

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
CONTINUING SERVICES**

**THIS PROFESSIONAL SERVICES AGREEMENT (AGREEMENT)** is made and entered into this fifteenth (15) day of May 2024 by and between the Town of Lake Park, a municipal corporation of the state of Florida, 535 Park Avenue, Lake Park, Florida, 33403 (the "Town") and Kimley-Horn and Associates, Inc., 1920 Wekiva Way, Suite 200, West Palm Beach, FL 33411 (the "Consultant"), (collectively the Parties).

**WITNESSETH THAT:**

**WHEREAS**, the Town is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is empowered to enter into agreements for certain continuing professional services; and

**WHEREAS**, the Town issued a Request for Qualifications (RFQ) to solicit from certain professional consulting firm's proposals to provide continuing professional service; and

**WHEREAS**, the Town established eleven professional work categories and on October 24, 2023, received seventeen responses to its RFQ; and

**WHEREAS**, on November 9, 2023, a Town Evaluation Committee ranked the seventeen responses for each of the eleven work categories, and Consultant was a top ranked firm for Category G (Environmental Planning & Studies), and Category K (Urban Planning), and

**WHEREAS**, in its response to the RFQ, Consultant represented to the Town that it is qualified and able to provide the services described in Categories G, & K; and

**WHEREAS**, the parties have agreed to a three-year agreement, with an option to extend the agreement for two additional two-year terms by mutual consent; and

**WHEREAS**, the Town Manager has recommended to the Town Commission that the Town enter into this Agreement with Consultant.

NOW THEREFORE, the Town and the Consultant in consideration of the benefits flowing from each to the other do hereby agree as follows:

NOW THEREFORE, the TOWN and the CONSULTANT in consideration of the

benefits flowing from each to the other do hereby agree as follows:

## **1. SCOPE OF WORK, WORK ORDERS, SERVICES AND PERFORMANCE:**

1.1 The Consultant shall, to the satisfaction of the Town, fully and timely provide professional services for the following disciplines:

- **Environmental Planning and Studies, services.**
- **Urban Planning**

The specific scope of services for assigned projects shall be detailed in individual Work Orders. The Work Orders may provide for compensation in a lump sum, hourly rate, time and material, or a combination thereof as described below in "3, Consideration." The Town specifically reserves the right to determine whether any specific task requested by the Town is within the scope of work to be provided by the Consultant. Consultant understands and acknowledges that this Agreement does not obligate the Town to provide Consultant with a minimum or guaranteed amount of work. The parties also agree and understand that funding for any Work Order is subject to the Town Commission budgeting and appropriating funds for the work.

1.2 Before making any additions or deletions to the work described in the Agreement, and before undertaking any changes or revisions to any work assigned pursuant to a Work Order, the revisions or changes to the Work Order shall be the subject of a written, approved amendment to the Work Order.

1.3 In the performance of professional services, the Consultant shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. (the "Standard of Care"). The Consultant shall use due care in performing its services and shall have due regard for acceptable professional standards and principles. Consultant's standard of care shall not be altered by the application, interpretation, or construction of any other provision of this Agreement.

## **2. TERM**

2.1 The term of this Agreement is for three (3) years. Upon the mutual agreement of the Town and the Consultant, and the execution of an amendment to the Agreement, it may be renewed at the end of the initial three (3) year term for two additional two (2) year terms commencing on the anniversary date of this Agreement.

### **3. CONSIDERATION**

- 3.1 As consideration for providing the services set forth in this Agreement for any Work Orders, the Town shall pay the Consultant a mutually agreed upon lump sum dollar amount.

The lump sum dollar amount for each Work Order shall be the exclusive basis for the Consultant's compensation for the specific Work Order, including all of the Consultant's fees and costs.

- 3.2 Consultant agrees that it shall pay its personnel based upon the hourly rates, attached hereto as "Exhibit C." The hourly rates paid to its personnel shall remain in effect for a period of one (1) year from the date of execution of the Agreement. At the end of the initial one (1) year period and each following one (1) year period, the contractor, shall have opportunity to resubmit their hourly rates schedule for Town review, acceptance and possible agreement amendment to establish new rates.

