

## AGREEMENT NO. 2018-56

### PROFESSIONAL ENGINEERING SERVICES FOR WATER TRANSMISSION MAIN FROM MYAKKAHATCHEE CREEK WATER TREATMENT PLANT TO ORTIZ BOULEVARD

**THIS AGREEMENT** ("Agreement") is made and entered into this 25th day of September 2018, by and between the CITY OF NORTH PORT, FLORIDA, a municipal corporation of the State of Florida, hereinafter referred to as the "CITY" and Kimley-Horn and Associates, Inc., a North Carolina Corporation registered to conduct business in the State of Florida, located at 1777 Main Street, Suite 200, Sarasota, FL 34236, hereinafter referred to as "CONSULTANT."

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

#### 1. CONSULTANT'S SERVICES

- A. CONSULTANT agrees to diligently and timely perform services for the CITY relating to Professional Engineering Services as identified in the Request for Proposal No. 2018-56 and CONSULTANT'S proposal submitted **June 11, 2018**. The overall Scope of Services is described in **Exhibit A** with detailed tasks and associated fees provided in **Exhibit B**, both exhibits are attached hereto and incorporated herein.
- B. This Agreement shall commence immediately upon the execution of this Agreement by both the CITY and CONSULTANT and upon CONSULTANT'S receipt of a written Notice to Proceed from the CITY'S Purchasing office and shall continue through the completion of the project. The estimated completion date is **November 25, 2019**.

#### 2. COMPENSATION AND PAYMENT FOR CONSULTANT'S SERVICES

##### A. COMPENSATION

1. CONSULTANT shall receive **THREE HUNDRED THIRTY-EIGHT THOUSAND SIX HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$338,650.00)** as compensation for its services. This compensation shall include all profit, direct and indirect labor costs, personnel related costs, overhead and administrative costs, travel related out-of-pocket expenses and costs, and all other costs which are necessary to provide the services as outlined in this Agreement.
2. The parties acknowledge and agree that the obligations of CITY to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein to which CITY is a party, are and shall remain subject to the provisions of Florida Statutes, Section 166.241, regardless of whether a particular obligation has been expressly so conditioned. CITY agrees to exercise all lawful and available authority to satisfy any financial obligations of CITY that may arise under this Agreement; however, since funds are appropriated annually by the City Commission on a fiscal year basis the CITY'S legal liability for the payment of any costs shall not arise unless and until appropriations for such costs are approved for the applicable fiscal year by the City Commission (nor shall such liability arise if a request for such appropriations

is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of CITY shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a default by CITY under this Section. This Agreement shall not constitute an indebtedness of CITY nor shall it constitute an obligation for which CITY is obligated to levy or pledge any form of taxation or for which City has levied or pledged any form of taxation.

**B. METHOD OF PAYMENT**

1. The CITY shall pay CONSULTANT through payment issued by the Finance Department in accordance with the Florida Local Government Prompt Payment Act, Chapter 218, Florida Statutes, upon receipt of CONSULTANT'S invoice and written approval of same by the CITY'S Administrative Agent indicating that services have been rendered in conformity with this Agreement. CONSULTANT shall submit an invoice for payment to the CITY for those specific tasks as described in the Scope of Services that were completed during that invoicing period.
2. For those specific services that were partially completed, progress payments shall be paid in proportion to the percentage of completed work on those specific services approved in writing by the CITY'S Administrative Agent based on the percentage of the amount for those specific services.
3. CONSULTANT'S invoices shall be in a form satisfactory to the City of North Port Finance Department, who shall initiate disbursements.

**3. INDEMNIFICATION**

- A. To the extent permitted by Florida law, the CONSULTANT shall indemnify, defend, and hold harmless the CITY, its Commissioners, officers, agents and employees, from all liabilities, fines, claims, assessments, suits, judgments, damages, losses and costs, including consequential, special, indirect, and punitive damages, (including, but not limited to, reasonable attorneys' fees and court costs, whether such fees and costs are incurred in negotiations, at the trial level or on appeal, or in the collection of attorneys' fees), arising out of any acts, actions, breaches, neglect or omissions of the CONSULTANT, or CONSULTANT'S officers, employees, agents, sub-contractors, sub-consultants, and other persons employed or utilized by the CONSULTANT in the performance of, or the failure to perform, the Agreement. The Agreement does not constitute a waiver of sovereign immunity or consent by the CITY or its subdivisions to suit by third parties.**
- B. The CITY shall provide all available information and assistance that the CONSULTANT may reasonably require regarding any claim. In the event of a claim, the CITY shall promptly notify the CONSULTANT in writing by prepaid certified mail (return receipt requested) or by delivery through any nationally recognized courier service (such as federal express or ups) which provides evidence of delivery, at the address provided for receipt of notices in this Agreement.**
- C. This Agreement for Indemnification survives termination or completion of the Agreement. The insurance coverage and limits required in this Agreement may or may not be adequate to protect the CITY and such insurance coverage will not be deemed a limitation on the CONSULTANT'S liability under the indemnity provided in this section. In any proceedings**

between the parties arising out of or related to this indemnity provision, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

D. Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of the CITY as set forth in Florida Statutes, Section 768.28.

E. The terms of this section survive the termination of this Agreement.

#### 4. CONSULTANT'S INSURANCE

##### A. INSURANCE

Before performing any work, CONSULTANT shall procure and maintain, during the life of the Agreement, the insurance listed below, unless otherwise specified. The policies of insurance shall be primary and written on forms acceptable to the CITY and placed with insurance carriers approved and licensed by the Insurance Department of the State of Florida and meet a minimum financial AM Best and Company rating of no less than "Excellent." No changes are to be made to these specifications without the City Manager or designee's prior written approval. The City Manager or designee may alter the amounts or types of insurance policies required by this Agreement upon agreement with CONSULTANT.

1. Workers Compensation and Employers' Liability Insurance: Coverage to apply for all employees at the statutory limits provided by state and federal laws. The policy must include Employers' Liability with a limit of \$1,000,000 each accident; \$1,000,000 each employee; and \$1,000,000 policy limit for disease.
2. Professional Liability Insurance: Minimum \$1,000,000 per occurrence for this project, and with a \$1,000,000 policy term general aggregate. Coverage shall be extended beyond the policy year term either by a supplemental extended reporting period (ERP) with as great of duration as available, with no less coverage and reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made. The City prefers all Professional Liability Insurance be written on an Occurrence Form; however, in the event that the professional liability insurance required by the Agreement is written on a claims-made basis, CONSULTANT warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained for a period of two (2) years or an extended reporting period (ERP) with tail coverage will be obtained and maintained for a period of two (2) years beginning at the time work under this Agreement is completed.
3. Comprehensive Commercial General Liability Insurance: Aggregate must apply separately to this Agreement. Minimum \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 fire damage.
4. Automobile Insurance: To include all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$300,000 per each accident and \$300,000 for property damage and \$300,000 for bodily injury, with contractual liability coverage for all work performed under this Agreement.

