

AGREEMENT BETWEEN COUNTY AND PROFESSIONAL SERVICES FIRM

This Agreement Between County and Professional Services Firm, (this "Agreement") made and entered into by and between Marion County, a political subdivision of the State of Florida, located at 601 SE 25th Ave, Ocala, FL 34471 (hereinafter referred to as "COUNTY") and **Kimley Horn & Associates, Inc.**, located at 1700 SE 17th St. STE 200, Ocala, FL 34471, possessing FEIN# 56-0885615 (hereinafter referred to as "FIRM") under seal for the Irish Acres to Silver Springs Regional Water Main Interconnect, (hereinafter referred to as the "Project"), and COUNTY and FIRM hereby agreeing as follows:

WITNESSETH:

In consideration of the mutual covenants and promises contained herein, COUNTY and FIRM (singularly referred to as "Party", collectively "Parties") hereto agree as follows:

Section 1 – The Contract. The contract between COUNTY and FIRM, of which this Agreement is part, consists of the Contract Documents. This Agreement approved by the Board of County Commissioners shall be effective on the last signature date set forth below.

Section 2 – The Contract Documents. The Contract Documents are defined as this Agreement, the Specifications, the Drawings, all Purchase Orders, Change Orders and Field Orders issued hereafter, any other amendments hereto executed by the Parties hereafter, together with the following (if any):

Marion County Solicitation #23Q-067 - Irish Acres to Silver Springs Regional Water Main Interconnect, the Offer, Scope and/or Specifications, Plans and/or Drawings, any/all Addenda as issued in support of this Solicitation and any/all Exhibits defined herein, Certificates of Insurance and Notice to Proceed or Purchase Order.

Should any conflict arise between the contract documents and the Agreement, the terms of the Agreement shall govern.

Section 3 – Entire Agreement. The Contract Documents form the agreement between Parties for the Project and the FIRM acknowledges receipt of a copy of each and every Contract Document. The Contract Documents represent the entire and integrated agreement between the Parties and supersede prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only in writing. The Contract Documents shall not be construed to create a contractual relationship of any kind between any person or entities other than COUNTY and FIRM.

Section 4 - Term. This Agreement shall be effective upon COUNTY's Board of County Commissioner's approval. The Work (defined herein) shall commence upon issuance of Purchase Order and shall be completed within 10 months ("Term"). **TIME IS OF THE ESSENCE.** All limitations of time set forth in the Contract Documents are of the essence for all performance obligations of FIRM. The Work may be presumed abandoned after ninety (90) days if FIRM terminates the Work without just cause or without proper notification to COUNTY, including the reason for termination, or fails to perform Work without just cause for ninety (90) consecutive days. All Work will proceed in a timely manner without delays.


Initial

Section 5 – Scope of Services. As per specifications and requirements of the Project 23Q-067, shall provide complete Professional Services as stated in the Solicitation and shall additionally adhere by the duties attached in **Exhibit A – Consulting Engineering Schedule of Work and Fees**, all services referred to herein as "Work." The Work shall particularly comply with the original RFQ that is part of the Contract Documents.

Section 6 – Compensation. COUNTY shall make payment of (\$357,280) Three Hundred Fifty-Seven Thousand, Two Hundred Eighty dollars, (the "Agreement Price"), to FIRM under established procedure, upon completion of the Work. There shall be no provisions for pricing adjustments during the Term. Not more frequently than monthly, unless otherwise agreed in writing by FIRM and COUNTY, shall FIRM submit an invoice to COUNTY requesting payment for services properly rendered and reimbursement for Reimbursable Expenses, if provided in the Contract

Documents, due hereunder. FIRM's invoice shall describe with reasonable particularity each service rendered, the person(s) rendering the service, and their billing rate. FIRM's invoice shall be accompanied by reasonable documentation or data in support of Reimbursable Expenses for which reimbursement is sought as COUNTY may require. If payment is requested for services by FIRM, the invoice shall bear the signature of FIRM, which signature shall constitute FIRM's representation to COUNTY that the services indicated in the invoice have been properly and timely performed as required herein, that the Reimbursable Expenses included in the invoice have been reasonably incurred, that all the obligations of FIRM covered by prior invoices have been paid in full, and that, to the best of FIRM's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to FIRM that payment of any portion thereof should be withheld. Submission of FIRM's invoice for final payment and reimbursements shall further constitute FIRM's representation to COUNTY that, upon receipt from COUNTY of the amount invoiced, all obligations of FIRM to others, including its consultants, incurred in connection with the Project, will be paid in full forthwith. When applicable, the Classification and Hourly Fee Schedule, are hereby incorporated into this Agreement as **Exhibit B – Cost Estimate for Services**.

Section 7 – Assignment. FIRM may not transfer, assign or subcontract all or any part of this Agreement without written approval by COUNTY.

Section 8 – Laws, Permits, and Regulations. Prior to the performance of any Work hereunder, FIRM shall obtain and pay for all licenses and permits, as required, to perform the Work. FIRM shall at all times comply with all appropriate laws, regulations, and ordinances applicable to the Work provided under this Agreement.

Section 9 – Amendments. This Agreement may only be amended by mutual written agreement of both Parties.

Section 10 – Books and Records. FIRM shall keep records of all transactions, including documentation accurately reflecting the time expended by FIRM and its personnel and records of Reimbursable Expenses. COUNTY shall have a right to request records from FIRM, and for those records to be made available within a reasonable timeframe depending on method of acquisition.

