

**CONTINUING PROFESSIONAL SERVICES AGREEMENT
BETWEEN
CITY OF CHIPLEY, FLORIDA
And
KIMLEY-HORN AND ASSOCIATES, INC.**

THIS AGREEMENT is made between CITY OF CHIPLEY, FLORIDA, a Florida municipal corporation, (hereinafter referred to as "CITY") and KIMLEY-HORN AND ASSOCIATES, INC., a foreign profit corporation authorized to do business in the State of Florida, (hereinafter referred to as the "CONSULTANT"), whose principal place of business is 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601, with FEIN 56-0885615. CITY and CONSULTANT may be referred to individually as "Party" or collectively as "Parties".

RECITALS

WHEREAS, the CITY requested qualifications from qualified firms and selected the CONSULTANT to provide professional Planning services on an as-need/project basis, as may be more particularly described in an assigned Individual Project Order ("IPO"); and

WHEREAS, the CITY solicited proposals from qualified CONSULTANTS on May 15, 2024, pursuant to the CITY'S Request for Qualifications ("RFQ") No. 2024-04, which RFQ and all addenda thereto is attached hereto as Exhibit "A" and is incorporated into this Agreement by reference and made a part hereof; and

WHEREAS, the CONSULTANT has submitted a Response to the RFQ, dated June 4, 2024, which Response ("Response to the RFQ") is attached hereto as Exhibit "B" and incorporated into this Agreement by reference and made a part hereof; and

WHEREAS, the CONSULTANT is willing and able to perform such professional services for the CITY within the basic terms and conditions set forth in this agreement (hereinafter "Continuing Services Agreement" or "Agreement"); and

WHEREAS, the CITY selected the CONSULTANT to provide said Continuing Professional Planning Services to the CITY based on the representations of CONSULTANT in their Response to RFQ; and

WHEREAS, the purpose of this Continuing Services Agreement is not to authorize the CONSULTANT to perform a specific project, but to set forth certain general terms and conditions, which shall govern the relationship between CITY and CONSULTANT and which shall be incorporated into subsequent supplemental agreements/IPOs for specific projects or services when required; and

WHEREAS, this Agreement shall become effective upon the full execution of the Agreement below.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual terms, conditions, promises and covenants set forth below, and other good and valuable consideration, the sufficiency of which the Parties hereby acknowledge, the CITY and CONSULTANT agree as follows:

Section 1. Definitions.

The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

- 1.1 *Compensation*: the total amount paid by the CITY for the CONSULTANT'S professional services for a specific project, exclusive of reimbursable expenses.
- 1.2 *Contract Time*: the number of calendar days provided in the IPO for completion of a specific project or any extension date, whichever shall last occur.
- 1.3 *Reimbursable Expenses*: the direct non-salary expenses directly attributable to the Project. Reimbursable expenses include application and permit fees paid for applying for approval of authorities having jurisdiction over the specific project; travel expenses; and Subconsultant's fees. CONSULTANT shall only be reimbursed for the direct cost of the item without additional mark-up. Reimbursable Expenses must be substantiated by actual invoices and require prior written authorization of the CITY.
- 1.4 *Subconsultant Fee*: the direct and actual cost of the subconsultant with no markup, as reflected by actual invoices of the subconsultant.
- 1.5 *Travel Expenses*: travel expenses, whether within or outside of Washington County, and whether to the specific project or otherwise, shall not be reimbursed unless CONSULTANT has secured advance written authorization for such travel from the CITY Administrator. All approved travel expenses will be reimbursed in accordance with the CITY'S adopted travel policy.
- 1.6 *Individual Project Order*: a supplementary agreement to provide services for a particular project, which shall be subject to the terms of this Agreement. IPOs will be issued in substantially the same form as that provided in the attached and incorporated herein as Exhibit "C".

Section 2. Scope of Services.

The CONSULTANT shall perform for the CITY only those services specifically described and set forth in the Individual Project Orders (IPOs) issued under this Continuing Professional Services Agreement. The scope of such services shall be limited to the detailed descriptions provided in each respective IPO, and no additional services shall be undertaken by the CONSULTANT without the express written authorization of the CITY through the issuance of a new or amended IPO. Each IPO will define the services to be

provided, including, but not limited to, the objectives, deliverables, timeline, mechanisms for the CITY to provide feedback on the CONSULTANT's performance, and any other requirements as deemed necessary by the CITY for the successful completion of the specified project or task. The CONSULTANT is obligated to perform all services in accordance with the highest professional standards and in full compliance with the terms and conditions of this Agreement and the specific provisions of each IPO.

