

FIRST AMENDMENT TO THE AGREEMENT

In accordance with the SE Regional Water Treatment Plant Design Agreement entered into on August 18, 2020, and all of its amendments (if any), collectively (the "Agreement") this First Amendment to the Agreement (this "Amendment") is made and entered into by and between **Kimley-Horn and Associates, Inc.**, whose address is 421 Fayetteville Street, Suite #600, Raleigh, NC 24501 with a local office located at 101 E. Silver Springs Blvd., Suite #400, Ocala, FL 34470; possessing FEIN 56-0885615, (hereinafter referred to as "FIRM") and **Marion County**, a political subdivision of the State of Florida, 601 SE 25th Avenue, Ocala, FL, 34471, (hereinafter referred to as "COUNTY").

WITNESSETH

WHEREAS this Amendment shall remain in full force and effect until completion of all services required of FIRM, and the Parties wish to amend the Agreement.

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

1. This Amendment shall be deemed to amend and become part of the Agreement in accordance with the project 19Q-270, (the "Project"). All provisions of the Agreement not specifically amended herein shall remain in full force and effect.
2. In addition to the work already undertaken as part of the Project, FIRM is hereby retained to complete the work identified on the Kimley-Horn Consulting Engineering Schedule of Work and Fees, SE Regional WTP Lower Floridian Test Well, a copy attached hereto as Exhibit 1.
3. FIRM shall complete the work identified in Exhibit 1 (the "Work") within 150 calendar days from the date FIRM receives a Purchase Order from COUNTY (the "Term").
4. COUNTY shall make payment of \$136,933, (the "Agreement Price"), to FIRM under COUNTY's established procedure, upon completion of Work. There shall be no provisions for pricing adjustments during the Term. Submissions of FIRM's invoice for final payment and reimbursements shall constitute FIRM's certified 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 forthwith. The Agreement Price is based upon the Cost Estimate for Services, a copy attached hereto as Table A to Exhibit 1.
5. **Public Records Compliance – Section '11' of the Agreement** is modified solely to delete the email address "publicrelations@marioncountyfl.org" and replace it with publicrelations@marionfl.org.
6. **Indemnification – Section '12' of the Agreement** is deleted in its entirety and replaced with the following:
Section 12 – Indemnification. FIRM representing that it is a design professional as defined under Section 725.08, Florida Statutes, shall indemnify and hold harmless COUNTY, its officers and employees, from liabilities, damages, and losses, including, but not limited to, property damage, harm or personal injury to third persons, such as death, and costs, including but not limited to reasonable attorneys' fees, which COUNTY, its officers or employees may sustain, or which may be asserted against COUNTY or its officers, or employees, arising out of the activities contemplated by the Agreement to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of FIRM and persons employed or utilized by FIRM in the performance of the Agreement. This Section shall not be construed in any way to alter COUNTY's waiver of sovereign immunity or the limits established in Section 768.28, Florida Statutes. This Section shall survive the termination of the Agreement.

7. **Insurance – Section ‘13’ of the Agreement** is modified in part by deleting the requirement that the company issuing the required Certificate of Insurance have an A.M. Best Company rating of “at least a B+” and replacing same with a requirement that the rating be “at least an A-.”

8. **Scrutinized Companies – Adds Section ‘33’ to the Agreement** with the following:

Section 33. Scrutinized Companies, pursuant to Section 287.135, F.S.

A. Certification.

1. If the Agreement is for One Million Dollars or more, FIRM certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, FIRM 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 the Agreement is for any amount, FIRM certifies that at the time it submitted its bid or proposal for the Agreement or before entering into the Agreement or renewing same, FIRM 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 the Agreement if it is for One Million Dollars or more, and FIRM meets any of the following criteria.

1. Was entered into or renewed on or after July 1, 2011, through June 30, 2012, and
2. FIRM is found to have:
 - 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.

OR

3. Was entered into or renewed on or after July 1, 2012, through September 30, 2016, and
4. FIRM is found to have:
 - a. Met either prohibition set forth in Section “33(B)(2)” above or
 - b. Been engaged in business operations in Cuba or Syria.

OR

5. Was entered into or renewed on or after October 1, 2016, through June 30, 2018, and
6. FIRM is found to have:
 - a. Met any prohibition set forth in Section “33(B)(4)” above or
 - b. 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.

