

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF BURLESON** (the “City”), a home rule municipal corporation situated in portions of Tarrant and Johnson Counties, Texas and KIMLEY-HORN AND ASSOCIATES, INC. (“Consultant”).

1. SCOPE OF SERVICES.

Attached hereto and incorporated for all purposes incident to this Agreement is **Attachment A** more specifically describing the services to be provided hereunder.

2. TERM.

This Agreement shall commence upon execution by the parties (the “Effective Date”) and terminate upon completion of the work specified in the scope of services unless terminated earlier in accordance with the provisions of this Agreement. Those obligations concerning warranties and representations which by their nature should survive termination of this Agreement, shall survive termination of this Agreement, including Articles 5, 6, 8, 12, 14-17, and 25-26.

3. COMPENSATION.

This is a fixed-price contract. The City shall pay Consultant an amount not to exceed ONE HUNDRED FOUR THOUSAND, FOUR HUNDRED SEVENTY-FIVE and 0 /100 dollars in accordance with the fee schedule incorporated herein as **Attachment A**, and subject to the other terms and conditions of this Agreement, in exchange for completion of all tasks and delivery of all services listed in Attachment A, Scope of Work. In the event of partial performance the City shall pay Consultant for only the itemized tasks completed and delivered. Consultant shall not perform any additional services for the City not specified by this Agreement unless the City requests and approves in writing the additional services and costs for such services. The City shall not be liable for any additional expenses of Consultant not specified by this Agreement unless the City first duly approves such expenses in a contract amendment executed by the City Manager or the City Manager’s designee.

The Consultant shall submit monthly payment invoices to the City. Invoices shall contain a detailed breakdown to include: task or deliverables to the City and date provided for the billing period, the amount billed for each task or deliverable, and the total amount due.

Payment for services rendered shall be due within thirty (30) days of the uncontested performance of the particular services so ordered and receipt by City of Consultant’s invoice for payment of same. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. No interest will accrue on any contested portion of the billing until mutually resolved. City will exercise reasonableness in contesting any billing or portion thereof.

4. TERMINATION.

4.1. Written Notice.

The City or Consultant may terminate this Agreement at any time and for any reason by providing the other party with 30 days written notice of termination.

4.2 Non-appropriation of Funds.

In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments due hereunder, City will notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds shall have been appropriated.

4.3 Duties and Obligations of the Parties.

In the event that this Agreement is terminated prior to the end of the term of this agreement as provided in Article 2, the City shall pay Consultant for services actually rendered or consultant shall reimburse the City for services paid for but not actually rendered, up to the date of notice of termination.

5. DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.

Consultant hereby warrants to the City that Consultant has made full disclosure in writing of any existing or potential conflicts of interest related to Consultant's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Consultant hereby agrees immediately to make full disclosure to the City in writing. Consultant, for itself and its officers, agents and employees, further agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Consultant shall store and maintain City information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Consultant shall notify the City immediately if the security or integrity of any City information has been compromised or is believed to have been compromised.

6. RIGHT TO AUDIT.

Consultant agrees that the City shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of the consultant involving transactions relating to this Contract at no additional cost to the City. Consultant agrees that the City shall have access during normal working hours to all necessary Consultant facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give Consultant reasonable advance notice of intended audits.

Consultant further agrees to include in all its subcontractor agreements hereunder a provision to the effect that the subcontractor agrees that the City shall, until expiration of three (3) years after final payment of the subcontract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract, and further that City shall have access during normal working hours to all subcontractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this paragraph. City shall give subcontractor reasonable notice of intended audits.

7. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Consultant shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the City. Subject to and in accordance with the conditions and provisions of this Agreement, Consultant shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. Consultant acknowledges that the doctrine of *respondeat superior* shall not apply as between the City, its officers, agents, servants and employees, and Consultant, its officers, agents, employees, servants, contractors, and subcontractors. Consultant further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between City and Consultant.

