

**Kimley-Horn and Associates, Inc.**  
**Traffic Impact Mitigation Fee Program Update**

**AGREEMENT FOR SERVICES #442-S1710**

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Kimley-Horn and Associates, Inc., a North Carolina corporation duly qualified to conduct business in the State of California, whose principal place of business is 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 and whose local office address is 555 Capitol Mall, Suite 300, Sacramento, California 95814 (hereinafter referred to as "Consultant");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist its Community Development Agency in updating County's Traffic Impact Mitigation Fee program;

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable state and local laws;

**WHEREAS**, County has determined that the provision of such services provided by Consultant are in the public's best interest, and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

**ARTICLE I**

**Scope of Services:** Consultant agrees to furnish personnel, equipment, and services necessary to update County's Traffic Impact Mitigation Fee programs in conjunction with the Capital Improvement Program (CIP). Services shall include, but not be limited to, those tasks as identified in Exhibit A, marked "Scope of Work," incorporated herein and made by reference a part hereof.

Unless otherwise indicated, receipt of this executed Agreement is Consultant's Notice to Proceed with the work specified herein, not including contingency work. No payment will be made for any work performed prior to the effective date of the Agreement.

In addition to the specific services identified in Exhibit A, this Agreement may also include additional scope items, or contingency work. Such contingency work may supplement, expand, or otherwise modify the Scope of Work or may include, but not be limited to, tasks that are deemed critical by County's Contract Administrator to the furtherance of the Project.

Before proceeding with any work concerning contingency work under this Agreement, the parties shall identify the specific services to be provided for each assignment. Consultant shall submit the contingency work in a written letter format for approval by County's Contract Administrator. County's Contract Administrator will issue a written notice to proceed for any contingency work assigned to Consultant.

If a submittal or deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to County's computer and that are acceptable to County's Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator. Consultant shall submit all deliverables to County's Contract Administrator. Failure to submit the required deliverables in the format required shall be grounds for termination of the Agreement, as provided in ARTICLE XV, Default, Termination, and Cancellation, herein.

All of the services included in this Article and Exhibit A, are the responsibility of Consultant, unless specifically described as a task or item of work to be provided by County.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon execution and shall expire three (3) years thereafter.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including any deliverables that may be identified herein, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Fee Schedule," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$51,670, inclusive of all costs and expenses.

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at Consultant's cost, for the services

rendered. Any invoices that include other direct costs shall be accompanied by backup documentation to substantiate Consultant's costs for the services being billed on those invoices.

Reimbursement for mileage expenses for Consultant, if applicable, shall not exceed the rates to be paid to County employees under the current Board of Supervisors Travel Policy at the time the mileage expenses are incurred. There shall be no markups allowed on mileage rates for Consultant. All travel costs (i.e., overnight lodging, meals, airfare, and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement by Consultant.

For the purposes of budgeting the Tasks identified in Exhibit A, the maximum allowable billing amounts for each Task are described in Exhibit C, marked "Cost Proposal," incorporated herein and made by reference a part hereof. The amounts indicated in Exhibit C, represent the composition of the total not-to-exceed budget for the various Tasks. In the performance of the scope of services to be provided under this Agreement, Consultant may request to reallocate the expenses listed in Exhibit C, among the various Scope of Work tasks, Project Contingency, and Other Direct Costs, subject to County's Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Consultant shall attach copies of any progress reports required under the provisions of ARTICLE V, Progress Reports, herein, that relate to the services being billed, as backup documentation to any invoices submitted for payment under the terms of this Agreement. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Community Development Agency  
Long Range Planning Division  
2850 Fairlane Court  
Placerville, California 95667  
Attn.: Cindy Johnson  
Administrative Technician

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables and progress reports required by this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XV, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

**Taxes:** Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Progress Reports:** Consultant shall submit written progress reports to County's Contract Administrator at intervals that are commensurate with the requirements of the items of work and tasks being performed and based upon a mutually agreeable schedule. At a minimum, Consultant shall submit progress reports once per month. The reports shall be sufficiently detailed for County's Contract Administrator to determine if Consultant is performing to expectations and is on schedule, to provide communication of interim findings, and to afford occasions for airing difficulties or special circumstances encountered so that remedies can be developed. County's review of these reports seeks to ensure that Consultant's work meets a level of acceptability as determined by County's Contract Administrator, and Consultant shall be required to modify its work as necessary to meet that level of acceptability as defined by County's Contract Administrator. Progress reports shall include the total number of hours worked by Consultant and any authorized subconsultants and shall include descriptions of the tasks and work performed, including a description of any deliverables submitted during the reporting period and the anticipated tasks, work and deliverables proposed for the subsequent reporting period. Any invoices submitted by Consultant for payment under the terms of this Agreement shall include copies of the progress reports that relate to the services being billed on those invoices.

