

RESOLUTION NO. 2022-155

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE A CONSULTING SERVICES WORK AUTHORIZATION WITH KIMLEY-HORN AND ASSOCIATES, INC. TO PROVIDE PROFESSIONAL TRANSPORTATION SERVICES RELATED TO THE PREPARATION OF A TRANSIT MASTER PLAN IN THE AMOUNT OF \$105,790.00; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City currently operates two shuttle routes along with a community bus operation, and the City desires to improve the existing transit services; and

WHEREAS, the City is seeking to prepare a Transit Master Plan to identify a 10-year vision that enhances multimodal connectivity and access while promoting an increase in transit ridership; and

WHEREAS, there is a need to identify service gaps, develop strategies that seek to reduce transit rider passenger wait times, and to review changing mobility needs and multimodal connectivity throughout the City; and

WHEREAS, proposed services include, but are not limited to, coordination with outside agencies such as the Florida Department of Transportation, Broward County Transit, and the Metropolitan Planning Organization; evaluation of a City-wide transit market assessment; transit network recommendations; and a transit project implementation plan; and

WHEREAS, Kimley-Horn and Associates, Inc. is a qualified firm on the City's Architecture, Landscape Architecture, Planning, and Urban Design Services list pursuant to RFQ No. 10-06-21-11, as approved by Resolution No. 2022-007; and

WHEREAS, Kimley-Horn and Associates has submitted a proposal to provide the requested services in the amount of \$105,790.00; and

WHEREAS, staff recommends approval of a consulting services work authorization with Kimley-Horn and Associates, Inc. to provide the aforementioned services associated with the completion of the City's Transit Master Plan in the amount of \$105,790.00; and

WHEREAS, the City Commission of the City of Coconut Creek finds and determines it to be in the best interest of the City and its residents to approve a consulting services work authorization with Kimley-Horn and Associates, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution. All exhibits attached hereto are incorporated herein and made a specific part of this resolution.

Section 2: That the City Commission has reviewed and hereby approves the attached consulting services work authorization between the City of Coconut Creek and Kimley-Horn and Associates, Inc. to provide the necessary professional services to complete the City's Transit Master Plan in the amount of \$105,790.00.

Section 3: That the City Manager, or designee, is hereby authorized to execute the consulting services work authorization between the City of Coconut Creek and Kimley-Horn and Associates, Inc. in the amount of \$105,790.00.

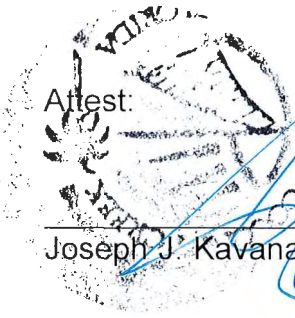
Section 4: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 5: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 25th **day of** August, **2022.**



Joshua Rydell, Mayor

Attest:


Joseph J. Kavanagh, City Clerk

Rydell Aye
Welch Aye
Tooley Aye
Railey Aye
Brodie Aye

CONSULTING SERVICES WORK AUTHORIZATION

DATE: June 23, 2022

CONSULTANT: Kimley-Horn and Associates, Inc.

WORK AUTHORIZATION NO. 3 FOR CONSULTING SERVICES

This Work Authorization, when executed, shall be incorporated in and become an integral part of the "Agreement between City of Coconut Creek and Kimley-Horn and Associates, Inc. – RFQ 03-25-20-02 dated September 30, 2020, as Exhibit "A" for a lump sum amount of \$105,790 dated June 7, 2022.

I. PROJECT DESCRIPTION

The CITY desires to have Kimley-Horn and Associates, Inc. ("CONSULTANT"), assist the City with the preparation of a Transit Master Plan.

II. SCOPE OF SERVICES AND COSTS

See Proposal from Kimley Horn and Associates, Inc. attached hereto as Exhibit "A".

III. COMPLETION DATE

This Work Authorization is approved contingent upon the CITY'S acceptance of and satisfaction with the completion of the services rendered with a projected completion date of December 31, 2022 from the date of receipt of authorization from CITY. If the CITY in its sole discretion is unsatisfied with the services provided in the Work Authorization, the CITY may terminate the Agreement without incurring any further liability. The CONSULTANT shall commence work after issuance of the notice to proceed.

IV. NOT A DESIGN-BUILD AGREEMENT

CONSULTANT shall not bid for any construction components associated with this Project.

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CITY OF COCONUT CREEK, FLORIDA

By: Karen M. Brooks
Karen M. Brooks, City Manager

ATTEST:

By: Joseph J. Kavanagh, City Clerk

Approved as to Legal Sufficiency
and Form:

By: Terrill C. Pyburn
Terrill C. Pyburn, City Attorney

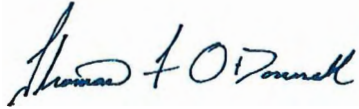
CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By: 
Signature of Vice-President

John J. McWilliams, P.E., Vice-President
Type/Print Name of Vice-President

ATTEST:



(Corporate Secretary)

Thomas O'Donnell, P.E., Vice-President
Type/Print Name of Corporate Secretary

(CORPORATE SEAL)





June 7, 2022

Mr. Michael Righetti
Senior Project Manager
City of Coconut Creek
4800 West Copans Road
Coconut Creek, Florida 33063

**RE: Professional Services Agreement
Municipal Transit Master Plan**

Dear Mr. Righetti:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Coconut Creek (hereinafter referred to as "Client" or "City") to provide professional services related to assisting the City with the preparation of a transit master plan.