8. CHARACTER OF SERVICES AND INDEMNIFICATION.

8.1 Character of Services.

Consultant shall perform as an independent contractor all services under this Agreement with the professional skill and care ordinarily provided by competent architects, engineers, or landscape architects practicing under the same or similar circumstances and professional license. Further, Consultant shall perform as an independent contractor all services under this Agreement as expeditiously as possible as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Provided, however, if this is a construction contract for architectural or engineering services or a contract related to the construction or repair of an improvement to real property that contains architectural or engineering services as a component part, the architectural or engineering services must be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license. Consultant shall provide professional services necessary for the work described in Attachment "A," and incorporated herein and made a part hereof as if written word for word; provided, however, that in case of conflict in the language of Attachment "A" the terms and conditions of this Agreement shall be final and binding upon both parties hereto.

8.2 Indemnification.

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND

PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING REASONABLE ATTORNEY FEES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OF OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT, WHETHER SAID NEGLIGENCE IS SOLE NEGLIGENCE, CONTRACTUAL COMPARATIVE NEGLIGENCE, CONCURRENT NEGLIGENCE OR ANY OTHER FORM OF NEGLIGENCE. IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF CONSULTANT AND CITY, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. NOTHING IN THIS PARAGRAPH IS INTENDED TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW OR WAIVE ANY DEFENSES OF CONSULTANT OR CITY UNDER TEXAS LAW. THIS PARAGRAPH SHALL NOT BE CONSTRUED FOR THE BENEFIT OF ANY THIRD PARTY, NOR DOES IT CREATE OR GRANT ANY RIGHT OR CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR CONSULTANT.

CONSULTANT WARRANTS THAT NO MUSIC, LITERARY OR ARTISTIC WORK OR OTHER PROPERTY PROTECTED BY COPYRIGHT WILL BE REPRODUCED OR USED, NOR WILL THE NAME OF ANY ENTITY PROTECTED BY TRADEMARK BE REPRODUCED OR USED BY CONSULTANT UNLESS CONSULTANT HAS OBTAINED WRITTEN PERMISSION FROM THE COPYRIGHT OR TRADEMARK HOLDER AS REQUIRED BY LAW, SUBJECT ALSO TO CITY'S CONSENT. CONSULTANT COVENANTS TO COMPLY STRICTLY WITH ALL LAWS RESPECTING COPYRIGHTS, ROYALTIES, AND TRADEMARKS AND WARRANTS THAT IT WILL NOT INFRINGE ANY RELATED STATUTORY, COMMON LAW OR OTHER RIGHT OF ANY PERSON OR ENTITY IN PERFORMING THIS AGREEMENT. CONSULTANT WILL INDEMNIFY AND HOLD CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM ALL CLAIMS, LOSSES AND DAMAGES (INCLUDING REASONABLE ATTORNEY'S FEES) WITH RESPECT TO SUCH COPYRIGHT, ROYALTY OR TRADEMARK RIGHTS TO THE EXTENT CAUSED BY CONSULTANT OR FOR WHOM CONSULTANT IS LEGALLY LIABLE.

THE PROVISIONS OF THIS SECTION ARE INTENDED TO ONLY PROVIDE INDEMNIFICATION TO THE EXTENT ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 WILL STILL NAME CITY AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY.

9. ASSIGNMENT AND SUBCONTRACTING.

Consultant shall not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the City. If the City grants consent to an assignment, the assignee shall execute a written agreement with the City and the Consultant under which the assignee agrees to be bound by the duties and obligations of Consultant under this Agreement. The Consultant and Assignee shall be jointly liable for all obligations under this Agreement prior to the assignment. If the City grants consent to a subcontract, the subcontractor shall execute a written agreement with the Consultant referencing this Agreement under which the subcontractor shall agree to be bound by the duties and obligations of the Consultant under this Agreement as such duties and obligations may apply. The Consultant shall provide the City with a fully executed copy of any such subcontract.