B. WAIVER OF SUBROGATION

All required insurance policies are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or through other means, agree to waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers, and the CITY'S insurance carriers, for losses paid under the terms of these policies that arise from the contractual relationship or work performed by CONSULTANT for the CITY. It is CONSULTANT'S responsibility to notify its insurance company of the waiver of subrogation and request written authorization or the proper endorsement. Additionally, CONSULTANT, its officers, officials, agents, employees, volunteers, and any subcontractors, agree to waive all rights of subrogation against the CITY and its insurance carriers for any losses paid, sustained or incurred, but not covered by insurance, that arise from the contractual relationship or work performed. This waiver also applies to any deductibles or self-insured retentions for which CONSULTANT or its agents may be responsible.

C. POLICY FORM

1. All policies required by this Agreement, with the exception of Professional Liability and Workers Compensation, or unless Risk Management through the CITY'S Purchasing Office gives specific approval, are to be written on an occurrence basis and the Comprehensive Commercial General Liability Insurance shall name the City of North Port, Florida, and its Commissioners, officers, agents, employees and volunteers as additional insured as their interest may appear under this Agreement. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the CITY'S Purchasing Office. All Claims made policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, CONSULTANT agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
2. Insurance requirements itemized in this Agreement, and required of CONSULTANT, shall be provided by or in behalf of all subconsultants to cover their operations performed under this Agreement. CONSULTANT shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subconsultants.
3. Each insurance policy required by this Agreement shall:
  - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.
  - b. Be endorsed to state that coverage shall not be suspended, voided or cancelled by either party except after notice is delivered in accordance with the policy provisions. CONSULTANT is to notify the City Purchasing Office by written notice via certified mail, return receipt requested.
4. The CITY shall retain the right to review, at any time, coverage, form, and amount of insurance.
5. **The procuring of required policies of insurance shall not be construed to limit CONSULTANT'S liability nor to fulfill the indemnification provisions and requirements of this Agreement. The extent of CONSULTANT'S liability for indemnity of the CITY shall not be**

**limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between CONSULTANT and its carrier.**

6. CONSULTANT shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the CITY is an insured under the policy. CONSULTANT'S insurance is considered primary for any loss, regardless of any insurance maintained by the CITY. CONSULTANT is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions) or any loss or portion of any loss that is not covered by any available insurance policy.
7. All certificates of insurance must be on file with and approved by the City before commencement of any work under this Agreement. All certificates of insurance required herein must be accompanied by a copy of the additionally insured documents/endorsements (CG 20101185 or combination of CG 2010370704 and CG 20370704). Certificates of insurance evidencing claims made or occurrences form coverage and conditions to this Agreement, as well as the Agreement number and description of work, are to be furnished to the CITY'S Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates shall be received by the CITY'S Purchasing Office before CONSULTANT will be allowed to commence or continue work. The Certificate of insurance issued by the underwriting department of the insurance carrier shall certify compliance with the insurance requirements provided herein.
8. Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONSULTANT'S insurer(s) and the CITY'S Purchasing Office as soon as practicable after notice to the insured.

## **5. RESPONSIBILITY OF CONSULTANT**

- A. CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all reports, designs, specifications, other documents and data used or produced by or at the behest of CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its reports, designs, specifications, other documents and data.
- B. If CONSULTANT is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.
- C. 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 any other consideration contingent upon or resulting from the award of this Agreement.
- D. CONSULTANT shall perform its services in accordance with generally accepted industry standards and practices customarily utilized by competent consultant firms in effect at the time

CONSULTANT'S services are rendered. CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct in Florida Statutes Section 112.313, as it relates to work performed under this Agreement. CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

- E. CONSULTANT shall comply with all federal, state, and local laws, regulations and ordinances applicable to the work or payment for work thereof. The City of North Port, Florida, does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities or services. CONSULTANT shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.
- F. CONSULTANT shall maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Agreement which shall be available and accessible at CONSULTANT'S offices for inspection, audit, and copying during normal business hours by the CITY, or any of its authorized representatives. Such records shall be retained for a minimum of three (3) years after completion of the services.
- G. Public Records Law: In accordance with Florida Statutes Section 119.0701, CONSULTANT shall comply with all public records laws, and shall specifically:
  - 1. Keep and maintain public records required by the City to perform the service.
    - a. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies.  
  
(See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
    - b. "Public records" means and includes those items specified in Florida Statutes Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. CONSULTANT'S records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, e-mails and all other documentation generated during this Agreement.
  - 2. Upon request from the City's custodian of public records, provide the City, at no cost, 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 for by law. All records kept electronically must be provided to the City, upon request from the City's custodian

of public records, in a format compatible with the information technology systems of the City.

3. Ensure that project 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 Agreement term and, if Consultant does not transfer the records to the City following completion of the Agreement, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.
4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in Consultant's possession 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 the 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 the completion of the Agreement, Consultant shall meet all applicable requirements for retaining public records.
5. **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 CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, 941.429.7063 OR HOTLINE 941.429.7270; E-MAIL: [kpeto@cityofnorthport.com](mailto:kpeto@cityofnorthport.com).**
6. Failure of Consultant to comply with these requirements shall be a material breach of this Agreement. Further, Consultant may be subject to penalties under Florida Statutes Section 119.10.

## 6. OWNERSHIP AND USE OF DOCUMENTS

It is understood and agreed that all the documents, or reproducible copies, developed by CONSULTANT in connection with its services, including but not limited to reports, designs, specifications, and data, shall be delivered to, and shall become the property of the CITY as they are received by the CITY and when CONSULTANT has been fully compensated as set forth herein. CONSULTANT may keep copies of all work products for its records. CONSULTANT hereby assigns all its copyright and other proprietary interests in the products of this Agreement to the CITY. Specific written authority is required from the CITY'S Administrative Agent for CONSULTANT to use any of the work products of this Agreement on any non-CITY project.

Notwithstanding the above, any reuse of the work products by the CITY on other projects will be at the risk of the CITY.