PROJECT UNDERSTANDING

The City of Coconut Creek is seeking to prepare a transit master plan to identify a 10-year vision that enhances multimodal connectivity and access while promoting an increase in transit ridership. This involves the identification of service gaps and the development of strategies that seek to reduce passenger wait times and address passenger demand due to land use changes and/or new development/redevelopment, as well as changing mobility needs and multimodal connectivity throughout the City. The City of Coconut Creek desired to develop a plan that establishes a long-term vision for their local shuttle system to optimize passenger service for Coconut Creek residents, workers, and visitors.

The following scope of services outline was developed by Kimley-Horn and Associates, Inc. based on discussions with City staff and assumes that all relevant and validated data required for the technical evaluation will be accessible from the City of Coconut Creek.

SCOPE OF SERVICES

A preliminary outline of the scope of services that Kimley-Horn would provide is provided below.

TASK 1 PROJECT MANAGEMENT AND COORDINATION

TASK 1.1: Project Kick-off Meeting

- The Consultant will participate in one (1) project kick-off meeting with City staff.

TASK 1.2: Progress Meetings / Coordination

- The Consultant will participate in up to four (4) progress/coordination meetings with City staff and that will be schedule around key milestones and engagement activities throughout the project timeline. The Consultant will present the current status of the project and associated deliverables at these meetings.
- The Consultant will participate in up to three (3) coordination meetings in total as directed by City Staff, to include :
 1. Broward Metropolitan Planning Organization
 2. Broward County Transit
 3. Seminole Tribe.

TASK 1.3: City Commission Meetings/Presentation

- The Consultant will attend and present at a maximum of two (2) meetings with the Coconut Creek City Commission to occur at project milestones as determined by City staff.

TASK 1.4 Coconut Creek Ambassador Program Meetings

- The Consultant will attend, participate and present at a maximum of two (2) meetings with the Coconut Creek Ambassador stakeholder group to occur at project milestones as determined by City staff.

TASK 1: Deliverables:

- Draft agenda, participation, presentation materials, and meeting summary notes for progress/coordination meetings with City staff.
- Attendance, participation, and presentation materials for City of Coconut Creek Commission meetings.
- Attendance, participation, and presentation materials for Ambassador Program meetings.
- This task assumed that City staff will coordinate and notice all meetings as appropriate.

TASK 2 TRANSIT MASTER PLAN VISION**TASK 2.1: Operating Environment Evaluation**

- The Consultant will complete a technical evaluation of key variables to inform the development of goals and objectives that seek to address shuttle service coverage, ridership, multimodal access, and connectivity in response to a changing operating environment (demographic changes, existing/future land use, planned development/redevelopment projects, capital improvement projects etc.). The City of Coconut Creek will provide the Consultant with available data and documentation to assist with the completion of this task to include but not limited to the City's Surtax funded improvements.
- The evaluation will also involve a review of other relevant documentation (e.g., plans, policies) and data readily accessible and in a reasonable format.

TASK 2.2: Goals and Objectives

- The Consultant will coordinate with the City to develop goals and objectives, that support and promote multimodal connectivity and transit ridership through an alignment of service policies and investment strategies.

Goals and objectives may focus on the following such as:

- Responsive to Mobility Needs
- Implements Accessible Service
- Provides Multimodal Connectivity
- Optimizes Service Operation and Ridership

TASK 2.3: Transit Master Plan Workshop

- The Consultant will prepare for, attend, and present at a project workshop that will serve as a forum to discuss and gather input from City staff to include but not limited to transit service conditions, multimodal needs, existing/future mobility hub connectivity, future service demands, community vision to further refine Goals and Objectives prior to finalizing. This task assumed that City staff will coordinate and notice all meetings as appropriate.

TASK 2: Deliverables:

- Draft workshop agenda/materials, participation, and meeting summary.
- Draft and Final Master Plan Goals and Objectives Memorandum

TASK 3 TRANSIT MARKET ASSESSMENT

- The Consultant will collect readily available data to analyze travel patterns, existing community shuttle ridership, activity hot spots (congestion, major trip generators/attractors, activity centers etc.) transit dependent users (low-income or zero-car households, senior citizens, school aged children) and identify potential opportunities for multimodal improvements to include first-mile last-mile services, Mobility as a service (MAAS) and emerging technologies.

This task assumed the City will provide ridership data from the existing community bus service (Butterfly Express, North Route and South Route) in a readily usable format for data analysis.

TASK 3: Deliverable:

- Market analysis memorandum. Note that the Consultant will revise the document one (1) time in response to City comments.

TASK 4 TRANSIT NETWORK RECOMMENDATIONS

- The Consultant perform the following under this task:
 - Identify service enhancements and capital investments to meet the needs of the community and recognize the City's budget constraints.
 - Compare traditional shuttle service versus mobility on demand
 - Review and provide recommendations to improve the City's existing mobile transit APP.
 - Identify EV technology fleet conversion requirements
 - Develop a project matrix based on safety, access, connectivity, and equity, or an alternate focus if a best practice suggests.

TASK 4: Deliverables:

- Development of transit route service and capital investment recommendations. The recommendations will be summarized in a memorandum. Note that the Consultant will revise the document one (1) time in response to City comments.

TASK 5 DEVELOP PROJECT IMPLEMENTATION PHASING PLAN

- The Consultant will perform the following in this task:
 - Review the recommended improvements and identify an implementation plan to complete the Transit Master Plan.
 - Develop project phasing to include generalized costs for implementation to include associated operating and capital cost estimates or probable costs.
 - Prioritize service enhancements and capital investment for implementation in a 10-year planning horizon that is divided into near term (1-2 years), intermediate (3-6 years) and long term (6-10 years).
 - Propose service changes grouped to follow a logical, organized, and sequential deployment of services that is consistent with service operations, fleet requirements, staffing levels and budget constraints. The Consultant will work coordinate closely with City staff to ensure that the phased plan can be "operationalized."