Section 3. Term of Agreement.

3.1 This Continuing Professional Services Agreement ("Agreement") shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect for a period of two (2) years from the effective date, with an option to renew for one (1) additional year, unless sooner terminated year, unless further extended by option or renewal and/or until terminated pursuant to Subsections 3.4, 3.5, or other applicable sections of this Agreement. Each IPO shall specify the period of service agreed to by the CITY and CONSULTANT for services to be rendered under said IPO. Notwithstanding the above, this Agreement shall not commence before the effective date hereof.

3.2 Effect on IPO. Nothing in this section shall be construed to limit the CITY'S right to terminate any ongoing IPO(s).

3.3 Non-Exclusive Agreement. Notwithstanding the provisions of Subsection 3.1, the CITY Administrator may issue requests for proposals for this professional discipline at any time and may utilize the services of any other CONSULTANTS retained by the CITY under similar continuing services agreements. Nothing in this Agreement shall be construed to give the CONSULTANT a right to perform services for a specific project.

3.4 Termination for Cause. This Agreement or an IPO may be terminated by either party for cause, upon fourteen (14) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. Cause shall be defined as a substantial failure by the other party to perform in accordance with the terms and conditions contained in this Agreement and/or any IPO through no fault of the terminating party. If the CONSULTANT abandons this Agreement or an IPO, or the CITY terminates the Agreement or IPO for cause, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. The aforementioned indemnification shall be in addition to, and shall not be construed to limit, the indemnification set forth in the RFQ, attached and incorporated as Exhibit "A". In the event that the CONSULTANT is terminated by the CITY for cause, and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 3.5 of this Agreement and the provision of Section 3.5 shall apply.

3.5 Termination for Convenience. This Agreement or an IPO may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further

obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit to the CITY its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Section 4.1 of this Agreement. Under no circumstances shall the CITY make any payment to the CONSULTANT for profit/markup or overhead for services which have not been performed.

3.6 Assignment Upon Termination. Upon termination of this Agreement or a IPO, a copy of all of the CONSULTANT'S work product shall become the property of the CITY and the CONSULTANT shall, within five (5) days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports, intellectual property, and all other documents and data in the possession of the CONSULTANT pertaining to this Agreement or IPO. Further, upon the CITY'S request, the CONSULTANT shall assign its rights, title, and interest under any subcontractor's agreements to the CITY. All work product provided under this Agreement shall be used solely for its intended purpose.

3.7 Suspension for Convenience. The CITY shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the CITY, the CONSULTANT shall immediately comply with same. In the event the CITY directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the CITY shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

Section 4. Compensation and Payment Terms.

4.1 Billing. CONSULTANT shall submit invoices which are identified by the specific IPO number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percentage of work accomplished in accordance with the Fee Schedule set forth in the IPO. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. Requests for payment of reimbursable expenses shall be remitted with supporting documentation to substantiate the same. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the CITY. The CITY shall pay CONSULTANT within thirty (30) calendar days of approval by the CITY Administrator of any invoices submitted by CONSULTANT to the CITY.

4.2 Disputed Invoices. In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of

receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY shall pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

4.3 Suspension of Payment. In the event that the CITY becomes credibly informed that any representations of the CONSULTANT are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Agreement and/or any IPO, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of the Agreement(s), and the cause thereof, is corrected to the CITY'S satisfaction.

4.4 Final Payment. Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its subconsultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subconsultants, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

Section 5. Additional Services and Changes in Scope of Services.

5.1 Changes Permitted. Changes in the Scope of Services of an IPO consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the CITY by IPO Amendment, without invalidating the IPO.

5.2 IPO Amendment Defined. An IPO Amendment shall mean a written amendment to the IPO, executed by the CONSULTANT and the CITY, issued after execution of an IPO, authorizing and directing a change in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and/or the Contract Time may be changed only by an IPO Amendment.

