

**AGREEMENT**

**between**

**CITY OF FORT LAUDERDALE**

**and**

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

**for**

**ONE-WAY PAIRS STUDY FOR ANDREWS AVENUE & SE 3<sup>RD</sup> AVENUE (SURTAX)**

**RFQ No. 140**

## AGREEMENT

THIS IS AN AGREEMENT made and entered into this \_\_\_day of \_\_\_\_\_, 2024, by and between:

THE CITY OF FORT LAUDERDALE, a Florida municipality, (hereinafter referred to as "CITY")

and

KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina Corporation authorized to transact business in the State of Florida, (hereinafter referred to as "CONSULTANT"), ("Parties" or "parties");

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida at its meeting of February 6, 2024 authorized by motion the execution of this Agreement between CONSULTANT and CITY authorizing the performance of One-way Pairs Study for Andrews Avenue and SE 3<sup>rd</sup> Avenue (Surtax), RFQ Event No. 140 incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

### ARTICLE 1 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 AGREEMENT: Means this document between the CITY and CONSULTANT dated \_\_\_\_\_, 2024, and any duly authorized and executed Amendments to Agreement.
- 1.2 BASIC SERVICES: Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.
- 1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the CONSULTANT that by its issuance recommends that CITY pay

identified amounts to the CONSULTANT for services performed by the CONSULTANT on the Project.

- 1.4 CHANGE ORDER: A written document ordering a change in the Contract Price or Contract Time or a material change in the Work. The CONSULTANT may review and make recommendations to the CITY on any proposed Change Orders, for approval or other appropriate action by the CITY.
- 1.5 CITY: The City of Fort Lauderdale, a Florida municipality.
- 1.6 CITY MANAGER: The City Manager of the City of Fort Lauderdale, Florida.
- 1.7 COMMISSION: The City Commission of the City of Fort Lauderdale, Florida, which is the governing body of the CITY government.
- 1.8 CONSTRUCTION COST: The total construction cost to CITY of all elements of the Project designed or specified by CONSULTANT.
- 1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the CITY defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.
- 1.10 CONTRACT DOCUMENTS: The Contract Documents shall consist of the official documents setting forth bidding information, requirements, and contractual obligations for the Project and includes the Consulting Contract for the Project, any contract supplement general conditions, and supplemental general conditions, the Scope of Work, invitation to bid, amendments and addenda, standard instructions for vendors, special instructions for vendors, Plans, Drawings, exhibits, general requirements, technical specifications, bid forms, record of award by the Board, bonds, notice of award, Notice(s) to Proceed, supplements, representations and certifications, certificates, project forms, closeout forms, purchase order(s), Change Order(s), Field Order(s), special provisions, BIM and electronic media submittal requirements, documents incorporated into the Consulting Contract by reference and/or as an exhibit, and any additional documents required by Broward County or Municipality, or for the Project.

Permits on file with the City and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the City for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

- 1.11 CONSULTANT: KIMLEY-HORN AND ASSOCIATES, INC., the CONSULTANT selected to perform professional services pursuant to this Agreement.
- 1.12 CONTRACT ADMINISTRATOR: The Transportation and Mobility Director of the City of Fort Lauderdale, or his/her designee. In the administration of this Agreement, as

contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

- 1.13 CONTRACTOR: One or more individuals, firms, corporations, or other entities identified as such by a written agreement with CITY ("Contract for Construction") to perform the construction services required to complete the Project.
- 1.14 DEPARTMENT DIRECTOR: The Transportation and Mobility Director for the City of Fort Lauderdale.
- 1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.
- 1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.
- 1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Contract Administrator.
- 1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.
- 1.19 ORIGINAL CONTRACT PRICE: The original bid and/or contract price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.
- 1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by CITY as provided in this Agreement.
- 1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

- 1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the CITY's discretion.
- 1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of CITY, in monitoring the Construction Phase of the Project to completion.
- 1.24 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.
- 1.25 SUBSTANTIAL COMPLETION: The CITY will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the City.
- 1.26 SUBCONTRACTOR/SUBCONSULTANT: A person or an entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration, as defined in Section 448.095, Florida Statutes (2023).
- 1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed contract prices in accordance with this Agreement between the CITY and CONSULTANT.
- 1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.
- 1.29 TRANSPORTATION SURTAX ADDENDUM - Transportation Surtax Addendum for Municipal Construction Contracts (Surtax Project # Fort 108-113 RFQ #140-3)

## 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 hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement 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 Pursuant to Section 287.055, Florida Statutes, CITY has formed a Committee to

evaluate CONSULTANT'S statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3  
SCOPE OF SERVICES

- 3.1 The CONSULTANT shall perform the following professional services: Traffic Engineering Services as more specifically described in Exhibit A, Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to, services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit A including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT'S level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.
- 3.2 CITY and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT'S opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Contract Administrator and obtain written approval by the CITY in a timely manner before proceeding with the work. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. The CITY shall not pay for any work that is not approved by the Contract Administrator in writing. If CONSULTANT proceeds with said work without notifying the Contract Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. 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  
GENERAL PROVISIONS

- 4.1 Negotiations pertaining to the rates for professional design, engineering, architectural and project management services to be performed by CONSULTANT have been undertaken between CONSULTANT and CITY representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

- 4.2 CONSULTANT shall include CITY'S specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Contract Administrator.

ARTICLE 5  
PRIORITY OF PROVISIONS

- 5.1 The Contract Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor, services, materials, supplies, equipment or documentation that may reasonably be inferred from the Contract Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to CITY. The Contract Documents are complementary, and wherever possible the provisions of the Contract Documents shall be construed in such manner as to avoid conflicts between provisions of the various Contract Documents. In the event of any inconsistency in the Contract Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Contract Documents shall be construed according to the following priorities:

First priority: The Transportation Surtax Addendum, attached and incorporated herein, dated as of the date of this Agreement, by and between CITY and CONSULTANT.

Second priority: Approved Change Orders, Addenda or Amendments to all related documents.

Third priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Fourth priority: This Agreement.

Fifth priority: City of Fort Lauderdale Request for Qualifications Event No. 140.

Sixth priority: CONSULTANT'S response to City of Fort Lauderdale Request for Qualifications Event No. 140.

- 5.2 Anything shown on the drawings and not mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Contract Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6  
TASK ORDERS

- 6.1 The Project will be divided into "Tasks."
- 6.2 Task Orders shall be jointly prepared by the CITY and CONSULTANT defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this Agreement and all applicable CITY code requirements.
- 6.3 Under all Task Orders and Projects, CITY may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the CITY, the following items:
- 6.3.1 Providing additional copies of reports, contract drawings and documents; and
- 6.3.2 Assisting CITY with litigation support services arising from the planning, development, or construction.
- 6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed/Purchase Order from the CITY. The CONSULTANT must receive the approval of the Contract Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.
- 6.5 If, in the opinion of the CITY, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the CITY shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the CITY shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the CITY, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the CITY may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The CITY may then decide to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

ARTICLE 7  
TERM OF AGREEMENT; TIME FOR PERFORMANCE

- 7.1 CONSULTANT shall perform the basic services described in Exhibit A. The Project Activities and Time Schedule shall be automatically incorporated into this Agreement. Said time periods shall commence from the date of the Notice to Proceed for such services.



- 7.2 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Contract Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables for the Contract Administrator's review.
- 7.3 In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of the CONSULTANT to notify CITY promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform CITY of all facts and details related to the delay.
- 7.4 In the event CONSULTANT fails to substantially complete the Project on or before the substantial completion date specified in the project schedule with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and CONSULTANT'S services are extended beyond the substantial completion date, through no fault of CONSULTANT, CONSULTANT shall be compensated in accordance with the terms of this Agreement for all services rendered by CONSULTANT beyond the substantial completion date.
- 7.5 The time for the performance of services described in the Task Orders Scope of Services and supplemental Task Orders shall be negotiated by the CITY and CONSULTANT as the services are requested and authorized by the CITY.
- 7.6 The term of this Agreement shall be limited to the time duration required to complete the basic services of the aforementioned project and any additional project related Task Orders for additional services.

ARTICLE 8  
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not-To-Exceed Amount Compensation

CITY agrees to pay CONSULTANT as compensation for performance of basic services as related to Exhibit A required under the terms of this Agreement up to a Not-to-Exceed Amount of **THREE HUNDRED NINETEEN THOUSAND SEVEN HUNDRED AND SIXTY DOLLARS (\$319,760)**. It is agreed that the method of compensation is that of "Not-to-Exceed Amount" which means that CONSULTANT shall perform all services set forth in Exhibit A for total

compensation in the amount of or less than that stated above. Compensation to be in accordance with the Cost Schedule and hourly billing rate schedule shown in Exhibit B.

Except as required and provided for by the Florida Local Government Prompt Payment Act, CITY shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof CONSULTANT waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

A Not-to-Exceed proposal shall be accompanied by the CONSULTANT's estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses and profit, or as required by individual Task Order.

## 8.2 METHOD OF BILLING

### 8.2.1 Not-To-Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number in a timely manner for all salary costs attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit A Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Sub-consultant 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, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. 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 category and sub-consultant fees on a task basis, so that total hours and costs by task may be determined.

## 8.3 REIMBURSABLES

8.3.1 Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. CITY shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated

for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Contract Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT's and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Contract Administrator:

- A. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, CITY and other third parties retained or employed by any of them or (ii) submitted to CITY for review, approval or further distribution. Documents, which are reproduced for CONSULTANT'S internal drafts, reviews, or other purposes, are not eligible for reimbursement.
- B. Identifiable testing costs and special inspections approved by Contract Administrator.
- C. All permit 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.
- D. Overnight Delivery/Courier Charges (when CITY requires/requests this service).

8.3.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.3.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of CITY'S obligation to reimburse CONSULTANT for direct, non-salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such

expenses shall be reviewed and approved by CITY prior to incurring such expenses.

#### 8.4 METHOD OF PAYMENT

- 8.4.1 CITY shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.
- 8.4.2 CITY will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, CITY will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to CITY.
- 8.4.3 To protect against payment fraud, CONSULTANT shall comply with any additional requests made by City staff or authentication required by the CITY to verify Consultant's identity, banking information, address, and any other pertinent information, prior to the issuance of each payment.
- 8.4.4 Payments are scheduled to be made by CITY to CONSULTANT using a check.
- 8.4.5 Payment will be made to CONSULTANT at:

Kimley-Horn and Associates, Inc.  
8201 Peters Road  
Suite 2200  
Plantation, Florida 33324

#### ARTICLE 9 AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

- 9.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the CITY and CONSULTANT and approved by the City Commission or City Manager in accordance with the City's Code of Ordinances and applicable City resolutions.
- 9.2 CITY or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. CITY shall compensate CONSULTANT for such additional services as provided in Article 7.