TASK 5: Deliverable:

- Develop a technical memorandum including a matrix of trolley service revisions, improvements, and route expansions over a 10-year horizon. Note that the Consultant will revise the document one (1) time in response to City comments.

TASK 6 DEVELOP FINAL REPORT AND EXECUTIVE SUMMARY

- The Consultant will prepare a draft report and executive summary prepared and submitted to City staff for review and comment.
- The Consultant will revise the draft report and executive summary one (1) time in response to one (1) set of collective comments from City staff to prepare a final report and executive summary.

TASK 6: Deliverables:

- Develop a draft report, final report and executive summary to be provided as study documentation.
- A PowerPoint presentation that provides an overview of the executive summary and recommendations.

ADDITIONAL SERVICES (OPTIONAL)

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

Public Outreach Meetings: Schedule and conduct up to two (2) outreach meetings to inform residents and community stakeholders about the Transit Master Plan effort and gather input on the existing and future transit services. City staff will be responsible for meeting coordination, perform all required public noticing and print all public meeting materials. The City will identify meeting locations and notifying various neighborhoods and communities to encourage meeting attendance. Input received at community outreach events will be incorporated into the transit master plan.

Deliverables:

- Participate in up to two public engagement meetings
- Prepare outreach meeting materials
- Document public input from each outreach meeting

SCHEDULE

The Consultant will provide services as expeditiously as practicable to complete the scope of work within five (5) months.

FEE AND BILLING

The Consultant will perform the services outlined in Tasks 1 - 6 for the Lump Sum Fee of \$90,575.00. All permitting, application, and similar project fees if applicable, will be paid directly by the Client. If authorized by the City, additional services (optional) will be completed for an additional lump sum fee of \$15,215.00.

| | | |
|--------|-------------------------------------|----------|
| Task 1 | Project Management and Coordination | \$21,030 |
| Task 2 | Transit Master Plan Vision | \$21,140 |
| Task 3 | Transit Market Assessment | \$19,740 |
| Task 4 | Transit Network Recommendation | \$8,115 |
| Task 5 | Project Implementation Phasing Plan | \$9,690 |
| Task 6 | Final Report and Executive Summary | \$10,860 |
| Task | Public Outreach Meetings (OPTIONAL) | \$15,215 |

LUMP SUM FEE

\$105,790

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to the terms and conditions of the City of Coconut Creek's *General Professional Engineering Services Contract*; RFQ 03-25-20-02 shall govern this Agreement.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. 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 _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other 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.

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

Best,
KIMLEY-HORN AND ASSOCIATES, INC.

By: 
John McWilliams, P.E.
Senior Vice President


John Lafferty
Project Manager

City of Coconut Creek
A Municipality

(Date)

(Print or Type Name and Title)

(Email Address)

_____, Witness

(Print or Type Name)

Official Seal:

AGREEMENT
between
CITY OF COCONUT CREEK
and
KIMLEY-HORN AND ASSOCIATES, INC.
for
GENERAL PROFESSIONAL ENGINEERING SERVICES
RFQ NO. 03-25-20-02

This Agreement is made and entered into this 30th day of September, 20 , by and between CITY OF COCONUT CREEK, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "CITY,"

AND

Kimley-Horn and Associates, Inc., a Florida Corporation, its successors and assigns, hereinafter referred to as "**CONSULTANT**".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, **CITY** and **CONSULTANT** agree as follows:

ARTICLE I

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are therefore agreed upon by the parties.

- 1.1 **THE CONTRACT DOCUMENTS:** The contract documents consist of this Agreement, conditions of the contract of RFQ No.03-25-20-02, all addenda issued prior to, all modifications issued after execution of this Agreement and Exhibit "A" Fee Schedule. These contract documents form the Agreement, and all are as fully a part of the Agreement if attached to this Agreement or repeated therein.

- 1.2 **CONTRACT ADMINISTRATOR:** Whenever the term "**CONTRACT ADMINISTRATOR**" is used herein, it is intended to mean the City Manager or designee. In the administration of this Agreement, all parties may rely upon instructions or determinations made by the **CONTRACT ADMINISTRATOR**.

1.3 **CONSTRUCTION CONTRACTOR:** The person(s), firm(s), corporation(s) or other entity who enters into an agreement with **CITY** to perform the construction work desired by **CITY** relating to **PROJECTS**.

1.4 **CONSULTANT:** **CONSULTANT**, which is the professional organization with whom **CITY** has contracted for the performance of services pursuant to this Agreement.

1.5 CITY: City of Coconut Creek, Florida, a body corporate and politic and a political subdivision of the State of Florida.

1.6 **NOTICE TO PROCEED:** A written statement issued by the **CONTRACT ADMINISTRATOR** directing **CONSULTANT** to begin work.

1.7 **PROJECTS:** The scope of services of the **PROJECTS** shall include, but are not necessarily limited to the following disciplines:

- Building Design
- Civil Engineering
- Codes
- Construction Management/Administration/Engineering Inspection (CEI)
- Cost Benefit Analysis
- Cost Estimates
- Electrical/Instrumentation
- Environmental Engineering
- General Engineering
- Geotechnical Engineering
- Landscape Architecture and Irrigation Design
- Land Surveying and Mapping
- Mechanical / Electrical / Plumbing (MEP) Engineering
- New Construction and Renovations
- Planning Services
- Process evaluation
- Reclaimed water
- Retrofits
- Standards and ordinances
- Storm Water
- Streets/Roads
- Structural
- Traffic/Transportation Engineering and Studies
- Utilities
- Wastewater
- Water

CONSULTANT may be required to investigate, analyze, evaluate, report, coordinate, prepare plans, specifications and contract documents, bid/award evaluation and services during construction, perform construction engineering services, etcetera for any of the aforementioned disciplines, related matters, as well as any other engineering assignments upon the request of the **CITY**. The **CITY** may require based upon the firm's evaluation to identify needs, develop and improve programs, establish cost effective priorities for making improvements and develop a short-term or a long-range program for implementation on request. **CONSULTANT** shall provide certified testing lab services as necessary to fulfill the requirements of certain regulatory agencies and related soil analysis.