#### **ARTICLE VI**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

#### **ARTICLE VII**

**Consultant's Project Manager:** Consultant designates Michael Schmitt, Sr. Project Manager, as its Project Manager for this Agreement. Consultant's Project Manager, or County-approved designee, shall be accessible to County's Contract Administrator, or designee, during normal County working hours and shall respond within twenty-four (24) hours to County inquiries or requests. Consultant's Project Manager shall be responsible for all matters related to Consultant's personnel and operations including, but not limited to

(1) assigning qualified personnel to perform the required work and to prepare the deliverables required pursuant to this Agreement; and (2) reviewing, monitoring, training and directing Consultant's personnel.

#### **ARTICLE VIII**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE IX**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during the term hereof.

#### **ARTICLE X**

**Confidentiality:** Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Community Development Agency for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

#### **ARTICLE XI**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

#### **ARTICLE XII**

**Independent Contractor/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

### **ARTICLE XIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

### **ARTICLE XIV**

**Audit by California State Auditor:** Consultant acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Consultant shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

### **ARTICLE XV**

#### **Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the

provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days' written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Consultant, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

#### ARTICLE XVI

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Community Development Agency  
Long Range Planning Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Claudia Wade  
Sr. Civil Engineer

With a copy to:

County of El Dorado  
Community Development Agency  
Administration and Finance Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Michele Weimer  
Administrative Services Officer  
Contracts & Procurement Unit

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Kimley-Horn and Associates, Inc.  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Attn.: Enda Melvin, P.E.  
Sr. Vice President

or to such other location as Consultant directs.

#### **ARTICLE XVII**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in ARTICLE XVI, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XVIII**

**Indemnity:** To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including reasonable attorneys' fees and costs incurred, brought for, or on account of, injuries to, or death of, any person, including but not limited to workers, County employees, and the public, or damage to property which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors, and subcontractors in the performance of or failure to perform Consultant's services hereunder, except for the sole or active negligence of County, its officers, agents, employees, and representatives, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **ARTICLE XIX**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.



- D. In the event Consultant is a licensed professional or professional consultant and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without prior written notice to County; and
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Consultant's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division, as essential for protection of County.

#### **ARTICLE XX**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXI**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

#### **ARTICLE XXII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further

understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XV, Default, Termination, and Cancellation, herein.

### **ARTICLE XXIII**

#### **Nondiscrimination:**

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identify, gender expression, sexual orientation, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Consultant and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Consultant shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Consultant's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and 8355 and Title 2, California Code of Regulations, Section 8103.

### **ARTICLE XXIV**

**California Residency (Form 590):** If Consultant is a California resident, Consultant must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

#### **ARTICLE XXV**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

#### **ARTICLE XXVI**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXVII**

**Licenses:** Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE XXVIII**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXIX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Claudia Wade, Sr. Civil Engineer, Long Range Planning Division, Community Development Agency, or successor.

#### **ARTICLE XXX**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

#### **ARTICLE XXXI**

**Partial Invalidity:** If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

**ARTICLE XXXII**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

**ARTICLE XXXIII**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**ARTICLE XXXIV**

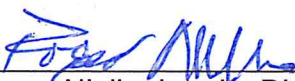
**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By:   
Claudia Wade  
Sr. Civil Engineer  
Long Range Planning Division  
Community Development Agency

Dated: 5/9/17

**Requesting Department Concurrence:**

By:   
Roger Niello, Interim Director  
Community Development Agency

Dated: 5/10/17

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

By:  Dated: 5/12/2017  
Purchasing Agent **ASSISTANT CAO**  
Chief Administrative Office  
"County"  


-- KIMLEY-HORN & ASSOCIATES, INC. --

By: Enda Melvin (CA PE 49422) Dated: 5/8/2017  
Enda Melvin, P.E.  
Sr. Vice President  
"Consultant"

By:  Dated: 5/8/2017  
Matt Weir, P.E.  
Assistant Secretary

# Kimley-Horn and Associates, Inc.

## Exhibit A

### Scope of Work

#### **SCOPE OF WORK DESCRIPTION**

Consultant shall update County's Traffic Impact Mitigation Fee (TIM) Fee program in conjunction with the newly adopted Capital Improvement Program (CIP). This update shall involve making changes to Traffic Analysis Zones (TAZs) and TIM Fee Zone designations and participating in public involvement at the Board of Supervisors (Board) meetings.