10. INSURANCE.

Consultant shall provide the City with certificate(s) of insurance documenting policies of the following minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

- (a) Commercial General Liability
\$1,000,000 Each Occurrence
\$1,000,000 Aggregate

- (b) Automobile Liability
\$1,000,000 Each accident on a combined single limit basis or
\$250,000 Bodily injury per person
\$500,000 Bodily injury per person per occurrence
\$100,000 Property damage

Coverage shall be on any vehicle used by the Consultant, its employees, agents, representatives in the course of the providing services under this Agreement. "Any vehicle" shall be any vehicle owned, hired and non-owned.

- (c) Worker's Compensation
Statutory limits
Employer's liability
\$100,000 Each accident/occurrence
\$100,000 Disease - per each employee
\$500,000 Disease - policy limit

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent

with statutory benefits outlined in the Texas workers' Compensation Act (Art. 8308 – 1.01 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of \$100,000 each accident/occurrence, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee

(d) Errors & Omissions (Professional Liability):

\$1,000,000 Per Claim and Aggregate

If coverage is written on a claims-made basis, the retroactive date shall be coincident with or prior to the date to the contractual agreement. The certificate of insurance shall state that the coverage is claims-made and include the retroactive date. The insurance shall be maintained for the duration of the contractual agreement and for five (5) years following completion of the services provides under the contractual agreement or for the warranty period, which ever is longer. An annual certificate of insurance submitted to the City shall evidence coverage.

10.2 Certificates.

Certificates of Insurance evidencing that the Consultant has obtained all required insurance shall be delivered to the City prior to Consultant proceeding with any work pursuant to this Agreement. All applicable policies shall be endorsed to name the City as an additional insured thereon, as its interests may appear. The term City shall include its employees, officers, officials, agent, and volunteers in respect to the contracted services. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement. The City reserves the right to make reasonable requests or revisions pertaining to the types and limits of that coverage. A minimum of thirty (30) days notice of cancellation or reduction in limits of coverage shall be provided to the City. Ten (10) days notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Consultant's insurance policies. Notice shall be sent to the Purchasing Manager, City of Burleson, 141 W. Renfro, Burleson, Texas 76028, with copies to the City Attorney at the same address.

10.3 Additional Insurance Requirements.

The insurance required herein must be provided by an insurer licensed to do business in the State of Texas. The insurance required herein must be provided by an insurer rated by the A.M. Best as "A-" or better or are rated "A" by Standard and Poor's. The insurance required herein shall be in full force and effect at all times during this Agreement.

11. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

Consultant agrees to comply with all applicable federal, state and local laws, ordinances,

rules and regulations. If the City notifies Consultant of any violation of such laws, ordinances, rules or regulations, Consultant shall immediately desist from and correct the violation.

12. NON-DISCRIMINATION COVENANT.

Consultant, for itself, its personal representatives, assigns, subcontractors and successors in interest, as part of the consideration herein, agrees that in the performance of Consultant's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. If any claim arises from an alleged violation of this non-discrimination covenant by Consultant, its personal representatives, assigns, subcontractors or successors in interest, Consultant agrees to assume such liability and to indemnify and defend the City and hold the City harmless from such claim.

13. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY:

KIMLEY-HORN AND ASSOCIATES, INC.

City of Burleson
City Manager
Attn: Tommy Ludwig
141 W. Renfro St.
Burleson, TX 76028

801 Cherry Street, Ste 1300
Ft. Worth TX 76102

14. GOVERNMENTAL POWERS.

It is understood and agreed that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

15. NO WAIVER.

The failure of the City or Consultant to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of the City's or Consultant's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

16. GOVERNING LAW / VENUE.

This Agreement shall be construed in accordance with the internal laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought on the basis of this Agreement, venue for such action shall lie in state courts located in Johnson County, Texas or the United States

District Court for the Northern District of Texas.

17. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. FORCE MAJEURE.