- 3.3 Pursuant to Section 287.055(5)(a), Florida Statutes, the signature of this Agreement by an authorized signature of Consultant serves as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. The Consultant agrees that the Town may adjust the consideration for this Agreement to exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other actual unit costs. The Town may make any such adjustment within the term of this Agreement.

### **4. EQUAL OPPORTUNITY/MBE PARTICIPATION**

- 4.1 The Consultant hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this Agreement. The Consultant shall take all measures necessary to effectuate these assurances.

- 4.2 The Consultant acknowledges that the Town encourages the participation of minority owned, and women owned business enterprises in the Town's procurement and contracting activity. Accordingly, the Consultant shall take all necessary and reasonable steps to ensure that women and minority business enterprises (W/MBE) have the opportunity to compete for and perform work related to this Agreement.

## 5. NON-EXCLUSIVITY

The award of this Agreement shall not impose any obligation on the Town to utilize the Consultant for all work within its profession for, which the Town may requires said professional services during the term of the Agreement. The Town specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the Town's best interest.

## 6. INVOICING AND PAYMENT

- 6.1 The Consultant's invoices shall reference **RFP #113-2023** and shall be emailed or mailed to the following address:

Finance Department  
Town of Lake Park  
Attn: Account Payable  
535 Park Avenue  
Lake Park, Florida 33403  
[accountpayable@lakeparkflorida.gov](mailto:accountpayable@lakeparkflorida.gov)

- 6.2 Bills for fees or other compensation for services or expenses shall be submitted to the Town in in detail sufficient for a proper review and determination that the requested compensation corresponds with the completed and billed work. All bills for services shall be accompanied by an appropriate invoice. This appropriate invoice shall include the work order number, the original value of the work order, the amount of work billed to date, the amount of the current invoice and the amount remaining for the work order.
- 6.3 The bills for any travel expenses shall only be payable on a reimbursement basis, when authorized by the Town. The consultant shall submit all documentation, including receipts in order to be entitled to reimbursement in accordance with Section 112.061, Florida Statutes.
- 6.4 Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Town at all times during the term of this Agreement and for three years after final payment for any of the work-orders have been made. Copies of these records shall be promptly furnished to the Town upon written request.
- 6.5 Records of costs incurred shall include the Consultant's general accounting records and the project records, together with supporting documents and records, of the Consultant and any approved Sub-consultants performing work pursuant to a work order, and all other records of Consultant and

approved Sub-consultants considered necessary by the Town for a proper audit of project costs.

- 6.6 The Town shall pay the full amount of the invoice within thirty (30) days of receipt, upon acceptance of the work by the Town's assigned project manager.

## **7. INDEMNIFICATION AND INSURANCE**

- 7.1 For One Hundred Dollars and No Cents (\$100.00) consideration, the sufficiency of which is hereby acknowledged, payable as part of and included in the first payment hereunder, the Consultant shall, indemnify, and hold the Town, its elected and appointed officials, assigns, and employees, harmless from, damages, losses, liabilities, expenses, costs, and attorney's fees related to such claims to the extent caused by any negligent act or omission, or the violation of any federal, state, or local law or regulation, by the Consultant, its subcontractors, agents, assigns, invitees, or employees in the performance of this Agreement. The Consultant further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Agreement.
- 7.2 The Consultant shall procure and maintain, through the term of this Agreement, insurance coverage reflecting, at a minimum, the limits and coverage conditions identified on the attached "Exhibit D" and made a part of this Agreement. The insurance limits and coverage conditions identified require first dollar coverage except for Auto Property Damage. All deductibles will require prior written approval by the Town. The Town shall be named as an "additional insured" under the General and Automobile insurance. The coverage required shall extend to all employees and subcontractors of the Consultant.