- 9.3 In the event a dispute between the Contract Administrator and CONSULTANT arises over whether requested services constitute additional services, and such dispute cannot be resolved by the Contract Administrator and CONSULTANT, such dispute shall be promptly presented to the City Manager for resolution. The City Manager's decision shall be final and binding on the Parties for amounts in the aggregate under \$100,000. In the event of a dispute in an amount over \$100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Broward County, Florida. Any resolution shall be set forth in a written document in accordance with Section 8.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10  
CONSULTANT'S RESPONSIBILITIES

- 10.1 The CONSULTANT, following the CITY's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the CITY, assist the CITY in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the CITY and shall make a recommendation for any award based on the City of Fort Lauderdale Procurement Ordinance.
- 10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The CITY recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT'S methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.
- 10.3 Should the lowest responsible, responsive proposal exceed the Final Statement of Probable Construction Costs by 10% or more, CONSULTANT shall, at the CITY'S direction, redesign each Project and/or work with the CITY to reduce the costs to within the Final Statement of Probable Construction Costs at no additional expense to the CITY. In such a circumstance, the CITY may at its sole discretion, exercise any one or more of the following options:
- CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten

(10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the CITY;

- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the CITY until the base bid of at least one “best value” bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The CITY may approve an increase in the Estimated Construction Cost of the Project;
- The CITY may reject all bids or proposals and may authorize re-bidding;
- The CITY may if permitted, approve a renegotiation of the Project within a reasonable time;
- The CITY may abandon the project and terminate CONSULTANT’S work authorization and Services for the Project; or
- The CITY may select as many deductive alternatives as may be necessary to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the CITY for such Services.

- 10.4 The CONSULTANT may be requested to provide the CITY with a list of recommended prospective proposers.
- 10.5 The CONSULTANT may be asked to attend all pre-bid/proposal conferences.
- 10.6 The CONSULTANT shall recommend any addenda, through the Contract Administrator, as appropriate to clarify, correct, or change proposal/bid documents.
- 10.7 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the CITY, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the CITY.
- 10.8 The CITY shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT. CONSULTANT may also assist

in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

- 10.9 The CITY shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.
- 10.9.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the CITY which would not be incurred without the Error.
- 10.9.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the CITY which would not be incurred without the Omission. So long as the total of those two numbers (Change Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the CITY shall not look to CONSULTANT for reimbursement for Errors and Omissions.
- 10.9.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the CITY shall recover the full and total additional cost to the CITY as a result of CONSULTANT'S Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.
- 10.9.4 To obtain such recovery, the CITY shall deduct from CONSULTANT'S fee a sufficient amount to recover all such additional cost to the CITY.
- 10.9.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the CITY'S right to recover same as stated above. The recovery of additional costs to the CITY under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the CITY may otherwise incur.
- 10.9.6 The Contract Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under \$100,000 per project, subject to Section 8.3. In the event of a dispute in an amount over \$100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice

to the other, either Party may commence litigation to resolve the dispute in Broward County, Florida.

ARTICLE 11  
CITY'S RESPONSIBILITIES

- 11.1 CITY shall assist CONSULTANT by placing at CONSULTANT'S disposal, all information CITY has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- 11.2 CITY shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.
- 11.3 CITY shall review the itemized deliverables/documents identified per Task Order.
- 11.4 CITY shall give prompt written notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the CONSULTANT.

ARTICLE 12  
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the CITY.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the CITY'S sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the CITY and CONSULTANT. This shall not limit the CITY'S reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.



## 12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the CITY may terminate this Agreement at any time for cause in the event that the CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27, NOTICES. In the case of termination by the CITY for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the CITY. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the CITY from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the CITY against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of CITY and shall be delivered by CONSULTANT to the CITY within five (5) days of CITY'S request. Upon payment of such sum by CITY to CONSULTANT, CITY shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by CITY upon such notice as CITY deems appropriate in the event CITY or Contract Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Contract Administrator may provide a prior verbal stop work order if the Contract Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the CITY to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no

circumstances shall CITY make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to terminate this Agreement upon substantial breach by the CITY of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

### 12.3 AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by CITY all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

The CONSULTANT shall include in its contracts with all of its sub-contractors or sub-consultants that Broward County, a political subdivision of the State of Florida, ("County"), shall have the right to audit the books, records, and accounts of the sub-contractor that are related to this Agreement (the "Contract Records"). Audits, reviews, monitoring, inspections, and investigations conducted pursuant to this Agreement may include, but are not limited to, on-site visits by County staff, interviews of staff of any of the sub-contractors, review of performance and financial reports, determining and monitoring appropriate corrective action, and issuing management letters on deficiencies or weaknesses identified. The CONSULTANT shall by contract require all of its subcontractors or sub-consultants to fully comply and cooperate with any auditing and monitoring activities deemed appropriate by County. The CONSULTANT shall by contract require all of its sub-contractors or sub-consultants to keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request by the County's

Contract Administrator to do so. The CONSULTANT shall by contract require all of its sub-contractors or sub-consultants to make same available in written form at no cost to County.

Contract Records include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, and memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance relating to the project that is the subject of this Agreement ("Project"). Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance relating to the Project of any of the CONSULTANT'S sub-contractors or sub-consultants.

The CONSULTANT shall by contract require all of its subcontractors or subconsultants to preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Project or this Agreement until the later of five (5) years after expiration or termination of this Agreement, resolution of any audit findings, or as otherwise required by law. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County) or the Transportation Surtax Oversight Board. The Project and all expenditures relating to the Project shall be subject to the Oversight Board's review, critique, and analysis for the duration of the Project.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment made or based upon such entry.

If an audit or inspection or examination in accordance with this provision discloses overpricing or overcharges to Municipality (of any nature) by CONSULTANT or the CONSULTANT'S subconsultants in excess of five percent (5%) of the total contract billings reviewed, the reasonable actual cost of any audit conducted by or on behalf of Municipality, Broward County, or the Independent Transportation Surtax Oversight Board shall be reimbursed by CONSULTANT to the Municipality or Broward County, as applicable, along with any required adjustments for the overpricing or overcharges. Any adjustments or payments that must be made as a result of any such audit or inspection of the CONSULTANT'S invoices or records shall be made within a reasonable amount of time (not to exceed 30 days) after presentation of the audit findings to CONSULTANT.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT'S decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

Historically, the CITY has been able to achieve participation levels of approximately twelve percent (12%) by MBE/WBE firms in CITY projects, and in the purchase of goods and services. The CONSULTANT shall make a good faith effort to help the CITY maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the CITY with this documentation at the end of the Project, or in cases where projects are longer than one year, each CITY fiscal year.

## 12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2023), as may be amended or revised, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the City, may not submit a bid on a contract with the City for the construction or repair of a public building or public work, may not submit bids on leases of real property to the City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the City, and may not transact any business with the City in excess of the threshold amount provided in Section 287.017, Florida Statutes (2023), as may be amended or revised, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the City purchase and may result in Contractor debarment.

## 12.7 SUB-CONSULTANTS

12.7.1 CONSULTANT may subcontract certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the CITY prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the sub-consultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Contract Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of sub-consultants submitted is as follows:

**Infinite Source Communications Group, LLC**  
**National Data and Surveying Services, Inc.**

## 12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party, and CONSULTANT shall not sub-contract any portion of the work required by this Agreement except as authorized pursuant to this Agreement.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT'S performance and all interim and final product(s) provided to or on behalf of CITY shall meet or exceed all professional standards of the State of Florida.

## 12.9 INDEMNIFICATION OF CITY

12.9.1 CONSULTANT shall indemnify and hold harmless CITY, its officers and employees, its elected and appointed officials, and its agents, from all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees at appellate and trial levels, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and any persons employed or utilized by CONSULTANT and other persons employed or utilized by CONSULTANT in the performance of this Agreement, and any associated Task Orders or Work Authorization. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against CITY by reason of any such claim or demand, CONSULTANT shall, upon written notice from CITY, resist and defend such action or proceeding by counsel approved by the CITY.

12.9.2 To the extent considered necessary by Contract Administrator and CITY, any sums due the CONSULTANT under this Agreement may be retained by CITY until all of the CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by CITY.

## 12.10 LIMITATION OF CITY'S LIABILITY

The CITY desires to enter into this Agreement only if in so doing the CITY can place a limit on the CITY'S liability for any cause of action arising out of this Agreement, so that the CITY'S liability for any breach never exceeds the sum of \$1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT'S recovery from the CITY to any action or claim arising from the Agreement is limited to a maximum amount of \$1,000.00 less the amount of all funds actually paid by the CITY to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the CITY shall not be liable to the CONSULTANT for damages in an amount in excess of \$1,000.00, which amount shall be reduced by the amount actually paid by the CITY to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the CITY'S liability as set forth in Section 768.28, Florida Statutes, or to extend the CITY'S liability beyond the limits established in said Section 768.28; and no claim or award against the CITY shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the

foregoing, the parties agree and understand that the provisions of this Article do not apply to monies owed, if any, for services rendered to CONSULTANT by the CITY under the provisions of this Agreement.

## 12.11 INSURANCE

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, Consultant, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of Consultant. Consultant shall provide the City a certificate of insurance evidencing such coverage. Consultant's insurance coverage shall be primary insurance for all applicable policies, in respect to the City's interests. The limits of coverage under each policy maintained by Consultant shall not be interpreted as limiting Consultant's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be relied upon by Consultant for assessing the extent or determining appropriate types and limits of coverage to protect Consultant against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Consultant under this Agreement.

The following insurance policies and coverages are required:

### Professional Liability

Coverage must be afforded for Wrongful Acts in an amount not less than \$1,000,000 each claim and \$2,000,000 aggregate.

Consultant must keep the professional liability insurance in force until the third anniversary of expiration or early termination of this Agreement or the third anniversary of acceptance of work by the City, whichever is longer, which obligation shall survive expiration or early termination of this Agreement.

### Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipality, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of Consultant. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

#### Business Automobile Liability

Proof of coverage must be provided for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than the State of Florida required minimums unless a different amount is required by City Ordinance(s).

If Consultant does not own vehicles, Consultant shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

#### Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

Consultant waives, and Consultant shall ensure that Consultant's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

#### Insurance Certificate Requirements

- a. Consultant shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
- b. Consultant shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of Consultant to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.



- d. In the event the Agreement term or any surviving obligation of Consultant following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, Consultant shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The City shall be covered as an Additional Insured on the General Liability policy.
- g. The City shall be granted a Waiver of Subrogation on Consultant's Workers' Compensation insurance policy.
- h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

CONSULTANT has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the application of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at CONSULTANT'S expense.

If CONSULTANT'S primary insurance policy/policies do not meet the minimum requirements as set forth in this Agreement, CONSULTANT may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

CONSULTANT'S insurance coverage shall be primary insurance in respect to the City's interests, a Florida municipality, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by CONSULTANT that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse

in coverage may be considered breach of contract. In addition, CONSULTANT must provide to the City confirmation of coverage renewal via an updated certificate of insurance should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of CONSULTANT'S insurance policies.

CONSULTANT shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to CONSULTANT'S insurance company or companies and the City's Risk Management office as soon as practical.

It is CONSULTANT'S responsibility to ensure that any and all of CONSULTANT'S independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of CONSULTANT. The City reserves the right to adjust insurance limits from time to time at its discretion with notice to CONSULTANT.

**NOTE: CITY PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE CITY OF FORT LAUDERDALE MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.**

#### 12.12 REPRESENTATIVE OF CITY AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Contract Administrator, upon CONSULTANT'S request, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Contract Administrator in writing of CONSULTANT'S representative to whom matters involving the conduct of the Project shall be addressed.

#### 12.13 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, the Parties agree 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.

#### 12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Contract Administrator to change key staff. CONSULTANT shall provide Contract Administrator with such information as necessary to determine the suitability of any proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications.

If Contract Administrator desires to request removal of any of CONSULTANT'S staff, Contract Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

#### 12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

#### 12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

#### 12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative

proceeding. The limitations of this Section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize sub-consultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such sub-consultants, by written contract, from having any conflicts as within the meaning of this Section.

