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# Agreement

Carson Water Subconservancy District (hereinafter "CWSD") and KIMLEY-HORN AND ASSOCIATES, INC. (hereinafter "KH") hereby enter into an agreement whereby KH will complete the North Silver Springs Area Drainage Master Plan (hereinafter "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 North Silver Springs Area Drainage Master Plan which is further identified and described in Exhibit "A," and the compensation paid to KH for the North Silver Springs Area Drainage Master Plan shall not exceed \$118,000.

2) **INDEMNITIES**

- (a) To the fullest extent permitted by law KH shall indemnify and hold harmless the CWSD from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, to the extent 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; \$2,000,000 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 12/31/2024, unless extended by written agreement of the parties.
- b) KH will submit monthly invoices with a description of activities performed. KH shall have the right to suspend performance of its services upon notice to CWSD in the event that any of its invoices are past due.
- 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.

**DRAFT****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:

Exhibit A - KH Business/technical plan of work; Exhibit B - Fee Schedule; Exhibit C - Project Schedule

**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, blueprints, 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 become the property of CWSD upon completion of the services and payment in full of all monies due to KH. Any modifications made by CWSD to any of KH's documents, or any use, partial use or reuse of the documents without written authorization or adaption by KH will be at CWSD's sole risk and without liability to KH, and CWSD shall indemnify, defend and hold KH harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. 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 seven days' 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) KH shall have the right to terminate this Agreement upon seven days' written notice to CWSD upon breach by CWSD of any of its obligations under this Agreement. In the event of such termination, KH shall be paid for all services performed up to the effective date of the termination and all damages, if any, resulting from CWSD's breach of this Agreement.
- (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.

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

10) **RIGHTS UPON TERMINATION**

Upon termination of this Agreement, KH shall, upon payment in full of all monies due to KH, 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 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 16<sup>th</sup> 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. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the



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services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. Notwithstanding any other provision of this Agreement, KH shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of CWSD, third parties, or governmental agencies.

