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CITY OF SUNRISE

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**STANDARD PROJECT AGREEMENT**

Between

**THE CITY OF SUNRISE**

And

**KIMLEY-HORN AND ASSOCIATES, INC.**

Pursuant to the provisions contained in the Continuing Services Agreement between the City of Sunrise ("CITY") and KIMLEY-HORN AND ASSOCIATES, INC. ("CONSULTANT") for Professional Landscape Architectural Services (hereinafter referred to as "Continuing Services Agreement") dated April 28, 2015, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below which are identified as Item 17 in Exhibit A "Project List" of the Continuing Services Agreement:

**DESIGN, BIDDING, PERMITTING, AND CONSTRUCTION ADMINISTRATION  
WELEBY PARK EXPANSION PROJECT**

This Project Agreement shall be effective on the date it is executed by the last party to execute it. The CITY and the CONSULTANT hereby agree as follows:

**SECTION 1 – INCORPORATION OF CONTINUING SERVICES AGREEMENT**

1.1 All terms and conditions of the "Continuing Services Agreement" (Continuing Services Agreement) between the CITY and the CONSULTANT dated April 28, 2015, not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

**SECTION 2 CONSULTANT'S BASIC DUTIES TO CITY**

2.1 By executing this Project Agreement, the CONSULTANT represents to the CITY that the CONSULTANT is professionally qualified to act as the consultant for the project (hereinafter referred to as "the Project") and is licensed to practice landscape architecture by all public entities having jurisdiction over the CONSULTANT and the Project. The CONSULTANT further represents to the CITY that the CONSULTANT will maintain applicable necessary licenses, or other authorizations necessary to act as CONSULTANT for the Project until CONSULTANT'S duties hereunder have been completed. The CONSULTANT shall be responsible for providing all necessary subconsultants required for the successful completion of the work as outlined in Exhibit A, Scope of Services. The CONSULTANT assumes full responsibility to the CITY for the improper acts, negligence, and omissions of its subconsultants, and of all others employed or retained by the CONSULTANT in connection with the Project.

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

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Authorized Consultant Representative's Initials: 

## 2.3 SCHEMATIC DESIGN

2.3.1 The CONSULTANT shall review and examine the information, including any desired schedule and budgetary requirements, furnished by the CITY at the initiation of the project to understand the requirements of the Project and shall review its understanding of such requirements with the CITY.

2.3.2 The CONSULTANT shall furnish to the CITY a preliminary written evaluation of such information in light of any Project budget requirements.

2.3.3 The CONSULTANT shall review and discuss with the CITY any alternative approaches to design and construction of the Project.

2.3.4 The CONSULTANT shall prepare and submit to the CITY for review schematic design documents consisting of drawings and other documents illustrating the scale and relationship of proposed Project components. The CONSULTANT shall be responsible for furnishing a legal description and any necessary survey(s) of the site, including, as may be reasonably required, grades and lines of streets, alleys, pavements and adjoining structures, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings and other improvements; and information concerning available service and utility lines above and below grade, including inverts and depths.

2.3.5 The CONSULTANT shall submit to the CITY an estimate of probable construction costs for the Project.


## 2.4 DESIGN DEVELOPMENT

2.4.1 Based on the schematic design documents and any adjustments to that design, the proposed schedule, or Project budget authorized by the CITY, the CONSULTANT shall prepare and submit to the CITY for review, design development documents consisting of drawings and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems; landscape architectural and irrigation design; materials and such other elements as may be appropriate.

2.4.2 The CONSULTANT shall review its estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the CITY.

## 2.5 CONSTRUCTION DOCUMENTS

2.5.1 Upon the CITY'S authorization, the CONSULTANT shall prepare Construction Documents consisting of drawings and specifications setting forth in detail the requirements for construction of the Project. Such Construction Documents shall be project specific and shall be accurate, coordinated and adequate for construction, and shall be in conformity and comply with all applicable law, codes, standards, and regulations. Products specified for use shall be readily available unless specifically authorized by the CITY.

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2.5.2 The CONSULTANT shall review its most recent estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the CITY.