OR

7. Was entered into or renewed on or after July 1, 2018, and
8. FIRM is found to have met any prohibition set forth in Section “33(B)(4)” above.

C. Termination, Any Amount. COUNTY may, entirely at its option, terminate the 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. FIRM 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.

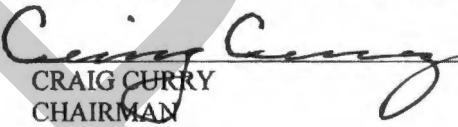
9. **Sovereign Immunity.** Adds Section '34' to the Agreement with the following:
Section 34 – Sovereign Immunity. Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything stated to the contrary in the Agreement, 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.

10. **On-Going Compliance.** Adds Section '35' to the Agreement with the following:
Section 35 – 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' 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.

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

ATTEST:


GREGORY O. HARRELL, DATE
MARION COUNTY CLERK OF COURT

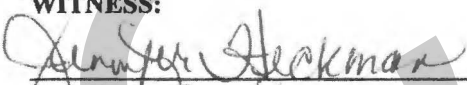
MARION COUNTY, A POLITICAL SUB-DIVISION OF THE STATE OF FLORIDA
 DATE
CRAIG CURRY
CHAIRMAN

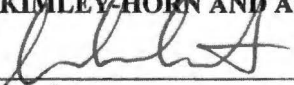
FOR USE AND RELIANCE OF MARION COUNTY ONLY, APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BCC APPROVED: January 17, 2023
19Q-270-CA-01 SE Regional Water Treatment Plant Design


 2/2/2023 DATE
MATTHEW G. MINTER, DATE
MARION COUNTY ATTORNEY

WITNESS:


SIGNATURE
Jennifer Heckman
PRINTED NAME

KIMLEY-HORN AND ASSOCIATES, INC.
 1/31/2023 DATE
BY: Amber L Gartner
PRINTED: Vice President
ITS: (TITLE)

WITNESS:


SIGNATURE
Stacy Boney
PRINTED NAME



CONSULTING ENGINEERING SCHEDULE OF WORK AND FEES

SE Regional WTP Lower Floridan Test Well

This AGREEMENT is made this ____ day of _____ 2022, 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 19Q-270 in accordance with the terms and conditions contained therein, which is incorporated herein by reference.

Project Understanding:

The County intends to construct a new regional water treatment plant (WTP) named the "SE Regional WTP" on a 5-acre parcel near the northeast portion of Parcel #47659-000-00 currently owned by Utopia 42 LLC. The intended raw water supply source is groundwater from the lower Floridan aquifer (LFA). Prior to beginning design and construction of the new WTP, the County will construct a new LFA groundwater well to confirm acceptable water quality and production potential. In support of this effort, the County requested Kimley-Horn to provide the following services:

- Develop a St. John's River Water Management District (SJRWMD) test well program for the LFA well
- Prepare construction plans and specifications for a LFA test well and associated monitoring wells
- Provide professional geological services during well construction and aquifer performance testing
- Prepare a test well report

Kimley-Horn understands the following special considerations:

- The existing on-site upper Floridan aquifer (UFA) wells will be used as observation wells during the LFA well testing.
- Inspection and performance testing of the UFA wells is not included in the project scope.
- The LFA well construction permit will be the Contractor's responsibility.
- The County is responsible for adding the LFA well to the SJRWMD Consumptive Use Permit (CUP).
- No permitting is included in Kimley-Horn's scope of work.
- The County will determine the location of the LFA test well.
- Kimley-Horn will assist the County with requesting temporary construction and access easements needed for this project.
- The well will be sized to support the quantities determined in the draft Southeast Regional Potable Water System (PWS) Master Plan Technical Memorandum dated February 1, 2021. No hydraulic modeling is included in Kimley-Horn's scope of work.
- Marion County will acquire the required property for the project

With the project understanding above, the following specific services will be provided for the Project.

Scope of Services:

Task 1 – Test Well Program Development

- A. Kimley-Horn will coordinate with the SJRWMD to discuss the County's plans to develop a LFA potable water supply source at the proposed location and to confirm the SJRWMD test well permitting and sampling requirements.
- B. Kimley-Horn will coordinate with the SJRWMD to identify design requirements for a temporary discharge area on the Utopia property south and west of the proposed LFA well location. The temporary discharge area will be used during aquifer performance testing.
- C. Kimley-Horn will prepare a well construction and testing program narrative (Test Well Program) for review and acceptance by the SJRWMD. Kimley-Horn understands that the Test Well Program will consist of the preliminary design requirements for a LFA well, water quality sampling program during well construction, water quality and production testing program after construction, and engineering report requirements. Kimley-Horn will respond to one SJRWMD request for additional regarding the Test Well Program submittal. The SJRWMD Test Well Program acceptance letter will serve as the SJRWMD "permit" for well construction. The Test Well Program will rely on the use of existing on-site UFA wells for monitoring and construction water.

