



January 5, 2026

Scott Barrow, City Manager
City of King
229 South Main Street
King, NC 27021

Re: Letter Agreement for Professional Services for a Comprehensive Plan Update

Dear Mr. Barrow:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") submits this Letter Agreement ("Agreement") to the City of King ("Client") for providing an update to the City of King's Comprehensive Plan ("Project").

Scope of Services

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

TASK 1 – PROJECT INITIATION AND MANAGEMENT

Task 1.1 – Project Work Plan and Data Assembly

The Consultant will create a project work plan that includes an overview of the planning process and milestone schedule. The project work plan also will include a community engagement strategy that describes the type and timing of engagement activities. The Consultant will submit a digital draft to the Client and will address one (1) round of consolidated comments.

The Consultant will submit a written request for technical data (e.g., GIS data) and applicable documents (e.g., previous plans, local ordinances, approved developments). The Client will assemble and transmit the data to the Consultant using a ShareFile site provided by the Consultant. The Client will provide the Consultant with requested county- or municipal-managed GIS data, as available. The Consultant will obtain other data (e.g., demographics, community attributes, and publicly-available information).

Task 1.2 – Kickoff Meeting and Tour

The Consultant will facilitate a kickoff meeting with City staff to review the project work plan, previous planning efforts, data collection, and project goals and objectives. Following the meeting, attendees will participate in a driving tour of the City to view items addressed during the discussion. The Consultant will coordinate with the Client on the meeting date, time, and venue.

Task 1.3 – Client Coordination and Progress Reporting

The Consultant will conduct bi-weekly coordination calls with a core team of City staff and provide a web-based meeting platform for video conference calling. The Consultant will provide monthly invoices and monthly written project status summary reports.

TASK 2 – COMMUNITY ENGAGEMENT

Task 2.1 – Project Branding

The Consultant will develop two (2) options for a coordinated branding theme for the planning effort, including a project moniker, color scheme, and design templates for deliverables. The Client will select the preferred option, which the Consultant will incorporate into materials generated by the project team. Design files will be provided to the Client for future use.

Task 2.2 – Project Website and Digital Engagement

The Consultant will create an interactive project website using the Social Pinpoint platform to serve as the digital project hub for the comprehensive plan. The hub will include project information, opportunities to provide feedback, and a schedule of events, as applicable. The Consultant will perform setup, management, and content curation exclusively for and throughout the duration of the comprehensive plan process. The project website will use automated translation functionality provided by Social Pinpoint. The project website will remain active for six months following the adoption of the comprehensive plan. The Consultant will provide the Client with access to the administrative functions of the website.

Task 2.3 – Advisory Committee Meetings

The Client will identify members for an Advisory Committee to guide the comprehensive plan process. The Consultant will prepare materials for and facilitate up to three (3) meetings with the Advisory Committee, not to exceed 120 minutes per meeting. At the Client's request, the Consultant will meet with the City Council as an initial advisory meeting for up to 120 minutes, and such meeting will be considered one of the three meetings required by this Task. The Consultant will coordinate with the Client on the meeting dates and times. The Client will reserve meeting space and, if desired by Client, provide food/beverages. The Consultant will send out meeting notifications to participants, track RSVPs, prepare meeting materials, facilitate the meetings, and summarize meeting attendance and outcomes. Additional meetings can be arranged as additional services.

Task 2.4 – Planning Board / City Council Meetings

The Consultant will prepare materials for and facilitate one mid-progress work session or presentation with either the Planning Board or City Council or a joint work session not to exceed 90 minutes. The Consultant will coordinate with the Client regarding the date and time of the work session. The Client will reserve meeting space, send meeting notifications, and, if desired by Client, provide food/beverages. The Consultant will prepare meeting materials, facilitate the meetings, and summarize outcomes. Additional work sessions can be accommodated as additional services.

The Consultant will participate in up to two (2) presentations to the Planning Board or City Council for adoption. The Client will ensure the comprehensive plan appears on the agenda and will coordinate posting notices of a public hearing, if applicable. The Consultant will prepare materials for the presentations. Additional presentations can be accommodated as additional services.

Task 2.5 – Stakeholder Engagement / Community Group Meetings

The Consultant will work with the Client to identify stakeholders or established community groups. The Consultant will meet with four (4) groups for up to 90 minutes each. Once the groups are identified, the format (e.g., roundtable discussion, drop-in work session, lunch and learn) will be determined in consultation with the Client. The Client will reserve meeting space or secure time on the agenda of a standing meeting of the community group. Should the Client choose to convene a set of stakeholders, the Client will be responsible for contacting stakeholders and scheduling the meeting(s). The Consultant will prepare materials, facilitate, and summarize outcomes. Additional meetings, including one-on-one discussions, can be accommodated as additional services.

