



**NOTICE AND AGENDA
CITY COUNCIL
TUESDAY, MARCH 3, 2026, 7:00 P.M.
CITY COUNCIL MEETING**

Notice is hereby given that the City Council of the City of Glenn Heights, Texas will hold a Meeting on Tuesday, March 3, 2026, in the City Hall, City Council Chambers, located at 1938-C South Hampton Road, Glenn Heights, Texas, 75154, as prescribed by Vernon's Texas Civil Statutes, Government Code Section §551.041, to consider and possibly take action on the following agenda items. Items do not have to be taken in the same order as shown in this meeting Notice and Agenda.

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members, including the presiding officer, will be physically present at the location noted above on this Agenda.

This Notice and Meeting Agenda, and the Agenda Packet, are posted online at <https://www.glennheightstx.gov/129/Agendas-Minutes>.

This City Council Meeting will be live-streamed at <https://www.glennheightstx.gov/229/City-Council-Meeting-Videos>.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

The public is invited to address City Council on any topic. Speakers should complete a Public Comment form and submit it to the City Secretary prior to the beginning of the meeting. The Texas Open Meetings Act prohibits City Council from discussing or taking action on issues not posted on the agenda; however, the Mayor, City Manager or designee may provide specific factual information, recite an existing policy, or schedule a discussion of the issue for possible placement on a future agenda. Speakers are limited to a maximum of three (3) minutes.

PROCLAMATIONS

- American Red Cross Month, March 2026
- Irish American Heritage Month, March 2026
- Women's History Month, March 2026

EVENTS

- Glenn Heights Connect, March 27, 2026, 5:30 P.M., Gateway Estates, corner of Gateway Boulevard and Parkview Trail, Glenn Heights, Texas
- Glenn Heights County Line Cookoff, March 27-28, 2026, Glenn Heights Heritage Park, 400 East Bear Creek Road, Glenn Heights, Texas

STAFF INTRODUCTIONS - Jaynice Porter-Brathwaite, Human Resources Director

CONSENT AGENDA

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, a Council Member, or the City Manager, and acted upon separately.

1. Discussion and take action to reschedule the March 17, 2026, Regular City Council Meeting to March 24, 2026, due to City Council participation in the National League of Cities Conference. (Brandi Brown, City Secretary)

AGENDA

1. Discussion regarding Cunningham Recreation. (Council Member Sherron Mosley)
2. Discussion to receive input from City Council regarding Fiscal Year 2025-2026 third quarter Community Engagement Events. (Clifford Blackwell, City Manager)
3. Discussion and take action to approve Resolution R-05-26, an Agreement with Kimley-Horn and Associates, Inc. for Professional Engineering Services associated with the design and construction for the 1 Million Gallon Ground Storage Tank. (Andrew Waits, Director of Public Works)

EXECUTIVE SESSION

1. The City Council shall convene into Executive Session:
 - A. pursuant to the Texas Government Code, Section 551.072, Real Property; to deliberate the purchase, exchange, lease or value of real property located at S Uhl Road, Glenn Heights, Texas.
 - B. pursuant to the Texas Government Code, Section 551.071, Consultation with City Attorney; and Section 551.072, Real Property; to deliberate land acquisitions for the E Bear Creek Road Right-of-Way Expansion Project.
 - C. pursuant to the Texas Government Code, Section 551.071, Consultation with City Attorney; for the evaluation of legal services regarding the City's legal representation, performance, and possible changes in legal counsel for the City, including discussion of potential new direction in legal services.
 - D. pursuant to the Texas Government Code, Section 551.074, Personnel Matters, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal, of a public officer or employee: City Manager.
2. The City Council shall reconvene into Open Session and take any action arising from Executive Session.

AGENDA

4. Discussion and presentation regarding the current City of Glenn Heights

Contract with Nichols Jackson, including an overview of the contract structure, cost analysis, operational updates, and transparency measures related to the city's legal services partnership. (Council Member Nelda Washington)

ADJOURNMENT

In accordance with the Americans with Disabilities Act, if you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodations, please contact the City Secretary at least 48 hours in advance of the event at 972-223-1690 ext. 125 or email brandi.brown@glennheightstx.gov. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

I, Brandi Brown, City Secretary, do hereby certify that the above Meeting Notice and Agenda was posted in a place convenient to the Public at Glenn Heights City Hall, 1938-C South Hampton Road, Glenn Heights, Texas by 6:00 P.M. on Wednesday, February 25, 2026.

Pursuant to Section 551.071 of the Texas Government Code, the City Council reserves the right to consult in closed session with its attorney at any time during the course of this meeting and to receive legal advice regarding any item listed on this agenda.

Brandi Brown, City Secretary

PROCLAMATION



Office of the Mayor ▪ City of Glenn Heights

American Red Cross Month March 2026

- WHEREAS,** for more than 140 years, the American Red Cross has served as a beacon of compassion, delivering vital humanitarian aid in times of crisis, providing lifesaving training, supporting military families, and offering comfort to communities across the nation; and
- WHEREAS,** each year, the President of the United States proclaims March as **American Red Cross Month**, recognizing the organization's unwavering commitment to preparedness, response, and recovery efforts; and
- WHEREAS,** in 2026, the American Red Cross celebrates its national theme, "**Be Part of the Good**", encouraging all people to join in acts of service, compassion, and resilience – whether through volunteering, donating blood, learning lifesaving skills, or supporting relief efforts that bring hope to those in need; and
- WHEREAS,** the Red Cross continues to respond to thousands of disasters, large and small, every year, providing emergency shelter, food, emotional support, and recovery assistance when families and communities face some of their most challenging moments; and
- WHEREAS,** the Red Cross supplies nearly half of the nation's blood, supports service members and veterans through emergency communications and family assistance, and equips individuals with CPR, first aid, and preparedness training that saves countless lives; and
- WHEREAS,** these essential services are made possible through the dedication of volunteers, donors, and community partners, who embody the spirit of service and represent the very best of our community and our nation; and
- WHEREAS,** the City of Glenn Heights proudly honors the American Red Cross, its mission, and its volunteers whose courage, compassion, and commitment ensure that help and hope are always within reach.

NOW, THEREFORE, I, Sonja A. Brown, Mayor of the City of Glenn Heights, Texas, do hereby proclaim March 2026 as **American Red Cross Month** in the City of Glenn Heights, Texas and encourage all residents to "**Be Part of the Good**" by supporting the American Red Cross through volunteerism, blood donation, preparedness training, and acts of community kindness that strengthen our city and uplift those in need.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of March in the year of our Lord two thousand twenty-six.

