 860358
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Kimley-Horn and Associates, Inc.
Attn: Tom Hartmann, P.E.
12750 Merit Drive
Dallas, TX 75251

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XVI. Miscellaneous

A. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

B. Contract Interpretation:

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

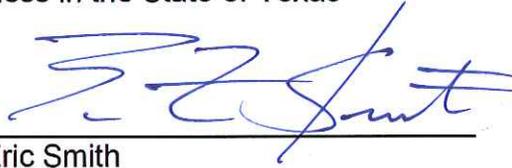
G. Authority to Sign:

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

SIGNED on the date indicated below.

KIMLEY-HORN AND ASSOCIATES, INC.
A North Carolina Corporation, licensed to do
business in the State of Texas

DATE: 01/29/15

BY: 
Eric Smith
ASSISTANT SECRETARY

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Bruce D. Glasscock
CITY MANAGER

APPROVED AS TO FORM:

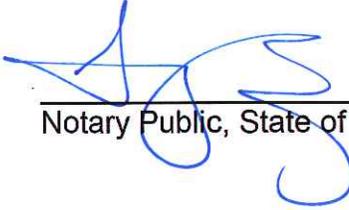
Paige Mims
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 29 day of January, 2015, by **ERIC SMITH, ASSISTANT SECRETARY**, of **KIMLEY-HORN AND ASSOCIATES, INC.**, a **NORTH CAROLINA** corporation, licensed to do business in the State of Texas, on behalf of said corporation.





Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2015, by **BRUCE D. GLASSCOCK, CITY MANAGER**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

**EXHIBIT A
SCOPE OF SERVICES
PLANO BIKE ROUTES – ARTERIAL JOG SIDEPATHS**

Project Understanding

The City of Plano has a comprehensive on-street bike network, with numbered routes, trail connections, and signage. At several locations throughout the City, the bike path crosses a major arterial to connect two collector streets. For example, the City's on-street bike plan follows Tulane Drive, turns north at Coit Road, and continues east on Matterhorn Drive. Bikers currently must travel on Coit Road for approximately 225 feet; the arterial's high speed and other characteristics make this maneuver undesirable.

The City of Plano has asked Kimley-Horn to provide construction designs to provide an off-street sidepath at these "arterial jogs" to allow bikers to continue on the on-street bike path without traveling on the arterial.

Scope of Services

Kimley-Horn will perform field observations, create schematic designs and opinions of probable construction cost (OPCC), prepare a topographic survey, and develop construction plans for each arterial jog location. The locations below are included in the scope of this project:

- Alma Road & Janwood Drive/Mall Ring Road;
- Alma Drive & Seabrook Drive;
- Custer Road & Carmel Drive/Glencliff Drive;
- Custer Road & USA Drive/Micarta Drive;
- Independence Parkway & Caravan Drive/Micarta Drive;
- Independence Parkway & Robin Lane/Glencliff Drive;
- Coit Road & Tulane Drive/Matterhorn Drive;
- Coit Road & Quincy Lane/Hearst Castle Way;
- 15th Street & Woodburn Corners;
- 15th Street & Stratford Drive/Highedge Drive;
- 15th Street & Rio Grande Drive/Westwood Drive;
- Park Boulevard & Stratford Drive/Maple Leaf Drive;
- Park Boulevard & Rio Grande Drive/Country Place Drive;
- Legacy Drive & Marchman Way/Tracy Road; and
- Legacy Drive & Falcon Drive/Timothy Drive.

SECTION I – BASIC SERVICES

The tasks outlined in this Section are ordered chronologically.

Task 1 – Field Observations

Kimley-Horn will perform field observations of the site locations. Field observations will include existing geometrics, surface elements, and identification of potential improvements.

Task 1 Deliverables:

There are no deliverables for Task 1.

Task 2 – Schematic Designs

Kimley-Horn will develop schematic designs for each location, based on field observations. The schematic designs will show proposed sidepath locations, proposed ramp locations, other proposed improvements, and elements to be removed. Schematic designs for each location will be created from existing aerial photography and field observations. Opinions of Probable Construction Costs (OPCCs), based upon the items and quantities, will be included with the concept plans for each location. These estimates shall be based on current unit prices bid on similar projects.