CONSULTANT may be required to represent the City of Coconut Creek in matters involving or relating to other governmental entities at the local, regional, state or national level, pertaining to the County/State/Federal for any improvement programs, permits or grants in which the City is or may be an eligible participant or has an interest.

Some of the projects requiring professional engineering services will be funded through the Department of Housing and Urban Development (HUD), Community Development Block Grant (CDBG), or other federal, state, and county granting authorities. All federal and state regulations

pertaining to any grant related project shall apply. **CONSULTANT** acknowledges that if **CONSULTANT** is asked to work on a project that is funded with County Surtax funds, then **CONSULTANT** may have to enter into a separate, project-specific agreement for such project utilizing County Surtax funds as required by the County.

Professional engineering services could include, but not be limited to, approved capital improvement projects as outlined in the City's budget.

1.8 **REIMBURSABLES:** Whenever the term **REIMBURSABLES** is used herein, it is intended to mean actual expenses directly related to the performance of the services as set forth in this Agreement. **REIMBURSABLES** are limited to:

- A) Identifiable expenses of transportation in connection with the **PROJECT** subject to the provisions and limitations for public agencies established in Chapter 112, Florida Statutes as amended from time to time. Automobile travel inside Broward, Dade and Palm Beach Counties will be considered reimbursable expenses. Surface travel outside Florida and all air travel will be reimbursed only when prior written approval for such expense has been given by **CONTRACT ADMINISTRATOR**. Rental cars shall be mid-sized or smaller.
- B) Identifiable per diem, meals and lodgings, taxi fares and miscellaneous travel connected expenses for **CONSULTANT'S** personnel subject to the limitations of Chapter 112, Florida Statutes as amended from time to time.
- C) Identifiable communication expenses for express mail charges.
- D) Identifiable cost of printing reproduction and aerial photography.
- E) Identifiable testing costs.
- F) Permit application fees. All fees paid to regulatory agencies for approvals directly attributable to the **PROJECT**. These permit fees do not include those permits required for the **CONSTRUCTION CONTRACTOR**.

1.9 **BILLING RATE:** Whenever the term **BILLING RATE** is used herein, it is intended to mean average base salaries and wages paid to personnel by employee category engaged directly on the **PROJECT**, including all fringe benefits, overhead and profit. **BILLING RATES** by the employee category are shown on **EXHIBIT "A" FEE SCHEDULE**.

1.10 **PROFESSIONAL SERVICES:** Whenever the term **PROFESSIONAL SERVICES** is used herein, it is intended to mean those professional services provided to **CITY** on a day-to-day basis for specific tasks provided the estimated engineering costs for the specific tasks do not exceed Fifty Thousand Dollars (\$50,000.00). Typical tasks include response to field or engineering problems, attendance at meetings, review of bids and providing day-to-day assistance as required to respond to engineering issues, utility operations or field problems. The Aggregate of **PROFESSIONAL SERVICES** tasks may exceed \$50,000.00.

- A. **CITY** shall describe the task to be undertaken by **CONSULTANT**.
- B. **CONSULTANT** shall agree upon a level of effort and position category to be assigned to the specific task, and provide **CITY** with a proposal for the work.
- C. **CITY** shall authorize **CONSULTANT**, in writing, to provide professional services requested for the specific task.

D. **CONSULTANT** shall be reimbursed by **CITY** at the **BILLING RATE** payable for each **CONSULTANT'S** employee category shown on **EXHIBIT "A"**.

1.11 **WORK AUTHORIZATION:** Whenever the term **WORK AUTHORIZATION** is used herein, it is intended to mean professional services related to specific projects identified by **CITY** for which the estimated architectural cost exceeds Fifty Thousand Dollars (\$50,000.00).

The **CONSULTANT** shall submit a proposal to the **CITY** and the **CITY** will authorize said proposal. The authorization issued by **CITY** shall contain the following information and requirements:

- A. A description of the work to be undertaken and method of compensation with reference to the appropriate paragraphs of this Agreement.
- B. A budget establishing the amount of compensation to be paid, which amount shall constitute hourly billing, or a lump sum at the **CONTRACT ADMINISTRATOR'S** discretion, and shall not be exceeded unless prior written approval of **CITY** is obtained. The information contained in the budget shall be in sufficient detail so as to identify the various elements of costs, and the adequacy of such budget information shall be subject to the approval of **CITY**.
- C. A time established for completion of the work or services undertaken by **CONSULTANT** or for the submission to **CITY** of documents, reports and other information pursuant to this Agreement. The time established for performance shall be subject to the approval of **CITY**; however, the time may, in the sole discretion of **CITY**, be extended upon justification of **CONSULTANT** that additional time is necessary for performance. Failure on the part of **CONSULTANT** to comply with the time established for performance may result in the termination of this Agreement.
- D. **CONSULTANT** shall be reimbursed by **CITY** at the **BILLING RATE** payable for each **CONSULTANT'S** employee category shown on **EXHIBIT "A"**.
- E. **WORK AUTHORIZATIONS** shall be dated and serially numbered.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 **CITY** has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes as amended from time to time, and has selected **CONSULTANT** to perform the work of the specified nature as outlined in this Agreement. Accordingly, this Agreement qualifies as a "continuing contract" under Section 287.055 (2) (g), Florida Statutes as amended from time to time.