Sonja A. Brown, Mayor

PROCLAMATION



Office of the Mayor ▪ City of Glenn Heights

Irish American Heritage Month March 2026

- WHEREAS,** each March, the United States celebrates **Irish American Heritage Month** to honor the lasting contributions, rich culture, and enduring legacy of Irish Americans whose history in this nation spans more than 250 years; and
- WHEREAS,** millions of Irish immigrants came to America seeking freedom, opportunity, and a better life, bringing with them a strong spirit of resilience, faith, community, and determination – values that have helped shape our nation’s character and progress; and
- WHEREAS,** Irish Americans have played pivotal roles in every sector of society, including public service, education, science, labor, arts, literature, military service, and civic leadership, enriching the American story through their achievements and dedication; and
- WHEREAS,** the 2026 national theme, “**Honoring Heritage, Strengthening Community,**” celebrates the deep cultural pride of Irish Americans while highlighting their continued contributions to unity, service, and civic engagement across the country; and
- WHEREAS,** Irish traditions – such as music, dance, storytelling, and celebrations like St. Patrick’s Day – remain an important part of American cultural life, reminding us of the significance of heritage in shaping community identity; and
- WHEREAS,** the City of Glenn Heights recognizes the profound impact of Irish Americans on our nation’s growth and values, and celebrates the diverse cultural heritage that strengthens our community and enriches the lives of our residents; and
- WHEREAS,** observing Irish American Heritage Month provides an opportunity to reflect on the shared history between Ireland and the United States, acknowledge the struggles and triumphs of Irish immigrants, and honor the many ways their descendants continue to influence and uplift our country.

NOW, THEREFORE, I, Sonja A. Brown, Mayor of the City of Glenn Heights, Texas, do hereby proclaim March 2026 as **Irish American Heritage Month** in the City of Glenn Heights, Texas and encourage all residents to celebrate the history, culture, and contributions of Irish Americans, as well as the theme “**Honoring Heritage, Strengthening Community**”, by participating in educational activities, cultural events, and acts of community engagement that honor this vibrant heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of March in the year of our Lord two thousand twenty-six.

Sonja A. Brown, Mayor

PROCLAMATION



Office of the Mayor ▪ City of Glenn Heights

Women's History Month March 2026

WHEREAS, each March, the United States observes **Women's History Month** to honor the countless contributions women have made throughout our nation's history, advancing equality, strengthening communities, and shaping the cultural, economic, political, and social landscape of our country; and

WHEREAS, Women's History Month provides an opportunity to recognize the trailblazers who broke barriers in fields such as government, science, education, health, business, civil rights, the arts, and public service – laying the foundation for future generations to thrive; and

WHEREAS, in 2026, the national theme "**Women Who Advocate for Equity, Innovation, and Opportunity**" celebrates women who use their voices, leadership, and vision to uplift others, expand access, promote fairness, and champion progress in every sector of society; and

WHEREAS, women continue to lead and serve in local, state, and national government; serve as essential workers and innovators; and inspire through community service, education, entrepreneurship, healthcare, public safety, and civic engagement; and

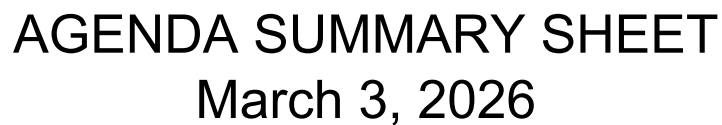
WHEREAS, the City of Glenn Heights proudly acknowledges the invaluable contributions of women within our own community—including leaders, educators, entrepreneurs, public servants, mothers, caregivers, and volunteers—whose dedication enriches the quality of life for all residents; and

WHEREAS, honoring Women's History Month encourages deeper understanding of the challenges women have faced, the rights they have fought for, the progress achieved, and the ongoing work necessary to advance equality and opportunity for future generations.

NOW, THEREFORE, I, Sonja A. Brown, Mayor of the City of Glenn Heights, Texas, do hereby proclaim March 2026 as **Women's History Month** in the City of Glenn Heights, Texas and encourage residents, schools, businesses, and community organizations to participate in activities, programs, and conversations that celebrate women's achievements and continue the work toward equity, inclusion, and opportunity for all.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of March in the year of our Lord two thousand twenty-six.

Sonja A. Brown, Mayor



Discussion and take action to reschedule the March 17, 2026, Regular City Council Meeting to March 24, 2026, due to City Council participation in the National League of Cities Conference. (Brandi Brown, City Secretary)

[illegible]



CITY OF GLENN HEIGHTS CITY COUNCIL REPORT

Date: March 3, 2026

SUBJECT

Take action to reschedule the March 17, 2026, Regular City Council Meeting to March 24, 2026, due to City Council participation in the National League of Cities Conference.

DISCUSSION / BACKGROUND

This item will allow Council to reschedule a Regular City Council Meeting due to City Council participation in the National League of Cities. The Conference is being held March 16, 2026 - March 18, 2026, in Washington, DC.

PRIOR COUNCIL OR BOARD ACTION

Not applicable.

PUBLIC CONTACT

Public Notices related to the rescheduled meeting will be posted on the City Council's official bulletin board and on the City of Glenn Heights' website.

FINANCIAL IMPACT

Not applicable.

RECOMMENDATION / ALTERNATIVES

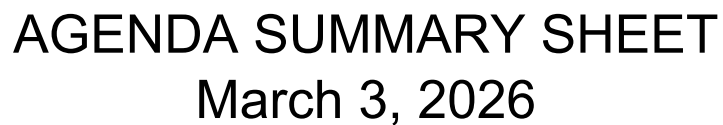
Staff recommends that City Council reschedule its March 17, 2026, Regular City Council Meeting to March 24, 2026.

ATTACHMENTS

PREPARED BY

Brandi Brown, City Secretary

REVIEWED BY



Discussion regarding Cunningham Recreation. (Council Member Sherron Mosley)

[illegible]



CITY OF GLENN HEIGHTS CITY COUNCIL REPORT

Date: March 3, 2026

SUBJECT

Discussion regarding Cunningham Recreation, a full-service playground and outdoor recreation solutions provider, for potential use in future City park and recreation improvements.

