

RESOLUTION NO. 2025- 3393

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A PROJECT AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. TO PROVIDE ENGINEERING SERVICES RELATED TO THE IMPROVEMENT OF THE DOWNTOWN ALLEYWAY PURSUANT TO THE CONTINUING SERVICES AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES; AUTHORIZING THE EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 287.055, Florida Statutes (also known as the Consultants' Competitive Negotiation Act), the Town of Surfside (the "Town") entered into a Continuing Services Agreement with Kimley-Horn and Associates, Inc. ("Consultant") for professional engineering services and other services executed by the parties on April 2, 2021 (the "CSA"); and

WHEREAS, in accordance with the provisions of the CSA, the Consultant and the Town have agreed to enter into a specific Project Agreement (the "Project Agreement") in substantially the form attached hereto as Exhibit "A", authorizing the Consultant to perform engineering services related to the improvement of the downtown alleyway (the "Services"); and

WHEREAS, the Consultant's Proposal attached to the Project Agreement as Exhibit "A," provides for a scope of services detailing the Services to be provided by the Consultant, as well as a schedule for performance and compensation for the Services in an amount not to exceed \$70,995.00; and

WHEREAS, pursuant to the CSA, the Town Commission wishes to approve the Project Agreement in substantially the form attached hereto as Exhibit "A," and the

Consultant's Proposal attached to the Project Agreement as Exhibit "A," and authorize the expenditure of such funds;

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare of the Town and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Approval of Project Agreement and Proposal. The Project Agreement, attached hereto as Exhibit "A" and the Consultant's Proposal attached thereto as Exhibit "A" is hereby approved, in substantially the same forms attached hereto, subject to final approval as to form and legal sufficiency by the Town Manager and Town Attorney.

Section 3. Authorization; Expenditure of Funds. Pursuant to the CSA, the Town Manager is hereby authorized to enter into a Project Agreement, in substantially the form attached hereto as Exhibit "A," for the Services consistent with the Consultant's Proposal, in an amount not to exceed \$70,995.00.

Section 4. Implementation. The Town Manager and Town Officials are authorized to take any and all necessary or further action to implement the purchase of the Work and the purposes of this Resolution.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED on this 8th day of April, 2025.

Motion By: Vice Mayor Paul

Second By: Commissioner Velasquez

FINAL VOTE ON ADOPTION:

Commissioner Ruben A. Coto	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>

Attest:




Sandra N. McCready, MMC
Town Clerk



Charles W. Burkett, Mayor

Approved as to Form and Legal Sufficiency:



Thais Hernandez, Town Attorney

PROJECT AGREEMENT

Between

TOWN OF SURFSIDE, FL

And

Kimley-Horn and Associates, Inc.

Project Name: Downtown Alleyway Improvements

PROJECT AGREEMENT
Between
TOWN OF SURFSIDE, FL
And
KIMLEY-HORN AND ASSOCIATES, INC.
Project Name: Downtown Alleyway Improvements

Subject to the provisions contained in the "Continuing Services Agreement for Professional Engineering Services" (hereinafter referred to as the "Continuing Services Agreement") between the TOWN OF SURFSIDE, FL (hereinafter referred to as "Town") and KIMLEY-HORN AND ASSOCIATES, INC., (hereinafter referred to as "Consultant") dated April 2, 2021, which Continuing Services Agreement was competitively procured through Request For Qualifications (RFQ) No. 2020-06 in accordance with Section 287.055, Florida Statutes, this Project Agreement is made effective as of the _____ day of _____, 2025, and authorizes the Consultant to provide the services as set forth below:

SECTION I. SCOPE OF SERVICES

1.1 Consultant shall provide engineering services related to the DOWNTOWN ALLEYWAY IMPROVEMENTS and complete the tasks that are identified and described in the Project Scope of Services and Schedule, attached hereto as Exhibit "A," for the Town (the "Services").

1.2 The Town may request changes that would increase, decrease, or otherwise modify the scope of services outlined under the Project Scope of Services and Schedule, attached hereto as Exhibit "A." Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

2.1 As part of the scope of services and project schedule, the Consultant shall provide the Town the Deliverables identified in the Project Scope of Services and Schedule, attached hereto as Exhibit "A."

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 Term. This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect until terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Town Manager, in his sole discretion, may extend the term of this Agreement through written notification to the Consultant. Such extension shall not exceed 90 days. No further extensions of this Agreement shall be effective unless authorized by the Town Manager.

3.2 Commencement. Services provided by the Consultant under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided in a written Notice to Proceed ("Commencement Date") provided to the Consultant by the Town. The Consultant shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notice to Proceed. Consultant must receive written notice from the Town Manager prior to the beginning the performance of services.

3.3 Contract Time. Upon receipt of the Notice to Proceed, the Consultant shall provide services to the Town on the Commencement Date, and shall continuously perform services to the Town, without interruption, in accordance with the time frames set forth in the "Scope of Services and Project Schedule", a copy of which is attached and incorporated into this Agreement as Exhibit "A". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT BASIS AND METHOD OF COMPENSATION

4.1 Compensation. Consultant shall be compensated for the provision of the Services in accordance with Exhibit "A" attached hereto. Consultant shall receive a lump sum fee of \$70,995.00.