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*  
Principal Engineer



# Exhibit A - Business/Technical Plan



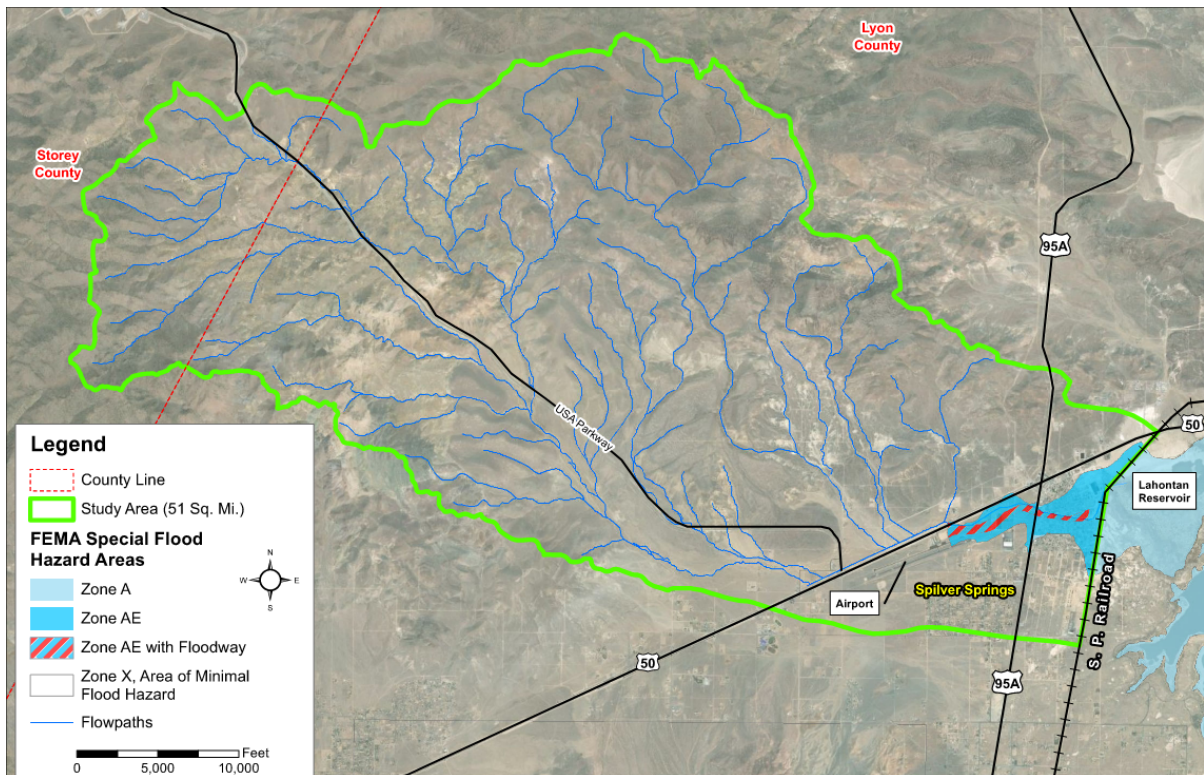
## Carson Water Subconservancy District

### North Silver Springs Area Drainage Master Plan (ADMP)

#### Business/Technical Plan of Work

The Carson Water Subconservancy District (CWSD), Lyon County (County), and FEMA have been working to more accurately define flood hazards along the Highway 50 corridor over the past several years. This study is a continuation of those efforts for the North Silver Springs area of the County.

The goals for the North Silver Springs ADMP project will be to identify flood mitigation solutions and flow paths that would protect existing and future structures from flooding.



The area is generally located both north and south of Highway 50, west of Lahontan Reservoir and east of Stagecoach. The overall watershed encompasses much of USA Parkway. The scope of work for the study/plan would incorporate the follow tasks:

**Task 1. 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.

**Task 2. Topographic Data Collection**

- a. Kimley-Horn's will collect the applicable LiDAR topography data from CWSD, USGS, and/or House Moran Consulting. Kimley-Horn will process the LiDAR data as necessary to produce project specific topography. No new aerial photogrammetry or LiDAR topographic data will be collected for this project.

**Task 3. Data Collection**

- a. Kimley-Horn will collect, review, and process existing data provided by CWSD, Lyon County, House Moran Consulting and other sources as necessary to determine applicability of use for this effort. Data may include previous studies, GIS layers, and survey data. For hydrology and hydraulic modeling, it is assumed that models developed for the Ramsey Canyon Letter of Map Revision (LOMR) project will be utilized for this master plan.
- b. 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 4. Flood Risk and Mitigation**

- a. Kimley-Horn will evaluate the 10-yr, 25-yr, and 100-yr Ramsey Canyon LOMR models to determine existing conditions flood risk in the study area. If the 10-yr and 25-yr models were not previously compiled, Kimley-Horn will develop these models by updating just rainfall data in the 100-yr model.
- b. Kimley-Horn will develop new HEC-RAS 2D 10-yr, 25-yr, and 100-yr models for the gap identified in discussions between Stagecoach and the Ramsey Canyon LOMR models. See the attached exhibit for the area labeled "Separate Watershed" that has been identified in discussions as potentially needing to be added to the analyses.