2.2 Negotiations pertaining to the services to be performed by **CONSULTANT** were undertaken between **CONSULTANT** and **CITY**, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES

- 3.1 The Scope of Services required to be performed by **CONSULTANT** shall be identified under one of the following procedures:

PROFESSIONAL SERVICES for specific "day-to-day" work tasks as requested by **CITY** and agreed to by **CONSULTANT**.

Professional Services for a **PROJECT** as set forth in a **WORK AUTHORIZATION**. **CONSULTANT** shall provide all services as set forth in the **WORK AUTHORIZATION** including, without limitations, all necessary, incidental and related activities and services required.

- 3.2 **CONSULTANT** and **CITY** acknowledge that a **WORK AUTHORIZATION** does not delineate every detail and minor work task required to be performed by **CONSULTANT** to complete a **PROJECT**. If, during the course of the performance of a **WORK AUTHORIZATION**, **CONSULTANT** determines that it should perform work to complete a **PROJECT** which is outside the level of effort originally anticipated, **CONSULTANT** will notify **CONTRACT ADMINISTRATOR** in writing in a timely manner before proceeding with the work. If **CONSULTANT** proceeds with said work without notifying **CONTRACT ADMINISTRATOR** as provided in Article 6, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in the **WORK AUTHORIZATION**. Notice to **CONTRACT ADMINISTRATOR** does not constitute authorization or approval by **CITY**. Performance of work by **CONSULTANT** outside the originally anticipated level of effort without prior written **CITY** approval is at **CONSULTANT'S** sole risk.

ARTICLE 4

TIME OF PERFORMANCE

- 4.1 In the event **CONSULTANT** is unable to complete performance of services because of delays resulting from untimely review and approval by governmental authorities having jurisdiction over a **PROJECT**, or by **CONSTRUCTION CONTRACTOR** and such delays are not the fault of **CONSULTANT**, **CITY** shall grant a reasonable extension of time for completing the work. It shall be the responsibility of **CONSULTANT** to notify the **CONTRACT ADMINISTRATOR** promptly in writing whenever a delay is anticipated or experienced, and to inform the **CONTRACT ADMINISTRATOR** of all facts and details related to the delay.
- 4.2 In the event **CITY** declares an emergency, the **CONSULTANT** shall make every reasonable effort to respond within two (2) hours, but under no circumstances, shall response time exceed four (4) hours.
- 4.3 **CONSULTANT** shall provide **CITY** with a current up-to-date list of emergency personnel at all times.

ARTICLE 5

COMPENSATION AND PAYMENT

- 5.1 **CITY** agrees to pay **CONSULTANT** as compensation for performance of all approved **PROFESSIONAL SERVICES** required under the terms of this Agreement at those **BILLING RATES** described in Article 1.8 and to reimburse **CONSULTANT** for **REIMBURSABLES** as described in Article 1.8, plus subconsultant fees pursuant to paragraph 5.6 for approved **PROFESSIONAL SERVICES**. The **BILLING RATES** payable by **CITY** for each **CONSULTANT'S** employee categories is shown on **EXHIBIT "A"**. Total compensation for a specific work task under **PROFESSIONAL SERVICES** shall not exceed Fifty Thousand Dollars (\$50,000.00). The Aggregate of Professional Service tasks may exceed \$50,000.00.
- 5.2 **CITY** agrees to pay **CONSULTANT** as compensation for performance of all services as related to a **WORK AUTHORIZATION** required under the terms of this Agreement at those **BILLING RATES** described in Article 1.8 plus subconsultant fees pursuant to paragraph 5.6, up to the fee to be negotiated and stated in the **WORK AUTHORIZATION** and to reimburse **CONSULTANT** for **REIMBURSABLES** as described in Article 1.7 in accordance with the fee to be negotiated in the **WORK AUTHORIZATION**. The **BILLING RATES** payable by **CITY** for each **CONSULTANT'S** employee categories is shown on **EXHIBIT "A"**.
- 5.3 **CONSULTANT** shall submit billings, which are identified by the specific task, authorized under **PROFESSIONAL SERVICES** on a monthly basis in a timely manner for all **LABOR** and **REIMBURSABLES** attributable to the task. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category of the individuals performing same. Billings shall itemize **REIMBURSABLES** by category and identify same as to the work personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by **CONTRACTOR ADMINISTRATOR** is required for **REIMBURSABLES**, a copy of said approval shall accompany the billing for such **REIMBURSABLES**. External **REIMBURSABLES** and subconsultant fees must be documented by copies of invoices or receipts which describe the nature of the expenses and contain a project number or other identifier which clearly indicates the expense is identifiable to a task. Internal expenses must be documented by appropriate **CONSULTANT'S** cost accounting forms with a summary of charges by Category.
- 5.4 **CONSULTANT** shall submit billings which are identified by the specific **PROJECT** and **WORK AUTHORIZATION** number on a monthly basis in a timely manner for all **LABOR** and **REIMBURSABLES** attributable to a **PROJECT**. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category of the individuals performing same. Billings shall itemize **REIMBURSABLES** by category and identify same as to the work personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by **CONTRACT ADMINISTRATOR** is required for **REIMBURSABLES**, a copy of said approval shall accompany the billing for such **REIMBURSABLES**. The statement shall show a summary of **LABOR COSTS** and **REIMBURSABLES** with accrual of the total and credits for portions paid previously. External **REIMBURSABLES** and subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier which clearly indicates the expense is identifiable to a **PROJECT**. Internal expenses must be documented by appropriate **CONSULTANT'S** cost accounting forms with a summary of charges by category. When requested, **CONSULTANT** shall provide backup for past and current invoices that records hours and salary costs by employee categories, **REIMBURSABLES** by category and subconsultant fees on a task basis, so that total hours and cost by task may be determined.

