

LAND SURVEYING & MAPPING, ARCHITECTURE,
ENGINEERING AND LANDSCAPE ARCHITECTURE
Discipline C and D

AGREEMENT

THIS AGREEMENT is made and entered into on this _____ day of _____, 2025, by and between the City of Delray Beach, a Florida municipal corporation (“City”), whose address is 100 N.W. 1st Avenue, Delray Beach, Florida 33444, and Kimley-Horn and Associates, Inc., a North Carolina corporation (hereinafter referred to as “Consultant”), authorized to do business in the State of Florida, whose address is 421 Fayetteville Street Suite 600, Raleigh, NC 27601.

WHEREAS, the City desires to retain the services of the Consultant to provide the services in accordance with the City’s Request for Qualifications No. 2025-011, and the Consultant’s response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Consultant and the City agree as follows:

ARTICLE 1. INCORPORATION OF REQUEST FOR QUALIFICATIONS

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City’s Request for Qualifications No. 2025-011, and the Consultant’s response thereto, including all documentation required thereunder, subject to the following changes and revisions:

Request for Qualifications No. 2025-011

SECTION 9 GENERAL TERMS AND CONDITIONS

Section 25. Indemnification

Consistent with Section 725.08 Florida Statutes, the Consultant shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from all liability, losses or damages, including attorney’s fees and costs of defense, which the City or its officer, employees, may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of the contract. The Consultant shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney’s fees which may be incurred thereon. The Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Consultant shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City

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or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Consultant shall provide professional engineering and landscape architecture services on an as needed and project-by-project basis, through the issuance of Service Authorizations pursuant to the City's Request for Qualifications No. 2025-011.

ARTICLE 3. COMPENSATION

The City shall pay the Consultant for performing the services based on the Prices and Rates shown in Exhibit A, which is attached hereto and incorporated herein, or pursuant to a negotiated lump sum payment, as agreed to in the executed Service Authorization.

ARTICLE 4. MISCELLANEOUS PROVISIONS

a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

i. As to the City: City of Delray Beach
100 NW 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

ii. with a copy to: City of Delray Beach
200 NW 1st Avenue
Delray Beach, Florida 33444
Attn: City Attorney

iii. As to the Consultant: Kimley-Horn and Associates, Inc.,
421 Fayetteville Street Suite 600
Raleigh, NC
27601
Eric Regueiro, PE
Email: Eric.Regueiro@kimley-horn.com

b. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

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- a. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

ARTICLE 5. E-VERIFY

By entering into this Agreement, Consultant acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Consultant affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Consultant, the Consultant may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Consultant.

ARTICLE 6. DISCRIMINATORY VENDOR LIST

Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Agreement, Consultant represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

ARTICLE 7. SCRUTINIZED COMPANIES THAT BOYCOTT ISRAEL

Pursuant to Section 287.135, Consultant is ineligible to enter into or renew this Agreement if Consultant is on the Scrutinized Companies that Boycott Israel List (as identified in Section 215.4725, Florida Statutes), or is engaged in a boycott of Israel.

- a. By entering into this Agreement, Consultant certifies that Consultant is not on the Scrutinized Companies that Boycott Israel List, and that Consultant is not engaged in a boycott of Israel.

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- b. Consultant shall notify the City if, at any time during the term of this Agreement, Consultant is placed on the Scrutinized Companies that Boycott Israel List, or that Consultant is engaged in a boycott of Israel. Such notification shall be in writing and provided by Consultant to the City within ten (10) days of the date of such occurrence.
- c. In the event the City determines, using credible information available to the public, that Consultant has submitted a false certification or Consultant is found to have been placed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel, the City may, in its sole discretion, terminate this Agreement and seek a civil penalty, and other damages and relief, against Consultant, pursuant to Section 287.135, Florida Statutes. In addition, the City may pursue any and all other legal remedies against Consultant.
- d. Consultant shall not seek damages, fees, or costs against the City in the event the City terminates the Agreement pursuant to this provision.

ARTICLE 8. CONVICTED VENDOR LIST

By its execution of this Agreement, Consultant acknowledges that it has been informed by City of, and is in compliance with, the terms of Section 287.133(2)(a) of the Florida Statutes which reads as follows:

- a. "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

ARTICLE 9. COMPLIANCE WITH ALL APPLICABLE LAW

The Consultant and its services under this Agreement must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without

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limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations. The Consultant agrees to provide to the City all necessary certifications required by any federal, state, and local laws, ordinances, codes, rules and regulations. The Consultant's obligations under this Section shall survive termination, cancellation or expiration of this Agreement.

ARTICLE 10. DISCLOSURE OF INTERESTS OF COUNTRY OF FOREIGN CONCERN

Pursuant to Fla. Stat. §286.101(3), where the amount of the Agreement is \$100,000.00 or more, Consultant shall disclose any current or prior interest of, any contract with, or any grant or gift received from a country of foreign concern with a value of \$50,000 or more that was received or in force during the previous five (5) years. Definitions, disclosure requirements and exceptions are found in Fla. Stat. §268.101. Consultant represents and warrants it has complied with Fla. Stat. §286.101, it has properly disclosed such interests, contracts, grants or gifts to the City before execution of this Agreement, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this Agreement.

ARTICLE 11. FOREIGN COUNTRY OF CONCERN AND PERSONAL IDENTIFYING INFORMATION

Section 287.138, Florida Statutes, prohibits the City from entering into a contract which would give access to an individual's personal identifying information with an entity with a Controlling Interest (as that term is defined in sub-section 287.138(1)(a)), or full ownership, held by a Foreign Country of Concern (as that term is defined in sub-section 287.138(1)(c)), or with a principal place of business in a Foreign Country of Concern, unless the entity provides the City with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c) of the statute. Upon submitting its Work Order, Consultant shall certify compliance with section 287.138, Florida Statutes, by executing the Proposer Certification regarding Entities of Foreign Countries of Concern, which is included in Attachment 2. The City reserves the right to terminate any agreement in which a CONSULTANT provides a false certification or otherwise violates Section 287.138, Florida Statutes.

ARTICLE 12. COMPLIANCE WITH FLORIDA STATUTE §787.06(13)

Consultant has fully complied with Florida Statute §787.06(13) by providing an affidavit to the City signed by an officer or representative of Consultant under penalty of perjury that Consultant does not use coercion for labor or services as defined in that statute.

ARTICLE 13. CONTRACT TERM

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This term of this Agreement shall be from the effective date and remain in effect for a term of five (5) years and may be renewed for two (2) additional one-year period(s), unless terminated earlier in accordance with terms set forth in the solicitation.

At the City's request, the Consultant shall continue services beyond the final expiration date. This extension period shall not extend for more than one year beyond the final expiration date of the Agreement. The Consultant shall be compensated at the rate in effect when this extension period is invoked by the City.

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IN WITNESS WHEREOF, the City and the Consultant executed this Agreement as of the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr. Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

KIMLEY-HORN AND ASSOCIATES,
INC.

By: _____

Print Name: _____

Title: _____

(SEAL)

STATE OF _____

COUNTY OF _____

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The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 20__, by
_____ (name of person), as _____ (type of
authority) for _____ (name of party on behalf of whom instrument was
executed).

Personally known ____ OR Produced Identification ____
Type of Identification Produced _____

Notary Public- State of _____