#### 12.18 CONTINGENCY FEE

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 a breach or violation of this provision, the CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

#### 12.19 WAIVER OF BREACH AND MATERIALITY

Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

#### 12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

#### 12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

#### 12.22 JOINT PREPARATION

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

#### 12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-11 of this Agreement shall prevail and be given effect.

#### 12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that 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 claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that 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, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT 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.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the City may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the City's enforcement in Canada of a judgment entered by a court in the United States of America.

#### 12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT's response to the solicitation and each exhibit referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT's response to the solicitation, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 ONE ORIGINAL AGREEMENT

This Agreement shall be executed in one (1) signed Agreement, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified 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 of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

CITY: Milos Majstorovic, P.E., Deputy Director  
Transportation and Mobility Department  
City of Fort Lauderdale  
290 NE 3<sup>rd</sup> Avenue  
Fort Lauderdale, FL 33304  
Telephone: (954) 828-5216  
Email: mmajstorovic@fortlauderdale.gov

With a copy to: City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 828-5364

City Attorney  
City of Fort Lauderdale  
1 East Broward Boulevard, Suite 1605  
Fort Lauderdale, FL 33301  
Telephone: (954) 828-5037

CONSULTANT: Mudassar Alam, P.E.  
Kimley-Horn and Associates, Inc.  
8201 Peters Road, Suite 2200  
Plantation, Florida 33324  
Telephone: (954) 535-5144  
Email: Adrian.Dabkowski@kimley-horn.com

12.28 ATTORNEY FEES

If CITY or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

#### 12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

#### 12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and sub-consultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determining whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT'S health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

#### 12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that CONSULTANT and his/her/its sub-consultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

#### 12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums, by which the CITY determines that contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments must be made within one (1) year following the end of the contract.

### 12.33 EVALUATION

The CITY maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the CITY and the good faith efforts made by the CONSULTANT to maintain MBE/WBE participation in CITY projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

### 12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Broward County, the City of Fort Lauderdale, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

### 12.35 SCRUTINIZED COMPANIES

Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the “Cuba Amendment,” the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The City may terminate this Agreement at the City’s option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.



## 12.36 PUBLIC RECORDS

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 1 EAST BROWARD BOULEVARD, FORT LAUDERDALE, FLORIDA, 33301.**

Consultant shall:

1. Keep and maintain public records required by the City in order to perform the service.
2. 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 copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2023), as may be amended or revised, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this Agreement if CONSULTANT does not transfer the records to the City.
4. Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of CONSULTANT or keep and maintain public records required by the City to perform the service. If CONSULTANT transfers all public records to the City upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, 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.

## 12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT'S expense, counsel being subject to the City's approval, and indemnify and hold harmless the City its employees, officers, elected officials, appointed officials, agents, and volunteers from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any

award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT'S or the CITY'S use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of City and shall be delivered by CONSULTANT to the CITY'S Contract Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the CITY as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

1. The CONSULTANT certifies and represents that it will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida (2023), as may be amended or revised, ("Section 2-187").
2. The failure of the CONSULTANT to comply with Section 2-187 shall be deemed to be a material breach of the Agreement, entitling the CITY to pursue any remedy stated below or any remedy provided under applicable law.
3. The CITY may terminate this Agreement if the CONSULTANT fails to comply with Section 2-187.

4. The CITY may retain all monies due or to become due until the CONSULTANT complies with Section 2-187.
5. The CONSULTANT may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

#### 12.41 E-VERIFY

As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2023), as may be amended or revised, the Consultant and its subconsultants shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees within 3 business days after the first day that the new employee begins working for pay as required under 8 C.F.R. s. 274a.

1. The Consultant shall require each of its subconsultants, if any, to provide the Consultant with an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an unauthorized alien. The Consultant shall maintain a copy of the subconsultant's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.
2. The CITY, the Consultant, or any subconsultant who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes (2023), as may be amended or revised, shall terminate the Agreement with the person or entity.
3. The CITY, upon good faith belief that a subconsultant knowingly violated the provisions of Section 448.095(5), Florida Statutes (2023), as may be amended or revised, but that the Consultant otherwise complied with Section 448.095(5), Florida Statutes (2023), as may be amended or revised, shall promptly notify Consultant and order the Consultant to immediately terminate the contract with the subconsultant, and the Consultant shall comply with such order.
4. An Agreement terminated under Sections 448.095(5)(c)1. or 2., Florida Statutes (2023), as may be amended or revised, is not a breach of contract and may not be considered as such. If the CITY terminates this Agreement under Section 448.095(5)(c), Florida Statutes (2023), as may be amended or revised, the Consultant may not be awarded a public contract for at least one year after the date on which the Agreement was terminated. The Consultant is liable for any additional costs incurred by the CITY as a result of termination of this Agreement.
5. Consultant shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subconsultants, as defined in Section 448.095, Florida Statutes (2023), as may be amended or revised. Consultant shall be responsible for compliance by any and all subconsultants, as defined in Section 448.095, Florida Statutes (2023),

as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2023), as may be amended or revised.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

**CITY**

CITY OF FORT LAUDERDALE, a Florida municipal corporation

By: \_\_\_\_\_  
GREG CHAVARRIA  
City Manager

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

ATTEST:

By: \_\_\_\_\_  
DAVID R. SOLOMAN  
City Clerk

Approved as to Legal Form:  
Thomas J. Ansbro, City Attorney

By: \_\_\_\_\_  
KIMBERLY CUNNINGHAM MOSLEY  
Assistant City Attorney

WITNESSES:

Kimley-Horn and Associates, Inc., a North Carolina corporation authorized to transact business in the State of Florida

\_\_\_\_\_

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

\_\_\_\_\_  
Print Name

Steven E. Lefton  
President

\_\_\_\_\_

\_\_\_\_\_  
Print Name

(CORPORATE SEAL)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Steven E. Lefton, as President, for KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation authorized to transact business in the State of Florida.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_



December 11, 2023

Mr. Milos Majstorovic, MSCE, P.E.  
Deputy Director  
City of Fort Lauderdale Transportation and Mobility  
290 NE 3rd Avenue  
Fort Lauderdale, FL 33301

**Re: *Event 140 – One-Way Pairs Study for Andrews Avenue and SE 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida  
Letter Agreement for Transportation Engineering Planning Services***

Dear Mr. Majstorovic:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “the Consultant”), in connection with the City of Fort Lauderdale’s “Event 140 – One-way Pairs Study for Andrews Avenue and SE 3<sup>rd</sup> Avenue” (“the Project”) is pleased to submit this letter agreement (the “Agreement”) to the City of Fort Lauderdale (“the Client” or “City”) for providing transportation planning services. Our project understanding, scope of services, schedule, and fee are below.

## **PROJECT UNDERSTANDING**

The City of Fort Lauderdale has determined that a comprehensive study of multimodal (bicycle, pedestrian, transit, freight, and vehicular) level of service, access, circulation, complete streets roadway design in evaluating the conversion to one-way pairs of Andrews Avenue and NE/SE 3<sup>rd</sup> Avenue is necessary to develop recommendations that are consistent with the City’s goals and objectives. The study area is generally bounded by SR 838/Sunrise Boulevard/ to the north, SE 17<sup>th</sup> Street to the south, NE/SE 3<sup>rd</sup>/4<sup>th</sup> Avenues to the east, and N Andrews Avenue to the west. Note that it is our understanding that the project includes analyzing the following scenarios:

- Scenario 1 (Counterclockwise Flow): Andrews Avenue Southbound; 3<sup>rd</sup> Avenue Northbound
- Scenario 2 (Clockwise Flow): Andrews Avenue Northbound; 3<sup>rd</sup> Avenue Southbound
- Scenario 3 (Clockwise Flow): Scenario 2 with Flagler Drive used as the connection to Sunrise Boulevard instead of NE 3<sup>rd</sup> Avenue/NE 4<sup>th</sup> Avenue
- Scenario 4 (Alternate Scenario): Based on an evaluation of the first three scenarios

## **SCOPE OF SERVICES**

### **Task 1: Meetings and Project Management**

As part of the Project process, the Consultant will prepare for and attend hearings/meetings and/or conference calls at the Client’s request. It is expected that given the project scope and number of stakeholders, the project will require between 35-40 meetings, as summarized below:

1. Kick-off meeting with the City
2. Methodology meeting with stakeholders (City, Broward County Public Works Department [BCPWD], and Florida Department of Transportation [FDOT])

3. Existing conditions summary meeting with stakeholders (City, BCPWD, and FDOT)
4. Future demand summary meeting with stakeholders (City, BCPWD, and FDOT)
5. Initial findings meeting with stakeholders (City, BCPWD, and FDOT)
6. Final findings meeting with stakeholders (City, BCPWD, and FDOT)
7. Two (2) additional stakeholder meetings, as requested
8. A maximum of five (5) public meetings including City's Planning and Zoning Board, City Commission, Downtown Development Agency (DDA), Broward County Planning Council (BCPC) and County Commission
9. A maximum of three (3) public involvement meetings with the residents and business owners within the influence area of the project. Affected groups include businesses along the corridor, property managers, and major employers within office towers in the urban core within the influence areas include:
  - Sunrise Boulevard to Broward Boulevard
  - Broward Boulevard to Davie Boulevard
  - Davie Boulevard to SE 17<sup>th</sup> Street
10. A maximum of five (5) meetings with Broward County Transit
11. A maximum of 10 meetings to Broward Metropolitan Organization (MPO), Broward County Bicycle and Pedestrian Advisory Committee (BPAC), Broward County Complete Streets Team (BCST), and Florida Department of Transportation (FDOT).

It is expected that 9 meetings will be in-person and the remaining meetings will be virtual.

### **Task 2: Traffic Study Methodology Determination**

Prior to initiating a traffic study, the Consultant will meet with City of Fort Lauderdale, BCPWD, and FDOT staff one (1) time. The purpose of this meeting is to outline the requirements of the study including the intersections and peak periods to be evaluated. The methodology for estimating future traffic volumes for the future alternatives, alternative scenarios, traffic diversions for the one-way pairs, and intersection operations analysis parameters, will also be addressed. During the meeting nearby developments approved but not yet constructed will be identified, which will need to be accounted for in the study.

A methodology memorandum will be submitted to the City, BCPWD, and FDOT in order to verify the traffic impact study requirements and establish concurrence. The Consultant will revise the methodology one (1) time each in response to the City's, BCPWD, and FDOT comments, if necessary.