5.3 Effect of Executed IPO Amendment. The execution of an IPO Amendment by the CITY and the CONSULTANT shall constitute conclusive evidence of the CONSULTANT'S agreement to the ordered changes in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The CONSULTANT, by executing the IPO Amendment, waives and forever releases any claim against the CITY for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed IPO Amendment.

5.4 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services of this Agreement. Such changes must be contained in a

written agreement executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Agreement, including the initiation of any extra work.

Section 6. CITY'S Responsibilities.

6.1 The CITY shall assist the CONSULTANT by placing at its disposal all available information as may be requested in writing by the CONSULTANT and shall allow reasonable access to all pertinent information relating to the services to be performed by the CONSULTANT.

6.2 The CITY shall furnish to the CONSULTANT, at the CONSULTANT'S written request, all available maps, plans, existing studies, reports, and other data, in the CITY'S possession, pertinent to the services to be provided by the CONSULTANT. CONSULTANT shall be entitled to rely on the completeness and accuracy of all information provided by the CITY or the CITY's consultants or representatives.

6.3 The CITY shall arrange for access to and make all provisions for the CONSULTANT to enter upon public property as required for the CONSULTANT to perform services.

Section 7. Code of Ethics.

7.1 The parties to this Continuing Professional Services Agreement, being the CITY of Chipley ("CITY") and Kimley-Horn and Associates, Inc. ("CONSULTANT"), hereby agree to adhere to the highest standards of ethical conduct in the performance of their duties under this Agreement. The following provisions shall apply:

- The code of ethics of the Florida Engineering Society is hereby incorporated into this Agreement by reference.
- The CONSULTANT warrants and represents that its employees shall abide by the Code of Ethics for Public Officers and Employees as set forth in Chapter 112, Florida Statutes.

7.2 Failure to comply with these ethical standards may result in immediate termination of this Agreement, at the CITY'S discretion, and may subject the CONSULTANT to other penalties as prescribed by law or ordinance.

Section 8. Policy of Non-Discrimination/Wages.

8.1 The CONSULTANT shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work and shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of work under this Agreement.

8.2 If the project is subject to federal and grant funding that requires specific wage and non-discrimination provisions, CONSULTANT shall be required to comply with the same.

Section 9. Ownership of Documents/Deliverables.

9.1 All finished or unfinished documents, including but not limited to, detailed reports, studies, plans, drawings, surveys, maps, models, photographs, specifications, digital files, and all other data prepared for the CITY or furnished by the CONSULTANT pursuant to any IPO, shall become the property of the CITY, including any intellectual property rights therein, whether the Project for which they are made is completed or not, and shall be delivered by CONSULTANT to the CITY within five (5) calendar days after receipt of written notice requesting delivery of said documents or digital files. The CONSULTANT agrees to assign all rights, title, and interest in such intellectual property to the CITY, unless otherwise agreed in writing. The CONSULTANT shall have the right to keep one record set of the documents upon completion of the Project, however, in no event shall the CONSULTANT, without the CITY'S prior written authorization, use, or permit to be used, any of the documents except for client or educational presentations or seminar use.

9.2 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, digital files, or other data, entered into by the CONSULTANT for each Specific project shall provide that all such documents and rights obtained by virtue of such contracts shall become the property of the CITY.

9.3 All final plans and documents prepared by the CONSULTANT shall bear the endorsement and seal of a person duly registered as a Professional Engineer, Architect, Landscape Architect, Professional Geologist, or Land Surveyor, as appropriate, in the State of Florida and date approved and/or sealed.

9.4 All deliverables should be provided in hard copy format as well as electronic format to the CITY. Drawings should be provided in CADD, spread sheets in Excel, and written documentation should be provided in Microsoft Word. The date of submittal to the CITY shall be deemed to be the latter of delivery of hard copies and delivery of electronic copies, as applicable.

9.5 Any modifications by the CITY to any of the CONSULTANT'S documents, without written authorization by the CONSULTANT will be at the CITY'S sole risk and without liability to the CONSULTANT.

Section 10. Records/Audits.