The Consultant shall provide the Town certificates of insurance as proof of insurance prior to the commencement of any performance by the Consultant. The Consultant shall notify the Town at least thirty (30) days prior to cancellation of any insurance policy required under this Agreement. The failure to provide the Town with proof of insurance, or the cancellation of any insurance policy during the term of this Agreement shall be cause for the Town's termination of the Agreement. IN the event any insurance policy required by this Agreement shall lapse, be cancelled or terminated, Consultant shall immediately provide the Town with a certificate of insurance for a new policy.

## **8. TERMINATION/REMEDIES**

8.1 If the Town fails to fulfill its obligations under this Agreement, the Consultant shall have the right to terminate this Agreement; however, prior to the Agreement's termination, the Consultant shall provide the Town with written notice of the Town's failure to comply with its obligations. The Town shall then have ten (10) calendar days from receipt of notice to correct the noticed deficiency. If the Town fails to correct the deficiency within this time, this Agreement shall terminate at the expiration of the ten (10) daytime period.

8.2 The Town may terminate this Agreement in whole, or for the performance of any work orders issued under this Agreement whenever the Town shall determine that such termination is in the best interest of the Town. Any such termination shall be effected by delivery to the Consultant of a written notice specifying the work order under the Agreement being terminated, or that the Agreement in whole is terminated, and the date upon which such termination becomes effective. In the event of termination, the Town shall compensate the Consultant for all authorized and accepted work performed up to the termination date. The Town shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this Agreement. The Town may withhold all payments to the Consultant where any work has not been performed to the Standard of Care.

8.3 The Town reserves the right to cancel and terminate this Agreement in the event the Consultant or any employee or agent of the Consultant is convicted for any crime arising out of or in conjunction with any work being performed by the Consultant for or on behalf of the Town, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans specifications, computer files, maps, and data prepared or obtained under this Agreement shall immediately be turned over to the Town. The Town reserves the right to terminate or cancel this Agreement in the event the Consultant will be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. The Town further reserves the right to suspend the qualifications of the Consultant to do business with the Town upon any such conviction.

## **9. ATTORNEY FEES**

If either party initiates legal action, including appeals, to enforce this Agreement, the prevailing party shall be entitled to recover an attorney's fee.

## 10. STANDARDS OF COMPLIANCE

- 10.1 The Consultant, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement. The Town undertakes no duty to ensure such compliance, but will attempt to advise the Consultant, upon request, as to any such laws of which it has present knowledge.
- 10.2 The Consultant, by its execution of this Agreement, acknowledges and attests that, neither the employees of Consultant nor any of its suppliers, subcontractors or affiliates who shall perform work which is intended to benefit the Town, has been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public entity crime, a period longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. The Consultant further understands and acknowledges by its execution of this Agreement, that this Agreement shall be null and void, and/or that this Agreement is subject to immediate termination by the Town, for any misstatement or lack of compliance with the mandates of said statute. The Town, in the event of such termination, shall be relieved of its obligation's hereunder to compensate the Consultant for any work or materials furnished.
- 10.3 The Consultant shall not be exempted from paying Florida sales and use taxes to the appropriate governmental agencies or for payments the Consultant is obligated to make to suppliers for taxes on materials it uses to fulfill its contractual obligations with the Town. The Consultant shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes it is obligated to pay as a result of this Agreement.
- 10.4 Pursuant to Section 287.055(6), Florida Statutes, the Consultant warrants that it has not employed or retained any person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement. Further the Consultant warrants that he has not paid or agreed to pay any person, 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 awarding or making of this Agreement. For breach of this provision, the Town may terminate this Agreement without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.
- 10.5 All final plans, documents, reports, studies and other data prepared by the Consultant shall, if applicable, bear the professional's seal and/or signature, in accordance with applicable Florida Statutes, or administrative rules promulgated by the Department of Business and Professional Regulation.