Section 11 – Public Records Compliance

A. IF FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:

Public Relations | 601 SE 25th Ave, Ocala, FL 34471

Phone: 352-438-2300 | Fax: 352-438-2309

Email: publicrelations@marionfl.org

B. FIRM shall comply with public records laws, specifically:

- Keep and maintain public records required by COUNTY to perform the Work;
- Upon request from COUNTY's custodian of public records, provide COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term and following completion of this Agreement if FIRM does not transfer the records to COUNTY; and,
- Upon completion of this Agreement, transfer, at no cost, to COUNTY, all public records in possession of FIRM or keep and maintain public records required by COUNTY to perform the Work. If FIRM transfers all public records to COUNTY upon completion of this Agreement, FIRM shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If FIRM keeps and maintains public records upon the completion of this Agreement, FIRM shall meet all applicable requirements for retaining public

records. All records stored electronically must be provided to COUNTY, upon request from COUNTY's custodian of public records, in a format that is compatible with the information technology systems of COUNTY.

- C. If FIRM fails to provide the public records to COUNTY within a reasonable time, FIRM may be subject to penalties under Section 119.10 Florida Statutes and may be subject to unilateral cancellation of this Agreement by COUNTY. This section shall survive the termination of the Agreement.

Section 12 – Indemnification, pursuant to Section 725.08, F.S. FIRM shall indemnify COUNTY and its elected officials and employees against, and hold COUNTY and its elected officials and employees harmless from, all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, which COUNTY or its elected officials and employees may sustain, or which may be asserted against COUNTY or its elected officials and employees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of FIRM and other persons employed or utilized by FIRM, in the performance of the Agreement, including but not limited to property damage, harm or personal injury, including death, to the extent allowed by Section 725.08, F.S., and to the extent that the services rendered pursuant to the Agreement were services of a "Design Professional" as defined in Section 725.08(4), F.S. This section shall survive the termination of the Agreement.

Section 13 – Insurance. As applicable, during the period of Work, insurance policies shall be with a company or companies authorized to do business in the State of Florida. COUNTY shall be notified if any policy limit has eroded to one half its annual aggregate. FIRM shall provide, within the timeframe noted in the Award Letter, a Certificate of Insurance, issued by a company authorized to do business in the State of Florida and with an A.M. Best Company rating of at least A-. Self-Insured companies that cannot be rated, will also be considered. All policies must include all requirements listed below, reference the project number and show Marion County as additional insured. The Certificate should also provide for 30-day cancellation notice to the Procurement Director's address, set forth herein.

WORKERS COMPENSATION AND EMPLOYER'S LIABILITY

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws.

- Employer's Liability limits for not less than \$100,000 each accident \$500,000 disease policy limit and \$100,000 disease each employee must be included.
- The Contractor/Vendor, and its insurance carrier, waives all subrogation rights against Marion County, a political subdivision of the State of Florida, its officials, employees and volunteers for all losses or damages which occur during the contract and for any events occurring during the contract period, whether the suit is brought during the contract period or not.
- The County requires all policies to be endorsed with WC00 03 13 Waiver of our Right to Recover from others or equivalent.

COMMERCIAL GENERAL LIABILITY

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

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

BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$500,000 combined single limit each accident.

- In the event the Contractor/Vendor does not own vehicles, the Contractor/Vendor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

PROFESSIONAL LIABILITY INSURANCE with limits of not less than \$1,000,000 per occurrence and \$2,000,000.00 annual aggregate. Higher limits may be required for projects valued in excess of \$5,000,000. Projects \$5,000,000 or more will need to be reviewed by COUNTY's Risk and Benefit Services Department to determine appropriate Professional Liability limits. The policy must be maintained by FIRM for the duration of the Project. If the policy is written on a claims-made basis, FIRM must maintain the policy for a minimum of 5 years following the completion of the Project.

Section 14 – Independent Contractor. In the performance of this Agreement, FIRM will be acting in the capacity of an “Independent Contractor” and not as an agent, employee, partner, joint venture, or associate of COUNTY. FIRM shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by FIRM in the full performance of this Agreement.

Section 15 – Default/Termination. In the event FIRM fails to comply with any of the provisions of this Agreement, COUNTY may terminate this Agreement for cause by first notifying FIRM in writing, specifying the nature of the default and providing FIRM with a reasonable period of time in which to rectify such default. In the event the default is not cured within the time period given, COUNTY thereafter may terminate this Agreement for cause upon written notice to FIRM without prejudice to COUNTY. In the event of termination of this Agreement for cause, COUNTY will then be responsible to compensate FIRM only for those services timely and satisfactorily performed pursuant to this Agreement up to the date of termination. COUNTY may terminate this Agreement without cause providing at least thirty (30) days written notice to FIRM. In the event of termination of this Agreement without cause, COUNTY will compensate FIRM for all the work timely and satisfactorily performed pursuant to this Agreement up to and including the date of termination. Notwithstanding any other provision of this Agreement, this Agreement may be terminated if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY or other public entity obligations under this Agreement. COUNTY shall have no further obligation to FIRM, other than to pay for services rendered prior to termination.

Section 16 – Damage to Property. FIRM shall be responsible for all material, equipment and supplies sold and delivered to COUNTY under this Agreement and until final inspection of the Work and acceptance thereof by COUNTY. In the event any such material, equipment and supplies are lost, stolen, damaged or destroyed, or COUNTY property, buildings, or equipment is damaged during delivery or unloading, or in the course of the WORK prior to final inspection and acceptance, FIRM shall replace the same or be returned to original state without additional cost to COUNTY, as applicable.