10.1 The CONSULTANT shall maintain and require subconsultants to maintain, complete and correct records, books, documents, papers, and accounts pertaining to the specific project. Such records, books, documents, papers, and accounts shall be available at all reasonable times for examination and audit by the CITY Administrator or any authorized CITY representative with reasonable notice and shall be kept for a period of three (3) years after the completion of each IPO. Incomplete or incorrect entries in such records, books, documents, papers, or accounts will be grounds for disallowance by or reimbursement to the CITY of any fees or expenses based upon such entries. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the CITY.

10.2 The CONSULTANT shall comply with Chapter 119, Florida Statutes, as applicable.

10.3 Refusal of the CONSULTANT to comply with the provisions of this clause shall be grounds for termination for cause by the CITY of this Agreement or any IPO.

Section 11. No Contingent Fee.

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event the CONSULTANT violates this provision, the CITY shall have the right to terminate this Agreement or any IPO, without liability, and at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Section 12. Independent Contractor.

The CONSULTANT is an independent contractor under this Agreement and any IPOs. Personal services provided by the CONSULTANT shall be by employees of the CONSULTANT and subject to supervision by the CONSULTANT, and not as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement or any IPOs shall be those of the CONSULTANT. The CONSULTANT warrants that the services provided and any intellectual property used under this Agreement do not infringe on any third-party intellectual property rights.

Section 13. Assignment; Amendments.

13.1 This Agreement shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the CONSULTANT, without the prior written consent of the CITY.

13.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

Section 14. Indemnification/Hold Harmless.

14.1 Pursuant to Section 725.08, Florida Statutes, the CONSULTANT shall indemnify, and hold harmless the CITY, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, to the extent caused by CONSULTANT'S, or any persons employed or utilized by the CONSULTANT in the performance of this Agreement or any IPO, negligent acts, errors or omissions, negligence, recklessness, or intentionally wrongful conduct in the performance of this Agreement. CONSULTANT shall reimburse the CITY for all its

expenses including reasonable attorneys' fees and costs incurred, up though and inclusive of any appeals, in and about the defense of any such claim or investigation and for any judgment or damages to the extent caused by CONSULTANT'S and/or and of the CONSULTANT'S subconsultant's negligent acts, errors or omissions, negligence, recklessness, or intentionally wrongful conduct.

14.3 The CONSULTANT shall indemnify, defend and hold harmless the CITY, its officers, agents and employees, from and against any and all claims, demands, suits, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from any actual or alleged intellectual property infringement in the performance of services under this Agreement.

14.4 The provisions of this section shall survive termination of this Agreement. Nothing contained herein shall in any way alter or diminish the CITY'S statutory or common law protections related to Sovereign Immunity.

14.4 Except as otherwise explicitly provided herein, in no event shall either Party, its parents, affiliates and subsidiaries or their respective directors officers or employees be liable to the other for any indirect, incidental, special, consequential or punitive damages whatsoever (including without limitation, loss of revenue, loss of use, or interruption of business) arising out of or related to this Agreement, even if advised of the possibility of such damages, and CONSULTANT hereby releases CITY and CITY hereby releases CONSULTANT from any such liability.

Section 15. Insurance.

The CONSULTANT shall secure and maintain throughout the duration of this Agreement and any IPO, insurance of such type and in such amounts necessary to protect its interest and the interest of the CITY against hazards or risks of loss as specified in the RFQ. This insurance shall also include intellectual property (IP) coverage to protect against any potential IP infringement claims related to the services provided under this Agreement or any IPO. The underwriter of such insurance shall be qualified to do business in Florida and have agents upon whom service of process may be made in the State of Florida. The CITY shall be listed as an additional insured on all policies, with the exception of workers' compensation coverage, if applicable. The insurance coverage shall be primary insurance with respect to the CITY, its officials, employees, agents, and volunteers. Any insurance maintained by the CITY shall be in excess of the CONSULTANT'S insurance and shall not contribute to the CONSULTANT'S insurance. Additionally, CONSULTANT shall obtain additional insurance coverage as the CITY may require for a specific IPO.

Section 16. Representative of CITY and CONSULTANT.