DISCUSSION / BACKGROUND

Cunningham Recreation is a national recreation solutions provider with more than 60 years of experience delivering commercial playgrounds, outdoor fitness spaces, shade structures, surfacing, and park amenities. The company has completed thousands of municipal and school projects nationwide and offers full planning, design, project management, installation, and maintenance support.

In 2022, GameTime, the manufacturer Cunningham represents, announced the expansion of Cunningham Recreation's service area to include Texas, incorporating experienced personnel from the prior Texas agency to maintain continuity for Texas municipalities. The company now provides turnkey services to Texas customers with expanded design resources and factory-certified installation teams.

Cunningham Recreation's available solutions include:

- Playground equipment (inclusive, themed, multigenerational)
- Outdoor fitness and obstacle courses
- Shade and shelter structures
- Safety surfacing
- Water and splash play
- Dog park equipment
- Site furnishings and amenities

Their services include:

- Planning & Design: 3D concepts, accessibility planning, and budget analysis
- Project Management: Timeline tracking, vendor coordination, and budget oversight
- Certified Installation: Safety-compliant installation crews
- Safety & Maintenance Support: Playground inspections, maintenance planning, and compliance
- Procurement Options: Multiple cooperative purchasing contracts available to streamline compliance and timelines

As the City explores future improvements to its parks system, including potential enhancements to neighborhood playgrounds and community-level recreational areas, Cunningham Recreation may offer an efficient, compliant vendor option capable of delivering design-to-installation solutions with reduced administrative burden on City staff.

This item provides Council with an overview of the vendor's capabilities and allows for direction on whether staff should proceed with requesting conceptual layouts, cost estimates, and potential cooperative purchasing options for future park projects.

PRIOR COUNCIL OR BOARD ACTION

Not applicable.

PUBLIC CONTACT

Not applicable.

FINANCIAL IMPACT

There is no financial impact at this time. Cost estimates will be provided to Council should staff proceed with requesting project-specific conceptual designs and pricing.

RECOMMENDATION / ALTERNATIVES

Council provide direction on whether to proceed with requesting conceptual layouts and budgetary pricing, confirming eligible cooperative purchasing contracts, and returning to Council with comparative vendor options, cost estimates, warranty terms, timelines, and maintenance considerations. Alternatives include directing staff to issue a formal RFP

for playground and park equipment providers, requesting an evaluation of multiple turnkey vendors for comparison, or deferring the item pending future parks planning or funding cycles.

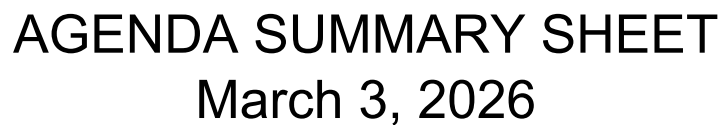
ATTACHMENTS

PREPARED BY

Brandi Brown, City Secretary

REVIEWED BY

Clifford Blackwell, City Manager



Discussion to receive input from City Council regarding Fiscal Year 2025-2026 third quarter Community Engagement Events. (Clifford Blackwell, City Manager)

[illegible]

FISCAL YEAR 2025-2026 THIRD QUARTER COMMUNITY ENGAGEMENT EVENTS



MARCH 3, 2026
CLIFFORD BLACKWELL
CITY MANAGER

March 2026



Glenn Heights Community Connect

- March 27th, 5:30 P.M. - 7:00 P.M., Gateway Estates, corner of Gateway Boulevard and Parkview Trail, Glenn Heights, Texas

Glenn Heights County Line Cookoff

- March 27th and 28th, Time Varies, Glenn Heights Heritage Park, 400 East Bear Creek Road, Glenn Heights, Texas

Glenn Heights Community Connect

- April 10th, 5:30 P.M. - 7:00 P.M., Location TBD

Community Clean-Up Day

- April 18th, 8:00 A.M. - 12:00 P.M., Glenn Heights Heritage Park, 400 East Bear Creek Road, Glenn Heights, Texas

Glenn Heights Community Connect

- § April 24th, 5:30 A.M. – 7:00 P.M., Location TBD

1st Annual Easter Egg Hunt

- § Request made by Council Member Shaunte Allen

Glenn Heights Community Connect

- May 8th, 5:30 P.M. – 7:00 P.M., Location TBD

Glenn Heights Teddy Bear Hospital

- May 20th, 5:30 P.M. – 8:00 P.M., Glenn Heights Fire Station

Glenn Heights Community Connect

- May 22nd, 5:30 P.M. – 7:00 P.M., Citywide

Sunset Concert Series

- June 14th, 7:00 P.M., City Center Courtyard

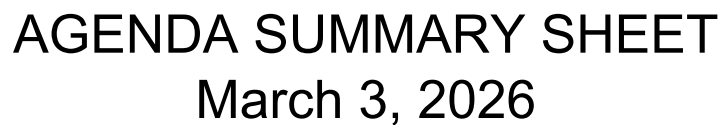
Sunset Concert Series

- June 28th, 7:00 P.M., City Center Courtyard

QUESTIONS



COMMENTS



Discussion and take action to approve Resolution R-05-26, an Agreement with Kimley-Horn and Associates, Inc. for Professional Engineering Services associated with the design and construction for the 1 Million Gallon Ground Storage Tank. (Andrew Waits, Director of Public Works)

[illegible]



January 30, 2026

Andrew Waits, Director of Public Works
City of Glenn Heights
2118 South Uhl Road
Glenn Heights, Texas 75154

Re: Letter Agreement for Professional Services for New 1 MG Ground Storage Tank

Dear Mr. Waits:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") submits this Letter Agreement ("Agreement") to City of Glenn Heights ("Client") for providing design and construction services for a new 1 Million Gallon Ground Storage Tank ("Project").

Project Understanding

It is our understanding that the Client is requesting professional services for the preparation of Construction Documents for a proposed 1 Million Gallon (MG) Ground Storage Tank (GST). The entirety of the site for the proposed ground storage tank is owned and platted by the Client.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

- Task 1. Design Management
- Task 2. Conceptual Design
- Task 3. Preliminary Design
- Task 4. Final Design
- Task 5. Bid Phase Services
- Task 6. Construction Phase Services
- Task 7. Survey and Subsurface Utility Engineering Services
- Task 8. Permitting

Task 1. Design Management.