Task 2 – Construction Plans and Specifications

- A. Kimley-Horn will prepare well construction plans and specifications for a single LFA potable water supply well, provisions for a temporary discharge location during well performance testing, and surficial aquifer piezometer wells (as needed). The LFA well will be designed to meet the requirements of the Florida Department of Environmental Protection (FDEP) and SJRWMD for public supply wells. The specifications will include the approved SJRWMD Test Well Program. Kimley-Horn will assist the County with obtaining permission for accessing and constructing the temporary discharge site on private property. Access and construction permission assistance will be limited to up to three rounds of correspondence with the property owner and submittal of a letter agreement for temporary permission for access/construction. The County will coordinate with the SJRWMD to add the new well location to the existing County CUP as a "test well". Kimley-Horn shall assist the County as-needed with modifying the existing SJRWMD CUP.
- B. Kimley-Horn will prepare and submit the following applications and respond to requests for additional information as needed. Marion County special use permit and zoning/land use modifications are not included in this scope of services.
 - 1) SJRWMD Test Well Request
- C. Kimley-Horn will assemble construction plans and specifications to be included in the County's bid packages. The County will prepare and advertise the Bid Notification. The County will conduct a pre-bid meeting with prospective bidders. Kimley-Horn will attend the pre-bid meeting and assist with response to contractor's request for information. The County will administer distribution of the bid packages and maintain a log of the issued bid packages.

Task 3 – Construction Stage Services

- A. Kimley-Horn will provide professional construction phase services as specifically stated below and based on the following assumptions. Services beyond the anticipated 17-week construction duration are not included but can be provided with an approved project amendment.

- 1) Anticipated LFA well construction duration - 119 calendar days (17 weeks):
 - a. Mobilization/permitting – 21 days (3 weeks)
 - b. LFA well construction – 84 days (12 weeks)
 - c. LFA testing – 7 days (1 week)
 - d. Demobilization/restoration/project closeout – 7 days (1 week)
 - 2) Preconstruction conference preparation and attendance by the engineering Project Manager and Junior Professional.
 - 3) Engineering project manager of 4 hours per week (average) for the anticipated 17-week construction duration. Project manager/construction coordination includes shop drawing reviews, change order processing, plans interpretations, bi-weekly project meetings, and project management.
 - 4) Professional geologist (PG) services for well construction observations 16 hours per week (average including travel time) for an estimated 12-week active well construction. The PG observations are necessary to document the sub surface lithology, observe well testing during construction, and identify appropriate well termination depths.
 - 5) PG observations and coordination during the aquifer performance testing during the estimated 1-week testing period. The PG will be on-site to direct the performance test, collect test data, and direct modifications to the test procedure as needed. Kimley-Horn will reduce and analyze the water quality and production test data collected during the performance testing and make recommendations for collection of additional test data if needed. Kimley-Horn will prepare a test well report meeting the requirements of the SJRWMD approved test well program. A draft copy of the report will be provided to the County for review and comment. Kimley-Horn will respond to the County's comments and submit a final signed and sealed report to the SJRWMD. If needed, Kimley-Horn will respond to SJRWMD comments and provide the County and SJRWMD with signed and sealed copies of the revised report.
- B. The County will provide all other construction phase services including contractor coordination, pay application processing, routine construction observations, etc.

Task 4 – Subconsultants

- A. Geotech (WTP Site) – Kimley-Horn will contract directly with a professional geotechnical engineering firm to provide drill one Standard Penetration Test (SPT) boring to a depth of 150 feet below the existing ground surface at a selected LFA Well location. The subconsultant will: Install casings to facilitate drilling and seal boreholes with cement/bentonite after completion of drilling; Perform laboratory index tests (moisture content, -200 and organic content) on selected soil samples; Analyze field and laboratory data; Prepare a summary report including results of the soil investigations in profile form, a lithologic log measurement of groundwater levels during drilling, estimation of seasonal high groundwater, and evaluation of the subsoil condition for setting of the initial casing string depths.
- B. Geotech (Test Well Discharge Site) – Kimley-Horn will contract directly with a professional geotechnical engineering firm to provide a 100% ground penetrating radar (GPR) survey of the

20-acre test well discharge site. The subconsultant will analyze the GPR survey data and prepare geotechnical report including recommendations for additional geotechnical investigation for subsurface stabilization (if needed) for further discharge area planning and design. SPT borings up to 50-feet deep for the test well discharge site are not included but can be performed for a unit rate of \$1,650.00 per boring with an approved contract amendment.