The City and Consultant shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control (force majeure), including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

19. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or exhibits hereto.

21. AMENDMENTS / MODIFICATIONS / EXTENSIONS.

No extension, modification or amendment of this Agreement shall be binding upon a party hereto unless such extension, modification, or amendment is set forth in a written instrument, which is executed by an authorized representative and delivered on behalf of such party.

22. ENTIRETY OF AGREEMENT.

This Agreement, including the schedule of exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Consultant, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

23. SIGNATURE AUTHORITY.

The person signing this agreement hereby warrants that he/she has the legal authority to

execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

24. NO WAIVER OF GOVERNMENTAL IMMUNITY.

Nothing contained in this Agreement shall be construed as a waiver of City's governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to City by law, except to the extent expressly provided or necessarily implied herein.

25. MANDATORY OWNERSHIP DISCLOSURE PROVISION.

Consultant shall submit completed Texas Ethics Commission Form 1295 Ownership Disclosure form to City at time of execution of Agreement pursuant to Texas Government Code Section 2252.908.

26. MANDATORY ANTI-ISRAEL BOYCOTT PROVISION.

Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate:

- i. Pursuant to Section 2271.002 of the Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- ii. Pursuant to SB 13, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- iii. Pursuant to SB 19, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- iv. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Subchapter F, Chapter 2252, Texas Government Code; or (ii) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

27. NON-EXCLUSIVITY.

Agreement is non-exclusive and City may enter into a separate Agreement with any other person or entity for some or all of the work to be performed under Agreement.

28. NO THIRD-PARTY BENEFICIARIES.

Except as expressly provided herein, nothing herein is intended to confer upon any person other than the parties hereto any rights, benefits or remedies under or because of this Agreement, provided, however, that the described beneficiaries of the indemnity provisions of this Agreement are expressly intended third-party beneficiaries of this Agreement.

29. BASIC SAFEGUARDING OF CONTRACTOR INFORMATION SYSTEMS.

The Consultant shall apply basic safeguarding requirements and procedures to protect the Consultant's information systems whenever the information systems store, process, or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that is necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

Consultant shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

30. OWNERSHIP OF DOCUMENTS.

All documents and materials prepared by Consultant under the terms of this Agreement are the City's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection whenever requested. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use. Any modifications made by the City to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the City's sole risk and without liability to the Consultant.

31. COUNTERPARTS; PDF SIGNATURES.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

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SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF BURLESON:

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____

By: Bradley J Hill

Name: _____

Name: Bradley J. Hill

Title: _____

Title: Regional Contract Lead

Date: _____

Date: October 6, 2023

APPROVED AS TO FORM:

By: _____
City Attorney, Assistant City Attorney,
or Deputy City Attorney

ATTACHMENT A

I. Scope of Services

INDIVIDUAL PROJECT ORDER NUMBER 2023-01

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the “Consultant”), and the City of Burleson, Texas (the “Client”).

Identification of Project:

Project Name: Burleson Parks, Recreation, Trails, and Open Space Master Plan
KH Project Manager: Katherine Utecht, PLA, LI
Project Number: TBD

Specific scope of basic Services:

Task 1 – Parks Inventory, Benchmarking and Needs Assessment

1.1 – Parks Inventory of Areas, Programs, Facilities and Benchmarking – The Consultant will prepare an inventory of existing Park Areas, Programs and Facilities. To complete this task, the team will:

- Visit and assess each park, recreation, trail, open space area, and facility currently within the Client’s system, including schools and private recreational facilities that are open to the public
- Create a photo log of each facility
- Prepare an inventory of physical conditions, features, opportunities, constraints, and valued site elements
- Evaluate and inventory current recreational programming offerings of the department
- Provide a summary table of inventory for all parks and facilities broken out by each park, including acreage, miles of trails, types of facilities, and number of facilities
- Compare the current supply of park land, trails, recreation, and open space areas and facilities with current City acreage standards, Client goals, and other benchmarked parks and recreation systems, including assessment of the distance to parks from properties citywide and trail access and connectivity.
- Determine what, if any, deficiencies and/or oversupply exist by quantitative value, identify opportunities and constraints regarding potential new park sites, indoor facilities, improvements to existing facilities, joint City-school uses, public–private partnerships, community service group partnerships and other creative opportunities for increasing recreational opportunities for the community
- Evaluate a select list of comparable communities developed with Client staff including:
 - Researching current service levels and proposed goals of these communities
 - Gathering data, including but not be limited to, park acreage, open space acreage, indoor facilities, other physical facilities, recreational services, and use levels

1.2 – Parks Needs Assessment and Identification – The Consultant will develop a Needs Assessment Report as follows:

- Clearly identify park areas, facilities, trails and programs needs and explain the methodology for determining them, considering both outdoor and indoor recreation needs
- Review City’s existing mobility plan to identify needs for identifiable gateways and improvements to the entries of the city, meet with Client’s staff to review progress to date and provide feedback about following three approaches in determining parks and recreation needs:
- The demand-based approach:
 - Relies on information gathered from participation rates, surveys, and other information that indicates how much of the population wants certain types of facilities

- Utilizes focus groups with distinct user groups and special interest groups identified by the Client, such as seniors, youth, sports leagues, cultural organizations, or other unique stakeholders, in a process designed by the Client and the Consultant
- The standard-based approach, which uses established standards, which may be based on demand studies, the professional judgment of park and recreation planners and designers, etc., to determine facilities and park areas needed to meet the needs of a given population size.
- The resource-based approach, which examines the assets and resources of the area for open space, parks and recreation facilities, and defines how these resources can be utilized.
 - Uses recreation trends analysis information as available
 - Includes a discussion of recreation trends
 - Examines specific Burleson geographic resources to determine opportunities for park and recreation
 - Examines specific Burleson demographic trends shall be examined and used to ensure that the trends analysis accurately reflects the local community.

Task 2 – Master Plan Elements

2.1 – Parks, Trails and Open Space Master Plan – The Consultant will prepare a parks, trails and open space master plan that consist of:

- A summary of the Needs Assessment Report on parks, trails, recreation and open space
- Goals and objectives to provide the framework for orderly and consistent planning and development of parkland and open space
- Maps/Graphics and narrative that identify the major issues and conclusions of the planning effort, prepared in a graphic format to ensure that it is easy to use and understand by the public and Client officials
- A plan for land acquisition for future parkland and open space
- Capital Improvements Plan that will provide guidance to Client staff
- Plan and recommendations on parks funding and potential parkland dedication requirements to assist the Client in implementing the proposed plan
- Establishing an overarching Mission Statement and Core Values for the Parks Department and City parks, recreation, open space, and trail system

Task 3 – Public Input & Preferred Plan

3.1 – Community Open House Preparation – The Consultant will plan the specific agenda, format and activities related to the community open house, prepare background presentations and meeting exhibits, and prepare the tools to be used during the open house, including keypad polling, visual image preferences and open house stations. All materials and activities will be closely coordinated with Client staff prior to public presentation.

3.2 – Community Open House (one (1) meeting) - The Consultant will facilitate a community open house to present and receive feedback related to the parks, trails, recreation, and open space master plan. Outreach, invitations, and announcements about the charrette will be distributed by the Client to the public. The Client would be responsible for identifying and securing a venue for the open house events.

The Consultant will be responsible for all meeting content and will facilitate and manage the sessions. The meetings will be conducted in an open house format to obtain the maximum amount

of input from participants. Information will be gathered through interactive small group discussions, written comment forms, topical/map “stations”, and general workshop discussion. To further facilitate the discussion, the Consultant will develop, execute and analyze the results of electronic keypad polling sessions that will be conducted to gauge community support for the recommendations of each master plan component.