2.5.3 The CONSULTANT shall assist the CITY in preparing and filing applicable documents to obtain the approval of authorities having jurisdiction over the Project.

2.5.4 The CONSULTANT shall be responsible for the preparation of bid packages to be made available for distribution to all prospective bidders. Such packages shall include copies of all relevant plans, specifications, and other documents upon which the bidding is to be based. The CONSULTANT shall make copies of complete bid packages available at its office nearest to the project site during normal business hours for all prospective bidders. The CONSULTANT shall be reimbursed by the CITY for the actual cost of reproduction of the documents contained within the bid package as a reimbursable item pursuant to the terms of Section 6.2.

2.5.5 In the event that there are amendments to the bid packages, amendments to any of the documents contained with the bid packages, or any clarifications issued during the bidding process, the CONSULTANT shall prepare for the CITY'S approval written addenda as appropriate to interpret, clarify or expand the Bidding Documents. The CONSULTANT shall make such documents available to all prospective bidders in a manner acceptable to the CITY, and shall be reimbursed for the actual costs of reproduction at the same rate specified in Section 2.5.4. There shall be no additional charges for amendments or clarifications other than as provided in Section 2.5.4.

2.5.6 The CONSULTANT shall coordinate with the CITY during the bidding process and be available to address bidders' questions and comments at any time during the bidding process. The CONSULTANT shall attend the pre-bid meeting, which will be held at a location as specified by the CITY.

2.5.7 The CONSULTANT shall be available as necessary to assist the CITY in the evaluation of all bids received for determination of compliance with the bidding requirements. The CONSULTANT shall not be responsible for performing any investigations or reference checks regarding bidders, nor shall it be responsible for determining whether a bid is responsive or a bidder is responsible; however, the CONSULTANT shall assist the CITY as necessary in making such determination.

2.5.8 The CONSULTANT will investigate, study, and analyze any proposed substitutions of materials or equipment and shall advise the CITY with respect to same.

## 2.6 ADMINISTRATION OF CONSTRUCTION

2.6.1 The CONSULTANT shall perform those duties and discharge those responsibilities set forth herein in Paragraphs 2.6.2 through 2.6.13. Furthermore, the CONSULTANT shall perform and be responsible for all services requested of the CONSULTANT by the CITY relating to the interpretation and implementation of the CONSULTANT'S drawings, specifications, or other Contract Documents prepared by the CONSULTANT.

2.6.2 The CONSULTANT shall represent the CITY during construction and shall facilitate all instructions and other appropriate communications between the CITY and

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the Contractor, which shall be communicated through the CONSULTANT. The CONSULTANT shall act on behalf of the CITY only to the extent provided herein and in the Construction Contract.

2.6.3 Upon receipt, the CONSULTANT shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data which the CITY or the CONSULTANT may require from the Contractor. The purpose of such review and examination will be to protect the CITY from an unbalanced Schedule of Values which allocates greater value to certain elements of the Work than is indicated by the supporting documentation or data or, than is reasonable under the circumstances. If the Schedule of Values is not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the CITY directs the CONSULTANT to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the CONSULTANT shall sign the Schedule of Values thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The CONSULTANT shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the CITY.

2.6.4 The CONSULTANT shall observe the Work of the Contractor on a periodic basis. The purpose of such observations will be to determine the conformance and progress of the Work in comparison with the requirements of the Construction Documents and Contract. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on CONSULTANT's exercise of professional judgment. CONSULTANT will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, CONSULTANT believes that such work will not produce a completed Project that conforms generally to Contract Documents. Following each such site visits the CONSULTANT shall submit a written report of such observations, together with any appropriate comments or recommendations, to the CITY. The CONSULTANT shall not be responsible for any construction means, methods, sequences, or procedures for performing any construction activities.

2.6.5 The CONSULTANT shall determine amounts owed to the Contractor based upon observations of the Work as required in Subparagraph 2.6.4, evaluations of the Contractor's rate of progress in light of the remaining Contract Time and upon evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment to the CITY in such amounts.

