



October 25, 2016

Mr. James Serrano
Transportation Planner/Public Works Department
City of Salinas
201 Lincoln Avenue
Salinas, CA 93901

Re: Professional Services Agreement – Downtown Complete Streets PS&E for Alisal Street Multi-modal Improvements

Dear James:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Salinas ("Client") for providing engineering services related to PS&E Design for Alisal Street Improvements.

Project Understanding

The City of Salinas desires to implement a portion of the Salinas Downtown Vibrancy Plan through multi-modal improvements to Alisal Street. Alisal Street is built with two lanes in each direction, typically without left turn lanes. The proposed improvements would convert the roadway to one lane in each direction, a continuous center turn lane, and improved pedestrian and bicycle facilities. The City is funding the design portion with a TAMC grant and the construction improvements on Alisal Street between Blanco Road and Front Street with an HSIP Grant.

Construction of these improvements will include asphalt overlay/street restriping, modifications to traffic signals, and roadway/pedestrian improvements along Alisal Street from Acacia Street at the western end to Front Street at the eastern limit. These improvements include nine (9) signalized locations within this corridor as identified in the Downtown Complete Streets Concept Development Phase.

The following intersections, which are included in the TAMC grant, will require signal modifications and roadway/pedestrian improvements to accommodate the proposed striping configuration, left-turn phasing, bicycle detection, and TSP for future BRT:

1. Alisal Street/Acacia Street
2. Alisal Street/Homestead Avenue
3. Alisal Street/Church Street
4. Alisal Street/Lincoln Avenue

The following intersections, which are added based upon HSIP grant funding, will require signal modifications and roadway/pedestrian improvements to accommodate the new lane configuration, left turn phasing, and bicycle detection:

5. Alisal Street/Salinas Street
6. Alisal Street/Main Street
7. Alisal Street/Monterey Street
8. Alisal Street/Pajaro Street
9. Alisal Street/Front Street (controller upgrade for TSP only)

To complete the design within available grant funding, the Consultant and the City (“Client”) will be dividing the work effort. The Client will be responsible for preparing Utility Coordination, Traffic Signal Design/Modification Plans, and Special Provisions, while the Consultant will be responsible for the roadway/pedestrian improvements and signing and marking plans as defined in *Table 1* and the Scope of Services below.

Design Tasks	Kimley-Horn	City of Salinas
Alisal Street Improvement Plans Cover Sheet		X
Aerial Survey		X
Survey for Curb and Ramp Improvements	X	
Utility Coordination		X
Demolition Plans	X	
Intersection Ramp Improvement Plans (including bulbouts)	X	
Signing and Marking Plans	X	
Traffic Signal Design/Modification Plans		X
Opinion of Probable Construction Cost	X	X
Special Provisions/Specifications		X
Plans Assembly	X	

Table 1: Responsibility by Design Task

Scope of Services

Task 1 – Project Management and Coordination

Sub-Task 1.1 -- Meetings

Within two weeks after consultant receives the notice to proceed, the Consultant will conduct a project "Kick-Off" meeting with the City to discuss project objectives, project schedule, data collection, and system inventory.

The Consultant will attend monthly meetings with City staff throughout the duration of the project. A total of four (4) monthly meetings are anticipated for this task.

The Consultant will participate in Comment Review Meetings following the receipt of consolidated comments from the City on the Draft and Final Plans and Engineer's Opinion of Probable Cost design submittals. A total of two (2) meetings are included in this task.

Deliverable:

- Meeting Agendas
- Meeting Notes and Action Item Documentation

Sub-Task 1.2 – Project Schedule

The Consultant will provide a project schedule showing project meetings and project deliverables. The project schedule shall be updated and submitted to the City each month.

Deliverable:

- Monthly updated project schedule

Task 2 – Data Collection, Survey and Utilities

Sub-Task 2.1 – Base Mapping and Survey

The City of Salinas will provide an aerial photograph of the corridor, suitable for use as basemapping. The aerial will be a 200-foot-wide corridor extending along the following limits:

- Alisal Street, from 200-feet east of Front Street to Blanco Road

The base mapping shall include the following information: curb and gutter, sidewalks, driveways, and existing striping.

Kimley-Horn will contract with a Survey Subconsultant to obtain data where changes to curbs and ramps are proposed. Supplemental topographic data collection will be integrated into the aerial mapping for the 9 intersections to be modified with new ADA ramps.

Sub-Task 2.2 – Documentation and Field Review

The City shall provide as-built information of the various improvements in the area, including roadway/frontage and drainage improvements within the Alisal Street corridor.

Kimley-Horn will conduct a field review to identify existing signing, verify cross-section widths at signalized intersections, and identify existing conditions at tie-in points.

Deliverable (Task 2.1 and 2.2):

- Basemapping in AutoCAD format

Sub-Task 2.3 – Utility Coordination

The City will send out utility coordination letters to area utilities to gather facility information. The Consultant will review record plans received from the various utilities and incorporate the utility data within the basemapping to identify potential conflicts with the proposed curb ramp improvements.

The Consultant will work with the City to determine the best strategy for dealing with utility conflicts, but this scope does not include utility design services.

Deliverable:

- Utility Coordination Documentation for curb ramp modification locations

Task 3 – Design and Preparation of Plans and Engineer’s Opinion of Probable Construction Cost

Kimley-Horn will create Draft, Final, and Bid Ready Plans and an Engineer’s Opinion of Probable Construction Cost (OPCC) for the civil/roadway and signing/markings improvements.