- 10.6 In the event that a work order is issued for a project which is funded or partially funded by a grant from the Federal Government, the Consultant agrees to comply with the provisions contained in Exhibit G, Terms for Federal Aid Contracts.
- 10.7 The Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Contract and in furtherance thereof may demand and obtain records and testimony from the Consultant and its Sub-consultants. The Consultant understands and agrees that in addition to other remedies and consequences provided by law, the failure of the Contractor or its Sub-consultants to fully cooperate with the Office of Inspector General of Palm Beach County when requested may be deemed by the Town to be material breach of this Agreement justifying its termination. The Office of Inspector General in Palm Beach County is established by Palm Beach County Code Section 2-421-2-440. Consultant acknowledges that its failure to cooperate with the Inspector General of Palm Beach County is a violation of Palm Beach Code, Section 2-421-2-440, and that it may be punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree-misdemeanor.

## **11. RELATIONSHIP BETWEEN THE PARTIES**

- 11.1 The Consultant is an independent contractor and is not an employee or agent of the Town. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the Town and the Consultant, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement. The Consultant is free to provide similar services for others.
- 11.2 The Consultant shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this Agreement without the prior written consent of the Town. Any attempted assignment in violation of this provision shall be void.
- 11.3 The Consultant shall not pledge the Town's credit or make the Town a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

## **12. RECORDS RETENTION/OWNERSHIP/AUDIT**

- 12.1 The Consultant shall comply with public records laws Chapter 119, Florida Statutes, specifically to: Keep and maintain public records that ordinarily



and necessarily would be required by the Town in order to perform the service; Provide the public with access to public records on the same terms and conditions that the Town would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law; Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed exempt as authorized by law; Meet all requirements for retaining public records and transfer, at no cost, to the Town all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt of confidential and exempt from public disclosure requirements. All records stored electronically must be provided to the Town in a format that is compatible with the information technology systems of the Town.

- 12.2 The Town has not performed a pre-audit of the Consultant's or Sub-consultant's financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the Consultant shall permit the Town or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the Town shall have the right to audit the Consultant's and any Sub-consultant's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this Agreement. This audit may be performed by the Town or its designated agent.
- 12.3 All documents, including, but not limited to, technical reports, research notes, scientific data and computer programs in draft and final form including the source code and object code, which are developed by the Consultant in connection with this Agreement, may be utilized by the Town in its normal course of business. Town use may include, but shall not be limited to, reproduction, distribution, and preparation of derivative works. The Town shall not hold the Consultant responsible if documents are used for other purposes than intended.

### **13. CONFLICTS**

The Town recognizes and acknowledges that the Consultant is engaged in a business which provides consulting services to multiple clients including other governmental entities. Further, the Town recognizes and acknowledges that the Consultant may presently, or may in the future, represent clients who are or may be doing business in or with the Town. The Town agrees that the Consultant may perform services for clients who are or may have matters before the Town Commission, provided Consultant discloses any and all clients it represents who may have any matters which are now or may reasonably be expected to come

before the Town Commission for its consideration and, provided further, that the Town Commission waives the actual or potential conflict of interest created by the Consultant's representation of the other client.

#### **14. GENERAL PROVISIONS**

- 14.1 Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but the Town shall have the option of terminating this Agreement or electing to allow the Agreement to remain in effect. This provision shall not apply if the "Statement of Work" of this Agreement specifies that performance by the Consultant is specifically required during the occurrence of any of the events herein mentioned.
- 14.2 The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.
- 14.3 In the event any provisions of this Agreement shall conflict, or appear to conflict, the Agreement, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- 14.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Agreement by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such a waiver shall be limited to the provisions of this Agreement specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

- 14.5 All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders.
- 14.6 Should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- 14.7 This Agreement may be amended, extended, or renewed in accordance with the terms contained herein, and only with the written approval of the parties.
- 14.8 This Agreement states the entire understanding and Agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or Agreements previously existing between the parties with respect to the subject matter of this Agreement. The Consultant recognizes that any representations, statements, or negotiations made by Town staff do not suffice to legally bind the Town in a contractual relationship unless they have been reduced to writing and signed by an authorized Town representative. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

