



DRAFT

Agreement

Carson Water Subconservancy District (hereinafter “**CWSD**”) and Kimley-Horn & Associates, Inc. (hereinafter “**KH**”) hereby enter into an agreement whereby KH will complete the Southeast Carson City Area Drainage Master Plan project in accordance with and subject to the following terms and conditions:

1) **ASSIGNMENT**

KH’s assignment shall relate to the following product(s) or service(s):

Complete the Southeast Carson City Area Drainage Master Plan project, which is further identified and described in Exhibit “A,” the compensation paid to KH for this project shall not exceed **\$129,560**.

2) **INDEMNITIES**

(a) To the fullest extent permitted by law KH shall indemnify, hold harmless and defend, not excluding the CWSD's right to participate, the CWSD from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees, and costs, arising out of any alleged negligent or willful acts or omissions of KH, its officers, employees, and agents.

(b) CWSD will indemnify and hold KH harmless with respect to any claims or actions instituted by third parties which result from the use by KH of material furnished by CWSD or where material created by KH is substantially changed by CWSD. Information or data obtained by KH from CWSD to substantiate claims made in advertising shall be deemed to be "materials furnished by CWSD."

(c) In the event of any proceeding against CWSD by any regulatory agency or in the event of any court action or self-regulatory action challenging any advertising prepared by KH, KH shall assist in the preparation of the defense of such action or proceeding and cooperate with CWSD and CWSD's attorneys. CWSD will reimburse KH any out-of-pocket costs KH may incur in connection with any such action or proceeding.

(d) Neither party waives any right or defense to indemnification that may exist in law or equity.

3) **INSURANCE**

Unless otherwise required in this Agreement, the CWSD and KH shall, during the performance of the services as provided herein, maintain insurance of the types and amounts specified, and with insurers satisfactory to the other party as follows:

a) Comprehensive General Liability including \$1,000,000 per occurrence for bodily injury and property damage; \$1,000,000 Products/Completed Operations Aggregate; \$1,000,000 General Aggregate over all interests.

b) Comprehensive Automobile Liability including coverage for owned, non-owned, and hired vehicles: \$1,000,000 Bodily Injury, \$1,000,000 Property Damage.

c) KH shall name CWSD as an additional insured and deliver a certificate to CWSD.

4) **TERM OF AGREEMENT**

a) The term of this Agreement will commence on the date of the last signature executed hereon and will continue in full force and effect until **12/31/2023**, unless extended by written agreement of the parties.

b) KH will submit monthly invoices with a description of activities performed.

c) In the event of termination of this Agreement, the rights, duties, and responsibilities of KH shall continue in full force during the period of notice.

d) If circumstances arise that require a time extension to complete the project, the CWSD Board grants the General Manager authority to do so in a written notice to KH.

5) **PERFORMANCE**

Should KH fail to perform any of the services provided for in Exhibit “A,” CWSD shall notify KH of such non-performance and allow thirty (30) days for KH to remedy the performance. If the performance has not been satisfied within thirty days, CWSD may withhold payment only for the services not performed in



accordance with this Agreement.

6) **SUPPLEMENTS TO AGREEMENT**

The following Exhibits are an integral part of this Agreement:

(a) Exhibit A: KH Business Technical Plan

7) **INDEPENDENT CONTRACTOR**

KH acknowledges that it is furnishing the services contemplated by this Agreement hereto as an independent contractor, and not as an employee, or agent of CWSD or any of its affiliates.

8) **OWNERSHIP**

Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which are intended to be considered under this Agreement), or any other documents or drawings, prepared, or in the course of preparation, by KH (or its subcontractors) in performance of its obligations under this Agreement shall be the exclusive property of CWSD and all such materials shall be delivered into CWSD's possession by KH upon completion, termination, or cancellation of this Agreement. KH shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of KH's obligations under this Agreement without the prior written consent of CWSD.

