

AGREEMENT #2021-41
PROFESSIONAL ENGINEERING SERVICES FOR CRANBERRY BOULEVARD/HILLSBOROUGH BOULEVARD
INTERSECTION IMPROVEMENTS DESIGN & PERMITTING

THIS AGREEMENT ("Agreement") is made and entered 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 corporation registered to conduct business in the State of Florida, with a local business address of 1777 Main Street, Suite 200, Sarasota, FL 34236, hereinafter referred to as "CONSULTANT."

NOW, THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, 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. 2021-41 (the "RFP") and CONSULTANT'S proposal submitted **August 16, 2021**. 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 as if set forth fully herein.
- B. This Agreement will become effective on the date the last of the Parties approves and executes the Agreement ("Effective Date"). CONSULTANT will commence work 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 for the Design Phase and Final Bid Plans is one year. The City will subsequently provide the CONSULTANT written notice of the date for completion of the **bidding and construction services**.

2. COMPENSATION AND PAYMENT FOR CONSULTANT'S SERVICES

A. COMPENSATION

- 1. CONSULTANT shall receive **THREE HUNDRED EIGHTY-NINE THOUSAND ONE HUNDRED SIXTY DOLLARS AND ZERO CENTS (\$389,160.00)** 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 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. 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 the costs are approved for the applicable fiscal year by the City Commission (nor shall the liability arise if a

request for the 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, Section 218.70, *et seq*, 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 MUST INDEMNIFY AND HOLD HARMLESS THE CITY, AND ITS OFFICERS AND EMPLOYEES, FROM LIABILITIES, DAMAGES, LOSSES, AND COSTS, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, TO THE EXTENT CAUSED BY THE NEGLIGENCE, RECKLESSNESS, OR INTENTIONALLY WRONGFUL CONDUCT OF THE CONSULTANT AND OTHER PERSONS EMPLOYED OR UTILIZED BY THE CONSULTANT IN THE PERFORMANCE OF 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 MUST PROVIDE ALL AVAILABLE INFORMATION AND ASSISTANCE THAT THE CONSULTANT MAY REASONABLY REQUIRE REGARDING ANY CLAIM. IN THE EVENT OF A CLAIM, THE CITY MUST PROMPTLY NOTIFY THE CONSULTANT IN WRITING BY PREPAID CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY DELIVERY THROUGH ANY NATIONALLY RECOGNIZED COURIER SERVICE (INCLUDING FEDERAL EXPRESS, UPS, USPS, OR OTHER) WHICH PROVIDES EVIDENCE OF DELIVERY, AT THE ADDRESS PROVIDED FOR RECEIPT OF NOTICES IN THIS AGREEMENT.
- C. THIS AGREEMENT FOR INDEMNIFICATION SHALL SURVIVE 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 THE 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.
- F. FURTHER, THE CONSULTANT SHALL FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF NORTH PORT, FLORIDA, FROM ANY SUITS, ACTIONS, DAMAGES, AND COSTS OF EVERY NAME AND DESCRIPTION, INCLUDING ATTORNEYS' FEES, ARISING FROM OR RELATING TO VIOLATION OR INFRINGEMENT OF A TRADEMARK, COPYRIGHT, PATENT, TRADE SECRET OR INTELLECTUAL PROPERTY RIGHT.

4. CONSULTANT'S INSURANCE

A. INSURANCE

Before performing any work, CONSULTANT must procure and maintain, during the life of this Agreement, the insurance listed below, unless otherwise specified. The policies of insurance must 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 Employer's Liability Insurance: Coverage to apply for all employees at the statutory limits provided by state and federal laws. The policy must include proof of current Worker's Compensation coverage or Worker's Compensation exemption (notarized affidavit).
2. Comprehensive Commercial General Liability Insurance: Occurrence form required. Aggregate must apply separately to this Contract. Minimum \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 damage to rented premises. City of North Port to be named additionally insured.
3. Automobile Insurance: To include all vehicles owned, leased, hired and non-owned vehicles. Proof of current Commercial Auto Liability Insurance.
4. Professional Liability Insurance: Professional liability or malpractice or errors and/or omissions insurance shall be purchased and maintained with a minimum \$1,000,000 per occurrence for this project with a \$1,000,000 policy term general aggregate. 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 Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; 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 Contract is completed.

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, except for 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** must 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 the 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, must be provided by or on 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'S 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 must 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 the 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. Incorporation of Proposal Documents: The Request for Proposal No. 2021-41 ("RFP"), including attachments and addenda, and the Consultant's response to the RFP, are specifically made a part of this Agreement and are incorporated as if set forth fully herein. In the event of a conflict between or among the documents or any ambiguity or missing specifications or instruction, the following priority is established:
 1. This Agreement (Agreement No. 2021-41) Approved by Commission, and any attachments.
 2. The RFP, including all attachments and addenda.
 3. CONSULTANT'S response to the RFP.

4. Specific direction from the City Manager.
- B. 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.
- C. If CONSULTANT is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.
- D. 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.
- E. 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.
- F. CONSULTANT shall comply with all federal, state, and local laws, regulations, and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- G. 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. The records shall be retained for a minimum of three (3) years after completion of the services.
6. **PUBLIC RECORDS LAW:** In accordance with Florida Statutes, Section 119.0701, CONSULTANT shall comply with all public records laws, and shall specifically:
 - A. Keep and maintain public records required by the CITY to perform the service.
 1. 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.state.fl.us/library-archives/records-management/general-records-schedules/>).
 2. "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.
- B. 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.
- C. 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 specified in General Records Schedule GS1-SL for State and Local Government Agencies.
- D. 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.
- E. **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: publicrecordsrequest@cityofnorthport.com.
- F. 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.

