

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (“Agreement”) is made and executed this 13th day of January, 2020, by and between the City of West St. Paul, 1616 Humboldt Avenue, West St. Paul, Minnesota 55118, (“City”) and Kimley Horn and Associates, Inc., 767 Eustis Street, Suite 100, St. Paul, MN 55114 (“Consultant”).

WHEREAS, the City has accepted the proposal of the Consultant for certain professional Services; and

WHEREAS, Consultant desires to perform the Services for the City under the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed as follows:

1. SERVICES.

- a. City agrees to engage Consultant as an independent contractor for the purpose of performing certain professional Services (“Services”), as defined in the following documents:
 - i. A proposal submitted on 11/27/2019 , incorporated herein as Exhibit A;
 - ii. A contract between the City of West St. Paul and Dakota County, including all incorporated attachments, entitled, “Subgrant Agreement between the County of Dakota and the City of West St. Paul,” incorporated herein as Exhibit B (“Services”); and
 - iii. Other documentation, incorporated herein as Exhibit C.

(Hereinafter “Exhibits.”)

- b. Consultant covenants and agrees to provide Services to the satisfaction of the City in a timely fashion, as set forth in the Exhibits, subject to Section 7 of this Agreement.

2. PAYMENT.

- a. City agrees to pay and Consultant agrees to receive and accept payment for Services as set forth in the Exhibits.
- b. Any changes in the scope of the work of the Services that may result in an increase to the compensation due the Consultant shall require prior written

approval by the authorized representative of the City or by the City Council. The City will not pay additional compensation for Services that do not have prior written authorization.

- c. Consultant shall submit itemized bills for Services provided to City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to City.
3. TERM. The term of this Agreement is identified in the Exhibits. This Agreement may be extended upon the written mutual consent of the parties for such additional period, as they deem appropriate, and upon the same terms and conditions as herein stated.
4. TERMINATION.
 - a. Termination by Either Party. This Agreement may be terminated by either party upon 30 days' written notice delivered to the other party to the addresses listed in Section 13 of this Agreement. Upon termination under this provision, if there is no default by the Consultant, Consultant shall be paid for Services rendered and reimbursable expenses until the effective date of termination.
 - b. Termination Due to Default. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.
5. SUBCONTRACTORS. Consultant shall not enter into subcontracts for any of the Services provided for in this Agreement without the express written consent of the City, unless specifically provided for in the Exhibits. The Consultant shall pay any subcontractor involved in the performance of this Agreement within the ten (10) days of the Consultant's receipt of payment by the City for undisputed services provided by the subcontractor.
6. STANDARD OF CARE. In performing its Services, Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the Services are provided. Contractor agrees to comply with all federal, state, and local laws and ordinances applicable to the Services to be performed under this Agreement, including all safety standards. The Contractor shall be solely and completely responsible for conditions of the job site, including the safety of all persons and property during the performance of the Services. The Contractor represents and warrants that it has the requisite training, skills, and experience necessary to provide the Services and is appropriately licensed by all applicable agencies and governmental entities.

7. DELAY IN PERFORMANCE. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. If such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Consultant will be entitled to payment for its reasonable additional charges, if any, due to the delay.
8. CITY'S REPRESENTATIVE. The City has designated Melissa Sonnek to act as the City's representative with respect to the Services to be performed under this Agreement. He or she shall have complete authority to transmit instructions, receive information, interpret, and define the City's policy and decisions with respect to the Services covered by this Agreement.
9. PROJECT MANAGER AND STAFFING. The Consultant has designated Eric Fosmo and Luke Moren to be the primary contacts for the City in the performance of the Services. They shall be assisted by other staff members as necessary to facilitate the completion of the Services in accordance with the terms established herein. Consultant may not remove or replace these designated staff without the approval of the City.
10. INDEMNIFICATION.
 - a. Consultant and City each agree to defend, indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
 - b. Consultant shall indemnify City against legal liability for damages arising out of claims by Consultant's employees. City shall indemnify Consultant against legal liability for damages arising out of claims by City's employees.
11. INSURANCE. During the performance of the Services under this Agreement, Consultant shall maintain the following insurance:
 - a. Commercial General Liability Insurance, with a limit of \$2,000,000 for any number of claims arising out of a single occurrence, pursuant to Minnesota Statutes, Section 466.04, or as may be amended;

- b. Professional Liability Insurance, with a limit of \$2,000,000 for any number of claims arising out of a single occurrence.
- c. Workers' Compensation Insurance in accordance with statutory requirements.
- d. Automobile Liability Insurance, with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.

