

TO: Dean Mealy, Director of Purchasing

VIA: H. Paul Brazil, P.E., Director of Public Works *HPE*

FROM: Patricia Strayer, P.E., Town Engineer *PS*

RE: Review and Approval of Phase 4 North Construction Phase Services for Town-Wide Undergrounding of Utilities Program

DATE: November 20, 2020

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Kimley Horn and Associates were selected through a CCNA solicitation for the design of the Town-Wide Undergrounding of Utilities Program to provide services related to the overall program implementation which included but may not be limited to development of a master plan, design, construction oversight, easement acquisition support, and coordination with utilities for design and construction. At the time of award, the Town negotiated a master contract which established rates and allowable rate adjustments for the life of the contract.

The Master Plan that was completed under the master contract established the phases, the schedule and the opinion of cost. The program has been broken into 8 distinct phases and 7 of the 8 phases are broken into a north and south sub phase. The Town has received the proposed Guaranteed Maximum Price Contract from Burkhardt Construction Inc. (BCI) and is presently negotiating the final contract. Staff expects to ask for Town Council approval of the Phase 4 Construction GMP award at the December 8 Town Council meeting. As part of the construction of each phase, the Town also awards a construction phase services work order. Kimley Horn submitted the proposal for Phase 4 North Construction Phase Services November 18, 2020. This work order will be presented to Town Council at the December 8 meeting in conjunction with the Phase 4 North Construction approval.

I have reviewed the attached proposal based on the following criteria:

1. Are the rates consistent with the approved rates?
2. Is the overall budget of the proposal within budget as estimated in the master plan or the updated opinion of cost from November 2019?
3. Are the hours proposed for the work to be completed consistent with the scope of work and are the hours reasonable?

Per the master contract agreement Kimley Horn is allowed to increase rates each year. This fiscal year Kimley did not choose to request a rate increase and has held the rates associated with the proposal to the approved rates from 2019. The proposal for the construction phase services for Phase 4 North is consistent with the budget that was presented to Town Council in November 2019. The level of effort and hours proposed is consistent with construction schedule as presented in the Phase 4 North GMP.

My review of the attached proposal finds that they meet the above mentioned criteria. I recommend approval of the proposals.



November 18, 2020

Dean Mealy, II CPPO  
Town of Palm Beach – Purchasing Division  
951 Okeechobee Road, Suite 'D'  
West Palm Beach, FL 33401

**RE: *Town-Wide Undergrounding of Utilities Program: Phase 4 North Construction Phase Services***

Dear Dean,

The Kimley-Horn and Associates, Inc. team (Kimley-Horn) is pleased to submit this proposal to the Town of Palm Beach ("TOWN") for providing engineering services related to the Phase 4 North construction phase for the Town-Wide Undergrounding of Utilities Program. Our project understanding, scope of services, schedule, and fee follow.

**Project Understanding**

The design phase of Phase 4 North is nearing completion and the Town's Construction Manager is currently preparing the Guaranteed Maximum Price. The Town has requested that Kimley-Horn perform construction phase engineering services to support the Town during the construction of the undergrounding.

It is understood that work is anticipated to begin in January 2021. This sub-phase is located between Via Marila and La Puerta Way.

It is understood that FPL, AT&T, and Comcast all have facilities on utility poles to varying degrees. These poles are generally located in rear-lot easements or in the public right-of-way. New underground infrastructure will be installed within the road rights-of-way and in new front-lot easements. Once the new facilities have been installed, activated, and the services cut over, the rear-lot poles and wires will be removed.

Based on this understanding, our detailed scope of services is provided below.

**Scope of Services**

Kimley-Horn will perform the following services during construction. A more detailed description of each of the bulleted services follows later in this proposal.

- Pre-Construction Meeting attendance
- Bi-weekly progress meeting attendance for the 18-month construction duration (up to 39 meetings)
- Utility coordination meeting attendance (FPL, AT&T, Comcast, FPU) during the construction duration (up to 4 meetings)

- Visits to the site including field reports and photographs (approximately 2-3 times per week during conduit/equipment installation and 1-2 times per week during demolition, up to 169 visits)
- Clarifications and interpretations
- Change order review
- Shop drawing review / review of proposed substitutions
- Review of testing lab reports
- Payment application review
- Substantial completion walk-through and punch list development
- Final acceptance walk-through / close-out documentation
- Record drawing review

The following is a more detailed description of the services that will be performed.

*Pre-Construction Conference.* Kimley-Horn will attend a Pre-Construction Conference prior to commencement of Work at the Site.