7. OWNERSHIP AND USE OF DOCUMENTS

- A. 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.

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

8. TIMELY PERFORMANCE OF CONSULTANT'S PERSONNEL

The timely performance and completion of the required scope of services is vitally important to the interest of the CITY. CONSULTANT shall assign a Project Manager, together with the 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 as if set forth fully herein.

9. 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 Agreement, 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 for the Agreement, 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.

10. 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 in whole or in part or whenever the City Manager determines that termination is in the CITY'S best interest. Any termination shall be effective by delivery to the CONSULTANT of a written notice of termination at least thirty (30) calendar 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 the 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 subcontracts for material, services, or facilities except as necessary for completion of the portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims. CONSULTANT must deliver to the CITY all documents (including but not limited to reports, designs, specifications, and all other data) prepared or obtained by the CONSULTANT in connection with its services. Upon delivery of the documents, the CITY shall pay the CONSULTANT in full settlement of all claims by it hereunder as the work actually completed bears to the entire work under the Agreement, as determined by the CITY, less payments already made to the CONSULTANT, and any amounts withheld by the CITY to settle claims against or to pay indebtedness of the CONSULTANT in accordance with the provisions of the Agreement. Under no circumstances shall the CITY make any payment to CONSULTANT for services that have not been performed or that are performed after the termination date.

- B. NON-APPROPRIATION: The parties acknowledge and agree that the obligations of the CITY to fulfill financial obligations of any kind pursuant to all provisions of this Agreement, or any subsequent contract 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, CITY'S legal liability for the payment of any costs shall not arise unless and until appropriations for the costs are approved for the applicable fiscal year by the City Commission (nor shall the liability arise, if a request for the appropriations is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no Commissioner, 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. It is expressly understood by the parties that funding for any subsequent fiscal year of the Agreement is contingent upon appropriation of monies by the City Commission. If 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 the CONSULTANT prior to the termination.
- C. ABANDONMENT: If CONSULTANT abandons performance under this Agreement, 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.
- D. CONSULTANT may terminate this Agreement 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.
- E. 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.
- F. BREACH: In the event CONSULTANT breaches this Agreement, the CITY must provide written notice of the breach and CONSULTANT shall have ten (10) days from the date the notice is received to cure. If CONSULTANT fails to cure within the ten (10) days, the City Manager or designee can 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, in the CITY'S opinion, substantial or final completion, or both, 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;
 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; or
 8. Violation of any local, state, or federal law in the performance of this Agreement which will constitute a material breach of this Agreement.
- G. If the CITY makes written demand upon CONSULTANT for amounts previously paid by the CITY as contemplated in this section, CONSULTANT must promptly comply with the demand. The CITY'S rights hereunder survive the term of this Agreement and are not waived by final payment and/or acceptance.
- H. REMEDIES: In the event of a default or breach of the contract terms, the City may avail itself of each and every remedy specifically given to it now existing at law or in equity, and each and every remedy will be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in any order as may be deemed expedient by the City. The exercise, or the beginning of the exercise, of one remedy will not be deemed to be a waiver of the right to exercise, at the same time or thereafter, any other remedy. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it in law or in equity.
- 11. 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.

12. WAIVER

No delay or failure to enforce any breach of this Agreement by either CITY or CONSULTANT shall be binding upon the waiving party unless the waiver is in writing. In the event of a written waiver, the waiver must not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach must not operate or be construed to operate as a waiver of any subsequent default or breach.

13. 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.

14. 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:

Michael Donahue
Kimley Horn and Associates, Inc.
1777 Main Street
Suite 200
Sarasota, FL 34236
TEL: 941.379.7602
FAX 564.863.8175
EMAIL mike.donahue@kimley-horn.com

THE CITY'S ADMINISTRATIVE AGENT:

Anthony Friedman, P.E., Engineer II
City of North Port
1100 North Chamberlain Blvd.
North port, FL 34286
TEL: 941.240.8089
Email: afriedman@cityofnorthport.com

WITH COPIES OF NOTICES TO:

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

Notices are effective when received at the addresses specified above. Changes to the respective addresses for the notice is to be directed may be made from time to time by either party by written

notice to the other party. Nothing in this Section shall be construed to restrict the transmission of routine communications between representatives of CONSULTANT and CITY.

15. ATTORNEYS' FEES

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

16. CONFLICTS

In the event of any conflict between the provisions of this Agreement and RFP No. 2021-22 or CONSULTANT'S response, which are made a part hereof by reference, the Agreement shall control.

17. E-VERIFY

The CITY, CONSULTANT and every subcontractor shall register with and use the E-Verify system of the United States Department of Homeland Security to verify the work authorization status of all new employees as required by Section 448.095, Florida Statutes. A contractor who enters a contract with a subcontractor, must require that the subcontractor provides the contractor a certification by affidavit stating that at the time of the certification and during the term of the contract, the subcontractor does not and will not employ, contract, or subcontract with an unauthorized alien, who is not authorized under federal law to be employed in the United States, as described in 8 U.S.C. S. 1324A(H)(3). The CONSULTANT shall comply with all other federal laws pertaining to the subcontractor.

18. SCRUTINIZED COMPANIES

- A. As required by Florida Statutes, Section 287.135(5), 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 Florida Statutes Section 215.4725, and that it is not engaged in a boycott of Israel.
- B. As required by Florida Statutes, Section 287.135(5), for contracts of \$1,000,000.00 or more, the CONSULTANT shall certify on a form provided by the CITY, that all the following are true:
 - 1. It is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes Section 215.4725, 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 Florida Statutes, Section 215.473; 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.