9) **AGREEMENT TERMINATION**

(a) Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Agreement may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

(b) Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Agreement may be terminated by either party upon written notice of default or breach to the other party as follows:

- (1) If KH fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Agreement within the time requirements specified in this Agreement or within any granted extension of those time requirements; or
- (2) If any State, county, city, or federal license, authorization, waiver, permit, qualification, or certification required by statute, ordinance, law, or regulation to be held by KH to provide the goods or services required by this Agreement is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
- (3) If KH becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
- (4) If CWSD materially breaches any material duty under this Agreement and any such breach impairs KH's ability to perform; or

(c) Time to Correct. Termination upon declared default or breach may be exercised only after service of formal written notice and the subsequent failure of the defaulting party within thirty (30) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

(d) Winding Up Affairs Upon Termination. In the event of termination of this Agreement for any reason, the parties agree that the provisions of this Section survive termination:

- (1) The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Agreement. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- (2) KH shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the CWSD;



- (3) KH shall execute any documents and take any actions necessary to effectuate an assignment of this Agreement if so requested by the CWSD; and
- (4) KH shall preserve, protect, and promptly deliver into CWSD possession all information in accordance with Section 8, Ownership.

10) **RIGHTS UPON TERMINATION**

Upon termination of this Agreement, KH shall transfer, assign, and make available to CWSD or CWSD's representative, all property and materials in their possession or control belonging to and paid for by CWSD, subject, however, to any rights of third parties of which KH has informed CWSD.

11) **BREACH REMEDIES.**

Failure of either party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages. If the court awards reasonable attorney's fees to the prevailing party, in an amount to be determined by the Court.

The parties acknowledge or agree that the contract was written and agreed by both parties.

Prior to the initiation of any litigation the parties agree to mediate.

12) **PUBLIC RECORDS**

Pursuant to NRS 239.010, information or documents received from KH may be open to public inspection and copying. CWSD has a legal obligation to disclose such information unless a particular record is made confidential by law. KH may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that KH thereby agrees to indemnify and defend CWSD for honoring such a designation. The failure to so label any document that is released by CWSD shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

13) **NOTICES**

Any notice pursuant to this Agreement will be addressed to the following parties:

**Attn.: Edwin James
Carson Watershed Subconservancy District
777 E William Street, Suite 110 A
Carson City, NV 89701**

**Attn.: Geoff Brownell, P.E.
Kimley-Horn
7740 North 16th Street, Suite 300
Phoenix, AZ, 85020**

14) **FORCE MAJEURE**

Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, pandemic, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing party. The affected party will notify the other party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a party's performance is delayed for a period exceeding thirty (30) days from the date the other party receives notice under this paragraph, the non-affected party will have the right, without any liability to the other party, to terminate this agreement.

15) **HEADINGS**

Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

16) **ENTIRE AGREEMENT**

This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein, and there are no terms other than those contained herein. No



modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto.

17) **SEVERABILITY**

Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable, or illegal under any existing or future law, such invalidity, unenforceability, or illegality shall not impair the operation of or affect those portions of this Letter that are valid, enforceable, and legal.

18) **GOVERNING LAW**

This Agreement shall be interpreted in accordance with the laws of the State of Nevada pertaining to contracts made and performed entirely therein. If the above accords with the parties' understanding and agreement, kindly indicate consent hereto by signing in the place provided below.