- 5.5 Notwithstanding anything in paragraphs 5.1, 5.2, 5.3 and 5.4, at the **CONTRACT ADMINISTRATOR'S** option, the contract method of payment may be a lump sum amount for a specific, detailed scope of services. For lump sum contracts, **CONSULTANT** shall invoice based upon percentage of work complete. Supporting information shall be provided to document the estimate of completion percentage.
- 5.6 **CONSULTANT** shall bill identifiable subconsultant fees at the actual fees paid by **CONSULTANT**.
- 5.7 **CITY** agrees that it will use its best efforts to pay **CONSULTANT** within thirty (30) calendar days of receipt of **CONSULTANT'S** proper statement as provided above. The parties shall comply with Section 218.70, Florida Statutes as amended from time to time, et seq. The Prompt Payment Act.

Payment will be made to **CONSULTANT** at: Kimley-Horn and Associates, Inc.
PO BOX 932520
Atlanta, GA 31193-2520

ARTICLE 6

ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

- 6.1 Services related to a **PROFESSIONAL SERVICES** task, which would increase, decrease or which are outside the level of effort agreed upon by **CITY** and **CONSULTANT** shall be services for which **CONSULTANT** must obtain prior written approval of **CITY** before compensation can be paid.
- 6.2 Services related to a **WORK AUTHORIZATION**, which would increase, decrease or which are otherwise outside the Scope of Services or level of effort contemplated by a **WORK AUTHORIZATION** shall be services for which **CONSULTANT** must obtain the prior written approval from **CITY** before compensation can be paid. All terms for the performance of such services must be agreed upon in writing in a document of equal dignity herewith prior to any deviation from the terms of a **WORK AUTHORIZATION** and when properly executed shall become an Amendment to the **WORK AUTHORIZATION**.

ARTICLE 7

CITY'S RESPONSIBILITIES

- 7.1 **CITY** shall assist **CONSULTANT** by placing at **CONSULTANT'S** disposal all information it has available pertinent to the **PROJECT** including previous reports and any other data relative to a **PROJECT**.
- 7.2 **CITY** shall arrange for access to make all provisions for **CONSULTANT** to enter upon public and private property as reasonably required for **CONSULTANT** to perform its services under this Agreement.

ARTICLE 8

MISCELLANEOUS

- 8.1 **TERM OF AGREEMENT:** This **AGREEMENT** shall be a continuing contract as defined by the Consultant's Competitive Negotiation Act (CCNA), as set forth in Section 287.055, Florida Statutes as amended from time to time and shall have an initial term of three (3) years beginning on October 01, 2020, with the right to extend the contract for two (2) additional one (1) year periods.

Costs for all services purchased under this Contract shall remain firm for the initial contract period. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed five percent (5%) per year or the latest yearly percentage increase in the Employment Cost Index (ECI), Total Compensation, Private Industry, Professional, Scientific, and Technical Services, Not Seasonally Adjusted as published by the Bureau of Labor Statistics, U.S. Department of Labor, whichever is less. The yearly increase or decrease in the ECI shall be the latest index published and available ninety (90) days prior to the end of the contract year then in effect compared to the index for the same quarter one (1) year prior. Any requested price increase shall be fully documented and submitted to the **CITY** at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. In the event the ECI or industry costs decline, the **CITY** shall have the right to receive from the **CONSULTANT** a reasonable reduction in costs that reflect such cost changes in the industry.

The **CITY** may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or any decreases are considered to be insufficient. In the event the **CITY** does not wish to accept the adjusted prices and the matter cannot be resolved to the satisfaction of the **CITY**, the contract can be cancelled by the **CITY** upon giving thirty (30) days written notice to the **CONSULTANT**.

- 8.2 **OWNERSHIP OF DOCUMENTS:** All sketches, tracings, drawings, specifications, designs, design calculations, details, models, photographs, reports, surveys and other documents, plans and data that result from **CONSULTANT'S** services under this Agreement or that is provided in connection with this Agreement shall become and shall remain the property of the **CITY**. Copies of all AutoCAD and other similar software files shall be provided to **CITY**. No changes or revisions to the documents or data furnished by **CONSULTANT** shall be made by **CITY** unless **CONSULTANT'S** name and professional seal are removed from such changed or revised materials. All data required to be sealed and signed by a registered Professional Architect in the State of Florida shall not be modified, changed or altered or used for other purposes than those intended without the express written permission of **CONSULTANT**. **CITY** shall hold **CONSULTANT** harmless for any loss or expense for any damages arising out of the modification or use for other projects of **CONSULTANT'S** data and plans, without the specific adaptation by and consent of **CONSULTANT**.

- 8.3 **TERMINATION:** This Agreement may be terminated by **CONSULTANT** for cause, or by **CITY** for any reason with or without cause, upon thirty (30) days written notice from the terminating party to the other party. In the event of such termination, **CONSULTANT** shall be paid its compensation for services performed to termination date, including all **REIMBURSABLES** then due incurred to termination date. All finished or unfinished sketches, tracings, drawings, specifications, design, design calculations, details models, photographs, reports, surveys and other documents, plans and data that result from **CONSULTANT'S** services under this Agreement shall become and shall remain the property of **CITY** and shall be delivered by **CONSULTANT** to **CITY**.

8.4 **PUBLIC RECORDS:** **CONSULTANT** shall keep such records and accounts and require any and all **CONSULTANTS** and subconsultants to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to the project and any expenses for which **CONSULTANT** expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by **CITY** and shall be kept for a period of five (5) years after the completion of all work to be performed pursuant to this Agreement or termination of the Agreement, whichever is later. Incomplete or incorrect entries in such books and records will be grounds for **CITY'S** disallowance of any fees or expenses based upon such entries.