19. FORCE MAJUERE:

1. Should performance of any obligation created under this Agreement become illegal or impossible by reason of:
 - a. A strike or work stoppage, unless caused by a negligent act or omission of either Party;
 - b. An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
 - c. An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;
 - d. A declared emergency of the federal, state, or local government; or
 - e. Any other like event that is beyond the reasonable control of the non-performing party;Then the performance of any obligation is suspended during the period of, and only to the extent of, prevention or hindrance, provided that:
 - f. The non-performing party provides written notice within five (5) days of the event of *force majeure*, describing the event in sufficient detail, including but not limited to: the nature of the occurrence, a good faith estimate of the duration of the delay, proof of how the event has precluded the non-performing party from performing, and the means and methods for correcting the delay; and continues to furnish timely reports of all actions required for it to commence or resume performance of its obligations under this Agreement;
 - g. The excuse of performance is no greater in scope or duration than required by the event of *force majeure*;
 - h. No obligations of either party that arose before the *force majeure* are excused as a result of the event of *force majeure*; and
 - i. The non-performing party uses all reasonable diligence to remedy its inability to perform.
2. Economic hardship of a party does not constitute an event of *force majeure*. A party will not be excused from performance due to forces that it could have reasonably prevented, removed, or remediated prior to, during, or immediately after their occurrence.

3. The non-performing party's affected obligations under this Agreement will be temporarily suspended during, but not longer than, the continuance of the event of *force majeure* and a reasonable time thereafter as may be required to commence or resume performance of its obligations. Notwithstanding the above, performance shall not be excused under this Section for a period exceeding two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term.
4. The term of the Agreement will be extended by a period equal to that during which the non-performing party's performance is suspended under this Section.

20. MISCELLANEOUS

- A. Authority to Execute Agreement. The signature by any person to this Agreement shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
- B. Binding Effect/Counterparts. By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns. It may be signed in counterparts.
- C. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venues 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.
- D. No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
- C. Severability. In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition, or covenant shall not be construed as a waiver of a subsequent breach by the other party.
- D. Headings. The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.
- E. Complete Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the parties, whether oral or written, with respect to the subject matter.

- F. Amendment. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. The City Manager or designee may agree to amendments that do not increase compensation to CONSULTANT. Only the City Commission can approve increases in compensation under this Agreement.
- G. Assignment. The CONSULTANT shall not assign this Agreement or any right or responsibility herein unless with the written consent of the City.
- H. Non-Discrimination. 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. The 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.

IN WITNESS WHEREOF, the parties have executed the agreement as of the date as follows.

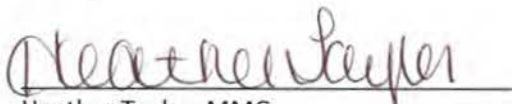
Approved by the City Commission of the City of North Port, Florida on March 22, 2021.

CITY OF NORTH PORT, FLORIDA

By: 

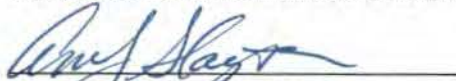
A. Jerome Fletcher II,
City Manager

ATTEST



Heather Taylor, MMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS


Amber L. Slayton, City Attorney

CONSULTANT:
KIMLEY HORN AND ASSOCIATES, INC.

By: *Gary J. Nadeau*

Name: Gary J. Nadeau, P.E.

Title: Senior Vice President

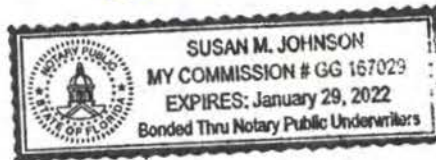
ACKNOWLEDGEMENT

STATE OF Florida
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9th day of December, 2021, by Gary J. Nadeau (name), as Senior VP (title) for Kimley-Horn and Associates, Inc. (entity).

Susan M. Johnson
Notary Public

☒ Personally Known OR ☐ Produced Identification
Type of Identification Produced _____



END OF PART V

EXHIBIT A – SCOPE OF WORK
City of North Port
Cranberry Boulevard and Hillsborough Boulevard
Intersection Improvements (RFP 2021-41)

Background

The City of North Port intends to construct a modern roundabout at the intersection of Cranberry Boulevard and Hillsborough Boulevard. The purpose of this Scope of Services is to describe the design services and the responsibilities of Kimley-Horn and Associates, Inc., henceforth termed “ENGINEER” and the City of North Port, henceforth termed “CITY” in connection with the design, permitting, preparation of a completed set of construction contract documents and incidental engineering services, as necessary, for the construction of a modern single-lane roundabout at the intersection of Cranberry Boulevard and Hillsborough Boulevard. Hillsborough Boulevard traverses the boundary of the City of North Port / Sarasota County and Charlotte County and terminates at its intersection with Cranberry Boulevard. This intersection currently operates at a Level of Service (LOS) D for the AM Peak Hour traffic and at a LOS F for the PM Peak Hour traffic. It is understood that the project will be constructed through a Interlocal Agreement between the City of North Port and Charlotte County (“COUNTY”) and as such CITY and COUNTY review will be required. The proposed improvements will be designed to accommodate future expansion to a multi-lane roundabout configuration.

Task 1 – Project Administration and Management

The ENGINEER will provide a Project Manager and staff to administer the professional services described in this Scope of Services, consisting of: scheduling, written monthly progress reports describing work completed within that month, work to be completed in the upcoming month, and a description of any issues to be addressed, other status reports, budgeting, and invoicing. The ENGINEER shall have in place an engineering quality control / assurance program that is appropriate for all professional services included in the AGREEMENT. The design phase will be twelve (12) months. The twelve (12) month design schedule does not include the Right-of-way acquisition phase of the project.