For the effective administration and management of the Continuing Services Agreement, the following representatives are hereby designated by the Parties:

- 16.1 CITY Representative: The CITY designates the CITY Administrator or their designee, as the official representative for the CITY. All communications pertaining to the day-to-day conduct of this Agreement shall be directed to the CITY Representative. It is the responsibility of the CONSULTANT to ensure that the CITY Representative is kept informed of all matters related to the execution of this Agreement.
- 16.2 CONSULTANT Representative: The CONSULTANT shall designate a representative who will be responsible for managing the day-to-day operations related to this Agreement. The CONSULTANT must inform the CITY Representative, in writing, of the designated CONSULTANT Representative. This ensures a clear line of communication is established between the Parties for the efficient execution of the Agreement.

This designation of representatives aims to facilitate prompt and efficient resolution of issues and to ensure that both Parties remain informed of progress and any challenges encountered during the execution of the Agreement.

Section 17. Cost and Attorney's Fees/Waiver of Jury Trial.

17.1 If either the CITY or CONSULTANT is required to enforce the terms of this Agreement or any IPO by court proceedings or otherwise, whether or not formal legal action is required, each party shall be responsible for their own costs and expenses, including attorneys' fees and costs, the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

17.2 In the event of any litigation arising out of this Agreement or IPO, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

Section 18. Priority of Authority of Instruments.

The relationship between the Parties shall be governed by several contract documents, all of which, when read together, shall constitute one agreement between the Parties. The contract documents include this Agreement, one or more ensuing IPOs, and the CITY solicitation documents. In the event of conflict between or amongst the contract documents, priority shall be as follows:

- A. IPO Amendment;
- B. IPO;
- C. this Agreement;
- D. the RFQ, including any addenda thereto.

Otherwise, there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in the aforementioned contract documents. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements whether oral or written.

Section 19. CONSULTANT'S Responsibilities.

19.1 Under the Continuing Professional Services Agreement, the CONSULTANT, Kimley-Horn and Associates, Inc., shall ensure that all its drawings, studies, plans, specifications, or other construction or contract documents prepared are accurate, coordinated, and adequate for construction. These documents must comply with all applicable published CITY Codes, as well as state, county, and federal laws, rules, and regulations.

19.2 The CONSULTANT is required to exercise the same degree of care, skill, and diligence in the performance of services for each IPO as is ordinarily provided by a professional engineer, architect, landscape architect, surveyor, or mapper under similar circumstances. Should it be determined at any time during the term of any IPO, or the construction of the Project for which services were provided under a prior IPO, that the CONSULTANT'S documents are incorrect, defective, or fail to conform to the Scope of Services for the particular Project, the CONSULTANT shall, upon written notification from the CITY, immediately proceed to correct the work. This includes re-performing services that failed to meet the aforementioned standard of care and paying all costs and expenses associated with correcting said incorrect or defective work. This also includes any additional testing, inspections, and construction and reimbursements to the CITY for any other services and expenses made necessary by such errors or omissions, except for any costs and expenses which the CITY would have otherwise paid absent the CONSULTANT'S error or omission.

19.3 The CONSULTANT'S obligations to maintain accuracy and integrity in their work and to correct any of its errors or defects at their own expense are in addition to, and cumulative of, any and all other rights and remedies provided by this Agreement, the IPO, by law, equity, or otherwise. Furthermore, the CONSULTANT shall maintain in good standing all required professional licenses and certifications required under federal, state, and local laws necessary to perform the services throughout the term of the Agreement.

19.4 The obligations of the CONSULTANT under subsection 20.2 of this Agreement shall survive the termination of this Agreement or any IPO, ensuring accountability and adherence to professional standards throughout and beyond the duration of the contractual relationship.

Section 20. Subconsultants.

20.1 In the event the CONSULTANT requires the services of any subconsultants or other professional associates in connection with services covered by any IPO, the CONSULTANT must secure the prior written approval of the CITY. The CONSULTANT shall comply with CITY procurement guidelines except where state or federal law, regulations, or grant requirements mandate to the contrary and use best efforts to utilize subconsultants whose principal place of business is located within the CITY or Washington County, Florida and adhere to all local CITY ordinances.

20.2 Any subcontract with a subconsultant shall afford to the CONSULTANT rights against the subconsultant which correspond to those rights afforded to the CITY against the CONSULTANT herein, including but not limited to those rights of termination as set forth herein.