- 1.1. Communication and Reporting
 - Conduct a Kickoff meeting with the Client at the beginning of the project to review design parameters, communication plan, schedule, and budget for the project.
 - Conduct review meetings with the Client at the end of each design phase task or as required by Client.
 - Prepare and submit invoices monthly in the format requested by the Client.
 - Prepare and submit baseline Project Schedule initially, and Project Schedule updates with a schedule narrative monthly, as required.
 - Coordinate with other agencies and entities as necessary for the design of the proposed infrastructure, and provide and obtain information needed to prepare the design.
 - Prepare Subconsultant agreements and coordinate with Subconsultants throughout the design, bidding, award and construction.

- With respect to coordination with permitting authorities, Consultant shall communicate with permitting authorities such that their regulatory requirements are appropriately reflected in the designs. Consultant shall work with regulatory authorities to obtain approval of the designs, and make changes necessary to meet their requirements, as part of the design scope.

Assumptions:

- Kimley-Horn will prepare for and conduct one (1) Project Kickoff meeting with the Client
- Kimley-Horn will attend 4 meetings with Client staff at the completion of each design phase

Deliverables:

- Meeting summaries with action items
- Monthly invoices
- Baseline design schedule
- Monthly schedule updates with schedule narrative describing any current or anticipated schedule changes

Task 2. Conceptual Design (30 percent).

The Conceptual Design shall be submitted to Client per the approved Project Schedule.

The purpose of the conceptual design is for the Consultant to

- Study the project,
- Identify and develop alternatives that enhance the system,
- Present (through an Engineering Design Report) these alternatives to the Client
- Recommend the alternatives that successfully addresses the design problem, and
- Obtain the Client's endorsement of this concept.

Consultant will develop the conceptual design of the infrastructure as follows.

2.1. Data Collection

The Client will provide, and Kimley-Horn will review the following data as necessary to complete the improvements:

- Record Drawings
- The Client will identify and make available record drawings related to the infrastructure improvements within the area for completed improvement projects, pump stations, storage tanks, and water lines.
- Projects in Progress – The Client will identify and assist the Consultant to coordinate with proposed projects within the area that are currently under design or in construction that could potentially impact the design or construction of the proposed GST. The Client will identify the project and contact person for the Client or the Consultant associated with each project.

2.2. Conceptual Design Report

The Conceptual Design Package will consist of an Engineering Design Report which shall include the following:

- Cover Sheet
- Graphic exhibits and written summary of design concept and the rationale for selecting the recommended design concept.
- Site Layout
- Proposed Ground Storage Tank Concepts
- Documentation of key design decisions related to:
- Hydraulics, Electrical improvements, SCADA improvements, Tank requirements and appurtenances, and Site Improvements.
- Estimates of probable construction cost.

Assumptions

- One (1) copy of the Conceptual Design package will be delivered. Letter Report shall be letter sized and comb-bound with a clear plastic cover. Drawings will be 11x17 size fold outs bound in the report
- Consultant shall prepare the meeting notes of the Concept Review meeting and revise the report, if needed.
- Consultant shall not proceed with Preliminary Design activities without obtaining written approval by the Client of the Conceptual Design Package.
- Client water model in InfoWater Pro format.

Deliverables

- Conceptual Design Package

Task 3. Preliminary design (60 percent).

3.1 Preliminary Design Plans and Specifications

Preliminary plans and specifications shall be submitted to Client per the approved Project Schedule. Plans shall consist of 11" X 17" plan sheets. Specifications shall include technical specifications for materials and installation of the proposed facilities. The design will include the following:

- Cover Sheet
- Index
- General Notes
- Civil Plans
 - Dimensional Control
 - Yard Piping
 - Site Grading
 - Ground Storage Tank Plan and Section
 - Yard Piping Profiles
 - Erosion Control Plan
- Project Details
 - Tank Details
 - Water Details
 - Erosion Control Details
- Electrical/SCADA – Electrical design will include:
 - Electrical Site Plan

- Integrate improvements with the Client's SCADA system and any changes to SCADA system including new I/O

3.2 Geotechnical Investigation

- Soil investigations, including field and laboratory tests, borings, related Engineering analysis and recommendations for determining soil conditions will be made. A Geotechnical Report will be prepared summarizing the insitu material characteristics and recommendations for construction of the ground storage tank.

3.3. Traffic Control Plan

- Traffic Control Plans will not be prepared for this project.

Assumptions

- 1 boring at a depth of 35 feet and 4 borings at an average bore depth of 25 feet each will be provided for the tank.
- The Contract Documents will be based upon Consultants Joint Contract Documents Committee (EJCDC) standards.
- NCTCOG Standard Specifications for Public Works Construction will govern all specifications. The Consultant shall supplement the technical specifications if needed.
- Consultant shall not proceed with Final Design activities without written approval by the Client of the Preliminary Design plans.

Deliverables

- Preliminary Design drawings and specifications
 - One (1) copy of the 60% Design Plans and Specifications for Review (PDF)
- Opinions of probable construction cost

Task 4. Final design (90 percent) and Final Construction Documents (100 percent).

Upon approval of the Preliminary plans, Consultant will prepare construction plans as follows:

- Draft Final plans (90%) and specifications shall be submitted to Client per the approved Project Schedule.
- Following a 90% construction plan review meeting with the Client, the Consultant shall submit Construction Documents (100%) to the Client per the approved Project Schedule. Each plan sheet shall be stamped, dated, and signed by the Consultant registered in State of Texas.
- The Consultant shall submit a final design estimate of probable construction cost with both the 90% and 100% design packages. This estimate shall use ONLY standard Client bid items.
- Submit plans to appropriate regulatory agencies: TCEQ and Client for review.

Assumptions

- Bid Proposal Form will be prepared for Lump Sum type bidding
- One (1) copy of the 90% Design Plans and Specifications for Review (PDF)
- One (1) copy of the Final Design Plans and Specifications for Bidding (PDF)

Deliverables

- 90% construction plans and specifications.

- 100% construction plans and specifications.
- Detailed estimates of probable construction costs including summaries of bid items and quantities.

Task 5. Bid Phase Services.

Consultant will support the bid phase of the project as follows.

5.1. Bid Support

- The Consultant shall assist the Client with the advertisement of the project and contact prospective bidders to inform them of the project.
- Prepare for and attend one (1) Prebid meeting.
- Issue addenda as appropriate to interpret, clarify or expand the bidding documents
- Attend one (1) bid opening, prepare tabulation of the bids as received, and prepare recommendations of award of the contracts
- Assist the Client in determining the qualifications and acceptability of prospective contractors, subcontractors and suppliers.
- Prepare contract documents for execution by the Contractor, receive and review such documents for completeness, and forward to the Client for review and execution.