## 7. TIMELY PERFORMANCE OF CONSULTANT'S PERSONNEL

The timely performance and completion of the required services is vitally important to the interest of the CITY. CONSULTANT shall assign a Project Manager, together with such other personnel as are necessary, to assure faithful prosecution and timely delivery of services pursuant to the requirements of this Agreement. CONSULTANT'S personnel assigned to perform the services of this Agreement shall comply with the information presented in the professional services response proposal made a part hereof by reference. CONSULTANT shall ensure that all key personnel, support personnel, and other agents are fully qualified and capable to perform their assigned tasks. Any change or substitution to CONSULTANT'S key personnel must receive the CITY'S Administrative Agent's written approval before said changes or substitution can become effective.

- A. The services to be rendered by CONSULTANT shall commence within one (1) calendar week of CONSULTANT'S receipt of written Notice to Proceed from the CITY.
- B. CONSULTANT specifically agrees that all work performed under the terms and conditions of this Agreement shall be completed within the time limits as set forth, subject only to delays caused through no fault of CONSULTANT or the CITY. Time is of the essence in the performance of this Agreement.
- C. CONSULTANT agrees to provide to the CITY'S Administrative Agent, monthly written progress reports concerning the status of the work. The CITY'S Administrative Agent may determine the format for this progress report. The CITY shall be entitled at all times to be advised at its request, and in writing, as to the status of work to be performed by CONSULTANT.
- D. In the event unreasonable delays occur on the part of the CITY or regulatory agencies as to the approval of any plans, permits, reports or other documents submitted by CONSULTANT which delay the Project Schedule completion date, the CITY shall not unreasonably withhold the granting of an extension of the Project Schedule time limitation equal to the aforementioned delay. The Project Schedule is attached as **Exhibit C**, which is attached hereto and incorporated herein.

## 8. OBLIGATIONS OF THE CITY

- A. The CITY'S Administrative Agent is designated to serve as project coordinator and to do all things necessary to properly administer the terms and conditions of this Agreement. If necessary, the CITY may authorize a specific program manager to perform the responsibilities of the CITY'S Administrative Agent. The CITY shall designate any specific program manager in the Notice to Proceed. The responsibility of the CITY'S Administrative Agent shall include:
  1. Examination of all reports, sketches, drawings, estimates, proposals, and other documents presented by CONSULTANT, and render in writing, decisions pertaining thereto within a reasonable time.
  2. Transmission of instructions, receipt of information, interpretation and definition of the CITY'S policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.
  3. Review for approval or rejection all CONSULTANT'S documents and payment requests.

- B. The CITY shall, upon request, furnish CONSULTANT with all existing data, plans, studies and other information in the CITY'S possession which may be useful in connection with the work of this Project, all of which shall be and remain the property of the CITY and shall be returned to the CITY'S Administrative Agent upon completion of the services to be performed by CONSULTANT.
- C. The CITY'S Administrative Agent shall conduct periodic reviews of the work of CONSULTANT necessary for the completion of CONSULTANT'S services during the period of this Agreement, and may make other CITY personnel available, where required and necessary to assist CONSULTANT. The availability and necessity of said personnel to assist CONSULTANT shall be determined solely within the discretion of the CITY. The CITY'S technical obligations to this Project, if any, are stated in Specific Authorizations and Work Authorizations.
- D. The CITY shall not provide any services to CONSULTANT in connection with any claim brought on behalf of or against CONSULTANT.

## 9. TERMINATION

- A. **TERMINATION WITH OR WITHOUT CAUSE:** The performance of work under this Agreement may be terminated with or without cause by the City Manager or designee in whole or in part or whenever the City Manager determines that termination is in the CITY'S best interest. Any such termination shall be effected by the delivery to the CONSULTANT of a written notice of termination at least thirty (30) days before the date of termination, specifying the extent to which performance of the work under the Agreement is terminated and the date upon which such termination becomes effective. Except as otherwise directed, the CONSULTANT shall stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or sub-contracts for material, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and sub-contracts; and settle all outstanding liabilities and claims. CONSULTANT will be paid only for such work performed and materials supplied up to the termination. Under no circumstances shall the CITY make any payment to CONSULTANT for services that have not been performed or that are performed subsequent to the termination date.
- B. Upon termination CONSULTANT shall deliver to the CITY all documents (including but not limited to reports, designs, specifications, and all other data) prepared or obtained by CONSULTANT in connection with its services. The CITY shall, upon receipt of the aforesaid documents, pay to CONSULTANT and CONSULTANT shall accept as full payment for its services, a sum of money equal to (1) the fee for each completed and accepted task as shown in Exhibit A – Scope of Services and Exhibit B – Consultant's Fee Schedule, plus (2) the percentage of the work completed in any commenced but uncompleted task, less (3) all previous payments made to CONSULTANT in accordance with Section 2 of this Agreement and any amounts withheld by the CITY to settle claims against or to pay indebtedness of CONSULTANT in accordance with the provisions of this Agreement.
- C. **FUNDING IN SUBSEQUENT FISCAL YEARS:** It is expressly understood by the CITY and CONSULTANT that funding for any subsequent fiscal year of the Agreement is contingent upon appropriation of monies by the City Commission, and the continuing receipt of state or federal grant funding, if applicable. In the event that funds are not available or appropriated, the CITY reserves the right

to terminate the Agreement. The CITY will be responsible for payment of any outstanding invoices and work completed by CONSULTANT prior to such termination.

- D. In the event that CONSULTANT has abandoned performance under this Agreement, then the City Manager or designee may terminate this Agreement upon three (3) calendar days' written notice to CONSULTANT indicating its intention to do so. The written notice shall state the evidence indicating CONSULTANT'S abandonment.
- E. CONSULTANT shall have the right to terminate services only in the event of the CITY failing to pay CONSULTANT'S properly documented and submitted invoice within ninety (90) calendar days of the approval by the CITY'S Administrative Agent, or if the project is suspended by the CITY for a period greater than ninety (90) calendar days.
- F. The City Manager or designee reserves the right to terminate and cancel this Agreement in the event CONSULTANT is placed in either voluntary or involuntary bankruptcy, a receiver is appointed for CONSULTANT or an assignment is made for the benefit of creditors.
- G. In the event CONSULTANT breaches this Agreement, the CITY shall provide written notice of the breach and CONSULTANT shall have ten (10) calendar days from the date the notice is received to cure. If CONSULTANT fails to cure to the City's satisfaction within the ten (10) calendar days, the City Manager or designee shall have the right to immediately terminate the Agreement and/or refuse to make any additional payment, in whole or in part, and, if necessary, may demand the return of a portion or the entire amount previously paid to CONSULTANT due to:
  - 1. The quality of a portion or all of CONSULTANT'S work not being in accordance with the requirements of this Agreement;
  - 2. The quantity of CONSULTANT'S work not being as represented in CONSULTANT'S Payment Request, or otherwise;
  - 3. CONSULTANT'S rate of progress being such that, in the CITY'S opinion, substantial or final completion, or both, may be inexcusably delayed;
  - 4. CONSULTANT'S failure to use Agreement funds, previously paid CONSULTANT by the CITY, to pay CONSULTANT'S project related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;
  - 5. Claims made, or likely to be made, against the CITY or its property;
  - 6. Loss caused by CONSULTANT; or
  - 7. CONSULTANT'S failure or refusal to perform any of the obligations to the CITY, after written notice and a reasonable opportunity to cure as set forth above.