## **15. PUBLIC RECORDS**

The Consultant shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- 15.1 Keep and maintain public records required by the Town to perform the service.
- 15.2 Upon the request of the Town's custodian of public records, provide the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- 15.3 Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the work and services to be provided pursuant to this Agreement and following completion of this Agreement.
- 15.4 Upon the completion of the work and services to be performed pursuant to

this Agreement, the Consultant shall transfer, at no cost, to the Town all public records in possession of the Consultant or its Sub-consultants related to the Project; or keep and maintain the public records associated with the services provided for in the Agreement. If the Consultant transfers all public records to the Town upon completion of the work and services for the Project, the Consultant shall destroy any duplicate public records that are exempt from public records disclosure. If the Consultant shall keep and maintain public records during the time it is performing the work and services pursuant to this Agreement. The Consultant acknowledges that it is required to comply with all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

- 15.5 IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTACTOR SHOULD CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: TOWN CLERK, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, [Townclerk@lakeparkflorida.gov](mailto:Townclerk@lakeparkflorida.gov).

## **16. SEVERABILITY**

If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

**IN WITNESS WHEREOF**, the parties' duly authorized representatives hereby execute this AGREEMENT on the date first written above.

ATTEST:

TOWN OF LAKE PARK

By: \_\_\_\_\_  
Vivian Mendez, Town Clerk

By: \_\_\_\_\_  
Roger Michaud, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Thomas J. Baird, Town Attorney

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2024 by Roger Michaud, Mayor of the Town of Lake Park, and who is personally known to me.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public, State of Florida

CONSULTANT  
Kimley-Horn and Associates, Inc.

By:  \_\_\_\_\_

Its: Sr. Vice President

Marwan Mufleh  
Printed

**EXHIBIT A**

**STATEMENT OF WORK**

I. Introduction:

- a. Pursuant to Lake Park Town Code, Section 2-247(g), Competitive Sealed Solicitation Process, the Town of Lake Park, Florida, seeks to identify firms with substantial experience and capabilities to perform consulting services on an open end (continuing services) basis.
- b. The Town shall endeavor to award a non-exclusive contract to a maximum of three (3) firms in most professional services categories listed herein. The term of said contract shall be three (3) years, with the option to extend the contract for two additional two (2) year terms by mutual agreement. The selected firm(s) shall support the TOWN's staff with the implementation of the TOWN's Comprehensive Plan and Community Investment Program (CIP) for FY 2024-2027. In addition, the selected firms(s) shall provide professional continuing services in the fields of architecture, engineering (various types), landscape architecture, surveying and mapping, planning and other support services as outlined in the Statement of Work (Exhibit A) and as required by the TOWN.

## **II. Scope of Services:**

- c. The services sought by the Town may include, whether in part or in whole, but not limited to: engineering, architecture, landscape architecture, right of way engineering, construction engineering and inspection (CEI), civil engineering, structural engineering, environmental engineering, surveying, mechanical and electrical engineering, preparation of plans and specifications, plan reviews, construction management, project management, contract administration, or planning services requiring the utilization of a professional engineer or architect. A firm performing design services for Town projects shall not be permitted to perform construction engineering and inspection (CEI) services for the same project.
- d. Respondents shall submit their qualifications and shall include sufficient information in their proposals to clearly describe their ability to provide the Town support in the following professional disciplines and areas of work:
  - **Environmental Planning and Studies**
  - **Urban Planning**

**Should a Respondent choose to provide multi-disciplinary support by contracting with Sub-consultants, the Respondent is responsible for submitting any and all agreements it has with a Sub-consultant that clearly illustrates the services to be performed by the Sub-consultant and demonstrates that they are capable of providing the necessary responsiveness, quality control, staff experience/qualifications, and any other services as represented in the Respondent's proposal. The Town's selection of Respondents will be based, in part, on the qualifications and capabilities of their defined sub-consultants, which acts as a substantial inducement and material consideration in the selection. Respondents shall not substitute a sub-consultant during the process, or after award without the prior written approval of the Town. The above-listed disciplines and specialties shall be available from a Respondent's employees or by any approved sub-consultants.**