Section 17 – Termination for Loss of Funding/Cancellation for Unappropriated Funds. The obligation of COUNTY for payment to FIRM is limited to the availability of funds appropriated in a current fiscal period, and continuation of this Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

Section 18 – Use of Other Contracts. COUNTY reserves the right to utilize any COUNTY contract, State of Florida contract, city or county governmental agencies, school board, community college/state university system, or cooperative bid agreement. COUNTY reserves the right to separately bid any single order or to purchase any item on this solicitation/Agreement if it is in the best interest of COUNTY.

Section 19 – Employee Eligibility Verification. COUNTY hereby affirms it is duly registered, uses, and adheres to the practices of the E-Verify system, including those outlined in the clauses below.

Beginning January 1, 2021, Section 448.095, F.S., requires FIRM to register and use the E-Verify system to verify the work authorization status of all newly hired employees and prohibits FIRM from entering into this Contract unless it is in compliance therewith. Information provided by FIRM is subject to review for the most current version of the State or Federal policies at the time of the award of this Contract.

By previously signing the ITB Acknowledgment and Addenda Certification Form, and this Contract, FIRM has agreed to perform in accordance with the requirements of this subsection and agrees:

- a) It is registered and uses the E-Verify system to verify work authorization status of all newly hired employees.
- b) COUNTY shall immediately terminate FIRM if COUNTY has a good faith belief that FIRM has knowingly violated Section 448.09(1), F.S., that is, that FIRM knowingly employed, hired, recruited, or referred either for itself or on behalf of another, private or public employment within the State an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.
- c) If FIRM enters into a contract with a subcontractor, FIRM shall obtain from the subcontractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

- d) FIRM shall maintain a copy of such affidavit for the duration of this Contract and provide it to COUNTY upon request.
- e) FIRM shall immediately terminate the subcontractor if FIRM has a good faith belief that the subcontractor has knowingly violated Section 448.09(1), F.S., as set forth above.
- f) If COUNTY has a good faith belief that FIRM's subcontractor has knowingly violated Section 448.095, F.S., but that FIRM has otherwise complied, COUNTY shall promptly order FIRM to terminate the subcontractor. FIRM agrees that upon such an order, FIRM shall immediately terminate the subcontractor. FIRM agrees that if it should fail to comply with such an order, COUNTY shall immediately terminate FIRM.
- g) If COUNTY terminates this Contract with FIRM, FIRM may not be awarded a public contract for at least one (1) year after the date of termination.
- h) FIRM is liable for any additional costs incurred by COUNTY as a result of a termination under this subsection.
- i) Any such termination under this subsection is not a breach of this Contract and may not be considered as such.
- j) FIRM shall maintain records of its registration, use, and compliance with the provisions of the E-Verify system, including the registration and use by its subcontractors, and to make such records available to COUNTY or other authorized governmental entity.
- k) To comply with the terms of this Employment Eligibility Verification provision is made an express condition of this Contract and COUNTY may treat a failure to comply as a material breach of this Contract.

Section 20 – Force Majeure. Neither FIRM nor COUNTY shall be considered to be in default in the performance of its obligations under this Agreement, except obligations to make payments with respect to amounts already accrued, to the extent that performance of any such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control and not a result of the fault or negligence of, the affected Party (a "Force Majeure Event"). If a Party is prevented or delayed in the performance of any such obligations by a Force Majeure Event, such Party shall immediately provide notice to the other Party of the circumstances preventing or delaying performance and the expected duration thereof. Such notice shall be confirmed in writing as soon as reasonably possible. The Party so affected by a Force Majeure Event shall endeavor, to the extent reasonable, to remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable. A Force Majeure Event shall include, but not be limited to acts of civil or military authority (including courts or regulatory agencies), acts of God, war, riot, or insurrection, inability to obtain required permits or licenses, hurricanes and severe floods.

Section 21 – Truth in Negotiation. FIRM warrants that the wage rates and other factual unit costs supporting the compensation to FIRM under this Agreement are accurate, complete and current at the time of contracting. In addition, FIRM understands and agrees that the original Agreement Price and any additions thereto will be adjusted to exclude any significant sums by which COUNTY determines the Agreement Price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such price adjustments must be made within one year following the end of this Agreement.

Section 22 – Counterparts. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final Agreement of the Parties and conclusive proof of such Agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. COUNTY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

Section 23 – Scrutinized Companies, pursuant to Section 287.135, F.S.

A. Certification.

1. If this Agreement is for One Million Dollars or more, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Agreement or before entering into this Agreement or renewing same, CONTRACTOR was not then and is not now:

- a. On the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S., or
 - b. Engaged in business operations in Cuba or Syria.
 2. If this Agreement is for any amount, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Agreement or before entering into this Agreement or renewing same, CONTRACTOR was not then and is not now:
 - a. On the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or
 - b. Engaged in a boycott of Israel.
- B. Termination, Threshold Amount. COUNTY may, entirely at its option, terminate this Agreement if it is for One Million Dollars and CONTRACTOR meets any of the following criteria.
1. Was entered into or renewed on or after July 1, 2011, through June 30, 2012, and CONTRACTOR is found to meet any of the following prohibitions:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S., or
 - b. Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.
 2. Was entered into or renewed on or after July 1, 2012, through September 30, 2016, and CONTRACTOR is found to meet any of the following prohibitions:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.; or
 - c. Been engaged in business operations in Cuba or Syria.
 3. Was entered into or renewed on or after October 1, 2016, through June 30, 2018, and CONTRACTOR is found to meet any of the following conditions:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.;
 - c. Been engaged in business operations in Cuba or Syria; or
 - d. Been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.
 4. Was entered into or renewed on or after July 1, 2018, and CONTRACTOR is found to meet any of the following prohibitions:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S.; or
 - c. Been engaged in business operations in Cuba or Syria.
- C. Termination, Any Amount. COUNTY may, entirely at its option, terminate this Agreement if it is for any amount and meets any of the following criteria.
1. Was entered into or renewed on or after July 1, 2018, and
 2. CONTRACTOR is found to have been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.
- D. Comply; Inoperative. The Parties agree to comply with Section 287.135, F.S., as it may change from time to time during the Term. The contracting prohibitions in this Section become inoperative on the date that Federal law ceases to authorize the State of Florida to adopt and enforce such contracting prohibitions.

Section 24 – Authority to Obligate. Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and bind and obligate such Party with respect to all provisions contained in this Agreement.

Section 25 - FIRM's Basic Duties. By executing this Agreement, FIRM represents to COUNTY that FIRM is professionally qualified to act in the professional capacity for the Project and is licensed to practice by all public entities having jurisdiction over FIRM and the Project. FIRM further represents to COUNTY that it will maintain all necessary licenses, permits or other authorizations necessary to act as the professional representative for the Project until its remaining duties hereunder have been satisfied. FIRM assumes full responsibility to COUNTY for the improper acts and omissions of its consultants or others employed or retained by FIRM in connection with the

Project. Execution of this Agreement by FIRM constitutes a representation that it will become familiar with the Project site and the local conditions under which the Project is to be implemented.

Section 26 – Prohibition Against Contingent Fees. The Engineer warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, or individual firm, other than a bona fide employee working solely for the Engineer any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

Section 27 - Bidding/Negotiation Services. FIRM shall assist COUNTY or Construction Manager in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction. Services performed in this phase include reviewing agency submittals and review for permitting.

Section 28 - Construction Administration Services. As a representative of COUNTY, FIRM in conjunction with COUNTY's project management team shall visit the Project site at intervals appropriate to the stage of the FIRM's operations, or as otherwise agreed with COUNTY to become generally familiar with and to keep COUNTY informed about the progress and quality of the portion of the Work completed. FIRM shall determine in general if the Work is being performed in a manner that would indicate that the Work, when fully completed, will be in accordance with this Agreement.

Section 29 - COUNTY's Right to Withhold Payment. In the event that COUNTY in its sole judgment becomes credibly informed that any representations of FIRM are wholly or partially inaccurate, COUNTY may withhold payment of sums then or in the future equal to the amount of the inaccuracy, otherwise due to FIRM until the inaccuracy, and the cause thereof, is corrected to COUNTY's reasonable satisfaction.

Section 30 - Use and Ownership of Documents. The drawings, specifications and other documents or things prepared by FIRM for the Project shall become and be the sole property of COUNTY. FIRM shall be permitted to retain copies thereof for its records and for its future professional endeavors. Such drawings, specifications, and other documents or things are not intended by FIRM for use on other projects by COUNTY or others. COUNTY shall not reuse or make any modifications to the drawings, specifications, and other documents without prior written authorization of FIRM.

Section 31 – Firm Conduct: These Guidelines govern FIRM while doing work on COUNTY property, as well as FIRM's employees, agents, consultants, and others on COUNTY property in connection with the FIRM's work or at the FIRM's express or implied invitation.

- **Courtesy and Respect:** COUNTY is a diverse government institution and it is critical that FIRM and its employees conduct themselves in a manner that is lawful, courteous, businesslike, and respectful of all staff, guests, or visitors.
- **Language and Behavior:** FIRM and its employees cannot engage in behavior that is rude, threatening, or offensive. Use of profane or insulting language is prohibited. Harassment of any type, including sexual harassment is strictly prohibited. Abusive, derogatory, obscene or improper language, gestures, remarks, whistling, cat calls or other disrespectful behavior cannot be tolerated. Roughhousing, fighting, fisticuffs, physical threats, destruction of property, vandalism, littering, or physical abuse of anyone on COUNTY property is not permitted under any circumstance.
- **No Weapons, Alcohol, or Drugs:** The use, possession, distribution, or sale of any weapon, alcohol, illegal drug, or controlled dangerous substance by FIRM or its employees is prohibited. Offenders will be removed from COUNTY property and/or reported to law enforcement.
- **Smoking:** FIRM and its employees are not permitted to smoke in or near any COUNTY buildings.
- **Fraternization:** FIRM and its employees may not fraternize or socialize with COUNTY staff.
- **Appearance:** FIRM and its employees are required to wear appropriate work wear, hard hats and safety footwear, as the case may be, while on the job. Articles of clothing must be neat and tidy in appearance, and cannot display offensive or inappropriate language, symbols or graphics. COUNTY has the right to decide if such clothing is inappropriate.

FIRM is responsible for its employees, agents, consultants and guests. If prohibited conduct does occur, FIRM will take all necessary steps to stop and prevent any future occurrence. Any breach of these conditions will result in the removal of the person responsible from COUNTY property and prohibited actions could result in the immediate termination of any or all of FIRM's contracts with COUNTY.