2.6.6 The issuance of a Certificate for Payment shall constitute a representation by the CONSULTANT to the CITY that the CONSULTANT has made an observation of the Work as provided in Subparagraph 2.6.4, that the Work has progressed to the level indicated, that the quality of the Work meets or exceeds the requirements of the Construction Contract and that to the best of the knowledge, information and informed belief of the CONSULTANT, the Contractor is entitled to payment of the amount certified; however, the issuance of a Certificate of Payment shall not constitute a representation that the CONSULTANT has made an examination to ascertain how the

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Contractor has used the monies paid by the CITY. By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement.

2.6.7 The CONSULTANT shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The CONSULTANT shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor. The CONSULTANT will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.

2.6.8 The CONSULTANT shall reject work which does not conform to the Contract Documents unless directed by the CITY, in writing, not to do so. If directed by the CITY not to reject work, the CITY shall be responsible for the results of such direction. The CONSULTANT shall have the authority to reject work which affects public or personnel safety. Whenever, in the CONSULTANT'S opinion, it is necessary or advisable, the CONSULTANT shall require special inspection or testing of the Work in accordance with the provisions of the Construction Contract whether or not such Work is fabricated, installed or completed.

2.6.9 The CONSULTANT shall review and take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples. Appropriate action by the CONSULTANT of the Contractor's submittal shall constitute the CONSULTANT'S representation to the CITY that such submittal is in conformance with the Construction Documents and Contract, but does not hold the CONSULTANT responsible for the accuracy and completeness of details such as dimensions and quantities, or for substantiating instruction for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay to the Contractor of the Project.

2.6.10 The CONSULTANT shall review, and advise the CITY, concerning proposals and requests for Change Orders from the Contractor. The CONSULTANT shall prepare Change Orders for the CITY'S approval and execution in accordance with the Construction Contract, and shall have authority to order, by Field Order, minor changes in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time.

2.6.11 The CONSULTANT shall conduct a site visit to determine the date of Substantial Completion and the date of Final Completion. As part of that process, CONSULTANT shall receive and forward to the CITY for the CITY'S review all written warranties and related documents and operating manuals required by the Construction Contract. Contractor shall issue a final Certificate for Payment when called for by the Contract for Construction.

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2.6.12 The CONSULTANT shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in its plans and specifications.

2.6.13 The CONSULTANT shall visit the site as needed but not less than one time per month, including site visits for verification of the Contractor's monthly pay request, to observe the entire construction operation, for the term of construction as noted in Section 2.8.1. A report outlining the details of each site visit shall be furnished to the CITY within three (3) days of the required site visit. The CITY must be informed of any site visits, so that they have the opportunity to be included in the visit.

## 2.7 ADDITIONAL SERVICES

The following services of the CONSULTANT are not included in Paragraphs 2.3 through 2.6, nor in Exhibit A, Scope of Services. Nevertheless, the CONSULTANT shall provide such services as related to the project if authorized in writing by the CITY prior to the performance or furnishing of same, and, unless otherwise specified in this Contract, said services shall be paid for by the CITY as provided hereinafter.

2.7.1 Providing services to perform an extraordinary examination or investigation of existing conditions or to make measured drawings, or to verify the accuracy or other information provided by the CITY.

2.7.2 Making revisions in drawings, specifications or other documents when such revisions are inconsistent with written direction by the CITY previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents and not reasonably anticipated, or are due to other causes not within the control or responsibility of the CONSULTANT, either in whole or in part.

2.7.3 Preparing drawings, specifications and supporting data in connection with Change Orders, provided that such Change Orders are issued by the CITY due to causes not within the control or responsibility of the CONSULTANT, either in whole or in part.

2.7.4 Providing services concerning repair or replacement of Work damaged by fire or other cause during construction provided that such services are required by causes not the responsibility of the CONSULTANT, either in whole or in part.

2.7.5 Providing services made necessary solely by the default of the Contractor or defects or deficiencies in the Work of the Contractor.