### **Task 3: Traffic Data Collection**

Intersection turning movement counts will be collected during the AM (7:00 AM to 9:00 AM) and PM (4:00 PM to 6:00 PM) peak periods of a typical weekday (Tuesday, Wednesday, or Thursday). These counts will be collected in 15-minute intervals and will be factored by the Florida Department of Transportation's (FDOT) seasonal adjustment factors to represent peak season traffic conditions. Data will be collected at the following intersections:

1. SR 838/Sunrise Boulevard at Andrews Avenue
2. Progresso Drive at Andrews Avenue
3. N. Flagler Drive at Andrews Avenue
4. Sistrunk Boulevard/NE/NW 6<sup>th</sup> Street at Andrews Avenue
5. NE/NW 4<sup>th</sup> Street at Andrews Avenue



6. NE/NW 2<sup>nd</sup> Street at Andrews Avenue
7. SR 842/Broward Boulevard at Andrews Avenue
8. SE/SW 2<sup>nd</sup> Street at Andrews Avenue
9. Las Olas Boulevard at Andrews Avenue
10. SE/SW 6<sup>th</sup> Street at Andrews Avenue
11. SE/SW 7<sup>th</sup> Street at Andrews Avenue
12. Davie Boulevard at Andrews Avenue
13. SE/SW 17<sup>th</sup> Street at Andrews Avenue
14. SR 838/Sunrise Boulevard at NE 4<sup>th</sup> Avenue
15. Progresso Drive at NE 3<sup>rd</sup> Avenue
16. N. Flagler Drive at NE 3<sup>rd</sup> Avenue
17. Sistrunk Boulevard/NE 6<sup>th</sup> Street at NE 3<sup>rd</sup> Avenue
18. NE 4<sup>th</sup> Street at NE 3<sup>rd</sup> Avenue
19. NE 2<sup>nd</sup> Street at NE 3<sup>rd</sup> Avenue
20. Broward Boulevard at NE 3<sup>rd</sup> Avenue
21. 2<sup>nd</sup> Street at SE 3<sup>rd</sup> Avenue
22. Las Olas Boulevard at SE 3<sup>rd</sup> Avenue
23. SE 6<sup>th</sup> Street at SE 3<sup>rd</sup> Avenue
24. SE 7<sup>th</sup> Street at SE 3<sup>rd</sup> Avenue
25. Davie Boulevard at SE 3<sup>rd</sup> Avenue
26. SE 17<sup>th</sup> Street at SE 3<sup>rd</sup> Avenue
27. Flagler Drive at SR 838/Sunrise Boulevard
28. US 1/Federal Highway at SR 838/Sunrise Boulevard
29. US 1/Federal Highway at NE 9<sup>th</sup> Street
30. N Flagler Drive/NE 4<sup>th</sup> Avenue at NE 9<sup>th</sup> Street (Scenario 3)
31. NE 3<sup>rd</sup> Street at NE 3<sup>rd</sup> Avenue

Additional data collection will be collected at a maximum of five (5) additional intersections. Existing signal phasing and timing patterns will be obtained from the BCPWD for the signalized study area intersections. It is assumed that data requested from BCPWD will be provided with an associated fee.

#### Task 4: Baseline Conditions

Vehicular roadway conditions will be examined to determine the intersection operations at the study area intersections for both the existing AM (7:00 AM to 9:00 AM) and PM (4:00 PM to 6:00 PM) peak hours utilizing Trafficware's *SYNCHRO* software based upon the methodologies contained in Transportation Research Board's (TRB) *Highway Capacity Manual*. The transportation models will be calibrated for actual traffic conditions and local driver behavior, including the following factors:

- Peak Hour Factor
- Lane utilization
- Approach geometry
- Turn lane lengths
- Right-turn channelization type
- Right-turn on red
- Central Business District Factor (reduces saturation flow)
- Pedestrian crossing volumes
- Conflicting pedestrian volumes

- Conflicting bicycle volumes
- On-street parking lanes
- Bus blockage/frequency of buses
- Heavy vehicle percentages
- Critical and follow-up headways at unsignalized intersections
- Signal Timings
  - Pedestrian signal calls
  - Recall Mode
  - Minimum Initial
  - Yellow Time
  - All Red Time
  - Ped Walk Time
  - Ped Don't Walk Time
  - Vehicle Extension/Minimum Gap
  - Maximum Split
  - Offset
  - Platoon Ratio for coordinated approaches

The intersection operations analysis will include intersection level of service (LOS) and delay, approach LOS and delay, and 95<sup>th</sup> percentile turn lane and through lane queue lengths. These operational factors will be documented in tabular format. LOS results will also be presented graphically on 8.5"x11" or 11"x17" format figures.

Each intersection will be analyzed for its individual peak hour, which can result in volume imbalance. However, this approach results in a conservative analysis as the highest volumes at each intersection and/or roadway segment are evaluated.

Roadway segment capacity analysis will be conducted using Florida Department of Transportation's (FDOT's) *Quality/LOS Handbook – Generalized Tables*. Roadway segment capacity results will be presented in tabular format.

The results of the baseline conditions analysis will be documented in a technical memorandum. The memorandum will include graphics and tabulations, plus text to describe the study procedure, analysis results, findings and recommendations. Ten (10) bound copies and one (1) electronic file of the traffic impact study may be provided, as requested.

The Consultant will prepare one (1) set of responses each to City of Fort Lauderdale, BCPWD, and FDOT comments that directly relate to analyses performed in accordance with this task. The responses may include revising analyses, updating findings, and revising the technical memorandum.

### **Task 5: Estimation of Future Year Travel Demand - Existing Two-Way Network**

Future traffic projections at study area intersections will be developed for years 2045. Growth rates will be developed using the Florida Standard Urban Transportation Model Structure (FSUTMS) – *Southeast Florida Regional Planning Model (SERPM)* projected 2015 and 2045 model network volumes. Traffic projections for year 2045 will be prepared consistent with the Broward MPO's current Commitment 2045 Metropolitan Transportation Plan/Long Range Transportation Plan and will be validated based on historic AADT volume from FDOT count stations. Furthermore, Kimley-Horn will perform a sub-area



validation of the model network to confirm that existing volumes, facility types, and laneage is correctly coded in the SERPM. In addition, model forecasts will be supplemented with available FDOT and Broward County historical growth trends at nearby FDOT traffic count stations in the study area to provide an additional check for reasonableness.

Note that it is not expected that the SERPM model will have all the study area intersections represented as it is a regional model. Growth trends from the model will be determined for the study area corridors and the future traffic model projections will be applied to existing intersection turning movement counts to establish future year intersection turning movement counts for 2023 and 2045.

Kimley-Horn will also evaluate committed development information within the study area. A committed development is defined as a project approved by the City/adjacent municipality but not yet constructed or a development project that has been submitted to the City for review prior to the subject development. The future year traffic projections must account for committed projects in the vicinity where the study area overlaps with committed developments.

Kimley-Horn will review the Broward MPO's Five (5) Year Transportation Improvement Program (TIP) and the Long-Range Transportation Plan (LRTP), Broward County's Surtax/Mobility Advancement Program (MAP), and the City's Capital Improvement Program (CIP) to identify any planned or programmed improvements that may impact traffic volumes or operations within the study area.

The results of the future traffic projections will be documented in a technical memorandum. The memorandum will include graphics and tabulations, plus text to describe the study procedure, future traffic projections. One (1) electronic file of the traffic impact study will be provided, and ten (10) bound copies can be provided, as requested.

The Consultant will prepare one (1) set of responses each to City of Fort Lauderdale, BCPWD, and FDOT comments that directly relate to analyses performed in accordance with this task. The responses may include revising calculations, updating findings, and revising the technical memorandum.

### **Task 6: Feasibility Review**

Preliminary concept plans will be developed for a maximum of five (5) proposed improvement scenarios will be developed. These concept plans will be prepared for year 2045. Therefore, it is expected that the initial concept plans will be refined a maximum of one (1) each once draft results of the future operational analysis have been completed as part of Task 8. The concept plan will be developed in either Autodesk's *AutoCAD* or Bentley's *Microstation* software. The concept plan will be overlaid on aerial photography or survey (if provided by the City) in a typical exhibit format (8.5"x11" or 11"x17") with color-coded legend identifying roadway features, preliminary lane markings, and are intended to be presented to both a technical and non-technical audience. The lane configuration recommendations for each alternative will be mapped with the right-of-way to determine constrained locations. compared with existing rights-of-way to determine if right-of-way is constrained anywhere along the corridor. The concept will not include preliminary drainage, lighting and/or detailed signing and marking layout, as well as detailed roadway horizontal and vertical geometry. Concept plans will be prepared for the following scenarios:

1. Scenario 1: Within the existing curb (Three typical sections each for Andrews Avenue and 3<sup>rd</sup> Avenue)

2. Scenario 1: With reconstruction (Three typical sections each for Andrews Avenue and 3<sup>rd</sup> Avenue)
3. Scenario 2: Within the existing curb (Three typical sections each for Andrews Avenue and 3<sup>rd</sup> Avenue)
4. Scenario 2: With reconstruction (Three typical sections each for Andrews Avenue and 3<sup>rd</sup> Avenue)
5. Scenario 3: One additional typical section for the reconstruction of Flagler Drive (Andrews Avenue northbound/Flagler Drive/3<sup>rd</sup> Avenue southbound)

Initial lane configuration recommendations for the study area intersections of each alternative will be developed including treatment of the four (4) north/south termini (Andrews Avenue and 3<sup>rd</sup>/4<sup>th</sup> Avenues at Sunrise Boulevard and SE 17<sup>th</sup> Street) of each scenario. This also includes Flagler Drive at 3<sup>rd</sup> Avenue, N Flagler Drive/NE 4<sup>th</sup> Avenue at NE 9<sup>th</sup> Street, and Flagler Drive at Sunrise Boulevard as part of Scenario 3.

Typical cross-sections sections for each scenario will be prepared for a maximum of three (3) cross-sections per scenario. Documentation including design assumptions and associated analysis will be provided for each cross-section.

As part of this task opinion of probable costs will be developed for each alternative. Special consideration will be provided for transit, as the one-way operations will require modifications to route alignment. The impacted Broward County Transit (BCT) routes include Routes 1, 40, 50, 60, 101.

Renderings of a maximum of 14 intersections, to be determined by the City will be prepared. Renderings will be prepared in 11"x17" format.

Kimley-Horn will prepare a strengths, weaknesses, opportunities, and threats (SWOT) assessment of the advantages and disadvantages of one-way pair roadway operations specific to the study corridors as well as generalized best practices based on a literature review, prepared as part of this task. The SWOT analysis will include the following parameters:

1. Constructability evaluation
2. Downtown access and circulation impact evaluation, including access to and from major driveways
3. Emergency response (police, fire-rescue and other emergency services response times)
4. Economic sustainability
5. Curbside Management
6. Retail storefront exposure
7. Accommodation of transit facilities and other multimodal mobility
8. Sense of place considerations
9. Effective use of right-of-way
10. Transit accommodations
11. Bicyclist accommodations
12. Pedestrian accommodations

The results of the feasibility review will be documented in a technical memorandum. The memorandum will include graphics and tabulations, plus text to describe the review procedure, findings and recommendations, SWOT analysis results. One (1) electronic file of the traffic impact study will be provided, and ten (10) bound copies can be provided, as requested.



The Consultant will prepare one (1) set of responses each to City of Fort Lauderdale, BCPWD, and FDOT comments that directly relate to analyses performed in accordance with this task. The responses may include revising analyses, updating findings, and revising the technical memorandum.

**Task 7: Estimate Future Year Travel Demand - with One-Way Pair**

One-way pair future traffic projections along study area corridors for years 2045 will be developed using FSUTMS SERPM projected 2015 and 2045 model network volumes. The one-way traffic projections for year 2045 will be prepared consistent with the Broward MPO's current Commitment 2045 Metropolitan Transportation Plan/Long Range Transportation Plan and will be validated based on historic AADT volume from FDOT count stations. Furthermore, Kimley-Horn will perform a sub-area validation of the model network to modify the link directional characteristics, centroid connectors, and turn prohibitions.