Consultant shall furnish the City with certificates of insurance, which shall include a provision that such insurance shall not be canceled without written notice to the City. The City shall be named as an additional insured on the Commercial General Liability Insurance policy and the Professional Liability Insurance policy.

12. OWNERSHIP OF DOCUMENTS. Professional documents, drawings, and specifications prepared by the Consultant as part of the Services shall become the property of the City when Consultant has been compensated for all Services rendered, provided, however, that Consultant shall have the unrestricted right to their use. Consultant shall retain its rights in its standard drawing details, specifications, databases, computer software, and other proprietary property. Rights to proprietary intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the Consultant.

13. NOTICES. Notices shall be communicated to the following addresses:

If to City: City of West St. Paul
1616 Humboldt Ave.
West St. Paul, MN 55118
Attention: Ross Beckwith, City Engineer

Or emailed: rbeckwith@wspmn.gov

If to Consultant: Kimley Horn
767 Eustis Street, Suite 100
St. Paul, MN 55114
Attention: Eric Fosmo

Or emailed: eric.fosmo@kimley-horn.com

14. INDEPENDENT CONTRACTOR STATUS. All services provided by Consultant, its officers, agents and employees pursuant to this Agreement shall be provided as employees of Consultant or as independent contractors of Consultant and not as employees of the City for any purpose.

15. GENERAL PROVISIONS.

- a. Assignment. This Agreement is not assignable without the mutual written agreement of the parties.
- b. Waiver. A waiver by either City or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.
- c. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both parties.
- d. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Minnesota and any action must be venued in Dakota County District Court.
- e. Severability. If any term of this Agreement is found be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.
- f. Data Practices Compliance. All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.
- g. Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

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CITY OF WEST ST. PAUL

By: _____
David J. Napier, Mayor

By: _____
Ryan Schroeder, City Manager

Date: _____

CONSULTANT

By:  _____

Its: Sr. Vice President _____

Date: 12/17/19 _____



Dear Ms. Sonnek and Members of the Selection Panel:

Kimley-Horn is pleased to submit this proposal to the City of West St. Paul (City) for the preparation of a feasibility study and report for the Thompson/Oakdale Avenue Pedestrian and Bicycle Feasibility Study project. Our project understanding and approach, proposed scope of services, schedule, and fee are detailed below.

Project Understanding

The City of West St. Paul recently received a grant from the Minnesota State Health Improvement Program (SHIP) through the Dakota County Active Living Partnership and the Dakota County Public Health Department to assess potential pedestrian and bicycle infrastructure improvement options for Thompson Avenue (Robert Street to the eastern West St. Paul border at Highway 52) and Oakdale Avenue (from Wentworth Avenue to Butler Avenue). This project will include an alternatives analysis to determine the most feasible and economical pedestrian and bicycle facility for the corridor; public engagement with key stakeholders to gather input on the alternatives; and the preparation of a feasibility report detailing the recommended pedestrian and bicycle improvements. Information from the feasibility report will be used to apply for Metropolitan Council Regional Solicitation (TAP) funding in April 2020. The City is looking for a consultant team to guide the project through the alternatives analysis and public engagement project phases to position the City well for a TAP application and future design and construction project phases.

The project stems from the Active Living Partnership between the City of West St. Paul and Dakota County to assess the active living conditions in all partnering communities and recommend policy changes that encourage increased physical activity in everyday life. In December 2011, the City Council accepted the City of West St. Paul Pedestrian and Bicycle Master Plan. The plan identified this stretch of Thompson Avenue and Oakdale Avenue as a priority gap in the pedestrian and bicycle infrastructure system. The lack of pedestrian and bicycle connectivity between these corridors and the existing transit facilities along Robert Street and other area destinations has created an unsafe and inadequate transportation system for the local bicycle and pedestrian population. This study is the first step in resolving this issue and providing safe and adequate transportation options for local SHIP priority populations to Robert Street and other desirable destinations in the area.