*Visits to Site and Observation of Construction.* Kimley-Horn will make the limited number of visits as described above in order to observe the progress of the Work. Such visits and observations by Kimley-Horn are not intended to be exhaustive or to extend to every aspect of Contractor's work. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation. Based on information obtained during such visits, Kimley-Horn will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Kimley-Horn will keep the Town informed of the general progress of the Work.

Kimley-Horn shall not, during such visits or as a result of such observations, supervise, direct, or have control over Contractor's work, nor shall Kimley-Horn have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with applicable laws and regulations. Kimley-Horn neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

*Recommendations with Respect to Defective Work.* Kimley-Horn will recommend to the Town that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Kimley-Horn believes that such work will not produce a completed Project that conforms generally to Contract Documents.

*Clarifications and Interpretations.* Kimley-Horn will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to the Town as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by the Town.

*Change Orders.* Kimley-Horn may recommend Change Orders to the Town, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.

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

*Inspections and Tests.* Kimley-Horn may require special inspections or tests of Contractor's work as Kimley-Horn deems appropriate, and may receive and review certificates of inspections within Kimley-Horn's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Kimley-Horn's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Kimley-Horn shall be entitled to rely on the results of such tests and the facts being certified.

*Disagreements between Town and Contractor.* Kimley-Horn will, if requested by the Town, render written decision on all claims of the Town and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Kimley-Horn shall be fair and not show partiality to the Town or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

*Applications for Payment.* Based on its observations and on review of applications for payment and accompanying supporting documentation, Kimley-Horn will determine the amounts that Kimley-Horn recommends Contractor be paid. Such recommendations will be based on Kimley-Horn's knowledge, information and belief, and will state whether in Kimley-Horn's opinion Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. In the case of unit price work, Kimley-Horn's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests. Kimley-Horn's recommendations will not be a representation that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.

*Substantial Completion.* Kimley-Horn will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with the Town and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of the Town, Kimley-Horn considers the Work substantially complete, Kimley-Horn will notify the Town and Contractor.

*Final Notice of Acceptability of the Work.* Kimley-Horn will conduct a final site visit with the Town to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Kimley-Horn may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Kimley-Horn shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Kimley-Horn's knowledge, information, and belief based on the extent of its services and based upon information provided to Kimley-Horn upon which it is entitled to rely. If the work is found to be in general accordance with the Contract Documents, Kimley-Horn will also prepare and submit applicable permit certifications for those permits that were issued for the project.

## **Additional Services**

Any services not specifically provided for in the above scope, as well as any changes in the scope requested by the Town or extensions to the project schedule noted below, will be considered additional services and will be performed based on proposals approved prior to performance of the additional services.

## **Information and Services Provided by the Town**

The following information and services shall be provided to Kimley-Horn by the Town:

- Access to the project area

## **Schedule**

Kimley-Horn will perform the scope of services above as expeditiously as practical to meet a mutually agreed upon schedule. It is anticipated that services will begin in January 2021. Construction is expected to be complete in June 2022 per the Construction Manager's proposed schedule. Fees for engineering services are based on these durations. Services performed beyond these durations will be considered additional services.

## **Fee and Billing**

Kimley-Horn will perform the scope of services, excluding meetings, for the total lump sum fee listed below. All permitting, application, and similar project fees will be paid directly by the Client. Lump sum fee will be invoiced monthly based upon the overall percentage of services performed.

Construction Phase Services	\$278,967
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Kimley-Horn will attend meetings on a labor fee plus expense basis with the estimated labor and expense fee shown below. Kimley-Horn will not exceed the total maximum labor and expense fee shown without authorization from the Client.

Meetings	\$ 45,342
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## Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the terms and conditions in the Master Professional Services Agreement between the Town of Palm Beach and Kimley-Horn and Associates, Inc., Professional Engineering Services for the Town-Wide Undergrounding of Utilities Program RFQ No. 2016-07, which are incorporated by reference. As used in the Agreement, the term "CONSULTANT" shall refer to Kimley-Horn and Associates, Inc., and the term "TOWN" shall refer to The Town of Palm Beach.

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 you. Please contact me at (561) 840-0820 or [kevin.schanen@kimley-horn.com](mailto:kevin.schanen@kimley-horn.com) should you have any questions.

Sincerely,  
KIMLEY-HORN AND ASSOCIATES, INC.



By: Kevin Schanen, P.E.  
Senior Vice President

## Attachment

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