The SERPM model will be updated for the following one-way scenarios:

- Scenario 1: Counterclockwise Circulation (Andrews Avenue southbound/3<sup>rd</sup> Avenue northbound): long-term year-2045
- Scenario 2: Clockwise Circulation (Andrews Avenue northbound/3<sup>rd</sup> Avenue southbound): long-term year-2045
- Scenario 3: Clockwise Circulation (Andrews Avenue northbound/Flagler Drive southbound): long-term year-2045
- Scenario 4: Alternative Scenario (additional scenario based on evaluation of scenarios 1-3)

In addition, model forecasts will be supplemented with available FDOT and Broward County historical growth trends at nearby FDOT traffic count stations in the study area to provide an additional check for reasonableness. As part of the evaluation, Kimley-Horn will apply the FDOT Traffic Trends Analysis software to determine if the most appropriate growth is applied through examined linear, exponential, and decaying exponential growth rates for the most recent five (5) and 10-year periods.

As previously stated, it is not expected that the SERPM model will have all the study area intersections represented as it is a regional model. Growth trends from the model will be determined for the study area corridors and the future traffic model projections will be applied to existing intersection turning movement counts to establish future year intersection turning movement counts. The future projected traffic volumes will then be diverted to account for the one-pair configuration for each scenario for the AM and PM peak hours. Intersection traffic diversions will be performed for every movement at each intersection to properly account for the proposed one-way condition, which will be extended to the entire study area.

Committed development information determined as part of Task 5 will also be included as part of this Task.

The results of the future traffic projections will be documented in a technical memorandum. The memorandum will include graphics and tabulations, plus text to describe the study procedure, future traffic projections. One (1) electronic file of the traffic impact study will be provided, and ten (10) bound copies can be provided, as requested.

The Consultant will prepare one (1) set of responses each to City of Fort Lauderdale, BCPWD, and FDOT comments that directly relate to analyses performed in accordance with this task. The responses may include revising calculations, updating findings, and revising the technical memorandum.

## Task 8: Future Operational Analysis

Using the existing and forecasted future peak hour traffic volumes prepared in previous tasks we will perform AM (7:00 AM to 9:00 AM) and PM (4:00 PM to 6:00 PM) peak hour operational analysis of the following scenarios:

- No-Build: existing year 2023 and long-term year-2045
- Scenario 1: Counterclockwise Circulation (Andrews Avenue southbound/3<sup>rd</sup> Avenue northbound): existing year 2023 and long-term year-2045
- Scenario 2: Clockwise Circulation (Andrews Avenue northbound/3<sup>rd</sup> Avenue southbound): existing year 2023 and long-term year-2045
- Scenario 3 Clockwise Circulation (Andrews Avenue northbound/Flagler Drive southbound: existing year 2023 and long-term year-2045

Signal timings at each study area intersection will be optimized for each alternative scenario for both the AM and PM peak hours. Note that is not expected that signal cycle lengths will be modified as that could alter progression and intersection of signals adjacent to the study area corridors. It is expected that signal phasing and split times will be optimized. North-south signal progression will be reviewed for the intersection with signalized intersection to the east and west of the study corridors.

Intersection operational analyses will be performed using Trafficware's *SYNCHRO* software based upon the methodologies contained in TRB's *HCM* and calibration factors, as stated in Task 4. The operational analysis will be summarized in tabular form and will include the following analysis parameters:

- Intersection overall LOS/delay
- Intersection approach LOS/delay
- Queue length for movements (95<sup>th</sup> percentile)

A ranking for each alternative will be based on a composite score determined from the rankings of each transportation analysis variable analyzed including:

- Network-wide average vehicle control delay
- Network-wide total vehicle queuing
- Amount of right-of-way needs
- Planning level construction costs
- Bicycle level of traffic stress
- Pedestrian level of traffic stress
- Transit level of service

Note that this ranking assumes that all traffic analysis variables are equally weighted. The lowest composite score correlates to the alternative alignment best ranked among the other alternatives. The ranking system will determine the best-performing scenario.

The results of the future operational analysis will be documented in a technical memorandum. The memorandum will include graphics and tabulations, plus text to describe the study procedure, analysis results, findings and recommendations. Ten (10) bound copies and one (1) electronic file of the traffic impact study may be provided, as requested.

The Consultant will prepare one (1) set of responses each to City of Fort Lauderdale, BCPWD, and FDOT comments that directly relate to analyses performed in accordance with this task. The responses may include revising analyses, updating findings, and revising the technical memorandum.



**Task 9: Technical Report and Recommendation**

A report will be prepared as a compilation of all the tasks completed including meetings/public engagement, data collection, baseline conditions, future year traffic volume forecasting, feasibility review, future operational analysis, and recommendations. Each task will have separate memorandums that will be compiled into the final report.

The Consultant will update the report and analysis based on two (2) sets of comments from each of the City of Fort Lauderdale, BCPWD, and FDOT. A maximum of ten (10) bound copies will be provided along with an electronic (PDF) copy.

**ADDITIONAL SERVICES**

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

- Additional traffic data collection
- Additional traffic analysis
- Year 2030 traffic analysis
- Preparing a 2-dimensional simulation using SimTraffic software
- Preparing a 3-dimensional simulation using VISSIM software
- Preparing responses to additional agency requests or comments
- Preparing additional analyses in response to agency requests or comments
- Preparing additional analyses in response to changes to the project
- Preparing and attending additional meetings
- Preparing additional concept plans
- Traffic signal warrant analysis
- Traffic signal design/modification
- Traffic signal construction phase services
- BCPWD/FDOT roadway plan preparation
- Roadway design/modification
- Civil engineering
- Landscape architecture
- Permitting and regulatory assistance
- Planning and zoning assistance
- Public Involvement Plan (PIP)

**INFORMATION PROVIDED BY CLIENT**

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the right-of-way mapping along Andrews Avenue and NE/SE 3<sup>rd</sup> Avenue (electronic and hardcopy).

**SCHEDULE**

We will provide our services in an expeditious and orderly manner to meet a mutually agreed upon schedule for the various elements of the project. An 11-month timeline is proposed for this project.

## FEE AND BILLING

Kimley-Horn will perform the Scope of Services described in Tasks 1 through 9 on a labor fee plus expense basis with the maximum labor fee shown below. All lobbyist, permitting, application, and similar project fees will be paid directly by the Client.

Task:	Description	Labor Fee
Task 1:	Meetings and Project Management .....	\$
Task 2:	Traffic Study Methodology Determination .....	\$
Task 3:	Traffic Data Collection .....	\$
Task 4:	Baseline Conditions.....	\$
Task 5:	Estimation of Future Year Travel Demand - Existing Two-Way Network .....	\$
Task 6:	Feasibility Review.....	\$
Task 7:	Estimate Future Year Travel Demand - with One-Way Pair .....	\$
Task 8:	Future Operational Analysis .....	\$
Task 9:	Technical Report and Recommendation.....	\$
	<i>Maximum Labor Fees</i> .....	\$

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

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

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

If authorized by the City, additional services will be billed hourly as needed, or a lump sum amendment can be prepared.

## CLOSURE

The terms and conditions of the City of Fort Lauderdale's "Event 140 – One-way Pairs Study for Andrews Avenue and SE 3<sup>rd</sup> Avenue" contract provisions shall govern this scope of services.



We appreciate the opportunity to provide these services to you. Please contact me if you have any questions. Please contact me at 954-535-5100 if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed:



Printed Name: Adrian K. Dabkowski, P.E., PTOE

Title: Project Manager/Vice President



Eli Perez, P.E., PTOE, IMSA II

Deputy Project Manager

[https://kimleyhorn.sharepoint.com/sites/FTLOne-WayPairs/Shared Documents/General/\\_Scope and Fee/one-way pairs scope 12 2023 to meet budget.docx](https://kimleyhorn.sharepoint.com/sites/FTLOne-WayPairs/Shared Documents/General/_Scope and Fee/one-way pairs scope 12 2023 to meet budget.docx)

Task #	Task name	Senior II	Senior I	Prof. II	Prof. I	Designer	Support	Notes (as Needed)	Estimated Task Fee
		\$ 250.00	\$ 210.00	\$ 180.00	\$ 150.00	\$ 120.00	\$ 72.00		
<b>1 Meetings and Project Management</b>									
1.1	Kick-off Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.2	Methodology Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.3	Existing Conditions Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.4	Future Demand Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.5	Initial Findings meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.6	Final Findings meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00
1.7	2 stakeholder meetings	4	4		8			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes for each meeting.	\$ 3,040.00
1.8	5 public meetings	13	16		26		4	Assumes 3 In-person, 2 virtual: In-person - 3 hours to prep, travel, and attend; 1 additional hour for Prof. II to prep presentation, 3 additional hours for Prof. I to prepare presentation and meeting notes for each meeting.	\$ 10,798.00
1.9	3 public involvement meetings	9	12		18		3	In-person - 3 hours to prep, travel, and attend; 1 additional hour for Prof. II to prep presentation, 3 additional hours for Prof. I to prepare presentation and meeting notes for each meeting.	\$ 7,686.00
1.10	5 BCT meetings	7.5	7.5		17.5			Virtual - 1.5 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes for each meeting.	\$ 6,075.00
1.11	10 MPO, BPAC, BCSJ meetings	25	25		50		3	Assumes 5 in-person and 5 virtual meetings.	\$ 19,216.00
<b>Task Total</b>									<b>\$ 55,935.00</b>
<b>2 Traffic Study Methodology</b>									
2.1	Traffic Study Methodology Determination	1	6		20			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 4,510.00
<b>Task Total</b>									<b>\$ 4,510.00</b>
<b>3 Traffic Data Collection</b>									
3.1	Traffic Data Collection & Field Reviews		2		4			Includes coordination with data subconsultant on data collection.	\$ 1,020.00
<b>Task Total</b>									<b>\$ 1,020.00</b>
<b>4 Baseline Conditions</b>									
4.1	Synchro Development		2	11	31			1 hour per intersection to model and review + QC and coordination for AM and PM Peak.	\$ 7,050.00
4.2	Signal Timings		2	8	15.5			0.5 hours per intersection to model and review + QC and coordination with County and/or FDOT.	\$ 4,185.00
4.3	Roadway Segment Capacity Analysis		2	4	7			Assumes 27 roadway segments. 0.25 hours per roadway segment + QC and coordination for AM and PM Peak.	\$ 2,190.00
4.3	Memorandum	2	4	4	40			Includes responding to one (1) round of comments from City, BCTED and FDOT, as applicable.	\$ 8,060.00
<b>Task Total</b>									<b>\$ 21,485.00</b>
<b>5 Estimation of Future Year Travel Demand - Existing Two-Way Network</b>									
5.1	Year 2030							Assumes SERPM growth analysis and review of recently implemented MPO's TIP, BC's MAP, and City's CIP projects. Includes area-wide validation of the existing model.	\$ -
5.2	Year 2045		4	20	40			Assumes SERPM growth analysis and review of MPO's TIP and LRTP, BC's MAP, and City's CIP. Includes area-wide validation of the existing model.	\$ 10,440.00
<b>Task Total</b>									<b>\$ 10,440.00</b>
<b>6 Feasibility Review</b>									
6.1	Scenario 1	2	8	15	60	30		Assumes 50 sheets per Scenario. 0.5 hours per sheet for plan set up, 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 17,480.00
6.2	Scenario 2A	2	8	12	50	26		Assumes 50 sheets per Scenario. 1.25 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 14,960.00
6.3	Scenario 2B	2	8	12	44	22		Assumes 50 sheets per Scenario. 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 13,580.00
6.4	Scenario 3	2	4	6	7	3		Assumes 5 sheets for this scenario. 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 3,830.00
6.5	Opinion of Probable Cost (Planning Level)	2	4		21			6 hours for scenarios 1 & 2, and 3 hours for scenario 3 + QC.	\$ 4,490.00
6.6	SWOT Analysis	2	6	12	20			Includes SWOT analysis and associated internal meetings/workshops.	\$ 6,920.00
6.7	Renderings	2	4		110	55		Assumes 15 renderings. 10 hours per rendering, 1 hour for revisions per rendering.	\$ 24,440.00
6.8	Memorandum	4	8	12	36			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 10,240.00
<b>Task Total</b>									<b>\$ 95,940.00</b>
<b>7 Estimate Future Year Travel Demand - with One-Way Pair</b>									
7.1	Scenario 1: Year 2030							Assumes geometrically modifying the existing 2015 and 2045 models with one-way pair configuration and interpolating to develop 2025 volumes.	\$ -
7.2	Scenario 1: Year 2045		10	30	40			Assumes geometrically modifying the existing 2015 and 2045 models with one-way pair configuration and developing 2025 volumes.	\$ 13,500.00
7.3	Scenario 2: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -
7.4	Scenario 2: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00
7.5	Scenario 3: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -
7.6	Scenario 3: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00
7.7	Scenario 4: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -
7.8	Scenario 4: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00
7.9	Memorandum	4	6	10	28			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 8,260.00
<b>Task Total</b>									<b>\$ 36,430.00</b>
<b>8 Future Operational Analysis</b>									
8.1	No-Build		2	4	31			.5 hour per intersection to model and review + QC and coordination for AM and PM Peak. Also includes 0.25 hours per roadway segment.	\$ 5,790.00
8.2	Scenario 1		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak. Also includes 0.50 hours per roadway segment.	\$ 11,430.00
8.3	Scenario 2		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak.	\$ 11,430.00
8.4	Scenario 3		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak.	\$ 11,430.00
8.5	Analysis table preparation		2	4	36			1 hour per intersection + QC and coordination for AM and PM Peak.	\$ 6,540.00
8.6	Memorandum	4	6	40	40			Includes summarizing Tasks 8.1 to 8.5, QC, and revisions.	\$ 15,460.00
8.7	Response to comments	2	4	20	20			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 7,940.00
<b>Task Total</b>									<b>\$ 70,020.00</b>
<b>9 Technical Report and Recommendations</b>									
9.1	Compilation of Report	6	8	10	40			Summary of all tasks and coordination completed for the project. Includes one (1) round of response to City, BCPWD, and FDOT comments	\$ 10,980.00
<b>Task Total</b>									<b>\$ 10,980.00</b>
<b>Total Hours Per Classification</b>		<b>107.5</b>	<b>210.5</b>	<b>288</b>	<b>1112</b>	<b>136</b>	<b>10</b>		
Kimley-Horn Fee									\$ 306,760.00
Subconsultant Fee (NDS)*									\$ 13,000.00
<b>Total Fee</b>									<b>\$ 319,760.00</b>