Kimley-Horn will meet with the City for one (1) review meeting. Kimley-Horn will incorporate (1) one round of review comments for the schematic designs as part of this task.

Task 2 Deliverables:

Schematic designs will be prepared on one (1) 11"x17" plan sheet per location, without an engineer's seal. OPCCs will be planning level, as well.

Task 3 – Topographic Survey

Kimley-Horn will prepare a topographic survey along the study locations. The survey will identify and locate existing topographic elements such as edge of pavement, sidewalk, railroad tracks, manholes, water valves, sprinkler heads, lights, etc. and will include elevations and 1-ft contours.

Task 3 Deliverables:

Survey results will be prepared on one (1) 11"x17" plan sheet per location.

Task 4 – Construction Plans

Kimley-Horn will prepare final construction plans, specifications, and contract documents. Final construction plans will be based on schematic designs, as approved by the City. Kimley-Horn will meet with the City for one (1) review meeting. Kimley-Horn will incorporate (1) one round of review comments for the construction plans as part of this task.

Task 4 Deliverables:

Final construction plans shall be prepared on 11"x17" sheets, and include the following:

- Cover Sheet
- General Construction Notes
Kimley-Horn will prepare the general construction notes for the civil portions of the project.
- Sidepath Plan
Kimley-Horn will prepare a sidepath plan to be used by the Contractor for layout of the proposed sidewalk.
- Erosion Control Plan
Kimley-Horn will prepare an Erosion Control Plan for the project per City and State requirements. On this plan Kimley-Horn will show required erosion control measures to be installed prior to disturbance of the site and to be maintained.

throughout site construction. The City of Plano's standard Storm Water Pollution Prevention Plan (SWPPP) will be used for this project.

- Detail and standard sheets as required.
- An OPCC based upon the items and quantities. This estimate shall be based on current unit prices bid on similar projects.

SECTION II – SPECIAL SERVICES

Task 5 – TDLR Accessibility Review

Through a Registered Accessibility Specialist (RAS) subconsultant, the Consultant will register the project with TDLR and have the design drawings reviewed for compliance with the Americans with Disabilities Act and the most current Texas Accessibility Standards. At the completion of construction, the RAS will perform a field inspection of the accessibility features of the project.

Task 5 Deliverables:

There are no deliverables for Task 5.

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

- Traffic signal modifications or designs;
- Additional locations;
- Additional schematic designs;
- Construction phase services;
- Additional meetings with City;
- Additional review comments; and
- Additional data collection.

Reimbursables

An amount will be added to each invoice to cover certain other expenses such as in-house duplicating, local mileage, telephone calls, facsimiles, postage, and word processing.

SECTION III – EXCLUSIONS

- A. Exclusions – The intent of this scope of services is to include only the services specifically listed herein and no others. Services specifically excluded from this scope of services include the following:

- 1) Services beyond those described in Section I or Section II;
- 2) Traffic signal modifications or designs;
- 3) Additional locations;
- 4) Additional schematic designs;
- 5) Construction phase services;
- 6) Additional meetings with City;
- 7) Additional review comments; and
- 8) Additional data collection.

B. Information to be provided by the City (subject to availability)

- 1) City of Plano Standards;
- 2) City of Plano Specifications;
- 3) GIS data;
- 4) Existing as-built plans; and
- 5) Aerial photography.