Project Approach

Kimley-Horn has successfully delivered similar projects with pedestrian and bicycle elements by identifying critical issues early in the project development phase; emphasizing clear and comprehensive communication with the public; and gearing the alternatives analysis and recommendations towards the key elements of a successful TAP application. We will implement these proven strategies on this project and collaborate with the project management team members to fine tune these strategies as necessary.

To successfully communicate with and garner the support of the public, we will first evaluate the corridors as a whole to identify the critical project issues and which pedestrian and trail alternatives would work best. We anticipate the following critical issues:

- Pedestrian and bicycle safety at the St. Croix Lutheran Academy school
- Crossing treatments at major street intersections (i.e., Oakdale Avenue and Thompson Avenue, Oakdale Avenue and Emerson Avenue, etc.)
- Limiting right-of-way acquisition and impacts to private property owners



- Coordination of pedestrian and bicycle facilities with existing transit facilities
- Construction costs
- Varying user types along the corridors

We will begin by collecting all available right-of-way information, highlighting key stakeholders, identifying key safety issues (i.e. crossing locations), and mapping the existing pedestrian and bicycle facilities in the area. Using this information, we will generate a project map for use as a guide during our project kick-off meeting to discuss some initial ideas and alternative pedestrian and bicycle facilities. This project map will be a living document that is updated as we meet with the public and discuss the project with the City and Dakota County. Preparing a detailed map ahead of the kick-off meeting will result in a productive discussion and allow for a quick transition into engaging the public and working through different alternatives.

Successful public engagement hinges on the ability to attain useful feedback and garner support for a preferred alternative. It is vital that the stakeholders receive a consistent and clear message from the project team and that all project materials and communications are easily comprehensible. Following development of pedestrian and bicycle alternatives, we will engage key stakeholders and the general public to provide feedback on the proposed alternatives. We anticipate holding one open house for the general public and separate engagement meetings with the following stakeholders:

- Nearby school representatives (principals)
- Representatives from apartment complexes to more efficiently gather input from larger stakeholder groups
- Active Living members from SHIP priority populations

We will ask for feedback and any other recommendations or information that could be helpful in determining preferred pedestrian and bicycle facilities. We anticipate collecting this feedback through verbal and written comments received at meetings and on comment cards. Ahead of any meeting with the public, we will gather input from the City and Dakota County on all meeting materials and alternatives being considered.

Following the completion of the public engagement activities, we will combine and summarize all the input received and identify one preferred alternative. This preferred alternative for pedestrian and bicycle facilities will be further detailed and analyzed during a preliminary (30%) engineering and feasibility design. We are currently assisting the City of West St. Paul with the Marie and Oakdale Trail project just south of this project area. Through completing preliminary and final designs for this similar trail project, we learned it is very important to evaluate the preferred alternative in three dimensions during the feasibility study phase. This will allow us to better evaluate significant project costs such as retaining walls and private property impacts and set a realistic construction budget for the City to utilize in funding applications and overall City budget planning. During this phase, we will identify an estimated project cost, extents of easement acquisition, and prepare a feasibility report recommending the preferred pedestrian and bicycle improvements. This feasibility report will contain key information for a TAP application and the project's impacts and benefits to SHIP priority populations.

Kimley-Horn has prepared a preliminary project schedule that will serve as a guide to managing and delivering this project. We understand the City is planning to submit the project for TAP funding in April 2020. The schedule included as **Attachment 1** of this proposal positions the project for a TAP funding application in April of 2020 and a final feasibility study completed by July 31, 2020. We have strategically scheduled project management team (PMT) meetings before



critical project events (public engagement, City Council meetings, etc.) to increase the benefit of each meeting while being conscious of the project budget.

Our recent experience working with the City on the Marie and Oakdale Trail project and our proven approach to pedestrian and trail studies makes us confident in our ability to deliver the necessary information to complete a successful TAP application while also fostering the support of the public.

Detailed Scope of Work

The following is a summary of the proposed scope of work to be completed for this project.