ASSUMPTIONS

- The Consultant will prepare and conduct one (1) Prebid Meeting.
- The Consultant will prepare for and conduct one (1) Bid opening.
- The project will be bid only once and awarded to one contractor.
- PDF files will be uploaded to an online procurement portal of the Client's choosing.

DELIVERABLES

- Addenda
- Bid tabulations
- Recommendation of award
- Construction documents (conformed, if applicable)

Task 6. Construction phase services.

Consultant will support the construction phase of the project as follows.

6.1 Construction Support

- The Consultant shall assist the Client with project communications and documentation as required by tasks below, including meeting notes, shop drawing submittals and responses, RFIs and RFI responses.
- The Consultant shall attend the preconstruction conference.
- Prepare and distribute Meeting Notes.
- *Visits to Site and Observation of Construction.* The Consultant will make up to fourteen (14) monthly site visits to observe the progress of work. Observations are not intended to be exhaustive or to extend to every aspect of Contractor's work. Observations will be limited to spot checking, and similar methods of general observation. Based on information obtained during such visits, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client

informed of the general progress of the Work. The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

- *Client and Contractor Coordination.* Consultant shall coordinate with Client and the Contractor on an as-needed basis regarding project documentation, the project schedule, and known project issues. The purpose of this coordination will be to facilitate communication and resolution of outstanding items to promote progress of the project during construction.
- *Clarifications and Interpretations.* Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
- *Change Orders.* Consultant may recommend Change Orders to Client and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
- *Shop Drawings and Samples.* Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- *Inspections and Tests.* Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations of the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.
- *Disagreements between Client and Contractor.* Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents

pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

- *Applications for Payment.* Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests. By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.
- *Substantial Completion.* Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.
- *Final Notice of Acceptability of the Work.* Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.
- *Limitation of Responsibilities.* Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor. Consultant shall not be responsible for any duties assigned to it 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 its means and methods; that the contractor shall indemnify the Client and Consultant for all claims and liability arising out of job site accidents; and that the Client and Consultant shall be made additional insureds under the contractor's general liability insurance policy.
- The Consultant shall attend the "Final" project walk through and assist with preparation of

final punch list

6.2 Record Drawings

- The Consultant shall prepare Record Drawings from information provided by the Client depicting any changes made to the Final Drawings during construction.
- The Consultant shall modify the Final Drawings electronically and shall place a stamp on the plans indicating that they represent Record Drawings of the project as constructed. The stamp shall be signed and dated by the Consultant and shall be placed on each plan sheet, whether there are any revisions on the sheet or not. Each sheet shall clearly indicate all changes which apply to that sheet by clouding and numbering, or other suitable means.
- The following disclaimer shall be included with the Record Drawing stamp:
 - These Record Drawings were prepared using information provided by others and represent the as constructed conditions to the extent that documented changes were provided for recording. The Consultant assumes no liability for undocumented changes and certifies only that the documented changes are accurately depicted on these drawings.
- The Consultant shall submit a set of sealed Final Drawings, modified and stamped as Record Drawings, on mylar for record storage. The Consultant may keep copies of the information provided by the Client for their files, but all original, red-lined drawings shall be returned to the Client with the mylars.

PDF files shall be provided to the Client upon completion of the construction.

Assumptions

- 5 RFI's are assumed.
- 2 Change Orders are assumed
- 75 Shop Drawings reviews are assumed
- 14 Application for Payment Requests are assumed.
- One PDF copy of full size (11"x17") plans will be delivered to the CLIENT.

Deliverables

- Response to Contractor's Request for Information
- Review of Change Orders
- Review of shop drawings
- Final Punch List items
- Record Drawings on PDF

Task 7. Survey And Subsurface Utility Engineering Services.

Consultant will provide survey support as follows.

7.1 Design Survey

- Consultant will perform field surveys to collect horizontal and vertical elevations and other information needed by Consultant in design and preparation of plans for the project. Information gathered during the survey shall include topographic data, elevations of all sanitary and adjacent storm sewers, rim/invert elevations, location of buried utilities, structures, trees (measure caliper, identify overall canopy, and have qualified arborist identify species of trees), and other features relevant to the final plan sheets. Existing

drainage at intersections will be verified by field surveys. Spot elevations will be shown on intersection layouts with cross slope to fit intersecting grade lines.

- The minimum survey information to be provided on the plans shall include the following:
 - A Project Control Sheet, showing **ALL** Control Points, used or set while gathering data. Generally on a scale of not less than 1:400
 - The following information about each Control Point;
 - a. Identified (Existing. Client Monument #8901, PK Nail, 5/8" Iron Rod)
 - b. X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base. Z coordinate on Client Datum only.
 - c. Descriptive Location (Ex. Set in the centerline of the inlet in the South curb line of North Side Drive at the East end of radius at the Southeast corner of North Side Drive and North Main Street).
 - Coordinates on all P.C.'s, P.T.'s, P.I.'s, Manholes, Valves, etc., in the same coordinate system, as the Control.
 - No less than two horizontal bench marks, per line or location.
 - Bearings given on all proposed centerlines, or baselines.
 - Station equations relating utilities to paving, when appropriate.

7.2 Subsurface Utility Engineering

- The SUE shall be performed in accordance with CI/ASCE 38-02.
- Level A
 - Location (Test Hole) Services: Locating the horizontal and vertical position of the utility by excavating a test hole using vacuum excavation techniques and equipment. In performing locating (test hole) services Consultant will:
 - a.) Excavate Four (4) test holes to expose the utility to be measured in such a manner that insures the safety of the excavation and the integrity of the utility to be measured. Excavations will be performed using specially developed vacuum excavation equipment that is non-destructive to existing facilities. If contaminated soils are discovered during the excavation process, the Consultant will notify the Client. Obtain x,y and Z information at each test hole.

Assumptions

- 4 Level A SUE locations

Deliverables

- Copies of field survey data and notes signed and sealed by a licensed surveyor.
- Drawing of the project layout with dimensions and coordinate list.
- Level A and B SUE documentation

Task 8. Permitting.

8.1 TCEQ

- The Consultant will submit an Engineering Report, Plans, and Specifications to TCEQ for review in accordance with TCEQ requirements.
- The Application for review shall include the following items:
 - Water Storage Tank Construction Checklist
 - Minimum capacity of the tank as designated in the Water System Master Plan
 - Engineering Report

- Plans and Specifications meeting the Water Storage Tank Construction Checklist

8.2 Client Permitting

The Consultant will submit plans for all Client permitting processes.