Accepted and agreed on behalf of:
Carson Water Subconservancy District

Accepted and agreed on behalf of:
Kimley-Horn

Signature *Date*
Edwin D. James
General Manager

Signature *Date*
Geoff Brownell
Project Manager

Exhibit A

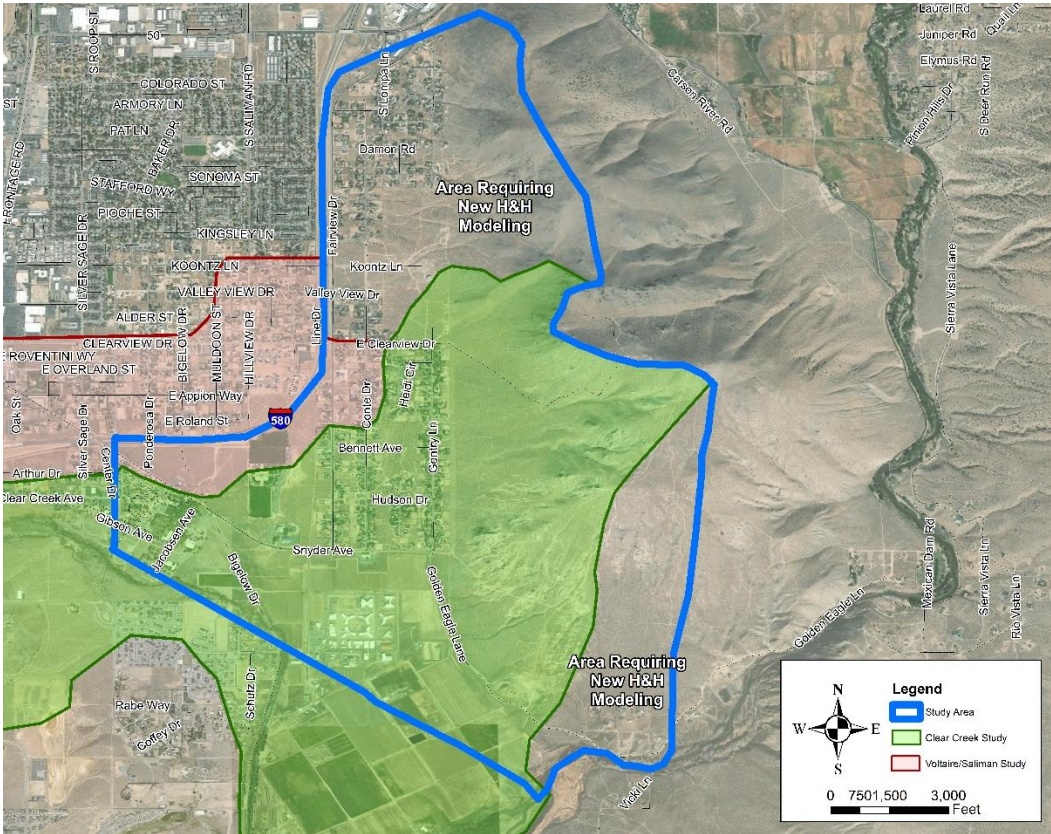


Carson Water Subconservancy District Southeast Area Drainage Master Plan (ADMP)

Business/Technical Plan of Work
Prepared February 10, 2022

The Carson Water Subconservancy District (CWSD), Carson City (City), and FEMA have been working to more accurately define flood hazards in the Carson Valley region over the past several years. Hydrologic and hydraulic studies have been completed throughout the Carson City urban area using CTP grant funds and City funds. This study is a continuation of these efforts and will build on previous studies in the project area wherever possible.

The goals for the Southeast ADMP project will be to identify flood mitigation solutions for a southeast portion of Carson City as shown in the following figure.



The area is generally located south and east of Interstate 580 adjacent to Prison Hill. The Southeast Carson City ADMP is a continuation of the food hazard mitigation efforts initiated by the Voltaire/Saliman Restudy and Floodplain Remapping and the Clear Creek Letter of

Map Revision (LOMR), both of which are ongoing with Carson City. It is anticipated that the Voltaire/Saliman Restudy and the Clear Creek LOMR models will be provided and substantially completed to a point where proposed alternatives can be evaluated. This study will build on the hydrologic and hydraulic analyses completed by those studies while adding additional adjacent areas. This study will focus on mitigating flooding in the attempt to remove residents from the floodplain or reduce their overall flooding hazard. The scope of work for the study/plan would incorporate the follow tasks:

Task 1. Data Collection

- a. Kimley-Horn will coordinate with Carson City's consultants to obtain the latest hydrologic and hydrail models associated with the Voltaire and Saliman Restudy and the Clear Creek LOMR.
- b. Carson City houses considerable data relevant to this study or the project area. Kimley-Horn will collect, review, and process existing data provided by Carson City and other sources as necessary to determine applicability of use for this effort. Data may include LiDAR, previous studies, GIS layers, and survey data. For the area requiring new hydrology and hydraulic modeling, USGS LiDAR, NRCS soil data and Carson City Landuse files will be obtained.
- c. As part of the effort to evaluate the existing drainage facilities, it may be necessary to conduct field assessments and/or actual field survey to collect required data. Fees associated with this task include these efforts. If not required, these fees will be redirected to other tasks as needed.

Task 2. Existing Conditions Analyses

- a. Kimley-Horn will create a FLO-2D Pro models to analyze the areas requiring new hydrology/hydraulic modeling. There are two main watersheds where new hydrologic and hydraulic data will be generated.
 - i. The first watershed is generally bounded by Interstate 580 to the west, Prison Hill to the east, Fairview Drive to the north, and Clearview Drive to the south which is approximately 700 AC.
 - ii. The second watershed will include the drainage area contributing to the community near Golden Eagle Lane and Hobbyhorse Lane. The watershed is generally bounded by the Prison complex to the west, the Carson River/ Golden Eagle Lane to the east and south, and Prison Hill to the north which is approximately 350 AC.

