



December 18, 2023

David Riesland, PE
Transportation Engineer
City of Norman
Norman, OK 73069
David.Riesland@NormanOK.gov

Re: Letter Agreement for Professional Services for
City of Norman Gateway Monument Sign Design (Phase 1)
Norman, Oklahoma

Dear Mr. Riesland:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Norman ("Client") for providing professional landscape architectural and engineering services for the proposed City of Norman Gateway Monument Sign Design Concepts located at various locations throughout the City of Norman ("City"). The Project Understanding and Scope of Services are outlined below.

Project Understanding

Kimley-Horn will provide concept designs for gateway monument signs for up to four (4) separate locations within the City of Norman. The concept designs will explore options for signage materials, heights and lengths, locations, traffic visibility triangles and sight lines. Design will also consider concepts for new plantings and hardscape directly adjacent to gateway sign locations. The design will focus on preliminary ideas and materials only and will not include construction documents. Construction Documents for the selected sign design and location will be developed in Phase 2 of the project.

Subject Sites

Specific sites will be finalized during the data gathering task described within this proposal.

Scope of Services

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

Task 1 – Planning and Kickoff

This task consists of the initial planning and data gathering portion of the project.

Kimley-Horn's work will consist of the following:

- A. Attend one (1) kick-off meeting to develop clear objectives, vision, scope, schedule, and processes for the monument sign design.
- B. Kimley-Horn will review Client provided applicable national, state, and local codes as they relate to the monument signs.
- C. Obtain and review relevant GIS and other base map data from the Client.
- D. Obtain a list of potential initial locations (up to ten) that should be considered for potential monument sign locations.

Task 2 – Data Collection

Kimley-Horn will visit the potential initial locations to collect general data and information relevant to the Concept Design. Kimley-Horn will photo-document each location and provide a memo of understanding and one (1) site plan showing a potential location of the monument sign to assist the Client in determining the validity and feasibility of each location. Kimley-Horn will note site constraints of visible obstructions, including manholes, valve boxes, utility vaults, power poles, streetlights, traffic signals, and transformers. Kimley-Horn will document required visibility triangles for each location and current ROW extents based on the current City of Norman GIS data.

Task 3 – Monument Concept Design

Kimley-Horn will provide up to three (3) concept options for the prototypical signage element. Each option will consist of one (1) plan and one (1) elevation. Typical materials will be listed and drawings will have basic dimensional control to communicate scale, size, and general orientation of the proposed concepts. Each concept will be accompanied by character images of similar signage concepts and materials. Concepts may be presented as either digital or hand graphics, or both.

Kimley-Horn will attend one (1) meeting with the City of Norman and other stakeholders as deemed appropriate by the Client to present the concepts. As the outcome from this meeting, Kimley-Horn expects the Client will select a single concept (or combination of the concepts) for further refinement and provide further direction on desired monument locations, alignments, materials, colors, lighting, and planting concepts.

Following this meeting, Kimley-Horn will further develop the selected concept based on Client comments. Graphics will be further refined to show the selected material colors and finishes, and a final concept graphic will be produced showing the final approved prototype concept more accurately. The prototypical signage element will then be modified as needed to fit into each of the up to four (4) additional selected sites.

This task does not include font or logo design, nor does Kimley-Horn intend to modify the City of Norman graphics, identity, or wayfinding approach. Concepts are meant to communicate the design intent for Client approval only and are not intended for construction. This task does not include coordination with City of Norman engineering for approvals or permitting as this letter agreement is for concept only. Additional hours, work sessions or meetings will be billed in Task 5.

Task 4 – Monument Schematic Design

Kimley-Horn will further refine each of the up to four (4) site designs and will prepare supplemental deliverables to consist of illustrative and narrative planting concepts, preliminary signage concepts for the identity elements and schematic lighting concepts. Deliverables consist of one (1) conceptual site plan and one (1) Opinion of Probable Construction Cost (OPCC) for each of the up to four (4) locations showing monument sign location, adjacent planting and schematic lighting concepts. The OPCC's will be developed to provide a rough order of magnitude (ROM) projected cost. One (1) elevation drawing illustrating the proposed prototypical signage concept and describing the intended lighting effects will also be provided. One round of ordinary and reasonable revisions will be made based on Client comments.

Kimley-Horn will develop a 3-D Computer Assisted Visualization Rendering for one (1) of the selected sites. The rendering will consist of up to two (2) bird's eye perspectives of the selected site. No detailed areas are included in the scope due to the conceptual level of detail of the plans.

This task is to perform the concept drawings one time. Subsequent reiterations, design revisions, additional studies, 3D modeling (in addition to what is described in this task), location changes, or additional monument locations will be consider Additional Services and billed in Task 5.