3.3 – Open House Results – Results from the community open houses will be documented in presentation materials and incorporated into web-based applications in a manner that will allow interested individuals to weigh-in on the future vision for Burleson. The results materials will include:

- Feedback from specific questions asked at each station related to the specific comprehensive plan elements
- Results of keypad polling conducted during the open house
- Overall conclusions drawn from the open house discussions related to next steps

3.4 – Preferred Plan Elements – Based on feedback from the community open house and final direction received from Client staff, parks board, and City council, the Consultant will prepare final master plan elements that reflect the consensus of the community and its leadership for Client review and comment. These elements, together with comments received, will guide the development of implementation strategies.

Task 4 – Implementation

4.1 – Parks, Open Space and Trails Master Plan Implementation Framework – The plan implementation framework will focus on the following:

- The plan will suggest goals, policies, ordinances and standards to support the parks, open space and trails master plan. Each area addressed in the plan will have guiding goals and responsive objectives to define the need.
- Creation of a priority list of needs ranked in order from highest to lowest priority and state a timeline when the needs shall be met. Priorities shall not be focused on short-term needs or actions but shall plan for the future.
- Separate priority lists may be provided for indoor and outdoor needs including proposed improvements to existing parks, trails, open space, and indoor facilities, along with any proposed development of new parks and other facilities
 - Lists shall be area and/or facility specific and be ranked according to priority order
 - Priorities shall be compiled by recreational elements and separated by indoor and outdoor priorities
- Identify specific areas intended for open space acquisition and preservation on a map, identified as a need, discussed, and prioritized in the plan
- Where appropriate, discuss and rank renovation/redevelopment needs as a priority.
- Provide current park improvements and analysis.
- Prepare a preliminary cost analysis in a rough order-of-magnitude for the listed improvements. These shall be based on a per-acre, per-square foot, per-mile, and per-each basis.
- Identify resources for meeting the master plan’s needs as well as on-going operations and maintenance costs (e.g., city funds, in-house labor, development impact fees, general obligation bonds, certificates of participation, state and federal grants, gifts, donations, bequests, user fees, etc.)

- Provide a financing matrix that shall summarize where each mechanism might be appropriate.
- Develop a basic operations and maintenance understanding for the parks system. Quantify anticipated staffing levels and other costs associated with the new improvements. Each park will be evaluated and given a maintenance prioritization, so the Client can plan resources accordingly.
- Include a proposed timeline for accomplishing the plan's priorities.
- The team will develop a detailed parks and recreation system operational analysis that will include:
 - Staffing needs
 - Equipment needs
 - Spatial needs
- The team will assess the current offerings of recreation programs and services within the department and will develop recommendations for future roles and expectations.
 - Review and document programming trends
 - Inventory and review of existing programs and services
 - Determine overall program strengths and weaknesses
 - Identify existing core program areas
 - Benchmark with other Fort Worth/Dallas metroplex communities of similar size (up to 4) as well as nationally.
- Determine the current role of other providers and organizations in the area
 - Public
 - Private
 - Non-profit
- Review public input information gathered during the master plan process as it relates to programs and services
 - Establish the demand for future recreation programs
- Propose recommendations for future recreation services
- Determine future core, secondary and support program classifications
 - Role of other providers and organizations for the future
 - Prioritization of programs and services for the future
- The team will examine the specific roles of the various youth sports organizations in Burleson in providing youth sports programming now and in the future
 - Review and document sports field trends
 - Development
 - Allocations
 - Maintenance
- Inventory and review of existing sports fields
- Conceptual study for future sports complex
 - Needs assessment for field and use types
 - Facility spatial needs
 - Potential locations for facility
- Conceptual study for future recreation center
 - Needs assessment for field and use types
 - Facility spatial needs
 - Potential locations for facility
- Determine future roles and expectations for providing youth sports
 - Sports
 - Seasons