Section 32 – Sovereign Immunity. Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything stated to the contrary in the Agreement, any obligation of COUNTY to indemnify FIRM, if provided, is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes. This Section shall survive the termination of the Agreement. This section shall survive the termination of the Agreement.

Section 33 – On-Going Compliance. The Parties acknowledge that the Agreement may contain provisions prescribed by laws, statutes, and regulations that can change during the Term of the Agreement. The Parties understand and agree that the Agreement is intended to reflect and require the Parties' compliance with all laws at all times. The Parties expressly and specifically agree to perform the Agreement in full compliance with the governing laws, statutes, and regulations, as same may change from time to time.

Section 34 – Notices. Except as otherwise provided herein, all written communication between the parties, including all notices, shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be deemed effective if mailed, when deposited in a United States Postal Service mailbox with postage prepaid and if hand delivered, upon personally handing same to the party to whom the notice of other communication is addressed with signed proof of delivery. If otherwise delivered, notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. All parties certify that each has software capable of sending electronic mail read receipts to the other. Any party sending notice by electronic mail acknowledges and accepts the inherent risks that come with same. If notice is delivered in multiple ways, notice shall be considered delivered at the earliest delivery time. FIRM's and COUNTY's representatives and addresses for notice purposes are:

FIRM: Kimley Horn & Associates, Inc.
1700 SE 17th St. STE 200, Ocala, FL 34471
CONTACT PERSON: Alan Garri | Phone: 352-438-3000

COUNTY: Marion County Utilities
c/o Marion County, a political subdivision of the State of Florida
601 SE 25th Ave, Ocala, FL 34471

A copy of all notices to COUNTY hereunder shall also be sent to:

Procurement Services Director
Marion County Procurement Services Department
2631 SE 3rd St., Ocala, FL 34471

Alternatively, the parties may elect to receive said notices by e-mail. COUNTY hereby elects to receive all notices solely by email and designates its email address as procurement@marionfl.org. If FIRM agrees to accept all notices solely by e-mail and acknowledges and accepts the inherent risks that come with accepting notices solely by e-mail, FIRM may designate up to two (2) e-mail addresses: alan.garri@kimley-horn.com and richard.busche@kimley-horn.com. Designation signifies FIRM's election to accept notices solely by e-mail.

Section 35 – Law, Venue, Waiver of Jury Trial, Attorney's Fees. This Agreement and all the Contract Documents shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. In the event of any legal proceeding arising from or related to this Agreement; (1) venue for state or federal legal proceedings shall be in Marion County, Florida, (2) for civil proceedings, the parties consent to trial by the court and waive right to jury trial, (3) the prevailing party shall be entitled to recover all of its costs, including attorney fees. This section shall survive the termination of the Agreement.

Section 36 – Exhibits/Attachments. The following attachments are hereby incorporated into this Agreement as part hereof as though fully set forth herein: **EXHIBIT A – Consulting Engineering Schedule of Work and Fees**
EXHIBIT B – Cost Estimate for Services.

IN WITNESS WHEREOF the Parties have entered into this Agreement, as approved by the Marion County Board of County Commissioners, on the date of the last signature below.

ATTEST:

Gregory C. Harrell 07-18-2023
GREGORY C. HARRELL, DATE
MARION COUNTY CLERK OF COURT

MARION COUNTY, A POLITICAL SUB-DIVISION OF THE STATE OF FLORIDA

Craig Curry 07-18-2023
CRAIG CURRY DATE
CHAIRMAN

FOR USE AND RELIANCE OF MARION COUNTY ONLY, APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BCC APPROVED: July 18, 2023
23Q-067 | Irish Acres to Silver Springs Regional Water Main Interconnect

M. G. Minter 8/17/23
MATTHEW G. MINTER, DATE
MARION COUNTY ATTORNEY

WITNESS:

Stacy Boney
SIGNATURE
Stacy Boney
PRINTED NAME

KIMLEY HORN & ASSOCIATES, INC.

Richard V. Busch 7-18-2023
BY: DATE
Richard V. Busch
PRINTED:
SR VICE PRESIDENT
ITS: (TITLE)

WITNESS:

Sherri Bishop
SIGNATURE
Sherri Bishop
PRINTED NAME



CONSULTING ENGINEERING SCHEDULE OF WORK AND FEES

IRISH ACRES TO SILVER SPRINGS REGIONAL WM AND FM EXTENSION

This AGREEMENT is made this 18 day of July 2023, by and between Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Engineer") and Marion County Utilities, C/O Marion County, a political subdivision of the State of Florida ("MCU" or "County") for the RFQ 23Q-067 in accordance with the terms and conditions contained therein, which is incorporated herein by reference.