\* Assumes 4 hours turning movement count data collection at 31 intersections.

# Kimley-Horn and Associates, Inc.

## Exhibit B

### Billing Rates

<b>Classification</b>	<b>Rate</b>
Senior Professional II – Sr. Eng. 15 yr	\$250
Senior Professional I – Sr. Eng 10 yr	\$210
Professional II – Project Eng	\$180
Professional I – Eng. Intern	\$150
Principal Designer - CADD	\$120
Support Staff – Admin Assist.	\$72

### Infinite Source Communications Group

<u>Personnel Category</u>	<u>Position Description/Years of Experience</u>	<u>Hourly Rate</u>
Outreach Manger	Monica Diaz - Lead all public outreach strategy, planning and execution - 19 years	\$170
Outreach Specialist	Walna Calixte - Support and deliver all outreach efforts - 21 Years	\$115.38*
Support	Veronica Bricero	\$65

**National Data & Surveying Services, Inc. (NDS)**

<b><u>CATEGORY</u></b>	<b><u>HOURLY RATE</u></b>
Project Manager	\$ 95.00
Field Manager	\$ 76.00
Quality Control/Quality Assurance	\$ 68.00
Administrative	\$ 38.00
Field Technician	\$ 35.00

TMC 4Hr 1 Person **\$315 \***  
TMC 4Hr 2 Person **\$500 \***

TMC 6Hr 1 Person **\$465 \***  
TMC 6Hr 2 Person **\$740 \***

TMC 8Hr 1 Person **\$615 \***  
TMC 8Hr 2 Person **\$980 \***

Volume Machine Count ADT 24Hr **\$120\***  
Volume Machine Count ADT 48Hr **\$195\***  
Volume Machine Count ADT 72Hr **\$270\***

Class **or** Speed Machine Count ADT 24Hr (Normal) **\$160\***  
Class **or** Speed Machine Count ADT 48Hr (Normal) **\$245\***  
Class **or** Speed Machine Count ADT 72Hr (Normal) **\$330\***

Class **or** Speed Machine Count ADT 24Hr (Large) **\$215**  
Class **or** Speed Machine Count ADT 48Hr (Large) **\$345\***  
Class **or** Speed Machine Count ADT 72Hr (Large) **\$465\***

Class **and** Speed Machine Count ADT 24Hr (Normal) **\$200\***  
Class **and** Speed Machine Count ADT 48Hr (Normal) **\$310\***  
Class **and** Speed Machine Count ADT 72Hr (Normal) **\$420\***

Class **and** Speed Machine Count ADT 24Hr (Large) **\$285\***  
Class **and** Speed Machine Count ADT 48Hr (Large) **\$435\***  
Class **and** Speed Machine Count ADT 72Hr (Large) **\$585\***

Delay study (2 hour) **\$210\***  
Delay study (4 hour) **\$315\***

Queue study Per Person/Camera 2Hr **\$210\***  
Queue study Per Person/Camera 4Hr **\$315\***

Normal ADT vs Large ADT

Normal is a street/road that has 1 or 2 lanes going in either direction, 2-4 lanes total.

Large is a street/road that contains 3 or more lanes in either direction, 5 or more lanes total.



**TRANSPORTATION SURTAX ADDENDUM FOR MUNICIPAL CONSULTANT CONTRACTS  
(SURTAX PROJECT# FORT-108-113/RFQ #140-3)**

This Transportation Surtax Addendum (“Addendum”) is made and entered by and between the City of Fort Lauderdale, a municipality of the State of Florida (“Municipality”), and Kimley-Horn and Associates, Inc., a North Carolina Corporation authorized to transact business in the State of Florida, (“Consultant”) (each a “Party” and collectively referred to as the “Parties”).

**GENERAL CONDITIONS**

**A.** The solicitation, purchase order, or contract between Municipality and Consultant (all of which shall be referred to in this Addendum as the "Consulting Agreement") is funded in whole or in part by the transportation surtax levied pursuant to Section 31½-71, et seq., of the Broward County Code of Ordinances (the “County Surtax Ordinance”). The Consulting Agreement is therefore subject to the terms and conditions of County Surtax Ordinance, Section 212.055(1) of the Florida Statutes, and the terms and conditions of the interlocal funding agreement between Broward County, a political subdivision of the State of Florida (“County”) and Municipality to provide for funding of the Project (the “Funding Agreement”).

**B.** The purpose of this Addendum is to incorporate the terms and conditions required by the County Surtax Ordinance, Section 212.055(1), Florida Statutes, and the Funding Agreement, into the Parties’ Consulting Agreement.

**C.** Municipality has met the requirements of Section 287.055, Florida Statutes, the Consultants’ Competitive Negotiation Act, and has selected Consultant to perform the services hereunder.

**D.** All contract provisions required by the County Surtax Ordinance, Section 212.055(1) of the Florida Statute, and the Funding Agreement, as amended, are incorporated in this Addendum by reference, whether or not expressly set forth in the provisions below.

**E.** Consultant agrees to include the terms in this Addendum in each subcontract financed in whole or in part with transportation surtax funds levied pursuant to the County Surtax Ordinance.

**F.** In the event of any conflict between the terms contained in this Addendum and those contained in the Consulting Agreement, as amended, the terms of this Addendum shall prevail. Unless otherwise expressly provided by Florida law, any terms required by the County Surtax Ordinance and Section 212.055(1) of the Florida Statutes, as amended, shall control in the event of a conflict with any provisions contained in this Addendum.

**G.** The Parties agree to perform their respective obligations under the Consulting Agreement in accordance with the terms provided in this Addendum.

## ARTICLE 1. DEFINITIONS

Whenever the following terms appear in this Addendum, the intent and meaning shall be interpreted as follows:

1.1 **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2 **Board** means the governing body of Municipality, its successors and assigns.

1.3 **Contract Administrator** means the Transportation and Mobility Director of the City of Fort Lauderdale, or such other person designated by the City of Fort Lauderdale's Director of Transportation and Mobility Department, in writing. The Contract Administrator is the representative of Municipality concerning the Project.

1.4 **Contractor** means the person, firm, corporation, or other entity who enters into an agreement with Municipality to perform the construction work for the Project.

1.5 **County** means Broward County, a political subdivision of the State of Florida and representatives authorized by the Board of County Commissioners or the Broward County Charter to act on behalf of County.

1.6 **County Business Enterprise or CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.7 **Notice to Proceed** means a written authorization to proceed with the Project, phase, or task, issued by the Contract Administrator.

1.8 **Oversight Board** means the independent Transportation Surtax Oversight Board created pursuant to Section 31½-75 of the Broward County Code of Ordinances.

1.9 **Project** means an agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the CITY's discretion.

1.10 **Purchasing Director** means Municipality's Procurement Officer or designee authorized to execute Work Authorizations provided for in the Consulting Agreement.

1.11 **Services or Scope of Services** means the work set forth in the Scope of Services attached to the Consulting Agreement, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services as applicable for the Project, and any optional services procured under the Consulting Agreement.



1.12 **Small Business Enterprise** or **SBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.13 **Subconsultant** means an entity or individual providing services to Municipality through Consultant for all or any portion of the work under this Agreement. The term “Subconsultant” shall include all subcontractors.

## **ARTICLE 2. EXHIBITS**

<b>Exhibit A</b>	<b>Maximum Billing Rates</b>
<b>Exhibit A-1</b>	<b>Reimbursables for Direct Non-Salary Expenses</b>
<b>Exhibit B</b>	<b>Schedule of Subconsultants</b>

## **ARTICLE 3. TIME FOR PERFORMANCE; DAMAGES**

Consultant shall perform the Services within the time periods specified in the Scope of Services. Time periods shall commence from the date of the applicable Notice to Proceed.

3.1 Consultant must receive a Notice to Proceed from the Contract Administrator prior to commencement of Services and any phase of Services under this Agreement. Prior to granting approval for Consultant to proceed to any phase, the Contract Administrator may, at the Contract Administrator’s sole option, require Consultant to submit the itemized deliverables and documents identified in the Scope of Services for the Contract Administrator’s review.

3.2 If the Contract Administrator determines that Consultant is unable to timely complete all or any portion of the Services because of delays resulting from untimely review by Municipality or other governmental agencies having jurisdiction over the Project and such delays are not the fault of Consultant, or because of delays caused by factors outside the control of Consultant, Municipality shall grant a reasonable extension of time for completion of the Services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of Consultant to notify the Contract Administrator in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and whenever a delay has been caused by factors outside of Consultant’s control, and to inform the Contract Administrator of all facts and details related to the delay. Consultant must provide such written notice to the Contract Administrator within three (3) business days after the occurrence of the event causing the delay.

