CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444

AMENDMENT NO. 1 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING DESIGN SERVICES FOR TROPIC ISLES ROADWAY UNDERGROUND UTILITY IMPROVEMENTS, PHASE II

KIMLEY-HORN AND ASSOCIATES, INC.

CITY OF DELRAY BEACH
AMENDMENT NO. 1 TO THE
AGREEMENT FOR PROFESSIONAL ENGINEERING DESIGN SERVICES FOR TROPIC ISLES ROADWAY UNDERGROUND UTILITY IMPROVEMENTS, PHASE II

THIS AMENDMENT NO. 1 to the Agreement for Professional Engineering Design Services for Tropic Isles Roadway Underground Utility Improvements, dated June 14, 2022, by and between City of Delray Beach, a municipal corporation of the State of Florida (hereinafter referred to as "City"), whose address is 100 NW 1st Avenue, Delray Beach, FL 33444, and Kimley-Horn and Associates, Inc., (hereinafter referred to as "Contractor"), a North Carolina corporation authorized to do business in the State of Florida, whose address is 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601, is entered into this 14th day of November, 2023

WITNESSETH:

WHEREAS, on June 14, 2022, the City entered into an agreement with Contractor for professional engineering design services for Phase II of the Tropic Isles Roadway Underground Utility Improvements Project pursuant to RFQ No. 2019-040 (hereinafter referred to as the "Agreement"); and

WHEREAS, the City desires to amend the Agreement to expand its scope of services to include additional tasks related to drainage easements and existing drainage outfall pipes as more particularly described in in Exhibit "A"; attached hereto and incorporated herein; and

WHEREAS, Contractor agrees to provide the services listed in Exhibit A; and

WHEREAS, Resolution 83-22 authorizes the City Manager to execute any renewals or amendments to the Agreement, such as this, that do not increase the value of the Agreement.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties do agree that the Agreement is amended as follows:

1. The above recitals are true and correct and are incorporated herein.

2. **Exhibit A** of the Agreement is deleted in its entirety and replaced with a new **Exhibit A**, attached hereto.

3. Except as provided herein, all other terms and conditions of the Agreement remain in full force and effect and are hereby confirmed. The Agreement and this Amendment No. 1 represent the entire understanding between the parties on the issues contained herein, either written or oral, and may only be amended by written instrument signed by both parties.

[Remainder of page intentionally left blank]

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

CITY OF DELRAY BEACH

ATTEST:

Katerri Johnson, City Clerk

BY: Jeffrey L Oris for TM
Terrence Moore, ICMA-CM

Approved as to form for legal sufficiency:

Lynn Gelin, City Attorney

CITY OF DELRAY BEACH SEAL FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC.

(SEAL) KIMLEY-HORN AND ASSOCIATES, INC. CORPORATE SEAL NC

By: Marwan Mufleh

Printed Name

Sr. Vice President

Title

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 7 day of November, 2023 by Marwan Mufleh (name of person), as Sr. Vice President (type of authority) for Kimley-Horn and Associates, Inc. (name of party on behalf of whom instrument was executed).

Personally known ✓ OR Produced Identification
Type of Identification Produced _____

Lori D'Amico
Notary Public – State of Florida

[Remainder of page intentionally left blank]

LORI D'AMICO
MY COMMISSION # GG 957251
EXPIRES: March 16, 2024
Bonded Thru Notary Public Underwriters

EXHIBIT A

SCOPE OF SERVICES

AMENDMENT 1 TO PHASE 2 – BUDGET RE-ALLOCATION

TROPIC ISLE NEIGHBORHOOD IMPROVEMENTS

August 3, 2023

I. TASK DESCRIPTION

There are several drainage easements and existing drainage outfall pipes that extend from front property lines to canals/seawalls/back property lines within the project limits. The city wishes to investigate and document the status of these drainage easements / outfall pipe locations. The City may acquire drainage easements for existing drainage outfall pipes that do not have documented easements. Furthermore, the City may upsize existing outfall pipes where necessary. In order to achieve the above, title searches, preparation of sketch and legal description for proposed easements and survey of easement areas where construction is proposed will be necessary as further detailed in the scope of services.