#### **Task 1 – Service Volume Update**

##### **Activities:**

Consultant shall work with County to update the process on how impacts to roadway segments are analyzed in order to bring the procedure in line with best practices and incorporate updates from the newest version of the Highway Capacity Manual (HCM), 6<sup>th</sup> Edition. This task shall update Table 1 in County's Transportation Impact Study Guidelines, as well as the discussion on when to use this table and when to perform more detailed operational analyses.

Consultant shall provide a Technical Memorandum 1 discussing why the changes are needed and the recommended changes to County's Transportation Impact Study Guidelines. Consultant shall submit the Technical Memorandum 1 to County's Contract Administrator for review and comment and incorporate comments from County.

##### **Deliverables:**

Technical Memorandum 1

#### **Task 2 – Deficiency Analysis**

##### **Activities:**

Consultant shall assess both 2035 unimproved (future land use on existing network) and future 2035 improved conditions (future land use on CIP network). Operational and planning level traffic analyses, consistent with the most recent TIM Fee update shall be completed by Consultant. County will provide all traffic analysis files from the most recent update, including but not limited to, Synchro files, Highway Capacity Software files, and MS Excel files for the purpose of avoiding duplication of prior efforts related to setting up analyses. Consultant shall prepare the traffic analyses summary tables which shall include:

1. Roadway Segment Analysis – Fifty-seven (57) County roadways spanning nearly one hundred-fifty (150) segments as well as the entire state highway system located within El Dorado County spanning sixty (60) segments.
2. Interchange Analysis – Twenty-one (21) interchanges along U.S. 50 in El Dorado County. A detailed screening assessment shall be performed for the eight (8) interchanges identified in the previous TIM Fee Update.
3. Parallel Facility Analysis – Several roadways' segments that will be constructed in the future (Saratoga Way extension and Country Club Drive extension) shall be analyzed for the 2035 scenario due to previously identified deficiencies.

Consultant shall maintain traffic analysis assumptions (D-Factor, K-Factor, PHF, and Post-Processing) from the most recent update for this analysis. Consultant shall prepare analysis scenarios and shall include evaluation of roadways from the previous study including those identified for the Existing and Amended General Plan Land Use.

**Deliverables:**

- Summary table for Roadway Segment Analysis results in MS Excel and PDF formats
- Summary table for Interchange Analysis results including detailed screening assessment in MS Excel and PDF formats
- Summary table for Parallel Facility Analysis results in MS Excel and PDF formats
- Comparison of results from previously completed analyses in MS Excel and PDF formats

**Task 3 – TIM Fee Scenario Analysis**

**Activities:**

Consultant shall evaluate the effect of various changes to land use and TIM Fee Zones for the purpose of establishing fair share calculations. Consultant shall prepare a scenario analyses and shall include the following:

- Scenario 1 – Minor revisions/cleanup to TIM Fee Zone Structure (with small edits from Kittelson and Associates, Inc.) with TIM Fee Zones 2 & 3 merged (current Program)
- Scenario 2 – #1 along with reallocation of two (2) Bass Lake Hills Specific Plan projects (Bell Ranch & Bell Woods) with TIM Fee Zones 2 and 3 merged (current program)
- Scenario 3 – Optional additional scenario

Consultant shall complete select link analyses results for Scenario 1 and Scenario 2 for the identified TIM Fee funded CIP improvements from Task 2 and appropriate TIM Fee Zone data shall be aggregated for all scenarios so that County staff can complete the fair share calculations. Consultant shall provide a summary table of TIM Fee Zone basis (select link analyses results) for each scenario.



### **Deliverables:**

- Summary table of TIM Fee Zone basis (select link analyses results) for each Scenario in MS Excel and PDF formats

### **Task 4 – Recommended TIM Fee CIP Improvements**

#### **Activities:**

Based on the established CIP improvements, Consultant shall perform a capacity threshold analysis for each identified TIM Fee funded CIP improvement to determine a timeframe in which current County facilities would exceed County's Level of Service thresholds. The improvement projects shall be designated to the 5-Year, 10-Year, and 20-Year CIP Project lists. Consultant shall prepare and submit a Summary Table of Capacity Threshold Analysis to County's Contract Administrator.

Consultant shall attend and participate in one (1) progress meeting with County staff for the purpose of reviewing the findings of this task. Consultant shall prepare a Draft Technical Memorandum 2 summarizing activities undertaken during Tasks 2 through 4 and submit it to County's Contract Administrator electronically for review and comments. Consultant shall respond to one (1) non-conflicting set of comments and prepare and submit a Final Technical Memorandum 2 to County's Contract Administrator. This task includes two (2) revisions based on comments received from County.