3.3 If (a) Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, or (b) if Contractor is granted an extension of time beyond said substantial completion date and Consultant’s Services are extended beyond the substantial completion date through no fault of Consultant, then Consultant shall be compensated in accordance with Article 4 for all Services rendered by Consultant beyond the substantial completion date.

3.4 Notwithstanding Section 3.4, if Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, and the failure to substantially complete is caused in whole or in part by Consultant, then Consultant shall

pay to Municipality its proportional share of any claim for damages to Contractor arising out of the delay. The provisions for the computation of delay costs, damages, or any other amounts, whether direct or indirect, in the agreement between the Contractor and Municipality are incorporated herein. This section shall not affect the indemnification rights or obligations of either Party otherwise set forth in this Agreement.

3.5 If Services are scheduled to end due to the expiration of this Agreement, at the request of the Contract Administrator, Consultant agrees to continue to provide Services for an extension period, not to exceed three months, upon the same terms and conditions as contained in this Agreement. Consultant shall be compensated for such Services at the rate in effect when the extension is invoked by Municipality. To exercise an extension authorized by this section, the Purchasing Director shall notify Consultant in writing prior to the end of the term of this Agreement.

#### **ARTICLE 4. COMPENSATION AND METHOD OF PAYMENT**

4.1 Reimbursable Expenses. For reimbursement of any travel costs, travel-related expenses, or other direct non-salary expenses directly attributable to this Project permitted under this Agreement ("Reimbursable Expenses"), Consultant agrees to adhere to Section 112.061, Florida Statutes, except to the extent otherwise stated herein. Municipality shall not be liable for any such expenses that have not been approved in writing in advance by the Contract Administrator. Reimbursable Subconsultant expenses must also comply with the requirements of this section.

4.2 Salary Costs. The term Salary Costs as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier that consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin. Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead rates shall be Consultant's most recent and actual rates determined in accordance with Federal Acquisition Regulation ("FAR") guidelines and audited by an independent Certified Public Accountant. For the purposes of this Agreement, the rates must be audited for fiscal periods of Consultant within eighteen (18) months preceding the execution date of this Agreement. These rates shall remain in effect for the term of this Agreement except as provided for in the Agreement.

4.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 4.2.

4.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit A are the Maximum Billing Rates, which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit A for Consultant or any Subconsultant, Consultant shall reimburse Municipality based upon the actual costs determined by the audit. Municipality may withhold the amount Consultant is required to reimburse Municipality from any payment due Consultant.



4.2.3 Unless otherwise noted, the Salary Costs stated above are based upon Consultant's "home office" rates. Should it become appropriate during the course of this Agreement that a "field office" rate be applied, then it is incumbent upon Consultant to submit a supplemental Exhibit A reflective of such rates for approval by Contract Administrator and, upon such Municipality's approval, invoice Municipality accordingly.

4.2.4 The total hours payable by Municipality for any "exempt" or "nonexempt" personnel shall not exceed forty (40) hours per employee in any week. If the work requires Consultant's or Subconsultant's personnel to work in excess of forty (40) hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced at no more than one and one-half of the employee's hourly rate and in a manner consistent with Consultant's or Subconsultant's applicable certified FAR audit and all other provisions of Section 4.2. If a "Safe Harbor" rate is elected for use by Consultant or Subconsultant, then the additional hours are payable at no more than the employee's regular rate.

4.2.5 Consultant and any of its Subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the FAR guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of this Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable, and shall not be subject to audit under this Agreement. All other provisions of Section 4.2 remain in place.

#### 4.3 Method of Billing.

4.3.1 For Maximum Amount Not-To-Exceed Compensation: Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner for all Salary Costs and Reimbursable Expenses attributable to the 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 and summarize Reimbursable Expenses by category and identify the 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 Reimbursable Expenses, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursable Expenses with accrual of the total and credits for portions paid previously. External Reimbursable Expenses and Subconsultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a project number or other identifier that clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. 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 category, Reimbursable Expenses by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

**4.3.2 For Lump Sum Compensation:** Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner. These billings shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished. Billings for each phase shall not exceed the amounts allocated to said phase. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, Consultant shall provide backup for past and current invoices that record hours, salary costs, and expense costs on a task basis, so that total hours and costs by task may be determined.

**4.4 Fiscal Year.** The continuation of this Agreement beyond the end of any Municipality fiscal year is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes.

## **ARTICLE 5.        AUDIT RIGHTS AND RETENTION OF RECORDS**

5.1. Consultant shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to inspection and subject to audit and reproduction during normal business hours. Audits and inspections pursuant to this section may be performed by any representative of Municipality and/or County (including and any outside representative engaged by either Municipality and/or County). Municipality and County may conduct audits or inspections at any time during the term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement (or longer if required by Applicable Law, Municipality, and/or County). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Consultant's employees, Subconsultants, vendors, or other labor.

5.2. Contract Records include any and all information, materials and data of every kind and character, including, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance under this Agreement, whether by Consultant or Subconsultants.

5.3. Municipality and Broward County shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County, Florida. Consultant hereby grants Municipality and County the right to conduct such audit or review at Consultant's place of business, if deemed appropriate by Municipality or Broward County, with seventy-two (72) hours' advance notice. Consultant agrees to provide adequate and appropriate workspace. Consultant shall provide Municipality and County with reasonable access to Consultant's facilities, and Municipality and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

5.4. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Municipality's disallowance and recovery of any payment upon such entry.

5.5. If an audit or inspection in accordance with this section discloses overpricing or overcharges to Municipality of any nature by Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, Consultant shall pay the actual cost of the audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of the audit findings to Consultant.

5.6. Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations as stated in this Article 5.

#### **ARTICLE 6. EQUAL EMPLOYMENT OPPORTUNITY AND CBE/SBE COMPLIANCE**

6.1 No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Consultant shall include the foregoing or similar language in its contracts with any Subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

6.2- 6.9 [RESERVED]

#### **ARTICLE 7. PUBLIC RECORDS**

7.1 Public Records. To the extent Consultant is acting on behalf of Municipality as stated in Section 119.0701, Florida Statutes, Consultant shall:

7.1.1 Keep and maintain public records required by Municipality to perform the services under this Agreement;

7.1.2 Upon request from Municipality, provide Municipality with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

7.1.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to Municipality; and

7.1.4 Upon completion or termination of this Agreement, transfer to Municipality, at no cost, all public records in possession of Consultant or keep and maintain public records required by Municipality to perform the services. If Consultant transfers the records to Municipality, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt. If Consultant keeps and maintains the public records, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Municipality upon request in a format that is compatible with the information technology systems of Municipality.

7.2 A request for public records regarding this Agreement must be made directly to Municipality, who will be responsible for responding to any such public records requests. Consultant will provide any requested records to Municipality to enable Municipality to respond to the public records request.

7.3 Any material submitted to Municipality that Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Consultant must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 688.002, Florida Statutes, and stating the factual basis for same. If that a third party submits a request to Municipality for records designated by Consultant as Trade Secret Materials, Municipality shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Consultant. Consultant shall indemnify and defend Municipality and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [PRRCONTRACT@FORTLAUDERDALE.GOV](mailto:PRRCONTRACT@FORTLAUDERDALE.GOV), 954-828-5002, CITY CLERK’S OFFICE, 1 EAST BROWARD BOULEVARD, FORT LAUDERDALE, FLORIDA 33301.**

**ARTICLE 8. MISCELLANEOUS.**

8.1 Indemnification of Municipality and County. Indemnification of Municipality and the County for Transportation Surtax Projects. The Consultant shall indemnify and hold harmless

Municipality, its elected and appointed officials and employees including current, past, and future officers and employees, from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Consultant or its Subconsultants, agents, officers, employees or independent contractors, or negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of Municipality or its elected or appointed officials and employees. Municipality reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Consultant under the indemnification agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Municipality's City Manager and City Attorney, any sums due to the Consultant under this Agreement may be retained by Municipality until all of Municipality's claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by Municipality. This provision as it applies to Municipality shall be in place for all projects and engagements that Consultant may receive as a result of any final agreement awarded to Consultant. When projects are funded by Broward County Transportation Surtax Project funds, the Consultant shall indemnify and hold harmless the County, its elected and appointed officials and employees including current, past, and future officers and employees, from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Consultant or its Subconsultants, agents, officers, employees or independent Consultants, or negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. County shall have the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Consultant under the indemnification agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by County, any sums due to the Consultant under this Agreement may be retained by County until all of County's claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by County.

**8.2 Drug-Free Workplace.** To the extent required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Consultant certifies that it has and will maintain a drug-free workplace program for the duration of the Agreement.

**8.3 Truth-In-Negotiation Representation.** Consultant's compensation under the Agreement is based upon its representations to Municipality, and Consultant certifies that the wage rates, factual unit costs, and other information supplied to substantiate Consultant's compensation, including, without limitation, in the negotiation of this Agreement, are accurate, complete, and current as of the date Consultant executes this Agreement. Consultant's compensation will be

reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

8.4 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the Broward County Domestic Partnership Act, Section 16½-157, Broward County Code of Ordinances (“Act”), Consultant certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

8.5 Living Wage Requirement. To the extent Consultant is a “covered employer” within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Consultant agrees to and shall pay to all of its employees providing “covered services,” as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Consultant shall ensure all of its Subconsultants that qualify as “covered employers” fully comply with the requirements of such ordinance.

8.6 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Addendum by reference. The attached Exhibits are incorporated into and made a part of the Consulting Agreement as amended herein.

8.7 Prior Agreements. The Agreement together with this Addendum represents the final and complete understanding of the Parties regarding the subject matter of the Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of the Agreement are contained in the Agreement and this Addendum.

8.8 Verification of Employment Eligibility. Consultant represents that Consultant and each Subconsultant have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Consultant violates this section, Municipality may immediately terminate this Agreement for cause and Consultant will be liable for all costs incurred by Municipality due to the termination.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: MUNICIPALITY, through its Board, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and CONSULTANT, signing by and through its \_\_\_\_\_, duly authorized to execute same.