- e. Perform engineering and planning studies/investigations, preparation of plans and specifications, provide bidding assistance, inspection, and administration of construction, permitting of TOWN roads, bridges and other horizontal control work as required in the implementation of the approved capital program.
  - f. Perform electronic planning/engineering analysis, traffic studies, etc. as required in support of the TOWN's development review and approval process.
- III. Exclusions: The scope of services will normally exclude design and general multi-disciplinary professional services in support of the Town of Lake Park's potable water treatment, storage and distribution system. The TOWN may include these professional services in this contract if urgency or circumstance deems it to be in the TOWN's best interest.
- IV. Work Authorization: Work on specific projects will be authorized by written sequentially numbered amendments, hereinafter referred to as Work Orders, to this contract agreement.
- V. Deliverables: A list of deliverables shall be submitted as detailed in the scope of professional services for each amendment. The deliverables shall be submitted on or before the date provided in the schedule.

**ACKNOWLEDGEMENT OF SCOPE OF WORK:**

  
\_\_\_\_\_  
Signature

Marwan Mufleh  
\_\_\_\_\_  
Written Name

Sr. Vice President  
\_\_\_\_\_  
Title

5-1-2024  
\_\_\_\_\_  
Date

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**EXHIBIT B**

**PROPOSER'S ORGANIZATION CHART**

## **EXHIBIT C**

### **BASIS FOR COMPENSATION RATES AND SCHEDULES**

The TOWN shall pay to the CONSULTANT for providing and performing the professional engineering and architectural services set forth in each approved work order as follows:

The basis of compensation shall be Direct labor cost times a Multiplier of \_\_\_\_\_. Reimbursement for subcontractors will be billed at cost times 1.075. All non-project related clerical and CADD costs are considered to be included in the overhead. In addition to compensation for labor, the TOWN agrees to reimburse the CONSULTANT for direct work order expenses as follows:

Expenses not included in the multiplier above will be estimated for each work order and submitted for reimbursement with the appropriate supporting documentation to reflect that the expense was incurred in support of the work order, or a fixed price reimbursement cost negotiated for each work order based on a detailed estimated breakdown of reimbursable expenses. A fixed percentage of direct labor cost shall not be used.

Notwithstanding the foregoing, the compensation paid by the TOWN to the CONSULTANT for labor and expenses shall not exceed the Not-to-exceed price set forth in the approved Work Order.

### **FREQUENCY OF BILLING**

Invoicing shall be submitted to the TOWN on a monthly basis, or on the basis of "deliverables", in accordance with the Contract AGREEMENT.

### **SUPPLEMENTAL RECORDS**

The CONSULTANT must maintain adequately detailed time records for all principals, partners, and technical employees who devote time to the work, and any part of whose salaries is included in direct labor cost. Time sheets, if requested by the TOWN, are to be provided upon presentation of each invoice. Receipts and other documents shall be provided to the TOWN to substantiate all expenditures.

**EXHIBIT C**  
**(continued)**

**DIRECT LABOR RATES FOR ALL EMPLOYEES EXPECTED TO WORK ON THIS PROJECT**

(To Be Provided By the CONSULTANT)

<b>Name</b>	<b>Title</b>	<b>Direct Labor Rate</b>
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## EXHIBIT D

### **INSURANCE REQUIREMENTS**

The CONSULTANT shall maintain, or cause to be maintained, the following specified insurance coverage's in the amount set forth hereafter.

1. **WORKER'S COMPENSATION:** Coverage to apply for all employees for Statutory Limits in compliance with the applicable State and Federal laws. The policy shall include Employer's Liability. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the CONSULTANT and subcontractor. Statute limits shall be in compliance with applicable State and Federal laws.
2. **COMPREHENSIVE GENERAL LIABILITY:** Shall have the minimum limits of \$1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations, Independent CONSULTANTS, Products and Completed Operations, Broad Form Property/Personal Injury, XCU coverage, and a Contractual Liability Endorsement.
3. **BUSINESS AUTO LIABILITY:** Shall have the minimum limits of coverage of \$500,000 Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.
4. **PROFESSIONAL LIABILITY: Insurance and Indemnification -** The CONSULTANT shall maintain Professional Liability Insurance covering the CONSULTANT for sums which the CONSULTANT shall become legally obligated to pay as damages because of liability arising out of any negligence, error or mistake in rendering or omission in failing to render the professional services required in the performance of the CONSULTANT's agreement with the TOWN. Required coverage shall be for Limits of Liability not less than \$1,000,000.00.