A. Meetings

The ENGINEER shall meet with CITY personnel to review the work plan at project initiation and schedule at the following intervals:

- Project initiation
- At the 60% and 90% plans submittal phases

B. Public Meeting

The ENGINEER will not be required to prepare for, present, or facilitate a public meeting under this scope.

C. Commission Meetings

The ENGINEER will present the 60% complete submittal to both the City of North Port Commission and the Charlotte County Commission. The City Project Engineer will present the 60% complete submittal to the City's Staff Development Review Committee and shall transmit relevant comments to the ENGINEER for written responses. The ENGINEER will not be responsible for presentation materials and will rely on the 60% submittal plans for reference.

D. Field Reviews

The ENGINEER shall conduct a visual reconnaissance of the project intersection in order to identify typical, key, and anomalous site features.

Task 1 - Deliverables

- Minutes of each meeting will be prepared and distributed to each attendee and others, as requested by the City
- Proposed progress schedule

Task 2 – Data Collection and Existing Conditions Mapping

A. Other Project Related Information

The ENGINEER will obtain from City and County record information, data pertinent to the project, such as, but not limited to: aerial photographs, traffic volume data (turning movement counts, tube counts, bicyclist and pedestrian volumes, classification of trucks), drainage maps, tax maps, subdivision plat maps, survey field notes, bench mark information, section corner reports, utility as-built drawings and septic and drain field information.

B. Survey

The survey limits of the project are as follows:

- Cornelius Boulevard from approximately 500-LF south of U.S. 41.
- U.S. 41 / Cranberry Boulevard / Cornelius Boulevard intersection. Survey will include the area within the FDOT right-of-way from the U.S. 41 southbound stop bar to the U.S. 41 northbound stop bar and will also include signal head locations and clearance heights.
- Cranberry Boulevard from U.S. 41 to the Cocoplum Waterway for a distance of approximately 800 LF
- Hillsborough Boulevard beginning at the Cranberry Boulevard intersection easterly for a distance of approximately 1,000 LF.

Survey limits will include the area from right-of-way to right-of-way and extend ten (10)

feet beyond the existing right-of-way line except for locations where anticipated right-of-way impacts require additional coverage. Additional survey coverage includes the following:

- Seventy (70) feet beyond the west Right-of-Way of Cranberry Boulevard for parcel I.D. 1002001090 located north of the RaceTrac parcel
- Eighty (80) feet beyond the east Right-of-Way of Cranberry Boulevard and eighty (80) feet beyond the north Right-of-Way of Hillsborough Boulevard for parcel I.D. 1004018847 located in the northeast corner of the intersection of Cranberry Boulevard and Hillsborough Boulevard
- Forty (40) feet beyond the northern Right-of-Way of Hillsborough Boulevard for a distance of approximately two hundred fifty (250) feet for parcel I.D. 1004018842.

Survey will consist of:

- Horizontal Project Control (HPC): Establish or recover HPC, for the purpose of establishing horizontal control on the Florida State Plane Coordinate System or datum approved by the City Surveyor; may include primary or secondary horizontal control points. Includes analysis and processing of all field collected data, and preparation of forms.
- Vertical Project Control (VPC): Establish or recover VPC, for the purpose of establishing vertical control datum approved by the City Surveyor; may include primary or secondary vertical control points. Includes analysis and processing of all field collected data, and preparation of forms.
- Alignment / Existing Right-of-Way (R/W) Lines: Establish, recover or re-establish project alignment. Also includes analysis and processing of all field collected data, existing maps, and/or reports for identifying mainline, offset, or secondary alignments. Depict alignment and/or existing R/W lines (in required format) per City/County R/W maps, platted or dedicated rights-of-way.
- Reference Points: Reference Horizontal Project Network Control (HPNC) points, project alignment, vertical control points, section, $\frac{1}{4}$ section, center of section corners and General Land Office (G.L.O) corners as required.
- Topography / Digital Terrain Model (3D): Locate all above ground features and improvements for the limits of the project including all required data for creating a Digital Terrain Model (DTM) with sufficient density of shots and consisting of all breaklines, high points, and low points.
- Roadway Cross Sections / Profiles: Perform cross sections or profiles. May include analysis and processing of all field collected data for comparison with DTM.

- Drainage: Locate underground data (XYZ, pipe size, type, condition, and flowline) that relates to above ground data.
- Geotechnical Support: 3-dimensional (XYZ) field location, or stakeout, of boring sites established by geotechnical engineer
- Tree Survey – Identify all trees greater than 4" in caliper size within the project limits. Tree Survey will consist of identifying diameter at breast height, species, and approximate height.

C. Mapping

Mapping consists of preparation of control survey maps, and right-of-way maps as required for this project in accordance with all applicable City and FDOT Manuals, Procedures, Handbooks, District specific requirements, and Florida Statutes. All maps and surveys will be prepared under the direction of a Florida PSM to City size and format requirements utilizing City approved software and will be developed to provide a high degree of uniformity and maximum readability.

The ENGINEER will provide the proposed right-of-way requirements. The PSM will be responsible for calculating the final geometry for right-of-way requirements. Notification of Final Right-of-Way Requirements along with the purpose and duration of all easements will be specified in writing. Up to six (6) parcel sketches are anticipated for the project and will consist of all revisions necessary to comply with agency review comments.

Surveyor will be responsible for obtaining title search records in accordance with industry standards for preparation of right-of-way maps.