4.2 Reimbursable Expenses. The following expenses are reimbursable and will be billed at 1.1 x actual cost to cover administrative processing: Travel and accommodations, long distance telephone calls, facsimile, courier services, mileage (at a rate approved by the Town), photo and reproduction services. All document reproductions are also reimbursable, at a rate approved by the Town.

SECTION 5. BILLING AND PAYMENTS

5.1 Invoices

5.1.1. Compensation and Reimbursable Expenses. Consultant shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule attached hereto as Exhibit "A", attached hereto and made part of this Agreement. Invoices for each phase shall not exceed amounts allocated to said phase plus reimbursable expenses accrued during each phase. The statement shall

show a summary of fees with accrual of the total and credits for portions paid previously.

5.1.2. Florida Prompt Payment Act. The Town shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Town Manager.

5.2 Disputed Invoices. In the event that all or a portion of an invoice submitted to the Town for payment to the Consultant is disputed, or additional backup documentation is required, the Town shall notify the Consultant within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The Consultant shall provide the Town within five (5) working days of the date of the Town's notice. The Town may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the Consultant. The Town, at its sole discretion, may pay the Consultant the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 Suspension of Payment. In the event that the Town becomes credibly informed that any representations of the Consultant, provided pursuant to Subparagraph 5.1 , are wholly or partially inaccurate, or in the event that the Consultant is not in compliance with any term or condition of this Project Agreement, the Town may withhold payment of sums then or in the future otherwise due to the Consultant until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the Town's reasonable satisfaction.

5.4 Retainage. The Town reserves the right to withhold retainage in the amount often percent (10%) of any payment due to the Consultant until the project is completed. Said retainage may be withheld at the sole discretion of the Town and as security for the successful completion of the Consultant's duties and responsibilities under the Project Agreement.

5.5 Final Payment. Submission to the Consultant's invoice for final payment and reimbursement shall constitute the Consultant's representation to the Town that, upon receipt from the Town of the amount invoiced, all obligations of the Consultant to others, including its consultants, incurred in connection with the Project, shall be paid in full. The Consultant shall deliver to the Town all documents requested by the Town evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of all claims against the Town by the Consultant.

SECTION 6. TERMINATION/SUSPENSION

6.1 For Cause. This Agreement may be terminated by either party upon five (5) calendar days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the

termination. In the event that Consultant abandons this Agreement or causes it to be terminated by the Town, the Consultant shall indemnify the Town against any loss pertaining to this termination. In the event that the Consultant is terminated by the Town for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 and the provision of Section 6.2 shall apply.

6.2 For Convenience. This Agreement may be terminated by the Town for convenience upon fourteen (14) calendar days' written notice to the Consultant. In the event of such termination, the Consultant shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligation. The Consultant shall be compensated for all services performed to the satisfaction of the Town and reimbursable expenses incurred prior to the date of termination. In such event, the Consultant shall promptly submit to the Town its invoice for final payment and reimbursement which invoice shall comply with the provisions of Section 5.1. Under no circumstances shall the Town make payment of profit to the Consultant for services which have not been performed.

6.3 Assignment upon Termination. Upon termination of this Project Agreement, a copy of all work product of the Consultant shall become the property of the Town and the Consultant shall within ten (10) working days of receipt of written direction from the Town, transfer to either the Town or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the Consultant pertaining to this Project Agreement. Upon the Town's request, the Consultant shall additionally assign its rights, title and interest under any subcontractor's agreements to the Town.

6.4 Suspension for Convenience. The Town shall have the right at any time to direct the Consultant to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the Town, the Consultant shall immediately comply with same. In the event the Town directs a suspension of performance as provided herein, through no fault of the Consultant, the Town shall pay the Consultant as full compensation for such suspension the Consultant's reasonable cost, actually incurred and paid, of demobilization and remobilization.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have caused this Project Agreement to be executed the day and year as first stated above.

ATTEST:

TOWN OF SURFSIDE, FLORIDA, a Florida Municipal Corporation

TOWN CLERK

By: _____
Mark Blumstein, Town Manager

DATE: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Thais Hernandez, Town Attorney

WITNESSES

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

Print Name: _____

By: _____

Name: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT "A"
PROJECT SCOPE OF SERVICES AND SCHEDULE AND
PAYMENT SCHEDULE
[TO BE INSERTED]



January 31, 2025

Andre Eugent, MSCM
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

**Re: Letter Agreement for Professional Services for
Downtown Alleyway Improvements**

Dear Andre:

Kimley-Horn and Associates, Inc. ("Kimley-Horn") is pleased to submit this Letter Agreement ("Agreement") to the Town of Surfside ("Town") for providing engineering services related to the improvement of the downtown alleyway.