## 2.8 REDUCTION IN PROJECT SCOPE

2.8.1 If the project scope is reduced by the CITY prior to completion of the Schematic Design Phase to a level that the overall design of the project is simplified and will result in a reduction in design services, the CITY shall negotiate a reduction in fees with the CONSULTANT.

## 2.9 SERVICE SCHEDULE

2.9.1 The CONSULTANT shall perform its services expeditiously as may reasonably be necessary for the orderly progress of the CONSULTANT'S services. The CONSULTANT shall submit for the CITY'S approval a schedule for the performance for the CONSULTANT'S services which shall include allowance for time required for the CITY'S review of submissions and for approvals of authorities have jurisdiction over the Project. The CITY shall review and approve or reject any schedules submitted by the CONSULTANT within five (5) working days of said submittal. If, in the event that construction of the Project is suspended for more than thirty (30) days, the CONSULTANT shall also suspend Construction Administration Services upon request of CITY. Any time spent on the Project at the request of the CITY or on the CITY'S behalf during this suspension shall be additional services and shall be paid based on the Standard Hourly Rates attached to this contract. The reasonable term of construction upon which the fees for Construction Administration in this contract are based, shall be extended to include the period of construction suspension. This schedule, when approved by the CITY, shall not, except for cause, be exceeded by the CONSULTANT. In the event the CITY rejects any schedules submitted by the CONSULTANT, the CONSULTANT shall submit a revised schedule within forty-eight (48) hours of said rejection. Submission of a schedule acceptable to the CITY and to which the CITY makes no objection shall be a condition precedent for any payment to the CONSULTANT.

2.9.2 Upon receipt of the Notification of Commencement and the fully executed Purchase Order, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in the "Project Schedule," a copy of which is attached and incorporated into this Agreement as EXHIBIT "B". 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, which ever shall last occur, shall constitute the Contract Time.

### 2.9.3 NOT USED

2.9.4 No Damages for Delay: The CONSULTANT shall not be entitled to any claim for damages including, but not limited to , loss of profits, loss of use, home office overhead expenses, equipment rental and similar costs on account of delays in the progress of the Project from any cause or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other cause beyond the CONSULTANT'S control, or by delay authorized by the CITY, or by other causes which the CONSULTANT determines may justify delay. The CONSULTANT'S sole recovery and remedy for any such delay shall be a reasonable extension of time and a revision to the Project Schedule as determined by the CITY. However, additional costs to the CONSULTANT or delays in the CONSULTANT'S performance caused by improperly time activities shall not be the basis for granting a time extension. If the CONSULTANT wishes to make a claim for an increase in time of performance, written notice of such claim shall be made to the CITY within ten (10) working days after the occurrence of the event, or the first appearance of the condition giving rise to such claim. The CITY'S representative shall determine whether or not the CONSULTANT is entitled to a time extension for the delay. The failure of the

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CONSULTANT to give such notice shall constitute a waiver of any claim under this section.

2.9.5 Notwithstanding the provisions of paragraph 2.9.4, in the event that the Contractor fails to substantially complete the Project on or before the substantial completion date specified in the Contract for Construction or the Contractor is granted an extension of the time to complete performance under the Contract for Construction and the CONSULTANT'S contract administration services are materially extended by the CITY as a direct result thereof and through no fault of the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the rates shown in the Continuing Services Agreement EXHIBIT "A". The amount of compensation due by the CONSULTANT under this paragraph shall be pursuant to an approved Amendment to the Project Agreement

## 2.10 PERSONNEL

2.10.1 The CONSULTANT shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of this Project Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

<u>NAME</u>	<u>FUNCTION</u>
Jonathan Haigh	Project Manager

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the CITY reserves the right to reject any proposed substitution for any of the above named individuals, and the CITY shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.


## **SECTION 3 CITY'S BASIC DUTIES TO CONSULTANT**

3.1 The CITY shall provide the CONSULTANT with adequate information regarding the CITY'S requirements for the Project including any desired or required design or construction schedule, or both, and any budgetary requirements including fixed limit of construction cost, prior to the start of the Construction Documents Phase of design, upon which the CONSULTANT shall be entitled to rely.