Task 1: Project Management and Team Meetings

Kimley-Horn will provide overall project management and utilize internal project management tools to monitor budget, staff roles, and responsibilities of all team members throughout the project. We will communicate directly with the City's project manager on a regular basis to discuss decisions and progress through the project.

We will conduct, prepare materials for, and lead one (1) project kickoff meeting and up to four (4) PMT meetings. We will prepare meetings minutes from each meeting and distribute to the meeting attendees.

Task 2: Public and Agency Involvement

Task 2.1 - We will prepare a presentation for up to two (2) City Council meetings and two (2) Park Board meetings. It is assumed the first round of presentations (one to each board) will focus on presenting the critical issues we have identified and the alternatives we are considering. It is assumed the second presentation will present the outcomes of the public engagement process and recommend a preferred alternative for the pedestrian and bicycle facilities. We have assumed that the same presentation will be used for both the City Council and Park Board meetings. City staff will review the presentations and provide feedback on the materials. We have assumed City staff will present the materials at the City Council and Park Board meetings and attendance by Kimley-Horn staff is not required.

Task 2.2 - We will attend up to three (3) meetings with key stakeholders to discuss the alternatives. We assume the materials for the stakeholder meetings are the same as the open house materials included in task 2.3 below. We assume City staff will prepare and mail notifications inviting the stakeholder groups to the meetings. We assume City staff will take the lead on engaging with stakeholders and will be the main contact for the public on the project.

Task 2.3 - We will prepare open house materials for one (1) open house. We have assumed the open house materials will consist of the following items:

- Sign-in sheet, comment cards, and meeting directional signage
- Welcome board
- Purpose and need board
- Up to three (3) pedestrian and bicycle alternatives boards showing typical sections, plan view layouts, crossing treatments, etc.

We have assumed City staff will prepare and mail notifications inviting residents to the open house.



Task 3: Alternatives Analysis

Task 3.1 - We will review the existing plans and studies listed in the RFP and collect existing Dakota County GIS/LIDAR information to develop up to two (2) pedestrian and bicycle alternatives for Thompson Avenue and Oakdale Avenue. These two alternatives are assumed to be developed based on the following criteria:

- Available right-of-way
- Input from the public, City, and Dakota County
- Cost
- Safety
- Streetscape and transit considerations

The two alternatives will be presented to the public via the open house and stakeholder meetings. A preferred alternative will be identified by the PMT and further investigated via a feasibility study.

Task 3.2 - We will evaluate and incorporate SHIP priority population priorities and impacts into the development of the alternatives. The feasibility report, described in Task 4.2, will include the preferred alternatives benefits and impacts to SHIP priority populations.

Task 4: Feasibility Report and Preliminary Engineering

Task 4.1 - We will prepare preliminary engineering (30%) plans for the preferred alternative. We have assumed preliminary engineering (30%) plans will include the following plan sheets:

- Cover Sheet
- Typical Sections
- Construction Plan and Profile (only existing profile shown)

We will base the plans on available Dakota County GIS/LIDAR data and have assumed no field survey will be acquired. Detailed pedestrian ramp layouts, driveways, and construction limits will not be shown in the plans. The plans will identify existing right-of-way, trail/sidewalk width, boulevard width, and on-street bicycle lane and curb adjustments as recommended. Preliminary right-of-way and easement acquisition needs will also be shown.

Task 4.2 - We will prepare a feasibility report detailing the preferred alternative, estimated cost, right-of-way acquisition extents, public involvement summary, and benefits/impacts to SHIP priority populations. It is assumed the draft feasibility report will be used by the City for the TAP application. The final feasibility report will outline the findings, strategies, and recommendations based on project assessment, research, analysis and input from the City Council, advisory boards, and City staff, including a summary of public engagement efforts and input.

Project Team



Eric Fosmo, P.E. — Project Manager

Eric has 13 years of trail, roadway, storm drainage, water main, and sanitary sewer design experience on municipal infrastructure projects where he has provided project management, technical design, plan and specification preparation, and cost estimating services. He is well versed in the Mn Chapter 429 process and is adept at balancing the priorities of multiple project stakeholders and challenging project deadlines.