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at Kimley-Horn's then-current hourly rates. Additional services Kimley-Horn can provide include, but are not limited to, the following:

- Grant Administration and Funding
- Design services related to the Northwest Pump Station
- Hydraulic Modeling services
- Negotiation of easements or property acquisition including temporary right-of-entries.
- Services related to development of the Client's project financing and/or budget.
- Services related to disputes over pre-qualification, bid protests, bid rejection and re-bidding of the contract for construction.
- Services related to acquiring a grading permit or building permit for construction, if required
- Construction observation and inspection services
- Performance of materials testing or specialty testing services.
- Services necessary due to the default of the Contractor.
- Services related to damages caused by fire, flood, earthquake or other acts of God.
- Services related to warranty claims, enforcement and inspection after final completion.
- Services related to Survey Construction Staking
- Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the Client.
- Performance of miscellaneous and supplemental services related to the project as requested by the Client.
- Services not included in this contract.

Schedule

Kimley-Horn will perform the 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 - 8 for the total lump sum fee and Task 9, Additional Services, on a labor fee plus expense basis below. Individual task amounts are informational only. Labor fee will be billed on an hourly basis according to Kimley-Horn's then-current rates. All permitting, application, and similar project fees will be paid directly by the Client.

Task Number & Name		Fee	Type
1	Design Management	\$76,000	Lump Sum
2	Conceptual Design	\$63,800	Lump Sum
3	Preliminary Design	\$92,800	Lump Sum
4	Final Design	\$103,000	Lump Sum
5	Bid Phase Services	\$27,000	Lump Sum
6	Construction Phase Services	\$219,800	Lump Sum
7	Survey and Subsurface Utility Engineering Services	\$41,600	Lump Sum
8	Permitting	\$20,500	Lump Sum
9	Additional Services	\$80,000	Hourly, Not-to-Exceed
Total Lump Sum		\$644,500	
Total Including Additional Services		\$724,500	

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client for Additional Services.

Labor fee will be billed on an hourly basis according to our then-current rates. Direct reimbursable expenses such as express delivery services, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. 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, an invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

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, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Glenn Heights.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

To proceed with the services, please have an authorized person sign this Agreement below and return 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 this project.

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

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed: *Chris Igo* P.E.

Printed Name: Chris Igo, P.E.

Title: Associate



Bradley J. Hill

Regional Contract Lead

CITY OF GLENN HEIGHTS

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachment – Request for Information

Attachment – Standard Provisions

Attachment - Contract Rider for Contracts Funded in whole or part with Federal Grant Funds

Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	☐	Agent for Owner	☐	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement ("Services"). Any services that are not set forth in the scope of Services described herein will constitute additional services ("Additional Services"). If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn'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 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, 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 and all standards of development, design, or construction.
 - c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
 - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
 - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes 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 Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. The Client will remit all payments electronically to:
Account Name: KIMLEY-HORN AND ASSOCIATES, INC.
Bank Name and Address: WELLS FARGO BANK, N.A., SAN FRANCISCO, CA 94104
Account Number: 2073089159554
ABA#: 121000248
 - c. The Client will send the project number, invoice number and other remittance information by e-mail to payments@kimley-horn.com at the time of payment.
 - d. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
 - e. If the Client objects to an invoice, it must advise Kimley-Horn 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.
 - f. If Kimley-Horn initiates legal proceedings to collect payment, it shall recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings.

Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.

- g. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn 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 Kimley-Horn to collect additional amounts from the Client.
- 5) **Use of Deliverables.** All documents, data, and other deliverables prepared by Kimley-Horn 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 or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's deliverables, or any reuse of the deliverables without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn 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 deliverables prepared by Kimley-Horn, the hardcopy shall govern.
- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Intellectual Property, for purposes of this section, does not include deliverables specifically created for Client pursuant to the Agreement and use of such deliverables is governed by section 5 of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn 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 the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn 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. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **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, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn'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 Kimley-Horn's performance of services, and it is agreed that Kimley-Horn 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 KIMLEY-HORN, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF KIMLEY-HORN AND KIMLEY-HORN'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, ATTORNEYS' FEES (INCLUDING ATTORNEYS' FEES OTHERWISE RECOVERABLE UNDER TEX. CIV. PRAC. & REM. CODE § 38.001), OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY 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 KIMLEY-HORN OR KIMLEY-HORN'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED TWICE THE TOTAL COMPENSATION RECEIVED BY KIMLEY-HORN UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. HIGHER LIMITS OF LIABILITY MAY BE NEGOTIATED FOR ADDITIONAL FEE. THIS SECTION IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION SHALL REQUIRE THE CLIENT TO INDEMNIFY KIMLEY-HORN.

- 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) **Construction Costs.** Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to changed or unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with 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.
- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
 - a. If Kimley-Horn prepares construction documents and Kimley-Horn 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 Kimley-Horn in any way connected thereto.
 - b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of observing construction and reporting to the Client whether the contractors' work generally conforms to the construction documents prepared by Kimley-Horn. Kimley-Horn 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. Kimley-Horn is not responsible for any duties assigned to it 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 its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.

- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. 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 Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn 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.
- 18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of Texas. 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. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. 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.



CITY OF GLENN HEIGHTS, TEXAS

**CONTRACT RIDER
FOR CONTRACTS FUNDED IN WHOLE OR PART
WITH FEDERAL GRANT FUNDS**

This Contract is funded in whole or in part by federal grants. Procurements in excess of the Simplified Acquisition Threshold must contain terms and provisions required under federal procurement guidelines, 2 CFR Part 200, Appendix II. This is an acknowledgement that federal funds will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, policies, procedures, and directives. The provisions of this Contract Rider will supersede any conflicting provision of the Contract Documents.

The City has considered and will only award this Contract to responsible contractors possessing the ability to perform successfully under the terms and conditions of the Contract. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading,

demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Contractor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665

of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

Minority/Women's Business Enterprises

If applicable to the services, the Contractor must make every effort and take all necessary affirmative steps to use local business firms and must contract with and assure that small, minority-owned, and/or women-owned businesses and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists as potential sources;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Taking reasonable efforts to award subcontracts to be performed by eligible businesses located in or owned by residents of the City; and
6. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Disadvantaged Business Enterprises

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Copeland "Anti-Kickback" Act.

1. *Contractor.* The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the City or appropriate federal agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the

compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

3. *Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

Federal Clean Air Act; Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance or grants.
4. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
5. The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
6. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance or grants.

Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (
2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer (contractor) agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is

valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

In submitting a bid in response to this Invitation, and in accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies. If during the contract period the contractor or its principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the Contractor or principal shall immediately inform the City. The principal agrees that this section will be enforced on each of its subcontractors and will inform the City of any violations of this section by subcontractors to the contract. The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

Byrd Anti-Lobbying Act; Contractor Certification

The contractor, by execution of the Contract, certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This

certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The Contractor, , certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any. Signature of Contractor's Authorized Official

Recovered Materials Procurement

1. In the performance of this contract, the contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a timeframe providing for compliance with the contract performance schedule, meeting contract performance requirements, or at a reasonable price.
2. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>. iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

Covered Telecommunications or Video Surveillance Services

1. *Definition of covered telecommunications equipment.* For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, and as described in Public Law 115-232, covered telecommunications equipment is:
 - i. telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise

connected to, the government of a covered foreign country.

2. *Prohibitions.* The contractor is prohibited from obligating or expending loan or grant funds to:
 - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
 - iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
 - iv. Unless an exception in this section applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee federal funds through this Contract to:
 - (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
3. *Exceptions.*
 - i. This section does not prohibit contractors from providing:

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 - ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - (a) Covered telecommunications equipment or services that are not used as a substantial or essential component of any system; and are not used as critical technology of any system.
 - (b) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
4. *Reporting requirement.*
- i. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in this section to the City, unless elsewhere in this contract are established procedures for reporting the information.
 - ii. The Contractor shall report the following information pursuant to the foregoing subsection:
 - (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (b) Within 10 business days of submitting the above information: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
5. *Subcontracts.* The Contractor shall insert the substance of this section, including this subsection, in all subcontracts and other contractual instruments.”
- Federal Acknowledgements**
1. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this Contract.
 2. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this Contract.
- Compliance with other laws and certification of eligibility to contract.**
- Any offer to contract with the City shall be considered an executed certification that the Contractor will exercise the standard of care to comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, (as amended during the contracting period) and any orders and decrees of any court, administrative bodies or tribunals in any matter affecting the performance of the Contract, including without limitation, immigration laws, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations.
- Termination for Default.**
- The City shall terminate this Agreement immediately in the event Contractor fails to: (i) meet delivery schedules or (ii) otherwise conform to the specifications under this Agreement. Breach of contract or a default under the professional standard of care authorizes the City to award the Agreement to another professional, purchase elsewhere, and charge the full increase in cost and handling to the defaulting Contractor.
- Cancellation.** the City reserves the right to cancel the contract without penalty based on the public convenience by providing 30 days prior written notice to the Contractor. Termination under this paragraph shall not relieve the Contractor of any obligation or liability that has occurred prior to cancellation, and the City shall pay Contractor for work performed or materials supplied up to the date of termination. If the City has prepaid, the Contractor shall refund the City’s payment, prorated to the date of termination.
- Liability and Indemnity of City.**
- Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law

in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision. (Section 5, Article XI, Texas Constitution).

Indemnity and Independent Contractor Status of Contractor.

CONTRACTOR DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE CONTRACTOR, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONTRACTOR EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B). INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEY'S FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONTRACTOR'S LIABILITY. THE CONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

It is understood and agreed that the Contractor and any employee or subcontractor of Contractor shall not be considered an employee of the City. The Contractor shall not be within the protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all Contractor's employees, representatives, or subcontractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City or is found to interfere with the effective and efficient operation of the City's workplace.

Licenses and Contractor's Instruments of Service.

Contractor represents to the City that Contractor possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction, as may be necessary for the performance of Contractor's services pursuant to this Contract.

Any and all opinions provided by Contractor in connection with this Contract represent the professional judgment of the Contractor, in accordance with the standard of care applicable by law to the services performed under this Contract.

Upon execution of this Contract the City has the right to use the Contractor's instruments of service, including but not limited to reports, maps, cost estimates, recommendations, or other deliverables for the Project, provided that the City substantially performs its obligations, including prompt payment of all sums when due, under the Contract. The City's employees, agents, contractors, and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction for the Project. Upon payment of all amounts due Contractor, all deliverables, materials, and reports prepared by Contractor in connection with this Contract shall become the property of the City. The City shall have the right to publish, disclose, distribute, and otherwise use such deliverables, materials, and reports only for those purposes for which they were intended. Subject to the foregoing, Contractor shall, upon completion of services or earlier termination, provide the City with the deliverables, drawings, reports, maps, and materials prepared by Contractor.

Insurance.

Contractor shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to Contractor's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations; (ii) an umbrella/excess liability policy of \$2,000,000.00; (iii) policy of automobile liability insurance covering any vehicles owned and/or operated by Contractor, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$500,000.00 combined single limit and aggregate for bodily injury and property damage; (iv) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of Contractor's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00; and (v) Contractor Liability covering

negligent acts, errors and omissions in the performance of Contractor services with policy limit of not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate. (b) All policies of insurance shall be endorsed and contain the following provisions: (1) name the City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; and (2) provide for at least thirty (30) days prior written notice to the City for cancellation of the insurance; (3) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Contractor Liability Insurance. The Contractor shall provide written notice to the City of any material change of or to the insurance required herein. (c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. (d) A certificate of insurance and copies of the policy endorsements evidencing the required insurance shall be submitted prior to commencement of services.

Confidentiality.

Any provision in the Contract that attempts to prevent the City's disclosure of information that is subject to public disclosure under federal or Texas law is invalid. (Chapter 552, Texas Government Code).

Governing Law and Venue.

Texas law governs this Contract and any suit arising under this Contract must be filed in a court of proper jurisdiction in Dallas County, Texas, or in Ellis County if the job site is situated in Ellis County.

Certificate of Interested Parties (Texas Ethics Commission Form 1295).

1. For contracts that require City council approval or that is for services that would require a person to register as a lobbyist under Chapter 305 of the Texas Government Code, the City may not accept or enter into a contract until it has received from the contractor a completed and signed Texas Ethics Commission (TEC) Form 1295 complete with a certificate number assigned by the (TEC), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.
2. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and provided to the City. The TEC

Form 1295 may accompany the bid or may be submitted separately but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any potential the contractor with respect to the proper completion of the TEC Form 1295.