20.3 No reimbursement shall be made to the CONSULTANT for any subconsultants that have not been previously approved by the CITY for use by the CONSULTANT.

20.4 Any subconsultant shall be bound by the terms and conditions of this Agreement and comply with the same insurance requirements as described in Section 16.

Section 21. Employment Eligibility Verification (E-Verify).

21.1 The CONSULTANT must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States. The provisions of 48 CFR 52.222-54 (as amended) are incorporated herein by reference. In accordance with Subpart 22.18 of the Federal Acquisition Register, the CONSULTANT must:

1. Enroll in the E-Verify Program.
2. Use E-Verify to verify the employment eligibility of all new hires working in the United States.
3. Use E-Verify to verify the employment eligibility of all employees assigned to the Agreement.
4. Include this requirement in certain subcontracts, such as those for construction.

Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

21.2 The CONSULTANT shall also comply with Florida Statute 448.095, which directs all public employers, including municipal governments, and private employers with twenty-five or more employees to verify the employment eligibility of all new employees through the U.S. Department of Homeland Security's E-Verify System. Furthermore, a public entity may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Florida Statute 448.095 further provides that if a CONSULTANT enters into a contract with a subcontractor, the subcontractor must provide the CONSULTANT with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. In accordance with Florida Statute 448.095, the CONSULTANT, if it employs more than twenty-five employees, is required to verify employee eligibility using the E-Verify system for all existing and new employees hired by the CONSULTANT during the contract term. Furthermore, the CONSULTANT must also require and maintain the statutorily required affidavit of its subcontractors. It is the responsibility of the CONSULTANT to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<https://www.everify.gov/employers/enrolling-in-e-verify>) and follow the

instructions. The CONSULTANT must retain the I-9 Forms for inspection and provide an executed E-Verify Affidavit, which is attached hereto as Exhibit "E".

Section 22. Scrutinized Companies.

22.1 In accordance with Florida Statutes and in alignment with the CITY'S commitment to ethical business practices, the CONSULTANT agrees to not engage in any business operations with scrutinized companies located in or doing business with countries designated by the state of Florida as supporting terrorism. The CONSULTANT further commits to not engaging in any actions that would cause the CITY to be in violation of state or federal laws regarding dealings with scrutinized companies.

22.2 For the purposes of this Agreement, a "scrutinized company" is defined as any business or entity that has been identified by the state of Florida as engaging in activities or operations that are in violation of federal laws pertaining to the support of terrorism, human trafficking, or other activities deemed unethical or illegal under Florida law.

22.3 Should the CONSULTANT be found in violation of this clause, it shall constitute a material breach of this Agreement, warranting immediate termination and subject to legal action as deemed appropriate by the CITY. The CONSULTANT is required to immediately notify the CITY if it becomes aware of any potential violations of this clause during the term of the Agreement.

Section 23. Compliance with Florida Public Record Law.

Pursuant to Section 119.0701, Florida Statutes, CONSULTANT agrees to:

1. Keep and maintain public records in CONSULTANT'S possession or control in connection with CONSULTANT'S performance under this agreement. CONSULTANT shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the CITY.
2. Upon request from the CITY'S custodian of public records, CONSULTANT shall provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
3. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the CITY. Notwithstanding, it is understood that at all times CONSULTANT'S workpapers shall remain the sole property of CONSULTANT and are not subject to the terms of this Agreement. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to this Agreement in the possession of CONSULTANT shall be delivered by CONSULTANT to the CITY Administrator, at no cost to the CITY, within seven (7) days. All such records stored electronically by CONSULTANT shall be delivered to the CITY in a format that is compatible with the CITY'S information technology systems. Once the public

records have been delivered upon completion or termination of this Agreement, CONSULTANT shall destroy any and all duplicate records that are exempt or confidential and exempt from public records disclosure requirements. Notwithstanding the terms of this Section, the Parties agree and it is understood that CONSULTANT will maintain a copy of any information, confidential or otherwise, necessary to support its work product generated as a result of its engagement for services, solely for reference and archival purposes in accordance with all applicable professional standards, which will remain subject to the obligations of confidentiality herein.