In the event that the CITY makes written demand upon CONSULTANT for amounts previously paid by the CITY as contemplated in the clause, CONSULTANT shall promptly comply with such demand. The CITY'S rights hereunder survive the term of this Agreement and are not waived by final payment and/or acceptance.

## **10. INDEPENDENT CONTRACTOR**

CONSULTANT is and shall be, in the performance of all work services and activities under this Agreement, an independent contractor and not an employee, agent or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to CONSULTANT'S sole direction, supervision, and control. CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects CONSULTANT'S relationship and the relationship of its employees to the CITY shall be that of an independent contractor and not as employees or agents of the CITY. CONSULTANT does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement. CONSULTANT shall not pledge the CITY'S credit or make it a guarantor of payment of surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

## **11. ENTIRE AGREEMENT**

This Agreement constitutes the sole and complete understanding between the parties and supersedes all agreements between them, whether oral or written with respect to the subject matter.

## **12. AMENDMENT**

No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. For any increase in the compensation for the services, the City Commission for the CITY and the duly authorized representative for CONSULTANT shall agree in writing to this change. For all other changes, except as provided herein, the CITY'S Administrative Agent and CONSULTANT'S representative shall agree in writing to the change.

## **13. ASSIGNMENT**

CONSULTANT shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the City Manager or designee, except that claims for the money due or to become due to CONSULTANT from the CITY under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the CITY. Notice of any such transfer or assignment due to bankruptcy shall be promptly given to the CITY.

## **14. WAIVER**

The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.

## **15. GOVERNING LAW, VENUE AND SEVERABILITY**

The rights, obligations and remedies of the parties under this Agreement shall be governed by the laws of the State of Florida and the exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial

Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida. If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

**16. AUTHORITY**

The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.

**17. NO HIRE**

CONSULTANT shall not hire any CITY employee associated with this project throughout the duration of the Agreement and for a period of one (1) year after completion.

**18. NOTICES**

Any notices, invoices, reports, or any other type of documentation required by this Agreement shall be sent by certified mail, return receipt requested, or via a recognized national courier service in a manner that provides for written or electronic record of delivery, to the addresses listed below:

**CONSULTANT'S REPRESENTATIVE:**

Ashley Miele, P.E.  
Kimley-Horn and Associates, Inc.  
1777 Main Street, Suite 200  
Sarasota, FL 34236  
TEL 941.379.7600  
FAX 561.863.8175  
EMAIL: [Ashley.miele@kimley-horn.com](mailto:Ashley.miele@kimley-horn.com)

**THE CITY'S ADMINISTRATIVE AGENT:**

Michael Acosta, P.E.  
Utilities Engineering Manager  
City of North Port  
6644 W. Price Boulevard  
North Port, FL 34291  
TEL 941.240.8013  
FAX 941.240.8022  
EMAIL: [macosta@cityofnorthport.com](mailto:macosta@cityofnorthport.com)

**WITH COPIES OF NOTICES TO:**

City Attorney's Office  
4970 City Hall Boulevard  
North Port, FL 34286  
EMAIL: [northportcityattorney@cityofnorthport.com](mailto:northportcityattorney@cityofnorthport.com)

## 19. PARAGRAPH HEADINGS

Paragraph headings are for the convenience of the parties and for the reference purposes only and shall be given no legal effect.

## 20. ATTORNEYS' FEES

In any proceedings between the parties arising out of or related to this Agreement, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

## 21. CONFLICTS

In the event of any conflict between the provisions of this Agreement and RFP No. 2018-56 or CONSULTANT'S response, which are made a part hereof by reference, the Agreement shall control.

## 22. SCRUTINIZED COMPANIES

- A. As required by Section 287.135(5), Florida Statutes, for contracts of \$1,000,000.00 or less, the CONSULTANT shall certify on a form provide by the CITY, that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel.
- B. As required by Section 287.135(5), Florida Statutes, for contracts of \$1,000,000.00 or more, the CONSULTANT shall certify on a form provided by the CITY, that all of the following are true:
  1. It is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel; and
  2. It is not on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector list, created pursuant to Section 215.473, Florida Statutes; and
  3. It is not engaged in business operations in Cuba or Syria.
- C. If the CONSULTANT provides a false certification, has been placed on one of the above-noted Lists of Scrutinized Companies, or has engaged in business operations in Cuba or Syria, the CONSULTANT will be in breach of this Agreement and the CITY may terminate the Agreement.
- D. PENALTY:
  1. A CONSULTANT that has been found to have provided a false certification may be subject to a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement, plus all reasonable attorney's fees and costs, including any costs for investigations that led to the finding of the false certification; and
  2. Shall be ineligible to bid on any contract with the CITY for three (3) years after the date the CITY determined that the CONSULTANT submitted a false certification.

IN WITNESS WHEREOF, the parties have executed the agreement as of the date first above written.

ATTEST:

CITY OF NORTH PORT, FLORIDA

By: \_\_\_\_\_  
Kathryn Peto, Interim City Clerk

By: \_\_\_\_\_  
Peter D. Lear, CPA, CGMA, City Manager

APPROVED AS TO FORM AND CORRECTNESS:

By: \_\_\_\_\_  
Amber L. Slayton, City Attorney

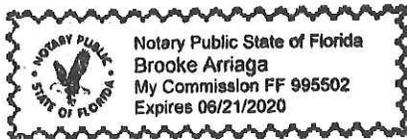
CONSULTANT  
KIMLEY-HORN AND ASSOCIATES, INC.

By: *Gary J. Nadeau*  
Name: Gary J. Nadeau  
Title: Vice President

STATE OF Florida

COUNTY OF Manatee

The foregoing instrument was acknowledged before me on September 5<sup>th</sup>, 2018,  
by Gary Nadeau, who is personally known to me or who produced  
\_\_\_\_\_ as identification.