Project Understanding:

The objective of this project is to design and permit the water main extension along the general alignments shown in Exhibit A. The water main extension is intended to provide a interconnect between the Irish Acres Water Treatment Plant (IA WTP) and the Silver Springs Regional Water Treatment Plant (SSR WTP). This interconnect is intended to allow for flows from the SSR WTP to be reduced and augment that reduction with flows from the IA WTP. To accomplish this the project also includes hydraulic modeling and preliminary sizing of the improvements needed at the two water treatment plants. The modeling does not include pipe sizing because the County has previously determined the water main size to be 16-inch. The design and modeling will be in accordance with the Marion County Land Development Code. There are sections of the water main extension that cross railroads and FDOT roadways. In those areas, the design will also comply with the FDOT utility accommodation manual and the required railroad standards. In general, the project involves the following:

- 1) Approximately 47,000 linear feet (LF) of 16-inch water main to interconnect Marion County Utilities' Irish Acres Facility to the Silver Springs Regional potable water system along the route shown in Exhibit A.
- 2) Approximately 4,400 linear feet (LF) of water main (size TBD by Marion County) extending south along NE 36th Avenue Road from NE 49th Street to Millwood Estates

Specific Scope of Basic Services:

Task 1 – Data Collection, Coordination with FDEP, Project Management

- A. Kimley-Horn will prepare for and attend a project design kick-off meeting with County Staff, District Staff, and any other stakeholders identified by the County for attendance. Project objectives, schedule, communication protocols, and base information will be discussed.
- B. Kimley-Horn will utilize relevant data collected previously for the development of the design of this project.
- C. Kimley-Horn will schedule and conduct up to 6 regular progress meetings with the attendees of the kickoff meeting. Meeting agendas and minutes will be prepared for all kickoff and progress meetings.
- D. Kimley-Horn will coordinate with the survey and geotechnical subconsultants throughout the project to facilitate the collection and review of the appropriate information associated with their scope of services.
- E. The County will confirm and obtain legal access for the proposed water main route.

Task 2 – Subconsultant and Design Support Services

Kimley-Horn will utilize a qualified local subconsultant to perform the required geotechnical services and survey services.

A. The survey subconsultant will provide the following services:

- 1) The survey subconsultant will utilize the survey information collected on previous projects along the alignment for this project to augment the survey field work for this project. This existing survey information represents approximately 24,000 LF of the total project length. The existing survey information will be collated and tied to the new survey collected for this project. The surveyor will provide a single survey file. The survey work will include the following elements.
- 2) Approximate limits of Right of way based on found monumentation and/or plats of records.
- 3) Observable utilities – Utility poles, telephone boxes, valve boxes, manholes, etc. If manholes are found including inverts.
- 4) Location of DRA at southwest corner of intersection of CR 326 & Old Jacksonville Road.
- 5) Include 20' overlap within Parcels: 15855-000-00, 15864-000-00, and 15864-003-00.
- 6) Horizontal and vertical locations of sanitary sewer rims and inverts of the existing manholes that are called out as a proposed connection to existing sewer on the PDF.
- 7) Horizontal & Vertical Control for Aerial Targets to include up to 20 locations.
- 8) Topographic data will be collected at 100-foot cross sections including data collected at ROW, Top of Bank, Toe of Slope, Flow line of swales, Edge of pavement, and Center of Road, and Center of ROW.
- 9) Horizontal & Vertical data will meet or exceed Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.050-052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.
- 10) Location of any improvements that will interfere with the design or construction including pipelines, inverts, and including all trees 10" or larger.
- 11) Set Benchmarks every 1000 feet
- 12) State Plane Coordinates
- 13) Locate all surface evidence of utilities along the subject parcel and contiguous rights of way, as well as utility marks as delineated by requesting through Sunshine State One Call. Other than obtaining inverts of accessible manholes, drop inlets, etc., underground location of utilities will be shown as delineated by others.
- 14) Parcel Boundary lines will be based on recorded Plats
- 15) Location of Easements based on recorded Plats
- 16) Vertical datum will be on NAVD 1988
- 17) Contours will be shown on a 1' for minor, and 5' for major

- B. The geotechnical subconsultant will provide the following services:
- 1) Drill fifty (50) manual auger borings, to a depth of up to 10 feet below existing ground surface, spaced at approximately 1,000 linear feet on alternating sides of the road, along the full length of the proposed 16-inch water main interconnect and the 8-inch "alternate stub-out".
 - 2) Prepare a geotechnical report including results of the soil investigations in profile form, estimation of seasonal high groundwater level (SHGWL), evaluation of encountered conditions, and geotechnical recommendations for design and installation of water mains. The geotechnical report will be prepared, signed and sealed by a Florida-licensed professional engineer.
- C. Kimley-Horn will perform the environmental services consisting of the following:
- 1) A review of the habitat within the project limits will be conducted for the potential for state and federally-listed species. Any signs (including burrows, scat, nests, or tracks) of listed species will be recorded during the field review and recorded with a GPS. The review will determine the potential habitat for the presence of listed species by either the Florida Fish and Wildlife Conservation Commission (FWC) under Chapter 68A-27.003-005 F.A.C. or the U.S. Fish and Wildlife Service (USFWS) under 50 CFR 17.11-12 within the Project. The findings will be summarized in a technical memorandum.

Task 3 – Engineering Design and Permitting for the Water Main

- A. Kimley-Horn will prepare engineering design plans, prepared to industry standards and the level of detail required by permitting agencies, of the proposed water main transmission system improvements for the project. These plans will generally consist of the following elements:
- 1) Cover Sheet, Key Map, and General Notes
 - 2) Plan and Profile Sheets for the Water Main Extension
 - 3) Utility Details
 - 4) General Construction Details
- B. Kimley-Horn will prepare and submit 60% and 90% engineering design plans for review by the County prior to completion and submission of the final engineering plans. Kimley-Horn will respond to requests for additional information associated with each submittal.
- C. Kimley-Horn will utilize Sunshine One Call to verify the name, contact person and telephone number for all utility companies located within the project area. These utility contacts will be shown on the cover sheet of the plans.
- D. Following County standard procedures, Kimley-Horn will coordinate with the identified utility owners for potential conflicts along the proposed route.
- E. Specification development is not included in this project. The project will be constructed in accordance with the Marion County LDC, FDOT Specifications, and FDEP regulations. All construction specifications will be included by reference. If a permitting agency requires stand-alone specifications those will be provided for an additional fee.