4. Any compensation due to CONSULTANT shall be withheld until all records are received as provided herein.
5. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CITY.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE PROVIDER SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (TELEPHONE NUMBER: (850) 638-6350; E-MAIL ADDRESS: Ssnell@cityofchIPLEY.com, AND MAILING ADDRESS: 1442 Jackson Avenue, Chipley, FL 32428).

Section 24. Notices.

Whenever either party desires to give notice to the other under this Continuing Professional Services Agreement, such notice must be given by hand delivery, or written notice sent by certified United States mail, with return receipt requested, or by a nationally recognized private mail delivery service. Notices must be addressed to the party for whom it is intended, at the address last specified in writing between the parties, and in compliance with the provisions of this clause. The addresses designated for giving of notice are as follows:

- For the CITY:
 - CITY of Chipley
 - Attention: CITY Administrator
 - 1442 Jackson Avenue
 - Chipley, FL 32428
 - Telephone: (850) 638-6350

- With a copy to:
 - Michelle Blankenship Jordan, City Attorney
 - PO Box 548
 - Chipley, FL 32428

- For the CONSULTANT:
 - Kimley-Horn and Associates, Inc.
 - 2 Alhambra Plaza, Suite #500
 - Coral Gables, FL 33134
 - Telephone: (305) 673-2025

The parties may update their respective addresses for notice by providing written notice to the other party in accordance with the terms of this clause.

Section 25. Truth-In-Negotiation Certificate.

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement or any IPO are accurate, complete, and current at the time of contracting. Each IPO's contract prices and any additions shall be adjusted to exclude any significant sums by which the CITY determines the Project's contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one year following the end of each IPO.

Section 26. Consent to Jurisdiction.

The parties, CITY OF CHIPLEY, FLORIDA ("CITY") and KIMLEY-HORN AND ASSOCIATES, INC. ("CONSULTANT"), hereby agree and submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of or relating to this Continuing Services Agreement or any IPO issued pursuant thereto. Venue for any action to enforce this Continuing Services Agreement or any IPO any legal suit, action, or proceeding arising out of or related to this Agreement or the IPOs shall be in the courts of the 14th Judicial Circuit in and for Washington County, Florida, or, in the event of federal jurisdiction, the United States District Court for the Northern District of Florida.

Section 27. Governing Law.

This Agreement and any IPO issued hereunder shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of laws principles.

Section 28. Headings.

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

Section 29. Exhibits.

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated by reference.

Section 30. Severability.

If any provision of this Agreement or any IPO or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 31. Survival of Provisions.

Any terms or conditions of either this Agreement or any subsequent IPO that require acts beyond the date of the term of either agreement, shall survive termination of the agreements, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

Section 32. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

Section 33. Force Majeure.

It is understood that performance of any act by the CITY or CONSULTANT hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts, pandemics or any cause beyond the reasonable control of such party, provided however, the CITY shall have the right to provide substitute service from third parties or CITY forces as may be necessary to meet CITY needs. In the event of a force majeure, the CITY may, at its option and discretion, cancel or renegotiate the Agreement.

Section 34. Interpretation.

34.1 The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

34.2 Preparation of this Agreement has been a joint effort of the CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

Section 35. Third Party Beneficiary.

CONSULTANT and the CITY agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

Section 36. No Estoppel.

Neither the CITY'S review, approval, and/or acceptance of, or payment for services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement. The CONSULTANT shall be and remain liable to the CITY in accordance with applicable laws for all damages to the CITY caused by the CONSULTANT'S negligent performance of any of the services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

FLORIDA STATUTE 558.0035. PURSUANT TO FLORIDA STATUTES CHAPTER 558.0035, A DESIGN PROFESSIONAL EMPLOYED BY CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF A PROFESSIONAL SERVICES CONTRACT.

Section 37. Conclusion.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives. The CITY of Chipley, Florida ("CITY"), acting by and through its CITY Administrator, and attested by its CITY Clerk, and Kimley-Horn and Associates, Inc. ("CONSULTANT"), acting by and through a duly authorized representative, have executed this Continuing Professional Services Agreement on the respective dates set forth below their signatures. This document and any attachments hereto constitute the complete and exclusive statement of the agreement between the parties with respect to its subject matter and supersedes all proposals, understandings, representations, prior agreements, or communications relating to the subject matter of this Agreement. Each party warrants that the person signing this Agreement on its behalf is duly authorized to do so and that this Agreement is binding upon the parties in accordance with its terms.