Task 2 - Deliverables

All located items will be provided in electronic CAD files utilizing FDOT naming conventions, including a separate subsurface utility file. All text and features will be plotted to a size suitable for 1-inch equals 40 feet plan sheet development. A signed and sealed topographic survey will be provided. A signed and sealed Right-of-Way map along with parcel sketches and descriptions for each impacted parcel will be provided.

Task 3 – Subsurface Utility Exploration (SUE)

SUE services will consist of 2-dimensional collection of existing utilities and selected 3-dimensional verification as needed for design support will consist of non-destructive excavation to determine size, type and location of existing utilities as necessary for final 3-dimensional verification. Proposed drainage improvements will be designed to utilized existing infrastructure as much as is feasible to mitigate potential impacts and thereby reduce the need for SUE during design. Proposed mast arm installations will require SUE to be completed at each drilled shaft location.

The project limits will begin approximately 100 LF south of U.S. 41 at the Cornelius Boulevard intersection and extend to the Cocoplum Waterway along Cranberry Boulevard for a distance of approximately 900 LF and from Cranberry Boulevard along Hillsborough Boulevard for a distance of approximately 1,000 LF.

It is anticipated that ten (10) utility agency owners (UAO) have facilities within the project limits. Coordination with Comcast, Florida Power & Light, Frontier Communications, Century Link, MCI Communications, Crown Castle, TECO – Peoples Gas, City of North Port, Charlotte County, and Verizon Wireless is anticipated.

The intended scope will generally follow the process described below:

- Call Sunshine One-Call for a design ticket request.
- Contact Utility/Agency Owners (UAO) as identified in the Sunshine One-Call design ticket to request utility record data.
- Convert the Sunshine One-Call ticket to a dig ticket. This is done in case vacuum excavation is required to find a difficult utility.
- Designate existing utilities.
- Dig the test holes on the non-conductive utilities.

Task 3 – Deliverables

Deliverable will be provided in electronic CAD files utilizing FDOT naming conventions. All text and features will be plotted to a size suitable for 1-inch equals 40 feet plan sheet development. A Test Hole Data Sheet will be provided for every subsurface utility exposed and located feature.

Task 4 – Geotechnical Engineering

Geotechnical Engineering scope of services for this project will consist of the following:

- Perform five (5) Pavement cores within the existing roadway, measure asphalt and base thickness. A hand auger boring will be performed below each pavement core to evaluate sub-base material. Pavement cores will be performed at locations as described below:
 - Cornelius Boulevard approximately 250-feet south of U.S. 41
 - Cranberry Boulevard approximately 250-feet south of Hillsborough Boulevard
 - Cranberry Boulevard approximately 180-feet north of Hillsborough Boulevard
 - Hillsborough Boulevard approximately 200-feet east of Cranberry Boulevard
 - Hillsborough Boulevard approximately 700-feet east of Cranberry Boulevard

- Perform a total of seven (7) hand auger borings within the location of the proposed improvements. The borings will be performed to a depth of five (5) feet below existing grade, and will identify soil type, ground water and seasonal high-water elevations, if present.
- Collect two (2) bulk soil samples from the areas of proposed widening and complete Limerock Bearing Ratio (LBR) testing to establish the Design LBR for the project.
- Perform one (1) Standard Penetration Test (SPT) boring to depths of 15 feet and one (1) permeability test to support stormwater pond design.
- Perform laboratory testing consisting of Natural Moisture Content, Grain-Size Analysis, Atterberg Limits and Organic Content Tests.
- Perform two (2) SPT borings to a depth of 30-feet; one at each proposed mast arm location.

Task 4 – Deliverables

Deliverable will be provided in electronic CAD files utilizing FDOT naming conventions. All text and features will be plotted to a size suitable for 1-inch equals 40 feet plan sheet development. A signed and sealed Geotechnical Report and plan sheets in FDOT format will be provided.

Task 5 – Roadway Design & Analysis

A. Roundabout

The ENGINEER will design and prepare construction documents for the reconstruction of the existing stop-controlled intersection of Cranberry Boulevard and Hillsborough Boulevard to a modern single-lane roundabout. Roundabout Design will account for future widening of Hillsborough Boulevard to an ultimate 4-lane divided facility. Roundabout analysis and design will reference the Cranberry Boulevard/Hillsborough Boulevard Intersection Analysis and Improvement Project Traffic Analysis Report dated April 2021. Traffic data as provided in the referenced Traffic Analysis Report will be evaluated and updated to generally establish roundabout geometry and operations for both single-lane and future multi-lane operations.

The ENGINEER will design and submit progress plans to the CITY for review at 30%, 60% & 90% phase review. Preliminary Engineer's Estimate of Probable Construction Costs will be submitted at the 30%, 60% and 90% complete stages. Draft Specifications will be submitted at the 90% completion stage.

Roundabout design will be developed using the National Cooperative Highway Research Program (NCHRP) 672 Report as a basis for criteria including fastest path analysis, swept path analysis, and sight line triangle evaluation. A standard WB-50 design vehicle and City Bus will be utilized all turning movements.

B. Cranberry Boulevard

Using the Cranberry Boulevard/Hillsborough Boulevard Intersection Analysis and Improvement Project Traffic Analysis Report dated April 2021 as a basis, the ENGINEER will design for widening Cranberry Boulevard from U.S. 41 to Hillsborough Boulevard to provide dual southbound right turn lanes, a single southbound through lane, a single southbound left turn lane, and dual northbound lanes. The typical section north of the roundabout at Hillsborough Boulevard will consist of single northbound and southbound lane. Cranberry Boulevard lane widths outside the influence of the roundabout will be 11-foot wide. Eight (8) foot sidewalk will be included on both sides of Cranberry Boulevard south of Hillsborough Boulevard and along the west right-of-way of Cranberry Boulevard to the proposed pedestrian crossing north of Hillsborough Boulevard. No bicycle facilities exist on Cranberry Boulevard, and therefore no dedicated bicycle lanes will be included.