The Town of Lake Park shall be included as an Additional Insured under the General Liability and Automobile Liability policies.

Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the named project. There shall be a thirty (30) day notification to the Town of Lake Park, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the CONSULTANT to ensure that all subcontractors are adequately insured or covered under their policies. Certificates of Insurance shall be on file with the Town of Lake Park and approved by same prior to the commencement of any work activities. Such approval does not waive the CONSULTANT's responsibility to comply with the requirements of this section on modifications of this section. The TOWN may, at its discretion, require the CONSULTANT to provide a complete certified copy of its insurance policy(s).

**EXHIBIT E**

**SAMPLE WORK ORDER FEE BACKUP**

WORK ORDER NO. \_\_\_\_\_

**AGREEMENT PERFORMANCE**

Proposed fee and schedule for completion of major tasks under Work Order No. \_\_\_\_\_ is summarized below:

**SUMMARY OF PROPOSED FEES**

Proposed labor costs and associated expenses for basic consultant services are tabulated below and detailed in Exhibit C.

**BASIC SERVICES**

	<b><u>DIRECT LABOR COST</u></b> (Employees)
Task 1 -	\$
Task 2 -	\$
Task 3 -	\$
Task 4 -	\$
Task 5 -	\$

Not to exceed (NTE) cost for labor: (\$ A Direct Labor Cost of employees x multiplier)  
\$ A

Reimbursable expenses billed in accordance with AGREEMENT: \$ B

**Total not to exceed (NTE) Cost for project: A + B**

## EXHIBIT F

### CPI ADJUSTMENT FORMULA AND SAMPLE CALCULATION

#### Rate Adjustment Formula

$$\text{Rate Effective Year 3} = \text{Rate Effective Year 2} \times [1 + \text{Rate of Change in CPI}]$$

where Rate of Change in CPI =

$$\text{Minimum of} \left( \frac{\text{CPI Year 3} - \text{CPI Year 2}}{\text{CPI Year 2}} \times 100\%, 5.00\% \right)$$

#### Sample Rate Adjustment Calculations

##### Example 1

CPI Year 2 as of 10/1/08 = 203.5

CPI Year 3 as of 10/1/09 = 210.7

Rate Effective Year 2 = 11.35

$$\begin{aligned} \text{Rate of Change in CPI} &= \text{Minimum of} \left( \frac{\text{CPI Year 3} - \text{CPI Year 2}}{\text{CPI Year 2}} \times 100\%, 5.00\% \right) \\ &= \text{Minimum of} (3.54\%, 5.00\%) \\ &= 3.54\% \end{aligned}$$

$$\begin{aligned} \text{Rate Effective Year 3} &= \text{Rate Effective Year 2} \times [1 + \text{Rate of Change in CPI}] \\ &= 11.35 \times [1 + 0.0354] \\ &= 11.75 \end{aligned}$$

##### Example 2

CPI Year 2 as of 10/1/08 = 203.5

CPI Year 3 as of 10/1/09 = 217.7

Rate Effective Year 2 = 11.35

Rate of Change in CPI =

$$\begin{aligned} &\text{Minimum of} \left( \frac{\text{CPI Year 3} - \text{CPI Year 2}}{\text{CPI Year 2}} \times 100\%, 5.00\% \right) \\ &= \text{Minimum of} (6.98\%, 5.00\%) \\ &= 5.00\% \end{aligned}$$

$$\begin{aligned} \text{Rate Effective Year 3} &= \text{Rate Effective Year 2} \times [1 + \text{Rate of Change in CPI}] \\ &= 11.35 \times [1 + 0.05] \\ &= 11.92 \end{aligned}$$