II. SCOPE OF SERVICES

Provide the following tasks.

TASK 107 Easement Reports (14 Locations)

Obtain & provide one-time review fourteen (14) Easement Reports prepared by a title services company and submit a memo report stating which properties do not have an existing easement at outfall locations.

TASK 108 Prepare Sketch and Descriptions

Prepare up to fourteen (14) Sketch & Legal Descriptions for proposed Drainage Easements.

TASK 109 Topographic Surveys of Easement Areas (12)

Prepare up to twelve (12) Topographic Surveys of outfall lines. Sites to be surveyed shall be determined by the City. City coordination with homeowners for property access shall be provided prior to each survey. Fee is based on a minimum of five (5) sites per request.

TASK 110 Coordination with City

Coordinate with City regarding locations and prioritization of the work. Coordinate to have City provide surveyor with access for each site visit. Review issues encountered and discuss results of findings with City.

TASK 111 Engineering and Plan Updates

Coordinate files between surveyor and engineer. Obtain survey information and incorporate into the engineering plans. Revise plans as necessary.

III. ADDITIONAL SERVICES

The following services are considered additional services:

a. Any requests to revise agreed upon easement dimensions
b. Remobilization due to lack of access
c. Temporary construction easements
d. Coordination with property owners for access

IV. COMPENSATION

Kimley-Horn will perform the services in Tasks 107 -109 on a per unit basis as shown in the breakdown below. Task 110-111 will be lump sum fees shown below. Fees will be invoiced monthly based upon the overall percentage of services performed including percent of labor direct expense of 4.6%. All permitting, application and similar project fees will be paid from an allowance provided by the City. Any permitting, application and similar project fees that exceed the provided allowance will be paid directly by the Client.

Task 107 Easement Reports (14) ($715 per report)	$10,010
Task 108 Prepare Sketch and Descriptions (14) ($700 per S&D)	$9,800
Task 109 Prepare Topographic Surveys (12) ($1,420 per Site)	$17,040
Task 110 Coordination with City	$3,475
Task 111 Engineering, and Plan updates	$5,390
Additional Services Total Fee	**$45,715**

See Exhibit B for budget reallocations to fund Additional Services

V. BUDGET REALLOCATION

We understand the City does not wish to supplement the contract now and wants to redirect funds from the optional services budget to cover the additional services. Funding for the above noted additional services will be provided through the current available budget under the OPTIONAL TASK for Drainage and Structures Design and Post design services, see attached EXHIBIT B. Modifications noted below to the Optional Outfall design scope will supersede the previous optional work noted in the original scope of services approved June 14th, 2022.

1. REVISED Structural and Drainage Design and Plans to Upsize up to 12 Drainage Outfalls

REVISED Structural and Drainage Design

- Review provided City as-builts and survey data to establish understanding of existing outfall and seawall site conditions
- Conduct a field observation to review general conditions of the wall adjacent to existing outfall requiring replacement and/or upsizing.
- Develop up to three preliminary outfall concepts for general discussion and coordination with City and drainage engineer for outfall replacement at the seawall. Concepts will be used to obtain decision from stakeholders on path-

forward for construction documents. Provide structural consulting for upland pipe routing adjacent to residences.

- After city approval of concepts, develop up to three different outfall details and unique site conditions for replacement of the existing wall penetration. Details will assume that the existing wall can remain in place and are in good acceptable condition and structurally stable and will not require a full replacement. Assumes outfalls will be within 12 inches in diameter / size as the original outfall sizes. Design does not include any replacement of private upland features or appurtenances such as pools, retaining walls, patios, buildings, etc. Details beyond three will be considered additional services.
- Meetings with client, contractors and stakeholders on site or at City offices or virtually. Up to three (3) meetings/conference calls are estimated for coordination.
- Drainage Design – Provide drainage structure design and plans to upsize existing outfalls (up to 12 outfalls) on five streets that have been identified by the City. Review available existing pipe conditions and survey information of all outfalls. Coordinate design and plans with structural engineer, environmental permitting engineer and permitting agencies. After City acceptance of construction approach, prepare drainage plans with plan view indicating drainage pipe replacement, restoration and referencing applicable structural details. Any redesign requested by the City after acceptance of the approach will be considered additional services.
- Since new seawalls are not proposed, geotechnical testing is not anticipated for seawall repairs to accommodate upsized outfalls and are not included in this scope.