C. Hillsborough Boulevard

The typical section for the Hillsborough Boulevard approach will consist of two (2) eastbound lanes which will merge to the existing single eastbound lane configuration at the eastern limits of the project, a single westbound lane, and a median width appropriate to provide future widening to the interior. An eight (8) foot sidewalk along the eastbound lanes will be provided to a proposed pedestrian crossing east of the roundabout. The existing trail along the westbound lane will be relocated north for the extents necessary. Hillsborough Boulevard lane widths outside the influence of the roundabout will be 11-foot wide. No bicycle facilities exist on Hillsborough Boulevard, and therefore no dedicated bicycle lanes will be included.

D. Cornelius Boulevard

Cornelius Boulevard will be widened to align the northbound lane with the proposed receiving lane on Cranberry Boulevard north of U.S. 41. Widening will be proposed along the east edge of pavement of Cornelius Boulevard to achieve a maximum six (6) foot horizontal lane shift across the signalized intersection per FDOT Design Manual Chapter 212.7 Table 212.7.1. The typical section of Cornelius Boulevard will consist of earth shoulders, single southbound lane, single northbound left turn lane, and single northbound through-right lane. All lane widths will be 11-foot wide. This scope does not include widening of Cornelius Boulevard to provide a dedicated northbound right turn lane. Any change to the typical section of Cornelius Boulevard beyond those described under this task will be considered additional services.

E. Drainage

The ENGINEER will review existing stormwater facilities and incorporate sufficient design to assure positive drainage of roadway improvements and preclude any ponding along the roadway. Drainage design will consist of a closed drainage system utilizing curb inlets and

ditch bottom inlets. Low Impact Development (LID) swales with underdrains may be utilized in areas surrounding the roundabout to provide water quality prior to discharge to Cocoplum Waterway. Drainage analysis under this task will consist of assessing throat capacity, spread and pipe sizing utilizing the rational methodology for small basins in accordance with the FDOT Drainage Manual, and the generation of a drainage documentation report to document all engineering calculations. This task assumes that no ICPR routing or modeling will be required for the roadway improvements.

F. Maintenance of Traffic

The ENGINEER will develop a traffic control plan for the maintenance of traffic during construction. The traffic control plan will provide for access to properties adjoining the project site throughout all phases of construction. It is anticipated that Hillsborough Boulevard west of Dahlgren Avenue will be closed for the duration of construction operations.

The traffic control plan will consist of the following:

- Typical MOT phasing sections
- General and phase construction notes.
- Detour layout
- Advanced signing plan

G. Best Management Practices

The ENGINEER shall develop Best Management Practices to be utilized during construction, including temporary provisions to prevent degradation of stormwater quality and erosion control. The plan developed shall be acceptable to regulatory agencies having jurisdiction over the project. The plan shall be designed and noted to coincide with the *Maintenance of Traffic and Progression of Construction Activities*.

H. Utility Coordination/Adjustments

The ENGINEER will provide the following utility coordination services:

The ENGINEER is to coordinate the proposed improvements with all affected utility companies at 30%, 60% and 90% completion stages. The ENGINEER will submit plans in an effort to obtain existing green-line markups, no conflict letters, or identifying conflicts and relocation schedules, from the respective utilities and submit them to the CITY for inclusion in the Final Bid Documents.

This scope assumes that existing City of North Port and Charlotte County utilities within the project limits will be adjusted and or relocated as necessary by the utility owner. The ENGINEER will collaborate with CITY and COUNTY utility design staff during plans

development to resolve potential conflicts with proposed utility design.

Task 6 – Lighting Design & Analysis

The ENGINEER will analyze, design, and develop contract documents for all lighting features in accordance with applicable provisions. Lighting Design and Analysis will include an electrical service to the inside of the roundabout center island for potential water fountain, center island lighting, and irrigation. ENGINEER will consider various alternatives in preparing the most economical solution for the given conditions.

Task 7 – Signal Design & Analysis

Signalization modifications to the existing signalized intersection of U.S. 41 and Cranberry Boulevard/Cornelius Boulevard will be required to support the proposed roadway improvements.

A. Traffic Analysis

The ENGINEER will perform a traffic analysis to analyze the interaction between the proposed roundabout and the existing signalized intersection at U.S. 41. The analysis will utilize 2045 build traffic volumes developed in the Cranberry Boulevard/Hillsborough Boulevard Intersection Analysis and Improvements Project Traffic Analysis Report dated April 2021. Build-out traffic conditions at the study area intersections, and the queuing between the two intersections, will be evaluated in Synchro and SimTraffic to determine the average vehicle delay, level of service (LOS), queue spill back, and turn lane storage capacity performance. If necessary, mitigating measures for any operational deficiencies at the study area intersections will be identified (i.e. modifications to approach lane geometry, signal retiming, etc). Build-out traffic conditions will account for dual southbound right turn movements, a single southbound through movement, a single southbound left movement, and two northbound receiving lanes on Cranberry Boulevard. The addition of a northbound dedicated right turn movement on Cornelius Boulevard will be analyzed for consideration. If an Intersection Control Evaluation (ICE) or modification to coordinated signal timings are warranted based on recommendations, these will be an additional service.

The results of the analyses will be summarized in a traffic analysis memorandum and submitted to the City for review and comment. Kimley-Horn will respond to up to one (1) round of written comments from the reviewing agencies.