- F. Kimley-Horn will conduct the required permitting activities with the Florida Department of Environmental Protection for a Water Distribution System Permit.
- 1) Kimley-Horn will coordinate and attend a pre-application meeting with the FDEP.
 - 2) Kimley-Horn will submit form 62-555.900(7) alternate to notify/apply for the construction of a domestic water main extension system under the general permit associated with Rule FAC 62-604.
 - 3) Kimley-Horn will respond to normal and typical requests for additional information from FDEP.
 - 4) The County will pay the Permit Application Fee
- G. Kimley-Horn will conduct the recommended permit exemption activities with the St Johns River Water Management District (SJRWMD) for an ERP Exemption Verification.
- 1) Kimley-Horn will coordinate and attend a preapplication meeting with the SJRWMD.
 - 2) Kimley-Horn will submit form 62-330.050(1) to request verification of permit exemption under Rule 62-330.051 (4)(d) to SJRWMD.
 - 3) The County will pay the permit application fee
- H. Kimley-Horn will conduct the required permitting activities with FDOT for a FDOT Utility Permit Application.
- 1) Kimley-Horn will prepare a FDOT Utility Permit application in compliance with the latest version of the FDOT Utility Accommodation Manual.
 - 2) Kimley-Horn will coordinate and attend a preapplication meeting with FDOT District 5.
 - 3) Kimley-Horn will submit a utility permit application to FDOT via the electronic permit submittal portal.
 - 4) Kimley-Horn will respond to normal and typical requests for additional information from FDOT.
 - 5) The County will pay the permit application fee
- I. Kimley-Horn will conduct the required permitting activities with CSX for Utility Crossing Application Package.
- 1) Kimley-Horn will prepare a CSX Utility Permit application.
 - 2) Kimley-Horn will coordinate and attend a preapplication meeting with CSX officials.
 - 3) Kimley-Horn will submit a utility permit application to CSX.
 - 4) Kimley-Horn will respond to normal and typical requests for additional information from CSX.
 - 5) The County will pay the permit application fee

Task 4 – Hydraulic Modeling for water treatment plant interconnect

- A. Kimley-Horn will update the existing hydraulic model previously prepared by Kimley-Horn to model the interconnection of the water treatment plants. The objective of this model will be to determine the system pressure interface and what improvements would be necessary at each plant to optimize the water supply to the County's system. The hydraulic model will evaluate the water treatment improvements, and distribution pump sizing, and make a recommendation based on system performance standards, equipment availability, and operator preference.
- B. Kimley-Horn will prepare a technical memo summarizing the modeling methodology, recommendations, and results.

Deliverables:

Kimley-Horn will provide the following deliverables associated with this project:

1. Agendas and Minutes for all progress meetings
2. One PDF copy of the 60% and 90% Engineering Design Plans.
3. One PDF and hard copy of the Final Engineering Design Plans.
4. Copies of all permits issued under this Project Order.

Schedule:

Kimley-Horn will provide the services described in the Scope of Services within 10 months from receipt of Purchase Order understanding that the project is contingent on permit issuance and Kimley-Horn has no control over the issuance of permits. Please see the design schedule included for more detail.

Additional Services if Required:

Services not specifically stated in the scope of services above are not included. Compensation for additional services will be agreed to prior to their performance.


Initial

FEE AND EXPENSE

Kimley-Horn will perform the Scope of Services in for a lump sum fee of \$357,280. All permitting, application, and similar project fees will be paid directly by the County. A breakdown of the fee per task is provided in the Attached Table A.

Attachments: Table A, Project Schedule, Exhibit A

KIMLEY-HORN AND ASSOCIATES, INC.

BY: 

Amber L. Gartner, P.E.

TITLE: Vice President

DATE: June 21, 2023

G:\New Business\Public Sector\Marion County\2023\RFQ 23Q-067 Irish Acres to Silver Springs Regional WM Interconnect\Scope\Project Management\Agreement Irish Acres to SS Regional WM Ext RFQ23Q-067.docx