- C. Survey (WTP Site and Test Well Discharge Site) – Kimley-Horn will contract directly with a professional survey company to prepare a topographic and site boundary survey of the 5-acre WTP site. The survey will include marking boundary corners. The survey will also include a topographic and site boundary survey of the 25-acre test well discharge site and marking the eastern property boundary near the discharge site. The County will provide a sketch and legal description of the 5-acre site and the Utopia property.

Additional Services, if Required

Services requested that are not specifically described above will be provided under a new and separate Agreement or can be performed on an hourly basis upon written authorization.

Schedule

Kimley-Horn will begin services within 7 calendar days upon receipt of a Purchase Order as our authorization to proceed. Kimley-Horn will provide 90% construction plans and specifications within 150 calendar days of authorization to proceed and 100% plans and specifications within 21 calendar days of receiving 90% comments.

Method of Compensation:

Kimley-Horn will complete the above scope of services for a lump sum fee of \$136,933.00 inclusive of expenses.

Attachments: TABLE A

ACCEPTED:

MARION COUNTY UTILITIES, FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY:  _____

Malcolm L. Bryant, P.E.

TITLE: _____

TITLE: Vice President

DATE: _____

DATE: December 22, 2022

TABLE A
COST ESTIMATE FOR SERVICES

PROJECT: SE REGIONAL WTP LFA TEST WELL
 CLIENT: MARION COUNTY UTILITIES
 KH PM: LEWIS BRYANT, P.E.
 BASIS FOR ESTIMATE: COUNTY-APPROVED HOURLY RATES, RFQ 19Q-270

SHEET: 1 of 1
 DATE: 12/22/2022

		DIRECT LABOR (MAN-HOURS)								LABOR	SUB	LABOR
TASK ID	TASK DESCRIPTION	Principal Engineer	Sr. Professional Engineer	Project Manager	Sr. Professional Geologist	Professional Geologist	Engineer Intern / Engineer I	CADD Designer	Clerical			
		\$250.00	\$190.00	\$220.00	\$190.00	\$175.00	\$125.00	\$110.00	\$60.00			
Task 1	Test Well Program Development											
	Task 1.A	1.0		2.0	6.0	6.0				15.0		\$ 2,880.00
	Task 1.B			2.0	10.0	10.0				22.0		\$ 4,090.00
	Task 1.C		2.0	4.0	12.0	16.0	4.0		4.0	42.0		\$ 7,080.00
Task 2	Construction Plans and Specifications									0.0		\$ -
	Task 2.A	1.0	8.0	6.0	8.0	20.0	25.0	25.0		93.0		\$ 13,985.00
	Task 2.B			4.0	4.0	4.0	4.0			16.0		\$ 2,840.00
	Task 2.C		2.0	2.0		4.0	4.0		4.0	16.0		\$ 2,260.00
Task 3	Construction Stage Services									0.0		\$ -
	Task 3.A.1									0.0		\$ -
	Task 3.A.2		2.0	2.0	2.0				1.0	7.0		\$ 1,260.00
	Task 3.A.3	2.0	6.0	40.0		20.0				68.0		\$ 13,940.00
	Task 3.A.4				92.0	100.0				192.0		\$ 34,960.00
	Task 3.A.5	1.0	10.0	20.0	50.0	50.0	20.0			151.0		\$ 27,300.00
Task 4	Subconsultants									0.0		\$ -
	Task 4.A									0.0	\$ 6,325.00	\$ 633.00
	Task 4.B									0.0	\$ 9,000.00	\$ 900.00
	Task 4.C									0.0	\$ 8,600.00	\$ 860.00
	TOTALS:	5.0	30.0	82.0	184.0	230.0	57.0	25.0	9.0	622.0	\$ 23,925.00	\$ 113,008.00
										GRAND TOTAL:	\$	138,933.00