CITY is a public agency subject to Chapter 119, Florida Statutes, as amended from time to time. To the extent **CONSULTANT** is a **CONSULTANT** acting on behalf of the **CITY** pursuant to Section 119.0701, Florida Statutes, as amended from time to time, **CONSULTANT** shall comply with all public records laws in accordance with Chapter 119, Florida Statute. In accordance with state law, **CONSULTANT** agrees to:

- A. Keep and maintain all records that ordinarily and necessarily would be required by the **CITY** in order to perform the services.
- B. Upon request from the **CITY'S** custodian of public records, provide the **CITY** with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statute, or as otherwise provided by law.
- C. Ensure that public records that are exempt, or confidential and exempt, from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the **CONSULTANT** does not transfer the records to the **CITY**.
- D. Upon completion of the services within this Agreement, at no cost, either transfer to the **CITY** all public records in possession of the **CONSULTANT** or keep and maintain public records required by the **CITY** to perform the services. If the **CONSULTANT** transfers all public records to the **CITY** upon completion of the services, the **CONSULTANT** shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If the **CONSULTANT** keeps and maintains public records upon completion of the services, the **CONSULTANT** shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the **CITY**, upon request from the **CITY'S** custodian of public records, in a format that is compatible with the information technology systems of the **CITY**.
- E. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.**


If **CONSULTANT** does not comply with this section, the **CITY** shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

8.5 **EQUAL OPPORTUNITY:** **CONSULTANT** agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age,

disability or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. **CONSULTANT** agrees to furnish **CITY** with a copy of its Affirmative Action Policy, if requested.

8.6 **NO CONTINGENT FEES:** **CONSULTANT** warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for **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 **CONSULTANT**, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, **CITY** shall have the right to terminate the Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

8.7 **SUBCONSULTANTS:** In the event **CONSULTANT**, during the term of this Agreement, requires the services of any subconsultants, or other professional associates in connection with services covered by this Agreement, **CONSULTANT** must secure the prior written approval of the **CONTRACT ADMINISTRATOR**. As part of the approval process, **CITY** shall require subconsultant to comply with the terms of this Agreement, specifically but without limitations, the requirements of this Article 8. **CONSULTANT** shall be responsible for obtaining releases from subconsultants at the time the subconsultants are paid.

8.8 **ASSIGNMENT:** This Agreement, or any interest herein, shall not be assigned, transferred to otherwise encumbered by **CONSULTANT**, under any circumstances, without the prior written consent of **CITY**. Said consent shall be at **CITY'S** reasonable discretion and may not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this contract to the acquiring party in connection with the sale of all or substantially all of its assets or of its equity or membership interests provided that notice is given to **CITY** within thirty (30) days of same. 

8.9 **INDEMNIFICATION OF CITY:** The **CONSULTANT** shall at all times hereafter, indemnify and hold harmless the **CITY**, the **CITY'S** agents, officers, employees, and the City Commission from and against all liabilities, claims, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of **CONSULTANT** and any other persons employed or utilized by the **CONSULTANT** in the performance of services under this Agreement. It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.08, Florida Statutes as amended from time to time.

The parties agree that one percent (1%) of the total compensation paid to **CONSULTANT** for the performance of this Agreement shall represent the specific consideration for the **CONSULTANT'S** indemnification of the **CITY**. This Agreement shall survive the term of this Agreement. Nothing in this section shall be construed to affect in any way the **CITY'S** rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes as amended from time to time, or as otherwise provided by applicable law or judicial decisions.

8.10 **INSURANCE:** **CONSULTANT** shall provide, pay for, and maintain in force at all times during the services to be performed, such insurance, including Worker's Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance, Business Automobile Liability Insurance and Professional Liability Insurance as follows:

Workers' Compensation

Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000 each accident.

General Liability

Commercial General Liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance shall be written in an "occurrence" based format.

Automobile Liability

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverages for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

Professional Liability/Errors and Omissions Coverage

If the **CONSULTANT** is to provide professional services under this Agreement, the **CONSULTANT** must provide the **CITY** with evidence of Professional Liability insurance with, at a minimum of \$1,000,000.00 per occurrence and in the aggregate. "Claims-Made" forms are acceptable for Professional Liability insurance. Coverage shall include all claims arising out of the **CONSULTANT'S** operations or premises, any person directly or indirectly employed by the **CONSULTANT**, and the **CONSULTANT'S** obligations under indemnification under this Agreement.

CONSULTANT acknowledges that the **CITY** is relying on the competence of the **CONSULTANT** to design the project to meet its functional intent. If it is determined during construction of the project that changes must be made due to **CONSULTANT'S** negligent errors and omissions, **CONSULTANT** shall promptly rectify them at no cost to **CITY** and shall be responsible for additional costs, if any, of the project to the proportional extent caused by such negligent errors or omissions.

General

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit and provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

Should any required insurance lapse during the Agreement term, requests for payments originating after such lapse shall not be processed until the **CITY** receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, **CITY** may, at its sole option terminate this Agreement effective on the date of such lapse of insurance.

Auto Liability and General Liability policies shall be endorsed to provide the following:

- A. Name as additional insured the City of Coconut Creek and its Officers, Agents, Employees and Commission Members.
- B. That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:


City of Coconut Creek – Purchasing Division
Attn: Risk Manager
4800 West Copans Road
Coconut Creek, Florida 33063

The issuing agency shall include full name, address and telephone number in each insurance certificate issued.

Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted with the respondent's bid. If **CONSULTANT** is Successful **CONSULTANT**, then prior to commencement of Contract, **CONSULTANT** must submit revised Certificate of Insurance naming the City of Coconut Creek as additional insured for all liability policies.

Insurance Company and Agent

All insurance policies herein required of the Successful Proposer shall be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and shall be executed by agents, thereof that are duly licensed as agents in said state.