3.2 The CITY shall review any documents submitted by the CONSULTANT requiring the CITY'S decision, and shall render any required decision pertaining thereto in a timely fashion.

3.3 The CITY shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Construction Contract.

3.4 If the CITY becomes aware of any fault or defect in the Project, nonconformance with the Construction Contract, or of any errors, omissions or inconsistencies in the drawings or specifications, prompt notice thereof shall be given by the CITY to the CONSULTANT.

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Authorized Consultant Representative's Initials: 

3.5 The CITY shall perform those duties set forth in Paragraphs 3.1 through 3.4 as expeditiously as may reasonably be necessary for the orderly progress of the CONSULTANT'S services and of the Work.

3.6 The CITY'S review of any documents prepared by the CONSULTANT or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the CITY'S construction program and intent. No review of such documents shall relieve the CONSULTANT of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its work product.

**SECTION 4 CONSTRUCTION COSTS**

4.1 If the cost of construction exceeds the cost agreed upon by the CITY by more than 5% of the lowest bona fide bid or negotiated proposal, assuming bids are received within 90-days of the CONSULTANTS final Opinion of Construction Costs, the CITY may (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or renegotiating of the Project, (3) terminate the Project and this Agreement in accordance herewith, or (4) cooperate in revising the Project scope or quality, or both, as required to reduce the construction cost. In the case of (4), the CONSULTANT, without additional charge to the CITY, shall consult with the CITY and shall revise and modify the drawings and specifications as necessary to achieve compliance with the cost agreed upon by the CITY. If bids are received more than 90-days after the CONSULTANTS Final Opinion of Cost, then CONSULTANT shall be compensated for all efforts required to reduce the construction costs. Absent negligence on the part of the CONSULTANT in making its estimates of probable construction cost, providing such modifications and revisions shall be the limit of the CONSULTANT'S responsibility arising from the establishment of such construction costs, and having done so, the CONSULTANT shall be entitled to compensation for all other services performed, in accordance with this Project Agreement.

**SECTION 5 BASIS OF COMPENSATION**

5.1 The CITY shall compensate the CONSULTANT for services rendered pursuant to Paragraphs 2.3 through 2.6 and Exhibit A, Scope of Services, of this Project Agreement by payment of the fixed sum of: **\$334,870.00**

5.2 Payment to the CONSULTANT of the sum set forth in paragraph 5.1 shall be allocated as follows:

Survey and Geotechnical Services:	\$24,600	7 (%)
Conceptual Design:	\$26,170	8 (%)
Schematic Design:	\$46,770	14 (%)
Construction Documents:	\$158,580	47 (%)
Permitting and Bidding Services	\$22,830	7 (%)
Construction Administration Services	\$55,920	17 (%)

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Authorized Consultant Representative's Initials: 

5.3 Additional services of the CONSULTANT as described in Paragraph 2.7, if any, shall be compensated as follows:

SEE EXHIBIT "B" OF THE CONTINUING SERVICES AGREEMENT- FEE SCHEDULE

5.4 Reimbursable Expenses as defined in Section 6 shall be reimbursed to the CONSULTANT by the CITY as provided in Section 6.

5.5 If the scope of the CONSULTANT'S services are changed materially through no fault of the CONSULTANT, compensation due to the CONSULTANT may be equitably adjusted by written amendment to this Project Agreement, either upward or downward.

## **SECTION 6 BILLING AND PAYMENTS TO CONSULTANT**

6.1 Billing by the CONSULTANT shall be in accordance with **EXHIBIT "E"** of the Continuing Services Agreement. Payments to the CONSULTANT shall also be in accordance with Section 5 of this Project Agreement and EXHIBIT "E" of the Continuing Services Agreement.

### **6.2 REIMBURSABLE EXPENSES**

6.2.1 Reimbursable Expenses shall mean: expenses incurred by the CONSULTANT and consultants in the interest of the Project, as follows:

Not to exceed **\$15,000** without prior written authorization by the CITY.