B. Signalization Modification Design

The proposed roadway improvements are anticipated to impact the footprint of the existing mast arm in the southeast corner which will require replacement. With the proposed widening along Cranberry Boulevard, the existing mast arm in the northwest corner is not anticipated to be long enough to support the signal heads required to signalize the Cranberry Boulevard southbound approach. No modifications are anticipated to the mast arms in the

northeast (treating the U.S. 41 northbound approach) or southwest corners (treating the U.S. 41 southbound approach).

The design for the signal modifications will be developed in accordance with the 2009 MUTCD, FDOT's FY 2021-22 Standard Plans for Road and Bridge Construction, FDOT's January 2021 Structures Manual, Volume 3, FDOT's January 2021 Design Manual Chapter 261, and FDOT's Standard Specifications for Road and Bridge Construction dated July 2021.

It is anticipated that two (2) proposed mast arms will be designed to replace the existing mast arms impacted by the proposed improvements. Poles, mast arms, and foundations will be designed in accordance with FDOT Standard Specification and Plans.

Included in this Task will be one (1) field inventory of existing visible (above-ground) intersection features, including the existing mast arms and associated attachments (bolts, plate, etc). The results of the field inventory will be documented in a Condition Assessment and the signalization modification plans. The ENGINEER will summarize the results in a structural analysis report suitable for submission to FDOT, including the Condition Assessment.

The signalization modification plans, for the intersection of U.S. 41 and Cranberry Boulevard/Cornelius Boulevard, will include existing and proposed signal head display and locations, detectors, conduit, pull boxes, and pertinent notes required for construction.

Task 8 – Landscape Design

The ENGINEER will provide a landscape plan for the roundabout center island in accordance with City of North Port code requirements and standard of practice associated with roundabout landscaping. The ENGINEER shall prepare and include landscape design plans, prepared by a State of Florida Registered Landscape Architect. The landscape plan will consist of a detailed layout of proposed plantings with a plant list identifying species, quantities, sizes, locations, spacing, details, installation notes, and long-term maintenance plans. The landscape plan will also identify trees to be preserved and replaced as determined by code, as well as tree protection measures for those trees identified to remain. Landscaping beyond the roundabout center island is specifically excluded in this scope of services and will be considered additional services.

The ENGINEER will provide an irrigation plan for the roundabout center island landscaping area in accordance with City of North Port code requirements. The irrigation plan will consist of head layout, water source information, lateral line layout, valve sizes and locations, controller type and location, sleeve locations, identify and label point of connection, detailed drawings and installation notes.

Task 9 – Construction Documents

Construction Documents will be produced per FDOT guidelines.

A. Roadway Plans – will consist of the following:

1. Key Sheet
2. Summary of Pay Items
3. Typical Sections
4. Pavement Design
5. Summary of Drainage Structures
6. Project Layout
7. Project Control
8. General Notes
9. Plan Sheets
10. PGL Profile Sheets
11. Roundabout Profile Sheets
12. Intersection Grading Detail
13. Special Details
14. Drainage Structure Sections
15. Drainage Structure Details
16. Cross Section Pattern Sheet
17. Roadway Soil Survey
18. Cross Sections
19. Stormwater Pollution Prevention Plans
20. Temporary Traffic Control Plans
21. Utility Adjustment Sheets

B. Signing and Pavement Marking Plans – will consist of:

1. Key Sheet
2. Tabulation of Quantities
3. General Notes
4. Signing and Pavement Marking Plan Sheets

C. Signalization Plans – will consist of:

1. Key Sheet
2. Tabulation of Quantities
3. General Notes
4. Signalization Plan Sheets
5. Pedestrian Detail Sheets
6. Mast Arm Tabulation Sheet
7. Standard Mast Arm Assemblies Data Table
8. Guidesign Worksheet

D. Lighting Plans – will consist of:

1. Key Sheet
2. Tabulation of Quantities
3. General Notes
4. Pole Data Sheet
5. Lighting Plan Sheets
6. Service Point Details
7. Special Details
8. Spread Footer Details

E. Landscape / Irrigation Plans – will consist of:

1. Key Sheet
2. Landscape Plans
3. Landscape Schedule
4. Landscape Details
5. Landscape Notes
6. Irrigation Plans
7. Irrigation Schedule
8. Irrigation Details
9. Irrigation Notes

10. Hardscape Details

Task 9 - Deliverables

Plans will be formatted for 11"x17" printing at a scale of 1" = 40'. Electronic (PDF format) progress plans will be submitted to the City at the 30%, 60%, and 90% review phases. Electronic files (PDF format) of the FINAL construction plans will be furnished to the City at the 100% complete stage. Project CAD files will be provided at the 100% complete stage in DWG format.

Task 10 – Permitting

A. Southwest Florida Water Management District (SWFWMD)

The ENGINEER will prepare an application for Environmental Resource Permit (ERP) and submit to the Southwest Florida Water Management District (SWFWMD). This task should be scheduled so permit processing will run concurrently with other tasks. Preparation of permit applications shall include a pre-application meeting, up to one (1) field review and sufficiency responses. Follow-up will be provided during SWFWMD review, including responses to typical requests for additional information. DEP permitting is not anticipated for this project.

Upon review and approval by the CITY staff, the required copies of final applications shall be delivered for the CITY Engineer's signature, together with a permit fee schedule. The permit fee will be paid for by the CITY.