- Field use
- Russell Farm
 - Master plan – assess and review existing facilities
 - Assess and review the need for proposed facilities
 - Generate facilities master plan
 - Evaluate existing amenities and determine proposed amenities
- Inventory and review of existing Golf Courses
 - Hidden Creek
 - Southern Oaks
- Sports practice field needs
 - Youth and Adult
- Green Ribbon Grant Opportunities
- Establish a methodology to address the requests to provide fields for select/travel teams
- Area and facility standards
 - Assess and identify needs through establishing local and facility standards and concepts
 - Local standards shall be influenced by preferences and available economic and natural resources
 - The National Recreation and Park Association’s Park, recreation, open space and greenway guidelines shall be followed as applicable to the Client
 - Adjustments to those standards may be necessary to reflect the Client’s desires, needs and resources
 - Evaluation of the 2019 NRPA Agency Performance Review – Park and Recreation Agency Performance Benchmark

Task 5 - Plan Adoption

5.1– Park Board Recommendation (one (1) meeting) – The Consultant will present the parks, trails, recreation, and open space master plan to the Burleson parks board in a public hearing for community and board comment. The Consultant will incorporate any additional board comments into the Final Parks, Trails, Recreation, and Open Space Master Plan prior to presentation to the City Council.

5.2– City Council Adoption (one (1) meeting) – The Consultant will present the final parks, trails, recreation, and open space master plan to the Burleson City Council at a public hearing for community and Council input and adoption. Any subsequent changes by the Burleson City Council will be incorporated into the final plan document(s).

Schedule:

The Consultant and the Client will agree upon the schedule attached.

Deliverables:

Any items requested by the Client that are not outlined in the above scope will be considered excluded from this contract and may be provided only if requested and authorized in writing by the Client.

The Consultant can provide the following services, but they are not included in the limited scope of this proposal:

- 3D renderings, perspectives, bird-eye view renderings

- Topographic survey
- Construction document development
- Bidding phase services
- Construction Phase Services or Construction Administration Services
- Franchise utility coordination
- Traffic impact studies or signal design
- Preparation of traffic control plans
- Revisions due to changes in regulations
- Coordination and/or revisions due to any grant funding requirements
- Archaeological survey
- Submittal, permitting fees, or impact fees
- Separate engineering site development review process sets and submittals
- Off-site utility design
- Off-site roadway design
- Off-site easement descriptions
- Contractor type detailed estimates (as prepared by estimating service)
- Record drawing survey and record drawings
- Preparation of preliminary or final plat
- Environmental impact statement
- Storm drainage studies and detention/retention pond design
- Signage design of any kind or nature
- Additional work due to increase in project cost and scope

Terms of compensation:

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

• Task 1 – Parks Inventory, Benchmarking and Needs Assessment	\$ 18,000 (LS)
• Task 2 – Master Plan Elements	\$ 32,000 (LS)
• Task 3 – Public Input & Preferred Plan	\$ 20,000 (LS)
• Task 4 – Implementation	\$ 18,000 (LS)
• Task 5 - Plan Adoption	\$ 11,500 (LS)
• Task 6 – Contingency	\$ 4,975 (LS)

Total Lump Sum Fee \$ 104,475 (LS)

Note: Billing will be monthly based on the percentages of the task completed and payable within 30 days of the receipt of the invoice.

ACCEPTED:

CITY OF BURLESON, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY: Brealey J Hill

TITLE: _____

TITLE: Regional Contract Lead

DATE: _____

DATE: October 6, 2023

Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

Classification	Rate
Analyst I	\$130 - \$160
Analyst II	\$170 - \$200
Professional	\$195 - \$230
Senior Professional I	\$245 - \$315
Senior Professional II	\$340 - \$410
Senior Technical Support	\$115 - \$290
Technical Support	\$105 - \$165
Support Staff	\$85 - \$145

Effective through June 30, 2024

Subject to annual adjustment thereafter

Internal Reimbursable Expenses will be charged at 5% of Labor Billings

External Reimbursable Expenses will be charged at 15% mark-up, or per the Contract

Sub-Consultants will be billed per the Contract