REVISED Environmental Permitting

- SFWMD additional permitting – Provide additional permitting effort related to increased discharge from larger outfall pipes. Provide water quality measures using structures such Stormceptors due to limited right of way.
- FDEP permitting – Provide FDEP permitting coordination for seawall restoration
- U.S. Army Corps permitting – Prepare Corps permit application
- Seagrass survey – Provide one-time Seagrass survey for up to 12 outfalls as required for permitting. City to provide access coordination. Project schedules requiring updates to the initial survey and or remobilization due to access challenges will be considered additional services.

Kimley»Horn

08/03/23

EXHIBIT B
Estimated Effort Proposal - Delray Beach
Tropic Isle Improvements Project - Phase II

Original Task Budget	**178,655**
Less Approved Additional Services for Shenandoah	**14,280**
Current Avalable Task Budget (as of 07/23)	**164,375**

TASKS	Principal/ Project Manager	Principal Engineer	Professional	Project Engineer	Analyst I	Senior Design	Support Staff	Total Hours	Labor Cost	Total Cost
Hourly Billing Rate	$285.00	$215.00	$195.00	$169.00	$135.00	$150.00	$87.00			
REVISED Drainage and Structural Design Analysis & plans, to upsize up to 12 outfalls & sea wall restoration										
Review as-built and coord. survey data	2	4		8				14	$ 2,782.00	$ 2,782
Field Observations by Structures Engineer		12		40				52	$ 9,340.00	$ 9,340
Outfall Concepts (up to 3 typical concepts)	4	8		24				36	$ 6,916.00	$ 6,916
Develop (up to 3) Outfall Structural Details	8	24		48				80	$ 15,552.00	$ 15,552
Meetings and Coordination	12	12		12				36	$ 8,028.00	$ 8,028
Drainage Design Details/Const. Plans for Outfalls (up to 12)	20	8		60				88	$ 17,560.00	$ 17,560
Permitting Plans	4	16			45			65	$ 10,655.00	$ 10,655
Comment Resoution	4	8			60			72	$ 10,960.00	$ 10,960
SFWMD Additional Permitting		12	40		8			60	$ 11,460.00	$ 11,460
FDEP Permitting		8	28		24			60	$ 10,420.00	$ 10,420
US Army Corps Permitting		16	60		20			96	$ 17,840.00	$ 17,840
Seagrass Survey one-time for 12 outfalls			40	6				46	$ 8,814.00	$ 8,814
SUBTOTAL FOR REVISED DRAINAGE AND STRUCTURAL DESIGN FOR UP TO 12 OUTFALLS										**$ 130,327**

Current Avalable Task Budget less REVISED Drainage & Structural Design and Plans	$ 34,048
REALLOCATE POST DESIGN BUDGET	$ 25,000
TOTAL BUDGET AVAILABLE	**$ 59,048**
AMENDMENT 1 Additional Services	$ (45,715)
Remaining Budget/Contingency	**$ 13,333**

CITY OF DELRAY BEACH
CITY ATTORNEY'S OFFICE
200 NW 1ST Avenue, Delray Beach, FL 33444
561-243-7090

LEGAL REVIEW FORM

This form is to be used solely for the legal review of documents not including procurement agreements. Procurement Agreements are reviewed under a separate cover. This form shall only be completed by a member of the City Attorney's Office.

Date of Review: **11-6-23**

Document Name: *Amend No 1to Agreement for Professional Engineering Design Services for Tropic Isles*

Document Type: Amendment

Submitted by: B. Defoor

[x] **This document is approved as to form and legal sufficiency.**

[ ] **These documents are approved as to form and legal sufficiency; however, the undersigned made the following change(s)**:

[ ] **This document is not approved as to form and legal sufficiency for the following reason(s):**

_____.

s//Lynn Gelin, Esq.
City Attorney

Copy to:
___ City Attorney's Office (with a copy of the approved document)