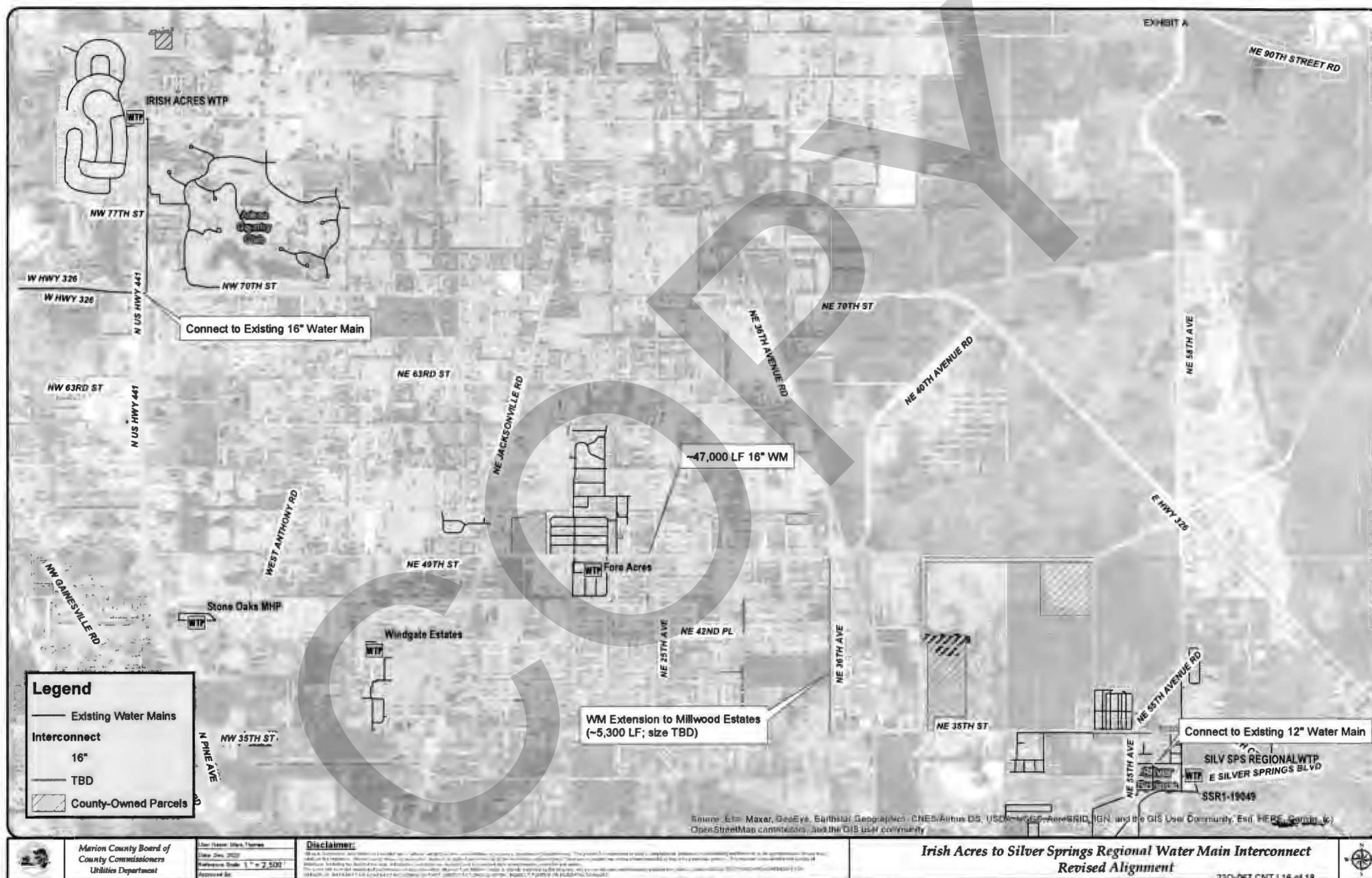


EXHIBIT B

TABLE A
COST ESTIMATE FOR SERVICES

PROJECT: WATER MAIN EXTENSION FROM IRISH ACRES WTP TO SS REGIONAL WTP
 CLIENT: MARION COUNTY UTILITIES DEPARTMENT
 KHA PM: ALAN J. GARRI, P.E.
 BASIS FOR ESTIMATE: COUNTY-APPROVED HOURLY RATES, RFQ 21Q-227

SHEET: 1 of 1
 DATE: 6/21/2023

		DIRECT LABOR (MAN-HOURS)													
		Principal	Project Manager	Senior Professional Engineer	Senior Planner	Professional Engineer	Senior Designer	Senior Technical Support	Engineer	Administrative Assistant	LABOR HOURS	EXPENSE (\$)	SUB (\$)	LABOR TOTAL	
TASK ID	TASK DESCRIPTION	\$250.00	\$220.00	\$190.00	\$180.00	\$175.00	\$150.00	\$125.00	\$125.00	\$80.00					
1A - 1B	Kick Off Meeting, Project Schedule, Missing Data List	1.0	20.0	1.0		2.0			2.0		26.0			\$ 5,440	
1C - 1D	Progress Meetings and FDEP Coordination for Easements	8.0	16.0	16.0		20.0			30.0		90.0			\$ 15,810	
2A	Survey Subconsultant		4.0	2.0		16.0			16.0		38.0		\$105,000.00	\$ 6,060	
2B	Geotechnical Subconsultant		4.0	2.0		4.0			8.0		18.0		\$ 13,525.00	\$ 2,960	
2C	Environmental Services	4.0	1.0	8.0		12.0		20.0	24.0	8.0	77.0			\$ 10,820	
3A - 3D	Prepare 60 % Plans, 90% Plans, and Final Plans for the Water Main Extension	8.0	24.0	80.0		150.0	480.0	60.0	325.0		1127.0			\$ 168,855	
3E	FDEP Permit Application	1.0		2.0		4.0			8.0		15.0			\$ 2,330	
3F	SJRWMD Exemption Application		1.0	2.0		4.0			4.0	1.0	12.0			\$ 1,860	
3G	FDOT Permit Application	1.0	1.0	8.0		16.0			20.0	1.0	47.0			\$ 7,350	
3H	CSX Utility Permit Application	1.0		4.0		4.0			8.0	1.0	18.0			\$ 2,770	
4A-4B	Hydraulic Model and Technical Memo	1.0		20.0		24.0			50.0		95.0			\$ 14,500	
TOTALS:		25.0	71.0	145.0	0.0	256.0	480.0	80.0	495.0	11.0	1563.0	\$ -	\$118,525.00	\$ 238,755.00	
GRAND TOTAL:											\$ 357,280.00				