**MUNICIPALITY**

ATTEST:

CITY OF FORT LAUDERDALE

\_\_\_\_\_  
David R. Soloman, City Clerk

By: \_\_\_\_\_  
Dean J. Trantalis, Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(SEAL)

By: \_\_\_\_\_  
Greg Chavarria, City Manager

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:  
Thomas J. Ansbro, City Attorney

By: \_\_\_\_\_  
KIMBERLY CUNNINGHAM MOSLEY  
Assistant City Attorney

CONSULTANT

WITNESSES:

Kimley-Horn and Associates, Inc., a North Carolina corporation authorized to transact business in the State of Florida

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Steven E. Lefton  
President

\_\_\_\_\_  
Print Name/Type Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print/Type Name

ATTEST:

\_\_\_\_\_  
Secretary (signature)

\_\_\_\_\_  
Print Name of Secretary

(CORPORATE SEAL)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by Steven E. Lefton, as President, for KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation authorized to transact business in the State of Florida.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Print, Type, or Stamp Commissioned Name  
of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced: \_\_\_\_\_



**Exhibit A  
Maximum Billing Rates**

**Exhibit A-1  
Reimbursables for Direct Non-Salary Expenses**

**Exhibit B  
Schedule of Subconsultants**

Task #	Task name	Senior II	Senior I	Prof. II	Prof. I	Designer	Support	Notes (as Needed)	Estimated Task Fee	
		\$ 250.00	\$ 210.00	\$ 180.00	\$ 150.00	\$ 120.00	\$ 72.00			
<b>1 Meetings and Project Management</b>										
<b>Tasks</b>										
1.1	Kick-off Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.2	Methodology Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.3	Existing Conditions Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.4	Future Demand Meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.5	Initial Findings meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.6	Final Findings meeting	2	2		4			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes.	\$ 1,520.00	
1.7	2 stakeholder meetings	4	4		8			Virtual - 2 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes for each meeting.	\$ 3,040.00	
1.8	5 public meetings	13	16		26		4	Assumes 3 In-person, 2 virtual: In-person - 3 hours to prep, travel, and attend; 1 additional hour for Prof. II to prep presentation, 3 additional hours for Prof. I to prepare presentation and meeting notes for each meeting.	\$ 10,798.00	
1.9	3 public involvement meetings	9	12		18		3	In-person - 3 hours to prep, travel, and attend; 1 additional hour for Prof. II to prep presentation, 3 additional hours for Prof. I to prepare presentation and meeting notes for each meeting.	\$ 7,686.00	
1.10	5 BCT meetings	7.5	7.5		17.5			Virtual - 1.5 hours to prep and attend, 2 additional hours of Prof. I to prepare meeting notes for each meeting.	\$ 6,075.00	
1.11	10 MPO, BPAC, BCSJ meetings	25	25		50		3	Assumes 5 in-person and 5 virtual meetings.	\$ 19,216.00	
<b>Task Total</b>										<b>\$ 55,935.00</b>
<b>2 Traffic Study Methodology</b>										
2.1	Traffic Study Methodology Determination	1	6		20			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 4,510.00	
<b>Task Total</b>										<b>\$ 4,510.00</b>
<b>3 Traffic Data Collection</b>										
3.1	Traffic Data Collection & Field Reviews		2		4			Includes coordination with data subconsultant on data collection.	\$ 1,020.00	
<b>Task Total</b>										<b>\$ 1,020.00</b>
<b>4 Baseline Conditions</b>										
4.1	Synchro Development		2	11	31			1 hour per intersection to model and review + QC and coordination for AM and PM Peak.	\$ 7,050.00	
4.2	Signal Timings		2	8	15.5			0.5 hours per intersection to model and review + QC and coordination with County and/or FDOT.	\$ 4,185.00	
4.3	Roadway Segment Capacity Analysis		2	4	7			Assumes 27 roadway segments. 0.25 hours per roadway segment + QC and coordination for AM and PM Peak.	\$ 2,190.00	
4.3	Memorandum	2	4	4	40			Includes responding to one (1) round of comments from City, BCTED and FDOT, as applicable.	\$ 8,060.00	
<b>Task Total</b>										<b>\$ 21,485.00</b>
<b>5 Estimation of Future Year Travel Demand - Existing Two-Way Network</b>										
5.1	Year 2030							Assumes SERPM growth analysis and review of recently implemented MPO's TIP, BC's MAP, and City's CIP projects. Includes area-wide validation of the existing model.	\$ -	
5.2	Year 2045		4	20	40			Assumes SERPM growth analysis and review of MPO's TIP and LRTP, BC's MAP, and City's CIP. Includes area-wide validation of the existing model.	\$ 10,440.00	
<b>Task Total</b>										<b>\$ 10,440.00</b>
<b>6 Feasibility Review</b>										
6.1	Scenario 1	2	8	15	60	30		Assumes 50 sheets per Scenario. 0.5 hours per sheet for plan set up, 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 17,480.00	
6.2	Scenario 2A	2	8	12	50	26		Assumes 50 sheets per Scenario. 1.25 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 14,960.00	
6.3	Scenario 2B	2	8	12	44	22		Assumes 50 sheets per Scenario. 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 13,580.00	
6.4	Scenario 3	2	4	6	7	3		Assumes 5 sheets for this scenario. 1 hours per sheet for design, 0.25 per sheet for revisions & 3 cross-sections (1 hour per).	\$ 3,830.00	
6.5	Opinion of Probable Cost (Planning Level)	2	4		21			6 hours for scenarios 1 & 2, and 3 hours for scenario 3 + QC.	\$ 4,490.00	
6.6	SWOT Analysis	2	6	12	20			Includes SWOT analysis and associated internal meetings/workshops.	\$ 6,920.00	
6.7	Renderings	2	4		110	55		Assumes 15 renderings. 10 hours per rendering, 1 hour for revisions per rendering.	\$ 24,440.00	
6.8	Memorandum	4	8	12	36			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 10,240.00	
<b>Task Total</b>										<b>\$ 95,940.00</b>
<b>7 Estimate Future Year Travel Demand - with One-Way Pair</b>										
7.1	Scenario 1: Year 2030							Assumes geometrically modifying the existing 2015 and 2045 models with one-way pair configuration and interpolating to develop 2025 volumes.	\$ -	
7.2	Scenario 1: Year 2045		10	30	40			Assumes geometrically modifying the existing 2015 and 2045 models with one-way pair configuration and developing 2025 volumes.	\$ 13,500.00	
7.3	Scenario 2: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -	
7.4	Scenario 2: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00	
7.5	Scenario 3: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -	
7.6	Scenario 3: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00	
7.7	Scenario 4: Year 2030							Assumes utilizing volumes developed under Task 7.1 and modifying the model geometrically.	\$ -	
7.8	Scenario 4: Year 2045		4	10	15			Assumes utilizing volumes developed under Task 7.2 and modifying the model geometrically.	\$ 4,890.00	
7.9	Memorandum	4	6	10	28			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 8,260.00	
<b>Task Total</b>										<b>\$ 36,430.00</b>
<b>8 Future Operational Analysis</b>										
8.1	No-Build		2	4	31			.5 hour per intersection to model and review + QC and coordination for AM and PM Peak. Also includes 0.25 hours per roadway segment.	\$ 5,790.00	
8.2	Scenario 1		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak. Also includes 0.50 hours per roadway segment.	\$ 11,430.00	
8.3	Scenario 2		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak.	\$ 11,430.00	
8.4	Scenario 3		4	8	61			1 hour per intersection to model and review (includes developing SOPs) + QC and coordination for AM and PM Peak.	\$ 11,430.00	
8.5	Analysis table preparation		2	4	36			1 hour per intersection + QC and coordination for AM and PM Peak.	\$ 6,540.00	
8.6	Memorandum	4	6	40	40			Includes summarizing Tasks 8.1 to 8.5, QC, and revisions.	\$ 15,460.00	
8.7	Response to comments	2	4	20	20			Includes responding to one (1) round of comments from City, BCPWD and FDOT, as applicable.	\$ 7,940.00	
<b>Task Total</b>										<b>\$ 70,020.00</b>
<b>9 Technical Report and Recommendations</b>										
9.1	Compilation of Report	6	8	10	40			Summary of all tasks and coordination completed for the project. Includes one (1) round of response to City, BCPWD, and FDOT comments	\$ 10,980.00	
<b>Task Total</b>										<b>\$ 10,980.00</b>
<b>Total Hours Per Classification</b>		<b>107.5</b>	<b>210.5</b>	<b>288</b>	<b>1112</b>	<b>136</b>	<b>10</b>			
Kimley-Horn Fee										\$ 306,760.00
Subconsultant Fee (NDS)*										\$ 13,000.00
<b>Total Fee</b>										<b>\$ 319,760.00</b>

\* Assumes 4 hours turning movement count data collection at 31 intersections.

## Kimley-Horn and Associates, Inc.

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### Billing Rates

<b>Classification</b>	<b><i>Rate</i></b>
Senior Professional II – Sr. Eng. 15 yr	\$250
Senior Professional I – Sr. Eng 10 yr	\$210
Professional II – Project Eng	\$180
Professional I – Eng. Intern	\$150
Principal Designer - CADD	\$120
Support Staff – Admin Assist.	\$72

#### Infinite Source Communications Group

<u>Personnel Category</u>	<u>Position Description/Years of Experience</u>	<u>Hourly Rate</u>
Outreach Manger	Monica Diaz - Lead all public outreach strategy, planning and execution - 19 years	\$170
Outreach Specialist	Walna Calixte - Support and deliver all outreach efforts - 21 Years	\$115.38*
Support	Veronica Bricero	\$65

**National Data & Surveying Services, Inc. (NDS)**

<b><u>CATEGORY</u></b>	<b><u>HOURLY RATE</u></b>
Project Manager	\$ 95.00
Field Manager	\$ 76.00
Quality Control/Quality Assurance	\$ 68.00
Administrative	\$ 38.00
Field Technician	\$ 35.00

TMC 4Hr 1 Person **\$315 \***  
TMC 4Hr 2 Person **\$500 \***

TMC 6Hr 1 Person **\$465 \***  
TMC 6Hr 2 Person **\$740 \***

TMC 8Hr 1 Person **\$615 \***  
TMC 8Hr 2 Person **\$980 \***

Volume Machine Count ADT 24Hr **\$120\***  
Volume Machine Count ADT 48Hr **\$195\***  
Volume Machine Count ADT 72Hr **\$270\***

Class **or** Speed Machine Count ADT 24Hr (Normal) **\$160\***  
Class **or** Speed Machine Count ADT 48Hr (Normal) **\$245\***  
Class **or** Speed Machine Count ADT 72Hr (Normal) **\$330\***

Class **or** Speed Machine Count ADT 24Hr (Large) **\$215**  
Class **or** Speed Machine Count ADT 48Hr (Large) **\$345\***  
Class **or** Speed Machine Count ADT 72Hr (Large) **\$465\***

Class **and** Speed Machine Count ADT 24Hr (Normal) **\$200\***  
Class **and** Speed Machine Count ADT 48Hr (Normal) **\$310\***  
Class **and** Speed Machine Count ADT 72Hr (Normal) **\$420\***

Class **and** Speed Machine Count ADT 24Hr (Large) **\$285\***  
Class **and** Speed Machine Count ADT 48Hr (Large) **\$435\***  
Class **and** Speed Machine Count ADT 72Hr (Large) **\$585\***

Delay study (2 hour) **\$210\***  
Delay study (4 hour) **\$315\***

Queue study Per Person/Camera 2Hr **\$210\***  
Queue study Per Person/Camera 4Hr **\$315\***

Normal ADT vs Large ADT

Normal is a street/road that has 1 or 2 lanes going in either direction, 2-4 lanes total.

Large is a street/road that contains 3 or more lanes in either direction, 5 or more lanes total.

## **ADDENDUM EXHIBIT A-1 Reimbursables for Direct Non-Salary Expenses**

### **REIMBURSABLES**

Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. CITY shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Contract Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT'S and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Contract Administrator:

- A. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, CITY and other third parties retained or employed by any of them or (ii) submitted to CITY for review, approval or further distribution. Documents, which are reproduced for CONSULTANT'S internal drafts, reviews, or other purposes, are not eligible for reimbursement.
- B. Identifiable testing costs and special inspections approved by Contract Administrator.
- C. All permit 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.

D. Overnight Delivery/Courier Charges (when CITY requires/requests this service).

Reimbursable sub-consultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of CITY'S obligation to reimburse CONSULTANT for direct, non-salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

## **ADDENDUM EXHIBIT B – Schedule of Subconsultants**

### **SUB-CONSULTANTS**

CONSULTANT may subcontract certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the CITY prior to sub-consultants proceeding with any work.

CONSULTANT shall utilize the sub-consultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Contract Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of sub-consultants submitted is as follows:

**Infinite Source Communications Group, LLC**  
**National Data and Surveying Services, Inc.**