#### **Deliverables:**

- Summary table of Capacity Threshold Analysis results in MS Excel and PDF formats
- Draft Technical Memorandum 2 – Capacity Threshold Study Findings and Summary of Effort
- Final Technical Memorandum 2 - Capacity Threshold Study Findings and Summary of Effort

### **Task 5 – Public Involvement**

#### **Activities:**

Consultant shall prepare a MS PowerPoint presentation, approximately ten-minutes long for the Board meeting. The focus of this presentation shall be to:

- Provide an overview of the results of the analyses completed for the TIM Fee Update.
- Summarize recommendations as a result of the analyses.

Prior to the Board meeting, a draft MS PowerPoint presentation shall be provided to County staff and a dry-run presentation shall be performed by Consultant's project manager. The purpose of the MS PowerPoint dry-run presentation shall be to obtain concurrence and/or receive comments from County staff prior to Consultant finalizing the MS PowerPoint presentation.

Consultant shall attend, present the results of the analyses in a MS PowerPoint presentation, and address any comments at two (2) Board meetings.

**Deliverables:**

- Dry-run MS PowerPoint presentation to County staff
- Final MS PowerPoint presentation

**Task 6 – 2015 and 2035 Parcel Map Update**

**Activities:**

Consultant shall update the existing base year (currently 2010) and future year (2035) parcel set using Geographical Information System (GIS) to reflect the current version of both the 2015 and 2035 models. This task is necessary because since the model was originally developed, many of the land use updates have been coded directly into the TAZs, bypassing the parcels. Since the number of future year parcel sets are unknown, before updating the individual parcels, Consultant shall assess the total effort and associated budget that will be necessary and shall obtain County's Contract Administrator's prior written approval.

**Deliverables:**

- Updated 2015 GIS Based Parcel Set
- Updated 2035 GIS Based Parcel Set

**Task 7 – Project Contingency**

County may require Consultant to perform contingency work. Such work may supplement, expand, or otherwise modify the Scope of Work, but not be limited to, tasks that are deemed critical or necessary to complete the Project on schedule by County's Contract Administrator.

Before proceeding with any contingency work under this Agreement, the parties shall identify the specific services to be provided for each assignment. Consultant shall submit the contingency work in a written letter format, which shall be approved by County's Contract Administrator by issuance of a notice to proceed.

# Kimley-Horn and Associates, Inc.

## Exhibit B

### Fee Schedule

#### Hourly Rates

<b>Classification</b>	<b>Hourly Rate</b>
Senior Project Manager	\$ 225.00
Project Analyst	\$ 125.00
Project Administrator	\$ 95.00
Graphic Artist	\$ 90.00
Administrative Staff	\$ 80.00

#### Mileage Reimbursement

Reimbursement for mileage expenses for Consultant, if applicable, shall be compensated in accordance with all of the provisions of ARTICLE III, Compensation for Services, of this Agreement.

#### Direct Expenses

Consultant shall bill for the following expenses that may be incurred in association with the services provided pursuant to the scope of work:

- CD(s) and Miscellaneous Reproduction
- Maps, Supplies, and Photos
- Other Miscellaneous Costs

Direct expenses shall be invoiced at Consultant's cost, without markup, for the services rendered. Any invoices that include direct expenses shall be accompanied by documentation to substantiate Consultant's costs for the services being billed on those invoices.

**Kimley-Horn and Associates, Inc.**  
**Exhibit C**  
**Cost Proposal**

**Scope of Work**

<b>Task 1 - Service Volume Update</b>	<b>\$4,750.00</b>
<b>Task 2 - Deficiency Analysis</b>	<b>\$14,500.00</b>
<b>Task 3 - TIM Fee Scenario Analysis</b>	<b>\$7,125.00</b>
<b>Task 4 - Recommended TIM Fee CIP Improvements</b>	<b>\$7,125.00</b>
<b>Task 5 - Public Involvement</b>	<b>\$7,395.00</b>
<b>Task 6 - 2015 and 2035 Parcel Map Update</b>	<b>\$9,625.00</b>
<b>Task 7 - Project Contingency</b>	<b>\$1,000.00</b>
	<b>Consultant Subtotal</b>
	<b><u>\$51,520.00</u></b>
	<b>Other Direct Costs</b>
	<b>\$150.00</b>
	<b>Total Cost Proposal</b>
	<b><u>\$51,670.00</u></b>

All Expenses and their distribution among Tasks are estimates only. This Exhibit represents the composition of the total not-to-exceed budget for this Agreement. In the performance of the scope of services to be provided in accordance with this budget, Consultant may request to reallocate the expenses listed herein among the various Tasks, Project Contingency, and Other Direct Costs identified herein, subject to County's Contract Administrator's prior written approval. In no event shall the total not-to-exceed amount of the Agreement be exceeded.

Reimbursement for mileage expenses for Consultant shall be in accordance with ARTICLE III, Compensation of Services.