EXHIBIT B
COMPLETION SCHEDULE
PLANO BIKE ROUTES – ARTERIAL JOG SIDEPATHS

Schedule

The work product described in Exhibit A, Scope of Services, will be performed in accordance with the following schedule:

Section 1	Basic Services	
	Task 1 – Field Observations	3 Weeks
	Task 2 – Schematic Designs	10 Weeks
	Task 3 – Topographic Survey	16 Weeks
	Task 4 – Construction Plans	20 Weeks
Section 2	Special Services	
	Task 5 – TDLR Review	4 Weeks
	Reimbursables	N/A
	Total Project Time	53 weeks

EXHIBIT C

PAYMENT SCHEDULE
PLANO BIKE ROUTES – ARTERIAL JOG SIDEPATHS

The fees for the scope of services outlined in Exhibit A, scope of services are to be a lump sum fee as follows:

Basic Services

Task 1:	Field Observations	\$	7,500
Task 2:	Schematic Designs	\$	31,750
Task 3:	Topographic Survey	\$	60,000
Task 4:	Construction Plans	\$	63,625

Special Services

Task 5:	ADA/TDLR Review	\$	1,500
	Reimbursables	\$	8,219
	Total Project Cost	\$	172,694

Kimley-Horn and Associates, Inc.

Standard Rate Schedule

(Hourly Rate)

Senior Professional I	\$200 - \$230
Senior Professional II	\$175 - \$220
Professional	\$140 - \$185
Analyst	\$135 - \$150
Designer	\$100 - \$165
Technical Support	\$70 - \$150
Clerical/Administrative Support	\$60 - \$115

Effective July 2014

EXHIBIT "D"

ENGINEERING

INSURANCE

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

1. General Insurance Requirements:

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."
- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Engineer's Insurance - "Occurrence" Basis:

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
 - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
 - i. General aggregate limit is to apply per project;
 - ii. Premises/Operations;
 - iii. Actions of Independent Contractors;
 - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
 - v. Personal Injury Liability including coverage for offenses related to employment;
 - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
 - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

3.0 Engineer's Insurance – Claims Made

Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$2,000,000

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<u>\$500,000</u> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$ _____ BI & PD each occurrence

COMMENTS/REMARKS

Certificate Holder.

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST AND COMPLIANCE WITH CITY OF PLANO'S EQUAL RIGHTS ORDINANCE

A. No Prohibited Interest

I, the undersigned, declare that I am authorized to make this statement on behalf of **Kimley-Horn and Associates, Inc.**, a corporation organized under the laws of the State of North Carolina, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of **Kimley-Horn and Associates, Inc.**, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

B. Equal Rights Compliance

1. Section 2-11(F) of the City Code of Ordinances reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
- (f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
- (g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
- (h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or
- (i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;

- (j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;
- (k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;
- (l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or
- (m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic."

2. I am aware that my company, its directors, officers and employees must comply with Section 2-11(F) of the City Code of Ordinances unless an exclusion applies, as indicated below. Further, I understand that if Section 2-11(F) applies, I am entitled to apply to the City Manager for a waiver from signing this section of the affidavit based on a conflict with state or federal law. The contract will not be executed prior to the waiver issue being resolved.

Having made reasonable inquiry, I affirm that my company, its directors, officers and employees agree to comply with Section 2-11(F); or my company is excluded from this Ordinance based on the following: **[PLEASE CHECK BELOW, IF APPLICABLE]**

_____ A religious organization.

_____ A political organization.

_____ An educational institution.

_____ A branch or division of the United States government or any of its departments or agencies.

_____ A branch or division of the State of Texas or any of its departments, agencies or political subdivisions.

_____ A private club that is restricted to members of the club and guests and not open to the general public.

_____ Is not an "employer" under Section 2-11(F) because it has not had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

[THIS SPACE INTENTIONALLY LEFT BLANK]

I also understand and acknowledge that a violation of Section 11.02 of the City Charter or Section 2-11(F) of the City Code of Ordinances, if applicable, at any time during the term of this contract may render the contract voidable by the City.

KIMLEY-HORN AND ASSOCIATES, INC.

By: 
Signature

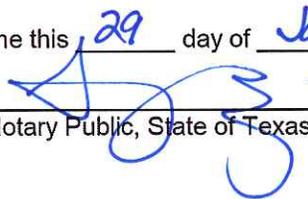
ERIC Z. SMITH
Print Name

ASSISTANT SECRETARY
Title

01/29/15
Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this 29 day of January, 2015.


Notary Public, State of Texas