*Brooke Arriaga*  
Notary Public

## EXHIBIT A – SCOPE OF SERVICES

### SUMMARY OF PROJECT DESCRIPTION

In order to expand the transmission capacity, the City of North Port established a multi-year project to increase the size of the water main from the Myakkahatchee Creek Water Treatment Plant to Ortiz Boulevard. The City is currently underway with the construction of a 16-inch water main from the Myakkahatchee Creek Water Treatment Plant south along North Port Boulevard to just south of the bridge (back entrance of Winn Dixie). The City also has a 16-inch water main from Eager Street to Grobe Street currently under design by others and anticipated to be in construction soon.

The remaining portions of 16-inch water main necessary to complete this multi-year project consists of approximately 5,650 linear feet from the bridge on North Port Boulevard to Eager Street and approximately 2,200 linear feet from Grobe Street to Ortiz Boulevard for an overall length of 7,850 linear feet. The crossing of Myakkahatchee Creek will be a critical component of this project. Most of this route is along US 41 and will require extensive coordination with Florida Department of Transportation (FDOT), utility owners within the project boundary, as well as other design engineers responsible for other portions of the project currently underway.

### SCOPE OF SERVICES

This scope of services includes the engineering tasks further described herein:

#### **TASK 1: KICK-OFF MEETING AND PROJECT COORDINATION**

- A. Kick-Off Meeting – The Consultant will prepare for and attend a kick-off meeting with City staff to review project scope, budget and schedule.
- B. Coordination Meetings – The Consultant will attend up to three (3) coordination meetings between the City and the other design engineers that are currently underway with either construction or design of the remaining portions of water main.
- C. Monthly Progress Reports and a project schedule in Microsoft (MS) Project format will be prepared by the Consultant and submitted to the City for review and comment. The schedule will include projected design completion, bidding and construction duration dates based on assumptions agreed upon by the Consultants and the City. The Monthly Progress Reports will include tasks completed within that month, future tasks to complete the following month and budget or schedule concerns.

#### **TASK 2: PRELIMINARY DESIGN SERVICES (30% PHASE)**

- A. Data Collection and Review - The Consultant will collect and review available design information and record drawings for existing utilities within the proposed corridor. The City will make available existing reports, studies, technical analyses, drawings, operational information, and other documents regarding the proposed corridors, such as existing

- property and topographic surveys, plats, zoning maps and the location and extent of utility easements along the proposed pipeline corridor. It is assumed that the City will provide the construction drawings associated with the other portions of the project currently underway.
- B. The Consultant will contact Florida Department of Transportation (FDOT) to request plans, right-of-way maps, existing project plans, geotechnical information location and extent of utility easements along the proposed pipeline corridor.
  - C. Sunshine 811 Design Ticket - The Consultant will request a design ticket through Sunshine 811 to identify utility agencies/owners in the project area and contact each to request information available on their utilities located along the route.
  - D. Field Site Review - A field site visit will be performed by the Consultant to assist with the confirmation of existing utility locations as well as identify other above ground obstacles along the proposed route.
  - E. Determine Property Requirements – The Consultant will identify easements, if required, along the proposed corridor that may be necessary for the construction, operation and maintenance of the water main.
  - F. Prepare Preliminary Opinion of Probable Construction (OPC) Cost – Consultant will prepare a preliminary OPC cost of the proposed utility along the project corridor for budget purposes. Because Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, will be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.
  - G. The Consultant will prepare a set of 30% Design Drawings upon reviewing the collected data and confirm route alignment for City approval. The 30% design submittal will consist of the following:
    - 1. Cover Sheet, Index Map, Table of Contents and Legend.
    - 2. Survey Base Map showing apparent rights-of-way, existing utilities and existing easements, if applicable.
    - 3. Subsurface Utility Engineering data and information.
    - 4. Geotechnical Investigation data and information.
    - 5. Horizontal alignment (plan view only) of the proposed water main.
    - 6. Table of Contents of Technical Specifications.

- H. The Consultant will submit four (4) sets of the following; 30% design drawings (one (1) full size (22" x 34"), three (3) half size (11" x 17")), 30% OPC and draft Table of Contents of Technical Specifications. Consultant shall submit an electronic version in PDF format of the submittal to the City project manager. Comments from the City for the 30% drawings will be integrated into the subsequent design drawings as discussed in the tasks below. It is anticipated that comments will be obtained from the City within 2 weeks of the submittal date.

### **TASK 3: SURVEYING AND SUBSURFACE UTILITY EXPLORATIONS (SUE) SERVICES**

The Consultant will contract with a survey and Subsurface Utility Explorations (SUE) subconsultant to provide surveying and SUE services once the proposed water main route has been selected. The services provided by the subconsultant will consist of the following tasks.

#### **A. Surveying Services**

1. A Topographic/Route Survey will be provided for the selected route. The survey will locate and identify the following within the survey limits:
  - i. Driveways (size and type of material).
  - ii. Trees (by species, i.e.; Oak, etc.) with a diameter at breast height (D.B.H.) greater than 4-inches.
  - iii. Above ground features within the full width of the right-of-way including utility poles, above ground utilities, culverts, fence lines, wetland jurisdictional lines, soil borings and other visible features within the proposed pipeline corridor which are pertinent to design and construction activities.
  - iv. Invert elevations on culverts, storm drain structures and sanitary sewer structures.
  - v. Locate swales and ditches including top of bank.
  - vi. Appurtenances, paint marks, flagging and other indicators of the presence of underground utilities including SUE locates.
2. Where the proposed route follows an existing road right-of-way, apparent right-of-way lines will be determined in accordance with the existing monumentation and information supplied by the City.
3. Roadway Cross Sections – Route cross sections will be taken at 100-foot intervals and extend from right-of-way line to right-of-way line, or easement lines where present. Site elevations will be provided at grade breaks and at changes in direction on curbing/paving.

4. Benchmarks (Vertical Control) – All elevations established will be in feet, shall be referenced to existing published NGS/City of North Port benchmarks and shall refer to North American Vertical Datum (N.A.V.D.) of 1988. A minimum of two permanent Bench Marks, establishing vertical control for the project, will be placed where appropriate. Provide temporary bench marks placed at intervals not to exceed 1,000 feet along the project route and outside of anticipated construction limits. All monumentation found or set shall be identified on the survey drawing(s).
5. All data will be referenced to Florida State Plane Coordinates – North American Datum (NAD) 83/11 datum – Florida West Zone.
6. This scope of services assumes the preparation of up to ten (10) legal descriptions or sketches for proposed easements and/or takings along the proposed route. These services will be provided on a unit cost basis for each easement and will not be provided without written authorization by the City.