6.2.1.1 Reasonable expenses of: long-distance communications; mileage reimbursement; fees paid for securing approval of authorities having jurisdiction over the Project; actual cost of reproduction, postage and handling of drawings, specifications and other documents; renderings, models and mock-ups requested by the CITY; additional insurance coverage or limits, including professional liability insurance, requested by the CITY in excess of that required in the Request For Qualifications. The consultant shall only be reimbursed for the direct cost of the item without additional mark-up. Cost for meals, snacks, and beverages are not considered a reimbursable expense.

## **SECTION 7 TERM**

7.1 This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect for a period of three (3) years from the date of execution hereof, unless otherwise terminated pursuant to Section 8.1 or 8.2, or other applicable sections of this Project Agreement. The CITY'S Utility Director may extend the term of this Project Agreement through written notification to the CONSULTANT. Such extension shall not exceed one (1) one-year term. No further extensions of this Project Agreement shall be effective unless authorized by City Commission action.

## **SECTION 8 TERMINATION**

### **8.1 TERMINATION FOR CAUSE**

8.1.1 This Project Agreement may be terminated by either party upon seven (7) 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 of a termination for cause, the CONSULTANT shall be entitled to receive compensation for any work completed pursuant to the Project Agreement to the satisfaction of the CITY through the date of termination, less any amounts which the CITY reasonably deems necessary to withhold in order to correct any defects or deficiencies in the work performed by the CONSULTANT. In no event shall the CITY pay for profit or overhead on work not performed.

### **8.2 TERMINATION FOR CONVENIENCE**

8.2.1 This Project Agreement may be terminated by the CITY without cause upon ten (10) days' written notice to the CONSULTANT. In the event of such a termination without cause, the CONSULTANT shall be compensated for all services completed pursuant to this Project Agreement to the satisfaction of the CITY up to and through the date of termination, together with Reimbursable Expenses incurred. In such event, the CONSULTANT shall promptly submit to the CITY its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 2.5 of EXHIBIT "E" of the Continuing Services Agreement.

8.2.2 Under no circumstances shall the CITY make payment of profit or overhead for work which has not been performed. Additionally, the CITY shall not make payment for the following items:

8.2.2.1 Anticipated profits or fees to be earned on completed portions of the work;

8.2.2.2 Consequential damages;

8.2.2.3 Costs incurred in respect to materials, equipment or services purchased or work done in excess of reasonable quantitative requirements of this Project Agreement;

8.2.2.4 Expenses of CONSULTANT due to the failure of CONSULTANT or its subconsultants to discontinue the Work with reasonable promptness after notice of termination has been given to the CONSULTANT; and

8.2.2.5 Losses upon other contracts or from sales or exchanges of capital assets or Internal Revenue Code Section 1231 assets.

8.2.2.6 Damage or loss caused by delay.

8.3 Assignment Upon Termination. Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the CITY and the CONSULTANT shall within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, 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 CITY'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the CITY. All Work product provided under this Section shall be used solely for its intended purpose.


#### **SECTION 9 SEVERABILITY**

9.1 If any term or provision of this Project Agreement or its application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Project Agreement or the application of such terms or provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Project Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **SECTION 10 GOVERNING LAW**

10.1 This Agreement shall be governed by the laws of the State of Florida. Except as set forth in Section 14 of the Continuing Services Agreement, should the Parties be involved in legal action arising under, or connected to, this Agreement, each party will be responsible for their own attorney's fees and costs. The venue for any litigation between the parties will be Broward County, Florida. Both Parties hereby agree to waive a jury trial in any action between them, and will proceed to a trial by judge if necessary.

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Authorized City Representative's Initials: 

Authorized Consultant Representative's Initials: 

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Project Agreement on the respective dates under each signature: The CITY, signing by and through its Mayor, attested to by its City Clerk, duly authorized to execute same and by Kimley-Horn and Associates, Inc. by and through its Vice President duly authorized to execute same.