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## EXHIBIT G

### TERMS FOR FEDERAL AID AGREEMENTS

The following terms apply to all Work Orders issued by the TOWN in which it is indicated in the Work Order that the services involve the expenditure of federal funds:

- A. It is understood and agreed that all rights of the TOWN relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this AGREEMENT shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of U.S.D.O.T., anything to the contrary in this AGREEMENT notwithstanding.
- C. Compliance with Regulations: The CONSULTANT shall comply with the regulations of the TOWN relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the contract.
- D. Nondiscrimination: The CONSULTANT, with regard to the work performed by him after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the program set forth in Appendix B of the Regulations.
- E. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations made by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor, supplier or lessor shall be notified by a CONSULTANT of the CONSULTANT's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, religion, sex, or national origin.



- F. Information and Reports: The CONSULTANT will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the TOWN or U.S. Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall certify to the TOWN, and shall set forth what efforts it has made to obtain the information.
- G. Sanctions of Noncompliance: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this contract, the TOWN shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to
1. Withholding of payments to the CONSULTANT under the contract until the CONSULTANT complies and/or;
  2. Cancellation, termination, or suspension of the contract, in whole or in part.
  3. Disgorgement or clawback of previous payments made
- H. Incorporation or Provisions: The CONSULTANT will include the provisions of Paragraph A through H in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The CONSULTANT will take such action with respect to any subcontract or procurement as the TOWN may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the State to enter into such litigation to protect the interests of the State, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
- I. Interest of Members of Congress: No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising there from.
- J. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter

shall be any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.

- K. Participation by Minority Business Enterprises: The CONSULTANT shall agree to abide by statements in Paragraph (1) and (2) which follow. These statements shall be included in all subsequent agreements between the CONSULTANT and any subconsultant or contractor.
1. "Policy: It is the policy of the TOWN that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 applies to this agreement."
  2. "MBE Obligation: The recipient or its contractor agrees to ensure that minority business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."
- L. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this AGREEMENT is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this AGREEMENT.
- M. It is understood and agreed that if the CONSULTANT at any time learns that the certification it provided the TOWN in compliance with 49 CFR, Section 23.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the CONSULTANT shall provide immediate written notice to the TOWN. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and

Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the CONSULTANT in all lower tier covered transactions and in all aforementioned federal regulation.

N. The TOWN hereby certifies that neither the CONSULTANT nor the CONSULTANT's representative has been required by the TOWN, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to

1. Employ or retain, or agree to employ or retain, any firm or person, or
2. Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

The TOWN further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

O. The CONSULTANT hereby certifies that it has not:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above contractor) to solicit or secure this contract;
2. Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or;
3. Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.
4. The CONSULTANT further acknowledges that this agreement will be furnished to the TOWN in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

EXHIBIT H

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, INELIGIBILITY, AND VOLUNTARY  
EXCLUSION – LOWER TIER PARTICIPANT**

Certification regarding Debarment Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions pursuant to 49 CFR 24, Code of Federal Regulations, Part 24.510(b):


By signing and submitting this proposal, the prospective lower-tier participant certifies that neither it, 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 prospective Lower-Tier participant further certifies that:

1. I, and any principals of my firm, understand that the certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that I/we knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies.
2. Further, I, and any principal of my firm, shall provide immediate written notice to the person to whom this proposal is submitted if, at any time, we learn that my/our certification was erroneous when submitted, or has become erroneous by reason of changed circumstances.
3. By submitting this proposal, I, and any principals of my firm, agree that should the proposed covered transaction be entered into, I/we will not knowingly enter into any Lower-Tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the agency with which this transaction originated.
4. I, and any principals of my firm, further agree by submitting this proposal that I/we will include this Certification, without modification, in all Lower-Tier covered transactions and in all solicitations for Lower-Tier covered transactions.

Contractor Name: Kimley-Horn and Associates, Inc.

Address: 1920 Wekiva Way

City West Palm Beach State: FL Zip: 33411

Signature:  Date: 5-1-2024

NON-CERTIFICATION:

Contractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_