B. Subsurface Utility Explorations (SUE)

1. Request permits as appropriate from the City to allow work in existing public streets or rights-of-way for the purpose of marking, measuring, and recording the location of underground utilities.
2. Provide traffic control within the work areas while designating and locating the subsurface utilities. Traffic control is to be maintained in accordance with applicable published standards.
3. Provide up to twenty (20) single test holes (VVH – verified vertical and horizontal) on identified utility conflicts (perpendicular and parallel to) the running line of the proposed water main as identified in the selected route. Test holes will be placed in natural earth where practical.
4. For each test hole, neatly cut and remove existing pavement or other surface material (not to exceed 225 square inches per cut). Excavate the material through the cut, down to the utility in a way that avoids damage to wrappings, coatings or other protective coverings of the utilities (i.e. vacuum/pressure excavations, hand digging, etc.). Backfill and compact with select material around the utility. Provide a restoration of the surface pavement, within the limits of the cut, at the time of the backfill.
5. Mark information in the field and provide a copy of SUE field notes together with a Surveyor's Report containing VVH test hole information.

All work will be performed in accordance with the standards of practice outlined in Chapter 5J-17 of the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

This scope of services doesn't include title searches. Utilization of the above equipment and methods is the industry recognized procedure for finding and locating underground utilities and features. Although effective and reliable, there is the possibility that all utilities may not be detected due to environmental conditions, soil conditions, water table, excessive depth, and/or feature makeup.

#### **TASK 4: GEOTECHNICAL SERVICES**

The Consultant will contract with a geotechnical subconsultant to provide geotechnical services once the proposed water main route has been selected. The services provided by the subconsultant will consist of the following tasks:

- A. Conduct a visual reconnaissance of the project site. Review the U.S. Department of Agriculture (USDA) Soil Survey for Sarasota County and the U.S. Geological Survey (USGS) topographic maps. Determine boring locations by survey quality georeferenced points
- B. Clear utilities near the proposed boring and pavement core locations
- C. Provide traffic control through signage and flag men as required for personnel and equipment safety
- D. Perform geotechnical explorations at the proposed locations of pipeline as determined by the Consultant. A total of six (6) Standard Penetration Tests (SPT) borings to depths of 20 feet each are requested to provide a reasonable understanding of subsurface conditions at the boring locations. In addition, two (2) SPT borings to a depth of 50 feet for potential horizontal directional drill (HDD) at Myakkahatchee Creek have been budgeted.
- E. Visually examine all recovered soil samples in the laboratory and perform laboratory tests on selected representative samples to develop the soil legend for the project using the Unified Soil Classification System, as appropriate. The laboratory testing will include percent passing the #200 sieve, Atterberg limits testing, organic and natural moisture content determination and corrosion series (Environmental tests) on selected samples.
- F. The geotechnical subconsultant will provide engineering evaluations and analyses to develop geotechnical recommendations in the following areas:
  - 1. General assessment of area geology based on past experience, study of geological literature and boring information.
  - 2. General location and description of potentially deleterious materials encountered in the borings, which may interfere with the proposed construction or performance, including existing fills or surficial organics.
  - 3. Discuss design and/or construction considerations based on the soil and groundwater conditions developed from the borings including earthwork recommendations, dewatering, hard soil conditions, need for sheet piles or bracing in open cut areas,

potential settlement from sheeting or compaction to above ground structures, etc. The geotechnical subconsultant will also provide soil design parameters including estimated soil strength and density parameters, internal friction angles, dry and wet densities, cohesion and earth pressure coefficients (active and passive).

4. Address groundwater levels encountered in the borings performed and approximate seasonal high groundwater along the pipeline route.
5. Recommendations for construction including a summary report which includes a summary of findings and analysis.

#### **TASK 5: ENVIRONMENTAL SERVICES**

The Consultant will contract with an environmental subconsultant to provide environmental services that will consist of the following tasks;

The Consultant will contract with an environmental subconsultant to provide environmental services. The services provided by the subconsultant will consist of the following tasks:

1. Collect and review readily available and pertinent data prior to conducting field reviews. These materials include:
  - i. Adjacent environmental permits.
  - ii. Current Florida Department of Environmental Protection (FDEP), U.S. Army Corps of Engineers (USACE), and Sarasota County environmental permitting regulations and permit thresholds.
  - iii. USGS Quadrangle maps.
  - iv. National Wetland Inventory mapping.
  - v. Natural Resources Conservation Service soil maps.
  - vi. Florida Fish and Wildlife Conservation Commission (FWC) eagle nest locations.
  - vii. FWC threatened and endangered species observation records.
  - viii. Florida Natural Areas Inventory (FNAI) data records.
  - ix. Florida Atlas of Breeding Sites for Herons and Their Allies.
  - x. United States Fish and Wildlife Service (USFWS) Geographic Information System (GIS) data.
  - xi. 2009 Southwest Florida Water Management District (SWFWMD) Florida Land Use, Cover and Forms Classification System (FLUCFCS) mapping and Color aerial photography.
2. Field Delineation of Wetland Lines/Wetland Characterization – Consultant will establish the approximate wetland jurisdictional boundaries in accordance with

federal and state criteria (1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, and Chapter 62-340 of the Florida Administrative Code). Prior to commencement of the field work, the City will provide Consultant with a GIS or AutoCAD compatible file of the proposed work limits or easement limits. In addition, Consultant will characterize wetland areas. The wetland lines will be extended at least 25 feet beyond the limits of the proposed work area.

3. Threatened and Endangered Species Survey - Conduct a presence/absence survey for protected species that may occur within the project area. If protected species or their habitats are identified within the project limits, formal surveys and additional permitting may be required. However, only the gopher tortoise (*Gopherus polyphemus*) focused surveys are included under this scope of services. All observations of wildlife that inhabit, cross, or use habitats within and immediately adjacent to the site will be recorded. Recorded wildlife data will consist of both direct sightings and indirect observations (e.g., calls, scat, dens, tracks, burrows, feathers, scratchings, nests, or other evidence). Any observations of protected animals or plants will be recorded in a field data book, and the approximate location will be depicted on an aerial photograph. In addition, the potential for the site being part of, or within, an important wildlife corridor or USFWS-designated Critical Habitat will be assessed.
4. Conduct a 100 percent gopher tortoise survey (consistent with the April 2008 Gopher Tortoise - Permitting Guidelines and subsequent revisions as published by the (FWC) of all appropriate habitat within the project limits and 25' beyond. All identified gopher tortoise burrows within the surveyed limits will be flagged, individually labeled, and classified by activity status according to FWC guidelines. Additionally, all burrow locations will be recorded using a hand-held GPS capable of sub-meter accuracy. ESA Scheda will prepare a brief memorandum describing the findings of the gopher tortoise burrow survey and outline the recommended future planning considerations. This memorandum will include an aerial map depicting the location of observed gopher tortoise burrows and any incidental observations of protected flora or fauna. Please note: Gopher tortoise surveys are only valid for 90 days; however, completion of the 100 percent survey early in the process will prove useful in that it can assist in developing the final force main alignment to avoid any permitting complications/costs and assist with development of a silt fence exclusion design. If gopher tortoise documented within the survey limits cannot be avoided by a minimum of 25', subsequent surveys and permitting may be necessary that are not covered under this Scope.
5. The Environmental Permitting Services, as discussed further in the scope of services will include the assembling of all readily available information for the project area and

prepare the environmental support documents, including an Avoidance and Minimization Analysis associated with the Florida Department of Environmental Protection (FDEP) General Permit application and United States Army Corps of Engineers (USACE) Nationwide Permit applications.