Kimley-Horn's Scope and Fee are Based on the Following:

- Fees are to perform each task one time. Kimley-Horn will provide one round of reasonable and ordinary revisions from the Client based on the Concept Presentation to the Client and Stakeholders.
- Kimley-Horn's scope of services is limited to the locations approved during Task 2 – Data Collection.
- Kimley-Horn's services will be performed in general accordance with current published City design standards.
- Design of life safety lighting and signage is beyond the scope of this agreement.
- Kimley-Horn does not guarantee the issuance of permits or approvals.
- 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 Construction Costs (OPCC) are based on the information known to Kimley-Horn at the time and represent only Kimley-Horn's judgement as a design professional. Kimley-Horn cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from the OPCC.
- Additional tasks may be necessary to complete the project based on City/Client requirements. If necessary, Kimley-Horn will provide the Client with a separate scope and fee for this effort.
- The properties are zoned for the intended use. Changes to the zoning and/or request for variances or special use permits will not be required.
- Electrical design (such as site lighting and photometrics), all structural design (such as retaining walls), and construction documents are beyond the scope of this agreement.
- The scope of this letter agreement does not include services for 3D Modeling (beyond what is described in this agreement), Marketing Graphics, Engineering Review (civil, structural, MEP, etc.) or Branding and Wayfinding.

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:

- Revisions to the document after design approval
- Attorney fees and documentation for license agreement, zoning, permitting, easements, variances, etc.
- City of Norman inspection services, including any special inspections (as defined by the International Building Code)
- Construction documents
- Bidding services
- Construction Phase Services
- Aerial photography
- Sign structural design
- Topographic survey or signed survey
- Subsurface utility survey and engineering
- Existing easement searches
- Metes and bounds legal descriptions
- Preparation of preliminary or final plat and boundary survey
- Geotechnical investigation
- Post construction survey or record drawings
- SWPPP Plan Manual / Submissions
- Revisions due to changes in regulations
- Material testing
- Archaeological survey
- Submittal, permitting, or impact fees
- Roadway or sidewalk design
- Temporary traffic control plans
- Environmental permitting
- Coordination with ODOT
- Additional meetings

Information Provided By Client

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

Basemap information (GIS/AutoCad files) that will be used to develop the monument sign location plans. Available survey, utility, electrical and easement information will be provided by the Client.

Schedule

Kimley-Horn will provide our services as expeditiously as practicable with the goal of meeting the following schedule. The anticipated schedule for the project is six (6) months.

Fee and Expenses

Kimley-Horn will perform the design and consulting services described within the Scope of Services for the following fee below:

Task	Description	Fee	Fee Type
1	Planning and Kickoff	\$4,500	LS
2	Data Collection	\$6,500	LS
3	Monument Concept Design	\$26,300	LS
4	Monument Schematic Design	\$26,000	LS
5	Additional Services	Hourly	H
Total		\$63,300	

Fees Types:

LS = Lump Sum Fee

H = Hourly

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice 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, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Norman.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. 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 david.riesland@normanok.gov

_____ Please copy katherine.coffin@normanok.gov



To proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on this project.

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

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed:

Printed Name: Darran Scott, PLA

Title: Project Manager

Agreed to by:

Signed:

Printed Name: Michael Lucas

Title: Regional Contract Lead

CITY OF NORMAN

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachments – Modified Standard Provisions

KIMLEY-HORN AND ASSOCIATES, INC.
MODIFIED STANDARD PROVISIONS

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's stated hourly rates plus an amount to cover demonstrated and itemized certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage.
- 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 Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
 - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
 - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
 - 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 Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn 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 Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
 - a. Invoices will be submitted monthly for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn 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 Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise Kimley-Horn 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. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn 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 Kimley-Horn to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by Kimley-Horn 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 Kimley-Horn's documents, or any reuse of the documents without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn 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 Kimley-Horn, the hardcopy shall govern.

- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates (“Intellectual Property”) in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn’s services include providing Client with access to or a license for Kimley-Horn’s (or its affiliates’) proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> (“the License Agreement”) which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn 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. Kimley-Horn 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. Kimley-Horn’s services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **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. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn’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 Kimley-Horn’s performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and Kimley-Horn, 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 Kimley-Horn and Kimley-Horn’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 Kimley-Horn or Kimley-Horn’s officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by Kimley-Horn under this Agreement or \$250,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify Kimley-Horn.
- 11) **Intentionally Omitted.**
- 12) **Construction Costs.** Under no circumstances shall Kimley-Horn 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. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client’s decision to obtain bids or proceed with construction before Kimley-Horn 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.
- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
- a. If Kimley-Horn prepares construction documents and Kimley-Horn 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 Kimley-Horn in any way connected thereto.
 - b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn'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 Kimley-Horn. Kimley-Horn 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. Kimley-Horn 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 Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. 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 Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn 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.
- 18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. 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. 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 Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. 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.
- 20) **Attorneys' Fees.** If either Party is the prevailing party in a legal action to enforce the terms of this Agreement, that party shall be entitled to seek an award of reasonable attorneys' fees.



Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

<u>Classification</u>	<u>Rate</u>
Analyst	\$160 - \$245
Professional	\$230 - \$295
Senior Professional I	\$255 - \$350
Senior Professional II	\$335 - \$370
Senior Technical Support	\$155 - \$280
Support Staff	\$110 - \$145
Technical Support	\$125 - \$150

Effective through December 31, 2023

Subject to adjustment thereafter