- c. Kimley-Horn will coordinate with Lyon County and stakeholders to identify the flood hazard areas and compare with the model results. Initial alternatives will be discussed with the County prior to conceptual design.
- d. Kimley-Horn will work with the County and stakeholders to develop a drainage plan consisting of individual recommended alternatives to reduce impacts of the effective Special Flood hazard Areas. 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 HEC-RAS model. The focus of this effort will be on implementable solutions that fit within budget constraints and are effective in mitigating flooding conditions.
- e. Impact maps will be created to display the upstream and downstream impacts for the recommended alternatives
- f. 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.
- g. Kimley-Horn will compile all collected data, analyses, and design into a summary report for submittal and approval to the County 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.
- h. 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 5. – 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 CWSD and the County in conducting up to one (1) public meeting to present the results of flood risk mitigation and conceptual designs. The public meeting will focus overall mitigation solutions and recommendations. Kimley-Horn anticipates conducting this 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 the meeting if desired by the County. It is assumed that the County will secure facilities to host in person public meetings, and that CWSD will assist with public meeting preparation.
- c. Kimley-Horn will conduct up to two (2) stakeholder interviews with agencies such as NDOT, State Public Works, Lyon County maintenance staff or others identified by the project team.

- d. In addition to the public meetings described above, Kimley-Horn will present the results of the project to the Lyon County Board of Commissioners and the CWSD Board as directed by Lyon County and CWSD. It is assumed that these presentations will coincide with public meeting dates to reduce travel costs.

### **KIMLEY-HORN ALLOWANCES**

#### **Task 6. - Expenses (Allowance)**

- e. 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	Project Management	\$11,000
Task 2	Topographic Data Collection	\$2,500
Task 3	Data Collection	\$2,500
Task 4	Flood Risk and Mitigation	\$86,500
Task 5	Public Outreach	\$13,000
Task 6	Expenses	\$2,500
Total Lump Sum Fee		\$118,000



## EXHIBIT B - Fee Schedule

<b>Project Name: A1:G23</b>	North Silver Springs ADMP					
<b>Project Scope Description: (Include County and Watercourse Name):</b>	Lyon County, Unnamed Wash evaluate what infrastructure is needed to reduce the number of properties/structures in the SFHA and other shallow flooding areas. CWSD will utilize existing hydrology and hydraulics developed during an earlier flood hazard mapping update. Using this information, the selected engineering firm will determine the appropriate mitigation measures such as: detention basins, channels and pipe sizes, and inlet locations, which will best reduce SFHA and shallow flooding impacts.					
<b>CTP Partner:</b>	Lyon County					
<b>Federal Fiscal Year:</b>	2022		<b>Mas #</b>			
<b>Grant End Date:</b>	9/30/2024	<b>Total FEMA Funds:</b>	\$110,000			
<b>Community Contact:</b>	Edwin D. James, General Manager					
<b>Phone Number:</b>	775-887-7456	<b>Email:</b>	<a href="mailto:edjames@cwsd.org">edjames@cwsd.org</a>			
<b>MAS Activities</b>	<b>Task Start</b>	<b>Task End</b>	<b>FEMA Funds</b>	<b>Community Contribution Y/N</b>		<b>Yes? List total Panels/Comm \$</b>
Data Collection (Task 1)	1/1/2023	3/31/2023	\$5,000	N/A	N/A	N/A
Survey*	N/A	N/A	\$0	N/A	N/A	N/A
Terrain*	N/A	N/A	\$0	N/A	N/A	N/A
Topographic Data*	N/A	N/A	\$0	N/A	N/A	N/A
Hydrology & Hydraulics (Task 2 & 3)	2/1/2023	9/30/2023	\$46,500	N/A	N/A	N/A
Public Outreach (Task 4)	3/1/2024	9/30/2024	\$15,500			
Project Report with Draft Design Alternatives (Task 5 & 6)	8/1/2023	9/30/2024	\$40,000	N/A	N/A	N/A
				N/A	N/A	N/A
				N/A	N/A	N/A
Contractor Project Management and Expenses (Task 7 & 8)	1/1/2023	9/30/2024	\$11,000			
CWSD Project Management	1/1/2023	9/30/1934				
		Non Regulatory Task - will be in MIP as general task				
Task Deliverables from MAS:						
CWSD will provide a design concept report. The report will include all collected data, analyses, and						

# EXHIBIT C – Project Schedule

North Silver Springs ADMP Schedule