Conflicts of Interest

Chapter 176 of the Texas Local Government Code requires that any Bidder or person considering doing business with a Local Government entity, disclose in the CIQ questionnaire form, the Bidder or person's affiliation or business relationship that might cause a Conflict of Interest. The CIQ form shall be submitted with the Bidder's completed Bid Packet. Failure to submit any form under this Section shall result in the Bid being considered non-responsive.

The Bidder shall further certify (a) that its bid submittal is genuine and is not made in the interest of, or on behalf of, any undisclosed person, firm, or corporation; (b) that he/she has not directly or indirectly induced or solicited any other respondent to put in a false or sham bid; (c) that he/she has not solicited or induced any other person, firm, or corporation from proposing; and (d) that he/she has not sought by collusion to obtain for him/herself any advantage over any other respondents or over the City.

The Contractor shall file an updated completed CIQ questionnaire with the City's appropriate records administrator not later than the seventh business day after the date on which the Contractor becomes aware of an event that would make a statement in the previously-filed CIQ questionnaire incomplete or inaccurate.

Energy Boycott.

In accordance with Chapter 2274, Texas Government Code (Acts 2021, 87th Leg., S.B. 13), the City may not enter into a contract with a company, excluding a sole proprietorship, with 10 or more full-time employees for goods or services valued at \$100,000 or more unless the contract contains a written verification from the company that the company: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The signatory executing the Contract on behalf of the contractor verifies that the contractor does not boycott energy companies and will not boycott energy companies during the term of the Contract. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and does not apply if the City determines the requirements of Subsection 2274.002(b) are inconsistent with the City's constitutional or statutory duties related to the issuance, incurrence or

management of debt obligations or the deposit, custody, management, borrowing or investment of funds.

Firearms.

In accordance with Chapter 2274, Texas Government Code (Acts 2021, 87th Leg., S.B. 19) the City may not enter into a contract with a company, excluding a sole proprietorship, with 10 or more full-time employees for goods or services valued at \$100,000 or more unless the contract contains a written verification from the company that the company: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing the Contract on behalf of the contractor verifies that the contractor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and does not apply if the City contracts with a sole-source provider or if the City does not receive any bids, if applicable, from a company that is able to provide the required verification.

Critical Infrastructure.

In accordance with Chapter 2274, Texas Government Code, the City may not enter into a contract or agreement with a company, excluding a sole proprietorship, with 10 or more full-time employees for goods or services valued at \$100,000 or more (1) if the company would be granted direct or remote access to or control of critical infrastructure in Texas, excluding access specifically allowed by the City for product warranty and support purposes and (2) if the City knows the company is (A) owned by or the a majority of stock or other ownership interest of the company is held or controlled by (i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country or (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of such countries, or (B) headquartered in such countries. The signatory executing the Contract on behalf of The contractor represents that neither The contractor nor any of its parent companies, wholly owned subsidiaries, majority-owned subsidiaries, and other affiliates is a company of which the City may not contract pursuant to Section 2274.0102, Texas Government Code. The foregoing verification is made solely to comply with Section 2274.0102, Texas Government Code.

Anti-Boycott Israel Verification.

In accordance with Chapter 2271, Texas Government Code, the City may not enter into a contract with a

company, excluding a sole proprietorship, with 10 or more full-time employees for goods or services valued at \$100,000 or more unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing the Contract on behalf of the contractor verifies that the contractor and its parent company, wholly owned subsidiaries, majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent the Contract is a contract for goods or services, will not boycott Israel during the term of the Contract. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The signatory understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the signatory and exists to make a profit. This section does not apply to a contractor that is a sole proprietorship and/or which has less than 10 full-time employees. This section does not apply to a contract valued at less than \$100,000.

Iran, Sudan, and Foreign Terrorist Organizations.

The signatory executing the Contract on behalf of the contractor represents that neither the contractor nor any of its parent company, wholly-owned subsidiaries, majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or

<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

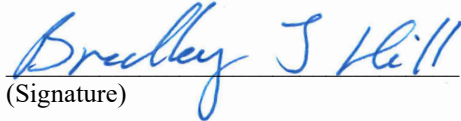
The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable federal law and excludes the entity and each of its parent company, wholly-owned subsidiaries, majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The signatory understands “affiliate” to mean any entity that controls, is controlled

by, or is under common control with the signatory and exists to make a profit.

ACKNOWLEDGED AND AGREED:

Kimley-Horn and Associates, Inc. _____
CONTRACTOR

By


(Signature)

Bradley J. Hill _____
(Type/Print Name)

Regional Contract Lead _____
(Title)

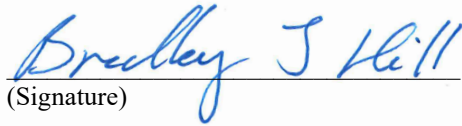
02/11/2026

ACKNOWLEDGED AND AGREED:

Kimley-Horn and Associates, Inc.

CONTRACTOR

By


(Signature)

Bradley J. Hill

(Type/Print Name)

Regional Contract Lead

(Title)

CITY OF GLENN HEIGHTS, TEXAS

RESOLUTION NO. R-05-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING SERVICES ASSOCIATED WITH THE DESIGN AND CONSTRUCTION FOR THE 1 MILLION GALLON GROUND STORAGE TANK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City administration has recommended the construction of a 1 Million Gallon Ground Storage Tank (the “Project”); and

WHEREAS, City administration, having determined that the firm of Kimley-Horn and Associates, Inc. is qualified to perform the professional engineering services necessary for the design and construction of the Project, has negotiated an agreement with Kimley-Horn and Associates, Inc. to provide such professional engineering services pursuant to cost for such services that is fair and reasonable; and

WHEREAS, City administration recommends that an agreement with Kimley-Horn and Associates, Inc. be approved; and

WHEREAS, the City Council of the City of Glenn Heights, Texas, finds it to be in the public interest to accept the recommendation of the City administration and authorize the above described agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS THAT:

SECTION 1. The City Manager is authorized to execute on behalf of the City an agreement with Kimley-Horn and Associates, Inc. for professional engineering services in an amount not to exceed \$724,500.00 for the preparation of design and construction relating to the 1 Million Gallon Ground Storage Tank.

SECTION 2. This Resolution shall become effective immediately upon passage.

PASSED AND APPROVED THIS 3RD DAY OF MARCH 2026.

APPROVED:

Sonja A. Brown, Mayor

ATTEST:

Brandi Brown, City Secretary

APPROVED AS TO FORM:

Kellie McKee, City Attorney