Sub-Task 3.1 – Prepare Draft Plans and Engineer’s Opinion of Probable Cost

In preparation of the proposed improvements, the Consultant anticipates development of the following roadway/civil sheets: demolition plans, intersection ramp improvement plans, construction details (46 total ramps), and drainage plans and details. Our scope assumes that drainage improvements will be needed at Salinas Street, Lincoln Avenue, Church Street, and

Homestead Avenue to accommodate bulb-outs, and at three additional locations to be determined to accommodate curb ramp design.

Bulb-out areas will be designed as hardscape. Our scope excludes landscaping/bio-swale/rain garden/irrigation design. Based on our research, Kimley-Horn assumes that this project is an Exempt Project per *Figure 1* of the City's Stormwater Development Standards for New and Redevelopment Projects. Design for these types of features, if requested by the City, can be provided for an additional fee.

The Consultant will prepare Signing and Marking Plans for Alisal Street from Blanco Road to Front Street. The proposed signing and marking will be based upon the pavement marking layout as prepared during the Downtown Complete Streets Conceptual Design Phase.

Kimley-Horn anticipates preparing a total of 30 sheets based on the following (not including improvement plans provided by the Client):

- Cover Sheet – 1 sheet
- General Roadway/Civil Notes – 1 sheet
- Key Map/Horizontal Control - 2 sheets
- Typical Sections - 1 sheet
- Demolition Plan – 4 sheets
- Intersection Ramp Improvements/Bulbouts (1:20 scale) – 8 sheets
- Construction Details – 4 sheets
- Drainage Profiles and Details - 3 sheets
- Signing and Marking Plan Notes and Details – 1 sheet
- Signing and Marking Plans (1:40 scale) – 5 sheets

The Consultant will prepare an estimate of probable construction cost in Microsoft Excel format for the proposed improvements covered in this scope. Estimated costs will be based on other recent, similar construction bid results.

Deliverable:

- Electronic (PDF 24"x36") Draft Plans and Engineer's Opinion of Probable Cost Documents

Sub-Task 3.2 – Prepare Final Plans and Engineer's Opinion of Probable Cost

Based on the consolidated review comments received on the Draft Plans and Engineer's OPCC, the Draft Plans will be advanced to the Final completion level. The Final Plans and Engineer's OPCC will include comments received from the City as described in Task 1.

Deliverable:

- Electronic (PDF 24"x36") Final Plans and Engineer's Opinion of Probable Cost Documents

Sub-Task 3.3 – Prepare Bid Ready Plans and Engineer's Opinion of Probable Cost

Based on the final consolidated review comments, the Final Plans and Engineer's OPCC will be finalized. One set of final contract documents will be submitted to the City.

Deliverables:

The City of Salinas shall provide Kimley-Horn with a PDF of the improvement plans they are responsible for. Kimley-Horn will assemble a complete set of plans by combining the Client and Consultant sheets.

- One set of the final plans in Mylar format (24" x 36") and electronically (PDF and AutoCAD DWG)
- One set of engineer's opinion of probable cost electronically in Excel format and PDF

Task 4 – Environmental

Kimley-Horn will prepare a memorandum summarizing the traffic analysis conducted for the project for use in CEQA documentation. The Client will be responsible for completing CEQA forms and noticing.

Additional Services

Additional services we can provide include, but are not limited to, the following:

- Environmental Documents
- Traffic Signal Design
- Traffic Control Design
- Post-Design Services

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 - 4 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. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Client.

Task 1 Project Management and Coordination	\$ 5,900
Task 2 Data Collection, Survey and Utilities	\$ 48,000
Task 3 Design and Preparation of Plans, and Estimates (PS&E)	\$152,000
Task 4 Environmental	\$ 5,000
Total Lump Sum Fee	\$ 210,900

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 30 days of your receipt of the invoice.

Closure

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

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

_____ Please email all invoices to _____

_____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other 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 your project.

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

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Dave Sorenson', with a long horizontal flourish extending to the right.

By: Dave Sorenson
Senior Vice President
T.E. No 1548

Attachment – Standard Provisions

City of Salinas

A Municipality

(Date)

(Print or Type Name and Title)

(Email Address)

_____, Witness

(Print or Type Name)

Official Seal:

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

KIMLEY-HORN AND ASSOCIATES, INC.

STANDARD PROVISIONS

(1) **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.10 times cost.

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

- (a) Designate in writing a person to act as its representative with respect to this Agreement, 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 including all numerical criteria that are to be met and all standards of development, design, or construction.
- (c) Provide to the Consultant all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
- (d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
- (e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.
- (g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
- (i) Bear all costs incidental to the responsibilities of the Client.

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

(4) **Method of Payment.** Compensation shall be paid to the Consultant in accordance with the following provisions:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Invoices are due and payable upon presentation. Client shall pay Consultant a time-price differential of one and one-half percent (1.5%) of the outstanding amount of each invoice that is overdue for more than 30 days. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant for the duration of the project and applied against the final invoice. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after presentation, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including recording liens, to secure its right to payment under this Agreement.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
- (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 25 days of receipt.
- (d) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client 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 Client's sole

risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

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

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and general liability insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client's expense.

(9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services, and it is agreed that the Consultant 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 the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

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

(12) **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association 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.

(14) **Hazardous Substances and Conditions.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**

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

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

(c) The Consultant is not responsible for any duties assigned to the design professional 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 for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

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

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

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