Task 2.6 – Community Charrettes

The Consultant will facilitate up to two (2) community charrettes of up to two (2) hours each with the format and timing to be determined in consultation with the Client. Up to two (2) Consultant team members will attend the charrettes. The Client will be responsible for reserving meeting space and promoting the workshops using marketing materials developed by the Consultant. The Client will provide incidentals, such as refreshments, if desired. The Consultant will prepare materials, facilitate the workshops, and summarize outcomes. Additional workshops can be accommodated as additional services.

Task 2.7 – Special Event

The Consultant will participate in one (1) special event (e.g., having a booth at a festival, farmers' market, or other scheduled community event). Other special event options could include school or community organization activities. The event will be selected in consultation with the Client. Up to two (2) Consultant team members will attend the event for up to three (3) hours. The Client will be responsible for reserving space at the event and providing tables, chairs, and tent (if necessary). In addition to the special event attended by the Consultant, the Consultant will prepare materials for use by the Client at up to two (2) additional special events. Additional special events can be accommodated as additional services.

Task 2.8 – Community Engagement Summary

The Consultant will summarize engagement activities in a PowerPoint slide deck to reflect the activity's timing, purpose, audience, and outcome. The summary will document the number of participants, data points, and written comments. As part of Task 6.2, the Consultant will provide print- and web-ready PDFs and the source files from the Community Engagement Summary.

TASK 3 – COMMUNITY CHARACTERISTICS

Task 3.1 – Existing Plan Review and Code Diagnostic

The Consultant will review up to eight (8) plans to evaluate how these documents influence land use, transportation, environment, parks and recreation, and the provision of community services and facilities. Vision statements, goals, and recommendations from these plans will be summarized to better understand how these plans relate to and inform the development of the comprehensive plan.

Task 3.2 – Community Assessment

The Consultant will obtain and review demographic indicators for population (e.g., growth trends, demographics), development (e.g., age of structure, sales, building permits, vulnerability), housing (e.g., supply and diversity), economy (e.g., employment status, income, poverty status), and education (e.g., education attainment, school enrollment).

Task 3.3 – Land Use Screening

The Consultant will determine development status by categorizing parcels in the study area based on tax value (land and improvement value), size, and existing land use to identify areas susceptible to change. The development status analysis will be based on the most recent available tax parcel data provided by the Client. The Consultant will describe development status using categories such as developed, undeveloped, underdeveloped large parcel, underdeveloped small parcel, and conserved open space based on parcel analysis. The Consultant will account for approved developments by overlaying information provided by the Client on the map. The land use screening will identify locations theoretically able to receive new growth.

Task 3.4 – Natural and Built Environment

The Consultant will map the study area's natural features, including environmental areas, green infrastructure, bodies of water, wetlands and floodplains, and parks. The Consultant also will map physical features, such as places of worship, cultural resources, medical facilities, and historic districts and sites. Community facilities—such as schools; libraries; civic uses; and fire, police, and rescue stations—also will be documented. For utilities, the Consultant will build upon the review of current plans and use existing GIS utility system mapping, as available, to document existing infrastructure. The Consultant will rely on previous planning efforts and available data (e.g., traffic counts, crash statistics, existing infrastructure) to document transportation issues and needs.

Task 3.5 – Community Characteristics Summary

The Consultant will summarize the community characteristics in a PowerPoint slide deck. An electronic copy of the summary will be submitted to the Client for review. The Client will coordinate the review process and will provide one (1) set of consolidated comments to the Consultant. The Consultant will revise the summary one (1) time based on the consolidated comments from the Client and provide a digital copy of the final slide deck. Information from the summary will be folded into the comprehensive plan report.

TASK 4 – VISION AND LAND USE STRATEGY**Task 4.1 – Guiding Statements**

The Consultant will establish guiding statements based on the understanding of community characteristics and the synthesis of initial community engagement activities. The guiding statements will include information such as a vision and supporting planning themes that identify strengths and opportunities and represent characteristics experienced or desired by the people who live, work, and visit the study area.

Task 4.2 – Conceptual Land Use Strategy

The Consultant will create a list of conceptual ideas and a supporting map to help ensure the land use strategy responds to current and projected conditions in the study area as well as community feedback.

Task 4.3 – Future Land Use Map and Classifications

The Consultant will create a new future land use map to communicate preferred future land uses in the study area. The Consultant will begin by establishing a set of land use classifications that describe intended uses and design characteristics. Then, the Consultant will work with the City staff to apply the land use classifications to create a new future land use map for the study area.