**TASK 6: INTERMEDIATE DESIGN DRAWINGS (60% PHASE)**

- A. The Consultant will prepare 60% Design Drawings for the selected route. The 60% design submittal will consist of the following;
1. Cover Sheet, Index Map, Table of Contents and Legend.
  2. Survey Base Map showing apparent rights-of-way, existing utilities and existing easements, if applicable.
  3. Subsurface Utility Engineering data and information.
  4. Geotechnical Investigation data and information.
  5. Horizontal and vertical alignment (Plan and Profile View) of the proposed water main.
  6. Draft Technical Specifications.
- B. The Consultant shall prepare an Opinion of Probable Construction (OPC) cost associated with the design plans. Because Consultant does not control the cost of labor, materials, equipment, or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, will be made based on, experience and represent its judgment as an experienced and qualified professional, familiar with the industry. Consultant cannot and does not guarantee that proposals, bids, or actual costs will not vary from its opinions of cost.
- C. The Consultant will send the utility companies with facilities in the right-of-way a copy of the 60% plan to have them verify their facilities located along the route of the pipeline. The utility companies will be invited to a meeting to discuss the disposition of their facilities to ensure they are shown properly on the plans. Meeting Minutes will be sent out after the meeting to create a permanent record of the meeting.
- D. The Consultant will submit four (4) sets of the following; 60% design drawings (one (1) full size (22" x 34"), three (3) half size (11" x 17")), 60% Draft Technical Specifications, 60% schedule and OPC. Consultant shall submit an electronic version in PDF format of the submittal to the City project manager. Comments from the City for the 60% drawings will be integrated into the subsequent design drawings as discussed in the tasks below. It is anticipated that comments will be obtained from the City within 2 weeks of the submittal date.

#### **TASK 7: PERMITTING SERVICES**

- A. Consultant will prepare for and attend a pre-application meeting with the following permitting agencies and utility below regarding their specific permitting requirements and agreements;
1. Southwest Florida Water Management District – Standard General Environmental Resource Permit (Processed through FDEP).
  2. Florida Department of Environmental Protection – Specific Permit to Construct PWS Component. (Processed through Department of Health (DOH)).
  3. Florida Department of Transportation Utility Permit.
  4. U.S. Army Corps of Engineers – Nationwide (if required).
- B. The Consultant will prepare each permit application described above along with the required supporting documents and submit to City for review prior to submittal to the appropriate regulatory agency.

The City will pay for all permit fees required for this portion of work.

#### **TASK 8: FINAL DESIGN DRAWINGS AND CONTRACT DOCUMENTS (90% and 100% PHASE)**

The purpose of the final design drawings is to provide responses to the City's 60% Design Drawing comments. Comments obtained from the 90% Design Drawings will be incorporated into a final contract documents that can be utilized for bidding purposes.

- A. The 90% design submittal will consist of 60% design components and the following;
1. Incorporation of the City's 60% review comments.
  2. All proposed construction detail sheets.
  3. Proposed Maintenance of Traffic (MOT) plan along the pipeline corridor.
  4. Completed general notes for the plans.
  5. A set of Technical Specifications in PDF and MS Word format.
- B. The Consultant shall update the previously prepared opinion of probable construction cost (OPC) with design and quantity changes based on the City's 60% comments.
- C. The Consultant will submit four (4) sets of the following for the 90% design drawings (one (1) full size (22" x 34"), three (3) half size (11" x 17")), 90% Technical Specifications, 90% Schedule and OPC. Consultant shall submit an electronic version in PDF format of the submittal to the City. Comments from the City for the 90% drawings will be integrated into the subsequent

design drawings as discussed in the tasks below. It is anticipated that comments will be obtained from the City within 2 weeks of the submittal date.

- D. The Consultant will update the 90% components based on the City comments. The Final Contract documents (100%) design submittal will consist of the following;
1. One (1) complete original signed and sealed set of the construction bid documents comprising of technical specifications and drawings with the City's 90% review comments incorporated.
  2. Final construction bid documents in electronic format.
  3. Final OPC cost.
  4. Contractor qualifications letter.
  5. A blank bid form in MS Excel.
  6. Construction duration schedule in MS Project.
  7. A CD containing the AutoCAD drawings.

Additional copies of final signed and sealed documents will be prepared on behalf of the City for submittal to the other City departments.

#### **TASK 9: BID PHASE SERVICES**

It is the City's intent to bid this project out into a multi-year construction phase. The Consultant will coordinate with the City to provide the following bid phase tasks for the first phase of the project:

- A. Provide electronic copies and unbound contract documents for bidding by the City. The Consultant will review general and supplemental contract conditions (provided by the City) for consistency with the technical specification requirements.
- B. The Consultant will respond to requests for information (RFI) from bidders regarding interpretation and clarification of bid documents, and will assist with preparation of addenda as appropriate.
- C. In conjunction with the City, the Consultant will attend a pre-bid meeting for prospective bidders for the project.
- D. Based on the responsive bids submitted, the Consultant will contact and review references, compile a bid tabulation, and prepare a Contractor Qualification and recommendation letter to the City.

- E. Upon completion of the Bid Phase, the Consultant shall develop and provide conformed sets of Construction Documents and Technical Specifications that will include any changes that were made during the bid phase to the City. Consultant will also provide a CD containing the AutoCAD drawings of the conformed Construction Documents.

#### **CITY RESPONSIBILITIES**

The City will be responsible for the following:

- A. Provide Utility Staff familiar with the water main system within the project area.
- B. Provide record drawings of the existing facilities within the project area, if available.
- C. The City shall assign a Project manager, who will serve as the primary point of contact for the Consultant during the Project.
- D. The City shall be responsible for the printing and distribution of the bidding and Conformed documents.