CITY

**CITY OF SUNRISE, FLORIDA**

By:   
Mayor Michael J. Ryan

26<sup>th</sup> day of May, 2015

AUTHENTICATION:

  
\_\_\_\_\_  
Felicia M. Bravo, City Clerk

(SEAL) Seal

Approved as to form:

Kimberly A. Kisslan, City Attorney  
City of Sunrise  
10770 W. Oakland Park Blvd.  
Sunrise, Florida 33351  
Telephone: (954) 746-3300

By:   
\_\_\_\_\_  
Kimberly A. Kisslan  
City Attorney

Authorized City Representative's Initials: 

Authorized Consultant Representative's Initials: 

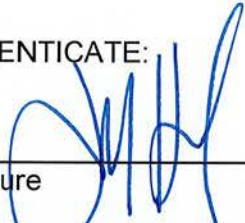
**CONSULTANT**

KIMLEY-HORN AND ASSOCIATES, INC.

BY:   
Kevin Schanen, PE

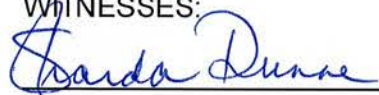

TITLE: Vice President

13 day of May, 2015.


AUTHENTICATE:  
  
Signature  
Jonathan Haigh, PLA, ASLA  
Project Manager

(CORPORATE SEAL)



WITNESSES:  
  


Authorized City Representative's Initials: 

Authorized Consultant Representative's Initials: 

**EXHIBIT "A"**

SCOPE OF SERVICES

Authorized City Representative's Initials: 


Authorized Consultant Representative's Initials: Kes

**EXHIBIT "B"**

**PROJECT SCHEDULE**

Task Name	Duration	Start	Finish
Consultant Agreement Approved	0 days	Tue 4/28/15	Tue 4/28/15
Issuance of Purchase Order	10 days	Tue 4/28/15	Mon 5/11/15
Survey	15 days	Tue 5/12/15	Mon 6/1/15
Public Meeting	0 days	Wed 5/21/14	Wed 5/21/14
Conceptual Design	26 days	Tue 6/2/15	Tue 7/7/15
Staff Review	10 days	Wed 7/8/15	Tue 7/21/15
Schematic Design	60 days	Wed 7/22/15	Tue 10/13/15
SD Comment Review with City	5 days	Wed 10/14/15	Tue 10/20/15
Site Plan Review	20 days	Wed 10/21/15	Tue 11/17/15
<b>Construction Document Phase</b>	<b>150 days</b>	<b>Wed 11/18/15</b>	<b>Tue 6/14/16</b>
90% Submission	80 days	Wed 11/18/15	Tue 3/8/16
City Review	15 days	Wed 3/9/16	Tue 3/29/16
Purchasing Review	20 days	Wed 3/9/16	Tue 4/5/16
Community Development Review	20 days	Wed 3/9/16	Tue 4/5/16
Review Comments with Consultant	10 days	Wed 3/30/16	Tue 4/12/16
100% Submission	20 days	Wed 4/13/16	Tue 5/10/16
City Review	10 days	Wed 5/11/16	Tue 5/24/16
2nd CDD Review	15 days	Wed 5/11/16	Tue 5/31/16
Review Comments with Consultant	5 days	Wed 6/1/16	Tue 6/7/16
Address City Comments	5 days	Wed 6/8/16	Tue 6/14/16
Bid Submission	0 days	Tue 6/14/16	Tue 6/14/16
<b>Bidding Phase</b>	<b>49 days</b>	<b>Wed 6/15/16</b>	<b>Tue 8/23/16</b>
Final Purchasing Preparation	10 days	Wed 6/15/16	Tue 6/28/16
Bidding Period	21 days	Wed 6/29/16	Wed 7/27/16
Contract Award	0 days	Tue 8/23/16	Tue 8/23/16
<b>Construction Phase</b>	<b>300 days</b>	<b>Tue 8/23/16</b>	<b>Mon 10/16/17</b>
Issuance of Purchase Order	15 days	Tue 8/23/16	Mon 9/12/16
Permitting	65 days	Tue 9/13/16	Mon 12/12/16
Construction	220 days	Tue 12/13/16	Mon 10/16/17

Note: Schedule starting is dependent upon the City giving Notice to Proceed to the Consultant.

Authorized City Representative's Initials: 

Authorized Consultant Representative's Initials: 