TASK 5 – POLICY FRAMEWORK AND IMPLEMENTATION

Task 5.1 – Framework Elements

The Consultant will develop supportive policies for the land use strategy. The organization of the policy framework will be determined in collaboration with the Client and may be tied to specific topics or the comprehensive plan’s guiding statements. Topics shall include Demographics & History, Citizen involvement, Economic Development, Land Use, Growth Management, Recreation & Quality of Life, Transportation, Infrastructure, Natural Resources/Environment, Historic Preservation, Community Services/Capital Improvements, Programs and Financing/Resources and Strategies, Marketing and Branding.

Task 5.2 – Implementation Guidebook

The Consultant will identify strategies (plans, programs, policies, and projects) based on the policy framework. The strategies will be placed into a matrix that shows implementation tiers, including short-term opportunities (e.g., 5-, 10-, and/or 15-year horizon) and longer-term strategic investments. The Consultant will develop an action plan that shows likely costs, who is best positioned to lead, what partners need to be engaged, and potential funding sources (if applicable). The action plan will outline the next steps and will be organized in a way that allows staff and decision-makers to track progress and schedule future improvements.

TASK 6 – DOCUMENTATION

Task 6.1 – Comprehensive Plan Report

The Consultant will create a comprehensive plan report to communicate the process and outcomes of the comprehensive plan. The Consultant will provide a design template and outline that describes the major elements, sections, and maps to be included in the draft report. The Client and Consultant will work collaboratively to limit the rounds of edits based on the following review process:

- Draft 1: Initial Staff Review—An electronic copy of the draft report will be submitted to the Client for review. The Client will coordinate the review process and will provide one (1) set of consolidated comments to the Consultant.

- Consultant Team Revision 1: The Consultant will revise the report based on the comments provided.
- Draft 2: Planning Board and City Council Review—The Consultant will provide a draft for review by the Planning Board and City Council. The Consultant and Client will review the input received and create a set of consolidated comments.
 - Consultant Team Revision 2: The Consultant will revise the report based on the consolidated comments.
- Draft 3: Adoption Draft—As outlined in Task 2.4, the Consultant will present the Adoption Draft at up to two meetings, which could include presentations to the Planning Board for the recommendation for adoption and to the City Council for adoption.
 - Consultant Team Revision 3: The Consultant will revise the report to correct minor editorial edits, such as spelling and grammar mistakes.

Following Consultant Team Revision 3 and as part of Task 6.2, the Consultant will provide print- and web-ready PDFs as well as the source files of the final report.

Task 6.2 – Technical Data and Digital Files

Following adoption, the Consultant will compile technical data (e.g., spreadsheets, GIS map packages, and geodatabase) and digital files (e.g., report, images, graphics, maps) for delivery via ShareFile. Print- and web-ready PDFs of the final report and executive summary will be provided. Adobe InDesign files will be packaged and provided to the Client to allow the Client full access to the document for future revisions and updates to the document, images, and graphics.

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:

- Additional meetings, workshops, work sessions, or special events
- Meetings, workshops, work sessions, or special events that exceed the duration of those described in Task 2
- A detailed, and standalone, market study that builds upon the work described in the Scope of Services
- Water and sewer analysis and master planning
- Land use scenario planning
- Updates to the City's land development regulations

Information Provided By Client

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

Schedule

Kimley-Horn will perform the services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule, which schedule shall not unreasonably deviate from the schedule set forth in the City's September 16, 2025, Request for Proposal.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 - 6 for the total lump sum fee of \$91,510. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will

be due within 30 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 Negotiated Standard Provisions and the City of King Comprehensive Planning Services Agreement Addendum (the "Addendum"), which are incorporated by reference. As used in the Negotiated Standard Provisions and the Addendum, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the City of King, NC.

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. CITY OF KING, NC

Signed:	SIGNED: _____
Printed Name:	PRINTED NAME: _____
Title:	TITLE: _____
	DATE: _____

Client's Federal Tax ID: _____
 Client's Business License No.: _____
 Client's Street Address: _____

Attachment – Request for Information

Attachment – Negotiated Standard Provisions

KIMLEY-HORN AND ASSOCIATES, INC.
NEGOTIATED 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 30 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 30 days at the maximum rate allowed by law, in accordance with N. C. Gen. Stat. § 24-1. If the Client fails to make any payment due under this or any other agreement within 45 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. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination. If terminated, Client shall be the owner of all work product produced through the last paid invoice.
- 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, 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 where the Project is located. 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.