**EXHIBIT B – FEE SCHEDULE**

AGREEMENT NO.2018-56		
FEE SCHEDULE		
TASK	LUMP SUM SERVICES	FEE APPORTIONMENT
1	Kick-Off Meeting and Project Coordination	\$15,770
2	Preliminary Design Services (30% Phase)	\$57,315
3	Intermediate (60% Phase)	\$68,200
4	Permitting Services	\$33,750
5	Final Design Drawings (90% and 100% Phase)	\$70,275
6	Bidding Services	\$13,440
<b>SUBTOTAL</b>		<b>\$258,750</b>
<b>OUTSIDE SERVICES</b>		
	Surveying Services	\$40,000
	Subsurface Utility Explorations (SUE)	\$23,000
	Geotechnical Services	\$8,400
	Environmental Services	\$8,500
<b>SUBTOTAL</b>		<b>\$79,900</b>
<b>TOTAL FEE</b>		<b>\$338,650</b>

PROJECT WORK PLAN PERSON-HOUR ESTIMATE

KHA Task # Subtask ID Number	KHA Task Name Subtask Name/Description	Direct Labor (Person-Hours)							Total
		Principal	Senior	Prof	Project	Analyst	Senior	Support	
		P-8 \$ 220.00	Prof P-7 \$ 200.00	P-5/6 \$ 170.00	P-3/4 \$ 140.00	P-1/2 \$ 120.00	Designer D7 \$ 115.00	Staff C-5 \$ 70.00	
<b>1.0</b>	<b>Kick-Off Meeting and Coordination</b>								
	Kick Off and Coordination Meetings (including FDOT)		6	24	12	20	2	14	
	Project Schedule and Monthly Progress Reports		2	16		8		16	
	<b>Subtotal (Hours)</b>	0	8	40	12	28	2	30	
	<b>Task Total (Hours)</b>	\$0	\$1,600	\$8,800	\$1,680	\$3,360	\$230	\$2,100	\$15,770
<b>2.0</b>	<b>Preliminary Design Services</b>								
	Data Collection, Sunshine 811, property research, permit requirements, etc.	1	3	12	20	38	12	12	
	Field Site Verification of Survey			4	4	4	4	2	
	Trenchless Construction Methods Research		4	8	8	12	4	1	
	Environmental Coordination and Hazardous Sites Review		2	8	4	8	4	4	
	OPC	2	4	10	12	16	6	2	
	Prepare 30% Plans, QC and Submittal	8	8	30	20	56	65	8	
	<b>Subtotal (Hours)</b>	11	21	72	68	134	95	29	
	<b>Task Total (Hours)</b>	\$2,420	\$4,100	\$12,240	\$9,520	\$16,080	\$10,925	\$2,030	\$57,315
<b>3.0</b>	<b>Intermediate (60% Phase)</b>								
	Prepare Plans	2	18	48	64	96	128	8	
	Specs TOC	1	2	10	4	40		8	
	Attend utility meeting			2		2		1	
	OPC	1	2	4	8	10	4	1	
	QC and Submit Plans, Specs and OPC	8	2	10	2	12	8	10	
	<b>Subtotal (Hours)</b>	12	24	74	78	160	140	28	
	<b>Task Total (Hours)</b>	\$2,640	\$4,800	\$12,580	\$10,920	\$19,200	\$16,100	\$1,980	\$68,200

KHA Task # Subtask ID Number	KHA Task Name Subtask Name/Description	Direct Labor (Person-Hours)							Total
		Principal	Senior Prof	Prof	Project Engineer	Analyst	Senior Designer	Support Staff	
		P-8 \$ 220.00	P-7 \$ 200.00	P-5/6 \$ 170.00	P-3/4 \$ 140.00	P-1/2 \$ 120.00	D7 \$ 115.00	C-5 \$ 70.00	
4.0	Permitting Services								
	Prepare for and attend Pre-app mtgs			8		12	2	12	
	FDEP/ERP Application and RAI's		4	8	8	32	4	8	
	FDEP/DOH Application and RAI's		4	8	8	24	24	8	
	FDOT Application and RAI's	2	4	12	8	16	12	8	
	ACOE Application through FDEP and RAI's			8	8	8		8	
	<b>Subtotal (Hours)</b>	2	12	44	32	92	42	44	
	<b>Task Total (Hours)</b>	\$440	\$2,400	\$7,480	\$4,480	\$11,040	\$4,830	\$3,080	\$33,750
5.0	Final Design Drawings (90% and 100% Phase)								
	90% Prepare Plans		12	16	32	64	80		
	90% Specs and Review	4	2	12	8	16		6	
	90% OPC	2	2	8	8	8		2	
	QC and Submit 90% Plans, Specs and OPC	4	5	8		10	8	6	
	100% Prepare Plans		6	12	20	40	64	4	
	100% Specs and Review	1	1	6	4	8		4	
	100% OPC	1	1	4	4	4		1	
	Contractor Qualifications		2	4		2		2	
	QC and Submit 100% Plans, Specs and OPC	2	3	4		5	4	3	
	<b>Subtotal (Hours)</b>	14	34	74	76	157	156	28	
	<b>Task Total (Hours)</b>	\$3,080	\$6,800	\$12,580	\$10,640	\$18,055	\$17,160	\$1,980	\$70,275
6.0	Bidding Services								
	RFI's		4	8	6	16	8	4	
	Pre-bid meeting			4		4		1	
	Review Bids, check contractor references, compile bid tabs, IIR of recommendation			4		4		1	
	Prepare and Submit conformed docs (plans and specs)	2	2	8	1	8	16		
	<b>Subtotal (Hours)</b>	2	6	24	7	32	24	6	0
	<b>Task Total (Hours)</b>	\$440	\$1,200	\$4,080	\$980	\$3,880	\$2,840	\$420	\$13,440

KH Labor Fee \$258,750  
 Surveying \$40,000  
 SUE \$23,000  
 Geotech \$8,400  
 Environmental \$8,500  
**Total Fee \$338,650**

### EXHIBIT C – PROJECT SCHEDULE

AGREEMENT 2018-56				
PROJECT SCHEDULE				
TASK	SERVICES	Duration (Days)	START DATE	END DATE
1	Notice to Proceed (NTP)	0	October 1, 2018	October 1, 2018
2	Preliminary Design Services (30% Phase)	120	October 1, 2018	January 29, 2019
3	Intermediate (50% Phase)	120	January 29, 2019	May 29, 2019
4	Permitting Services	120	May 29, 2019	September 26, 2019
5	Final Design Drawings (90% and 100% Phase)	180	May 29, 2019	November 25, 2019
6	Bidding Services	TBD	TBD	TBD