(SIGNATURES TO FOLLOW ON NEXT PAGE)

CITY OF CHIPLEY

Tracy Andrews, Mayor

ATTEST:

Sherry Snell, City Clerk

**KIMLEY-HORN AND
ASSOCIATES, INC.**

By:

Witness:

Witness:

Print Name:

Print Name:

(EXHIBITS TO FOLLOW)

INDIVIDUAL PROJECT ORDER NUMBER _____

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant), and The City of Chipley (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated _____, which is incorporated herein by reference.

Identification of Project:

Project Name: Live Local Analysis
KH Project Manager: Ali Palmer
Project Number: TBD

Specific scope of basic Services:

Task 1 - Project Kick-Off and Management

Up to two (2) Kimley-Horn staff members will meet with the Client for a virtual 1-hour kick-off meeting. The Client may invite staff from other City departments to participate in the meeting and provide input. The goal of this meeting will be to:

- Introduce team members of the team to discuss roles and responsibilities.
- Discuss the City's specific desired objectives and outcomes.
- Confirm the tentative project schedule and milestones.
- Discuss the goals of stakeholder engagement.
- Develop a list of data needs from the City.

Up to one (1) Kimley-Horn staff member will facilitate a project progress call once a month with the City to review the work assignments, project status, data/analysis needs, and similar, through the end of this assignment not to exceed three (3) one-hour meetings.

Tasks to be completed/deliverable:

- Project Kick-Off Meeting Summary (PDF)
- Monthly update call with follow up email summary

Task 2 – City Mapping Analysis

Kimley-Horn will perform a mapping exercise to identify which areas of the city may be impacted as allowed under the Live Local Act per the current City zoning. According to the Live Local Act, affordable housing in commercial, industrial, and mixed-use zones are entitled to use, density, and height (intensity) allowances. This task will examine the City's current Future Land Use Map, Zoning Map and Zoning Code including height and density regulations.

Kimley-Horn will provide one (1) draft of the map for the Client to review and provide comment. The Client shall collect comments from each reviewer and provide one consolidated set of comments to Kimley-Horn in the original PDF document. Kimley-Horn will revise the mapping once to address Client comments and provide the final draft to the Client as part of Task 3.

Tasks to be completed/deliverable:

- One live local impact map

Task 3 – Live Local Act Analysis White Paper

Kimley-Horn will prepare one (1) white paper focusing on the impact of the Live Local Act on the City of Chipley. This white paper, not to exceed 10 pages, will address the map findings and will further discuss how Live Local will impact each applicable zoning district within the City. The analysis will also identify land areas that may be most appropriate for the application of the Live Local allowances and will summarize level of service impacts for each type of zoning district that may be impacted. The final map from Task 2 will be used as supporting exhibits in this white paper.

Kimley-Horn will provide one (1) draft of the white paper for the Client to review and provide comment. The Client shall collect comments from each reviewer and provide one consolidated set of comments to Kimley-Horn in the original Word document. Kimley-Horn will revise the white paper once to address Client comments and provide the final draft to the Client.

Schedule:

Kimley-Horn will develop a detailed schedule at the project kick off meeting with City staff.

Terms of compensation:

TASK	DESCRIPTION	FEE
1	PROJECT KICK OFF & MANAGEMENT	\$1,500
2	MAPPING	\$5,000
3	WHITE PAPER	\$7,000
	TOTAL	\$13,500

ACCEPTED:

CLIENT

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY: _____

TITLE: Mayor _____

TITLE: _____

P.E. No.: _____

DATE: _____

DATE: _____

DRAFT



Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

Classification	<i>Rate</i>
Analyst I	\$135 - \$165
Analyst II	\$175 - \$205
Professional	\$200 - \$235
Senior Professional I	\$250 - \$325
Senior Professional II	\$345 - \$420
Senior Technical Support	\$120 - \$300
Technical Support	\$105 - \$170
Support Staff	\$90 - \$150

Effective through June 30, 2025

Subject to annual adjustment thereafter

Internal Reimbursable Expenses will be charged at 5% of Labor Billings