B. Florida Department of Transportation (FDOT)

The ENGINEER will prepare construction plans in accordance with the guidelines set forth in the FDOT Design Manual and prepare a Driveway Connection Permit in support of the signal timing adjustments to the signalized intersection of U.S. 41 and Cranberry Boulevard and proposed improvements within FDOT Right-of-Way. The ENGINEER will respond in writing, make the required revisions, and resubmit updated plans and comment responses to FDOT. No more than two (2) Requests for Additional Information (RAI) are anticipated during the permitting process. In support of the permitting efforts the ENGINEER will attend one (1) FDOT pre-application meeting. Additional meetings with FDOT or responses to RAI's will be considered additional services.

No Design Exceptions or Design Variations are anticipated for this project and, if required by FDOT, will be considered additional services.

Task 11 – Quantity Take-Offs and Construction Cost Estimate

A. Quantity Take-Offs

The ENGINEER will perform quantity take-offs calculations for all items required to construct the proposed improvements. The results of the quantity take-offs shall be submitted on a MS Excel Bid Form spreadsheet. All bid item descriptions and units shall be obtained from

and match the list of items as shown in the FDOT Basis of Estimates.

B. Opinion of Probable Cost of Construction

The ENGINEER will submit an opinion of probable construction costs at the 30%, 60%, 90%, and final construction plan stages. The opinion of probable construction costs will include an itemized list of each bid item with a bid number, bid item description, unit of measurement and unit price on the MS Excel Bid Form spreadsheet. The ENGINEER will request from the City bid tabulations showing actual bid amounts for each bid item for recent improvement projects. Unit prices will be based on the FDOT twelve (12) month historic cost averages and recent bid tabulations provided by the City.

Task 11 - Deliverables

An electronic (PDF format) Opinion of Probable Construction Costs will be submitted to the City at the 30%, 60%, and 90% review phases. An electronic file (PDF format) of the FINAL Opinion of Probable Construction Costs and one electronic MS Excel Bid Form spreadsheet will be furnished to the City at the 100% complete stage.

Task 12 – Limited Construction Phase Services

A. Bid (Construction Contract) Plans

The ENGINEER will prepare and assemble construction bidding documents, including specifications for the subject work and the construction contract. Project specific “Technical Specifications” will be included as necessary for items not appearing in the standard specifications document but are specifically necessary for this project. As described in Task 9 above, the ENGINEER will provide an estimate of quantities in the form of an MS Excel Bid Form or “Price Schedule”, and a final Opinion of Probable Construction using estimated unit prices or unit prices provided by the CITY. The Bid Documents will generally follow the City’s preferred process for Bid document development, however, will utilize the FDOT’s pay item structure for project elements.

B. Limited Services During Bidding

The CITY will perform bidding advertisement and administration of the bidding and contract award process. ENGINEER will attend one (1) pre-bid conference. ENGINEER will not discuss the project directly with potential bidders. As requested by the CITY, ENGINEER will receive and provide responses to written questions from CITY Procurement regarding interpretation and clarification of the Bid Documents, responding only in compliance with CITY policy and procedures through written addendums. CITY will supply to ENGINEER a tabulation of Bids. Engineer will issue an opinion about the appropriateness of bid prices of the low bidder and provide ENGINEER’S explanation of significant discrepancies between the low bid and ENGINEER’S final Opinion of Probable Construction Costs.

C. Shop Drawings Review

The ENGINEER will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice or usage, schedules, or procedures of construction or related safety programs.

D. Clarifications and Interpretations

The ENGINEER will respond to up to ten (10) reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of Contract Documents. Any orders authorizing variations from the Contract Documents will be made by the CITY.

Task 12 - Deliverables

Deliverables under this task will be:

- One (1) electronic copy of construction plans in DWG and PDF formats on CD or DVD
- One (1) electronic file of bid documents (Project Manual) in Word format
- Responses to bidder's questions
- One (1) signed and sealed set of conformed construction plans in PDF format, estimate of quantities/price schedule, and technical specifications as necessary for the Contract Documents
- Engineer's opinion of appropriateness of the Contractor bids.

Additional Services

Any services not specifically provided for in the scope above, as well as any changes in the scope, will be considered additional services. These services will be performed at the hourly rates agreed upon prior to their performance. Services which can be provided are listed below, but are not limited to:

- Structural analysis of existing mast arms
- Structural design of proposed mast arms, not already covered in scope
- Intersection Control Evaluation (ICE)
- Coordinated Signal Timings
- Interconnect Design & Plans

EXHIBIT B
ENGINEERING AND DESIGN FEE

City of North Port - Cranberry Boulevard and Hillsborough Boulevard
Intersection Improvements (RFP 2021-41)

Task Listing		
Scope Reference	Description	Fixed Fee
1	PROJECT ADMINISTRATION AND MANAGEMENT	\$ 11,545
2	DATA COLLECTION AND EXISTING CONDITIONS MAPPING	\$ 42,720
3	SUBSURFACE UTILITY EXPLORATION (SUE)	\$ 20,780
4	GEOTECHNICAL ENGINEERING	\$ 15,895
5	ROADWAY DESIGN & ANALYSIS	\$ 135,720
6	LIGHTING DESIGN & ANALYSIS	\$ 11,325
7	SIGNAL DESIGN & ANALYSIS	\$ 34,425
8	LANDSCAPE DESIGN	\$ 20,450
9	CONSTRUCTION DOCUMENTS	\$ 68,440
10	PERMITTING	\$ 16,860
11	QUANTITY TAKE-OFFS AND CONSTRUCTION COST ESTIMATE	\$ 6,000
12	LIMITED CONSTRUCTION PHASE SERVICES	\$ 5,000
TOTAL FIXED FEE AMOUNT:		\$ 389,160

City of North Port
Cranberry Blvd & Hillsborough Blvd Intersection Improvements
RFP 2021-41