PROJECT UNDERSTANDING

The Town has requested engineering services for improving the downtown alleyway located between Harding Avenue and Collins Avenue, from 94th Street to 96th Street. It is understood that the Town has received a grant from the Florida Department of Commerce for the improvements. The Town desires to improve the alleyway by undergrounding the existing overhead utilities and replacing the existing curbing and pavement. The undergrounding is included in the Town's undergrounding program and is excluded from this Agreement. The curbing and pavement replacement will be limited to the right-of-way of the alleyway.

ASSUMPTIONS

Kimley-Horn's scope and fee are based on the following assumptions:

- The project intent is to not impact existing drainage capacity, patterns, or flows. As a result, this scope of services does not include drainage design or drainage calculations.
- Town right-of-way and building permits, if required for construction, will be obtained by the Town's contractor during construction.
- Maintenance of Traffic (MOT) and dewatering plans, if required, will be provided by the Town's contractor or others.
- The survey previously developed for the undergrounding program will be reused for this project.

If any of these assumptions are modified, then the scope and fee will be amended to accommodate the change.

SCOPE OF SERVICES

Kimley-Horn will provide the services specifically set forth below.

Design Services

Kimley-Horn will conduct a site visit to review the field conditions. Available utility record drawings and data obtained after a design ticket was called into Sunshine 811 for the Town's undergrounding program will be utilized for this project. Survey, geotechnical information, and subsurface utility exploration results from the undergrounding program will also be utilized for the design. Additionally, the base map developed for the undergrounding program will be used for this project as well.

The existing curbing will be replaced with concrete curbs that are similar to the existing curbs. The existing pavement will be replaced with pavers. Paver patterns and colors will be selected by the Town. Existing grades will largely be maintained except where modifications are necessary for ADA accessibility. Poorly-draining areas will have grades adjusted to provide positive drainage to the extent possible within the right-of-way. Modifications to the existing drainage system will be limited to structure rim elevation adjustments where warranted and constructible. Delineation of the alleyway will be provided by a strip of different color pavers. No signing, pavement marking, bollards, lighting, or landscaping design services are included in this Agreement.

Please note that "Pavers" (unit pavers, interlocking pavers, brick pavers, paver slabs, or similar) are not "equivalent" to other pavement sections. The Town assumes an elevated level of installation, inspection, and maintenance responsibility, and elevated claims risk, by electing to use pavers. Without proper installation, routine inspection, and maintenance, pavers are liable to fail and cause unsafe conditions. Specifically: 1) Pavers require installation by qualified contractors having successfully completed paver installation similar in design, material, and extent indicated within the construction documents. The Town will ensure that only qualified contractors install the pavers per these requirements. 2) Pavers require routine inspection and maintenance. The Town will be solely responsible for this inspection and maintenance. 3) The Town agrees to indemnify, defend, and hold Kimley-Horn harmless from any issues related to the installation, inspection, and maintenance of pavers.

It is anticipated that the construction documents may contain the following:

- Cover Sheet
- General Notes
- Key Sheet
- Demolition Plan
- Typical Section
- Paving and Grading Plan
- Paving and Grading Details
- Technical Specifications
- Opinion of Probable Construction Cost

Kimley-Horn will submit the documents to the Town at the 90%-complete stage. We will address one (1) round of reasonable comments after Town review of the submittal.

Bid Phase Services

Kimley-Horn will prepare the construction documents for bidding by the Town, attend a pre-bid meeting, and respond to requests for clarification during the bidding process. We will review the apparent low bid received and provide a summary memorandum describing the results of the bidding process.

It is understood that the Town will prepare the "front end" bidding instructions, any grant funding requirements/obligations that need to be included in the advertisement, and contract paperwork. The preparation of these items is not included in this Agreement.

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and performed based on agreements approved prior to performance of the additional services. Additional services Kimley-Horn can provide include, but are not limited to, the following:

- Drainage Design
- Landscaping Design
- Public Outreach/Community Meetings
- Permitting Assistance
- Construction Phase Services

INFORMATION AND SERVICES PROVIDED BY THE TOWN

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information and services provided by the Town or the Town's consultants or representatives. The Town shall provide all information and services requested by Kimley-Horn during the project, including but not limited to the following:

- Access to the Project Area
- Selection of Pavers/Patterns/Colors
- Public Outreach

SCHEDULE

Kimley-Horn will perform the services as expeditiously as practicable with the goal of meeting a mutually-agreed-upon schedule.

FEE AND BILLING

Kimley-Horn will perform the Scope of Services for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Town.

Design Services	\$56,510
<u>Bid Phase Services</u>	<u>\$14,485</u>
Total Lump Sum Fee	\$70,995

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions of the *Continuing Services Agreement* dated April 2, 2021, which are incorporated by reference. As used in the agreement, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Town" shall refer to the Town of Surfside, Florida.

If you concur in all the foregoing and wish to direct us to proceed with the services, please notify us by providing a purchase order for the scope and fee described above.

We appreciate the opportunity to provide these services to the Town! Please contact me at (561) 840-0843 or brett.johnson@kimley-horn.com if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



By: Kevin Schanen, PE
Senior Vice President / Principal



Brett Johnson, PE
Project Manager