Hydraulically significant culverts (>18”) and buildings will be included in the FLO-2D model(s). Based on the watershed, there doesn't seem to be any hydraulically significant walls that would alter flow directions.

The intent of this effort will be to determine the existing capacity of drainage infrastructure, identify weak points in the system, and quantify structures potentially impacted by flooding. Design storms will include 10-, 25-, and 100-year reoccurrence intervals.

Task 3. – Proposed Conditions Analyses

- a. Kimley-Horn will coordinate with Carson City and stakeholders to identify the flood hazard areas and compare with the model results. Initial alternatives will be discussed with the City prior to conceptual design.
- b. Kimley-Horn will work with the City and stakeholders to develop a drainage master plan consisting of individual recommended alternatives. The recommended alternatives will be developed by analyzing cost, constructability, and with public and stakeholder input. Up to two (2) alternatives for each master plan component will be analyzed to identify the recommended alternative. The recommended design alternatives will be implemented into a proposed condition FLO-2D model. The focus of this effort will be on implementable solutions that fit within budget constraints and are effective in mitigating flooding conditions.
- c. Impact maps will be created to display the upstream and downstream impacts for the recommended alternatives

Task 4. – Public Outreach

- a. Kimley-Horn will prepare and distribute postcards to residents in the study area to request information about flooding issues.
- b. Kimley-Horn will assist the City in conducting up to two (2) public meetings to present the results of existing conditions analyses and conceptual design. Public meetings may focus on existing conditions results first, followed by overall mitigation solutions and recommendations. We anticipate conducting these meeting in person but can conduct virtually as needed. Kimley-Horn will prepare public meeting materials including display boards, meeting invitation language, PowerPoint presentation, and any required handouts. Kimley-Horn can also present technical data at each meeting if desired by the City. It is assumed that the City will secure facilities to host in person public meetings.
- c. Kimley-Horn will conduct up to four (4) main stakeholder interviews with agencies such as NDOT, the Northern Nevada Correctional Center, Washoe Tribe, and/or State Public Works.
- d. In addition to the public meetings described above, Kimley-Horn will present the results of the project to the Board of Supervisors and the CWSD Board as directed

by Carson City and CWSD. It is assumed that these presentations will coincide with public meeting dates to reduce travel costs.

Task 5. – Design Concept Report/Plan

- a. Kimley-Horn will develop conceptual level plan sheets for the design alternatives. Plan sheets will show plan and profile considering known right-of-way and utility constraints. Notes, details, and specifications will not be included.
- b. Kimley-Horn will compile all collected data, analyses, and design into a design concept report for submittal and approval to the City and CWSD. Kimley-Horn will submit a draft report and final report that addresses all comments. It is assumed that all submittals will be electronic, and that one round of comments will be addressed.

Task 6. Cost Benefit Analysis

- a. Kimley-Horn will complete a benefit costs analysis per FEMA's methodology that will show the potential damage to structures in existing and proposed conditions with the recommended alternatives in place.

Task 7. – Project Management

- a. Project management includes onsite project meeting and presentation time, as well as FEMA Map Information Platform (MIP) management. The MIP tasks are general tasks that will only require the study data, a project narrative and self-certification forms to be uploaded to the MIP and no metadata. In addition, project management includes contract management, invoicing, internal meetings with staff, and Quality Control/Quality Assurance.

KIMLEY-HORN ALLOWANCES**Task 8. - Expenses (Allowance)**

- a. This allowance is for expenses anticipated for this project including: Travel expenses, in-house reproduction, and mileage.

OTHER EXCLUSIONS

- a. Geotechnical and environmental services are not included
- b. Topographic mapping services are not included
- c. FEMA MIP Metadata

Kimley-Horn will perform the services in Tasks 1 - 8 for the total lump sum labor below. In addition to the lump sum labor fee, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at cost.

Task 1	Data Collection	\$7,710
Task 2	Existing Conditions Analyses	\$19,125
Task 3	Proposed Conditions Analyses	\$47,420
Task 4	Public Outreach	\$19,460
Task 5	Design Concept Report	\$14,065
Task 6	Benefit Cost Analysis	\$2,940
Task 7	Project Management	\$16,340
Task 8	Expenses	\$2,500
Total Lump Sum Fee		\$129,560