- 8.11 **REPRESENTATIVE OF CITY AND CONSULTANT:** It is recognized that questions in the day-to-day conduct of a **PROJECT** will arise. The **CONTRACT ADMINISTRATOR**, upon request by **CONSULTANT** shall designate in writing and shall advise **CONSULTANT** in writing of one or more **CITY** employees to whom all communications pertaining to the day-to-day conduct of **PROJECT** shall be addressed. **CONSULTANT** shall inform **CONTRACT ADMINISTRATOR** in writing of the representative of **CONSULTANT** to whom matters involving the conduct of **PROJECT** shall be addressed. **CONSULTANT** shall, at all times during this Agreement, have available for consultation or otherwise, an employee who shall be familiar with all work contemplated under this Agreement. In performing services under this Agreement, Consultant is acting as an agent of City and it is the intention of the parties that Consultant shall have the benefit of any immunity from suit available to City. 
- 8.12 **ATTORNEY'S FEES:** If a party institutes any legal action to enforce any provision of this Agreement, they shall be entitled to reimbursement from the other party for all costs and expenses, including reasonable attorney's fees incurred by them, provided they are the prevailing party in such legal action, and provided further that they shall make application to the court or other tribunal, for an award of such costs and expenses.
- 8.13 **ALL PRIOR AGREEMENTS SUPERSEDED:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 8.14 **NOTICES:** Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving notice in compliance with

the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice, to wit:

CITY

Karen M. Brooks, City Manager
City of Coconut Creek
4800 West Copans Road
Coconut Creek, Florida 33063
Phone: 954-973-6720
Fax: 954-973-6777
Email: kbrooks@coconutcreek.net

CONSULTANT

Gary R. Ratay, P.E.
Kimley-Horn and Associates, Inc.
8201 Peters Road, Suite 2200
Plantation, FL 33324
Phone: 954-535-5151
Fax: 561-863-8175
Email: Gary.Ratay@kimley-horn.com

- 8.15 **TRUTH-IN-NEGOTIATION CERTIFICATE:** Signature on 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 are accurate, complete, and current at the time of contracting. The original contract price any additions thereto shall be adjusted to exclude any significant sums by which **CITY** determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of this Agreement.
- 8.16 **NON-EXCLUSIVE AGREEMENT:** The services to be provided by **CONSULTANT** pursuant to this Agreement shall be non-exclusive and nothing herein shall preclude **CITY** from engaging other firms to perform the same or similar services for the benefit of **CITY** within **CITY'S** sole and reasonable discretion.
- 8.17 **WARRANTIES OF CONSULTANT:** **CONSULTANT** hereby warrants and represents as follows:
- A. At all times during the term of this Agreement, **CONSULTANT** shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary for the performance under this Agreement.
 - B. At all times during this Agreement, **CONSULTANT** shall perform its obligations in a prompt, professional and businesslike manner.
- 8.18 **GOVERNING LAW:** This Agreement shall be construed in accordance with the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement, shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

8.19 It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and accordingly the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF COCONUT CREEK, through its City Manager or designee and Kimley-Horn and Associates, Inc., signing by and through its VP, Gary R. Ratay, P.E., duly authorized to execute same.

CITY OF COCONUT CREEK

ATTEST:

Karen M Brooks
Karen M. Brooks, City Manager

9/30/2020
Date

Leslie Wallace May 9/30/2020
Leslie Wallace May
City Clerk

Approved as to form and legal sufficiency:

Terrill C. Pyburn
Terrill C. Pyburn, City Attorney

09/30/20
Date

[Vendor's Signature to Follow]

KIMLEY-HORN AND ASSOCIATES, INC.

ATTEST:

[Signature]
(Corporate Secretary)

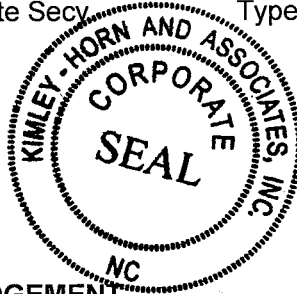
Gary R. Ratay
Gary R. Ratay, P.E., VP

9/3/20
Date

Stefano Visla
Type/Print Name of Corporate Secy

GARY R RATAY
Type/Print Name of VP

(CORPORATE SEAL)



CORPORATE ACKNOWLEDGEMENT

STATE OF FLORIDA: :SS
COUNTY OF Broward

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 3rd day of September, 2020, by Gary R. Ratay (name of person) as Vice President (type of authority, e.g. officer, trustee, attorney in fact) for Kimley-Horn and Associates, Inc. (name of person on behalf of whom instrument was executed).

[Signature]
Signature of Notary Public
State of Florida at Large
Shanda Sutton Layne
Print, Type or Stamp
Name of Notary Public

Personally known to me or
 Produced Identification



Type of I.D. Produced
 DID take an oath, or
 DID NOT take an oath.

EXHIBIT "A"
NEGOTIATED FEE SCHEDULE

These positions / titles are common throughout the profession. Firms using a different nomenclature for the listed positions, but similar in responsibility, shall use those listed below for the purposes of providing hourly rates.

| Position / Title | Hourly Rate |
|--|---------------------|
| Principal (PE registered) | \$215.00 / per hour |
| Senior Engineer (PE registered) | \$180.00 / per hour |
| Land Surveyor (PLS registered) | \$160.00 / per hour |
| Landscape Architect (State Registered) | \$160.00 / per hour |
| Project Manager | \$160.00 / per hour |
| Engineer | \$135.00 / per hour |
| Environmental Scientist | \$140.00 / per hour |
| Planner | \$135.00 / per hour |
| Senior Planner | \$180.00 / per hour |
| Technician | \$ 95.00 / per hour |
| Drafter/GIS | \$115.00 / per hour |
| Field Inspector | \$100.00 / per hour |
| Staff Assistant | \$ 75.00 / per hour |