



**BOARD OF SUPERVISORS AGENDA ITEM REPORT  
CONTRACTS / AWARDS / GRANTS**

Award  Contract  Grant

Requested Board Meeting Date: 12/06/22

or Procurement Director Award

*\* = Mandatory, information must be provided*

**\*Contractor/Vendor Name/Grantor (DBA):**

Kimley-Horn and Associates, Inc. (Headquarters: Phoenix, AZ)

**\*Project Title/Description:**

Canoa Ranch Sewer Extension Segment 2 Design (3CRAEX)

**\*Purpose:**

Award: Contract No. CT-CPO-23-225. This award of contract is to provide Final Design of the Canoa Ranch Sewer Extension for the Canoa Ranch Sewer Extension Segment 2 Design in a not-to-exceed amount of \$326,250.00 for a contract term from 12/06/22 to 07/14/24. Administering Department: Capital Program Office.

**\*Procurement Method:**

Pursuant to the Direct Selection authority of A.R.S. § 34-103, award for Requisition No. RQS-CPO-23-034 is recommended to the above-named consultant which has accepted the terms of the County's standard contract and with which the County has negotiated a satisfactory agreement.

Attachments: Direct Select Memorandum and Contract.

**\*Program Goals/Predicted Outcomes:**

The Canoa Ranch Sewer Extension will provide sewer service to the southern extents of the Green Valley area, along I-10 to connect with the existing Avra Valley WRF. This new gravity line will allow flow from this entire service area to be sent to the Green Valley WRF, which will increase our ability to produce reclaimed water and eventually retire the Avra Valley WRF. Additionally, this will include the ability for the Historic Raul Grijalva Canoa Ranch Complex to connect to the sewer treatment system, which will facilitate future expansion at the site.

**\*Public Benefit:**

The Canoa Ranch Sewer Extension will allow for continued and improved sewer service to areas of southern Pima County, increased sustainable water practices and reduced costs to Pima County in the form of the aging Arivaca Treatment Plant being removed from service.

**\*Metrics Available to Measure Performance:**

Performance will be measured using the consultant evaluation process as outlined in BOS Policy D29.1(E). Completing the Canoa Ranch Sewer Extension according to the approved schedule and budget, while successfully receiving an Arizona Department of Environmental Quality Discharge Authorization permit.

**\*Retroactive:**

No.

TO: COB 11/15/22 (1)

VER: 1

PGS: 51

NOV14'22PM0408PO

**Contract / Award Information**

Document Type: CT Department Code: CPO Contract Number (i.e.,15-123): 23-225  
Commencement Date: 12/06/22 Termination Date: 07/14/24 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
 Expense Amount: \$\* 326,250.00  Revenue Amount: \$ \_\_\_\_\_

\*Funding Source(s) required: Regional Wastewater Reclamation Department Obligations

Funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

Contract is fully or partially funded with Federal Funds?  Yes  No

If Yes, is the Contract to a vendor or subrecipient? \_\_\_\_\_

Were insurance or indemnity clauses modified?  Yes  No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number?  Yes  No

If Yes, attach the required form per Administrative Procedure 22-10.

**Amendment / Revised Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e.,15-123): \_\_\_\_\_

Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_

Commencement Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_

Prior Contract No. (Synergen/CMS): \_\_\_\_\_

Expense or  Revenue  Increase  Decrease Amount This Amendment: \$ \_\_\_\_\_

Is there revenue included?  Yes  No If Yes \$ \_\_\_\_\_

\*Funding Source(s) required: \_\_\_\_\_

Funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**Grant/Amendment Information** (for grants acceptance and awards)  Award  Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e.,15-123): \_\_\_\_\_

Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_

Match Amount: \$ \_\_\_\_\_  Revenue Amount: \$ \_\_\_\_\_

\*All Funding Source(s) required: \_\_\_\_\_

\*Match funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

\*Match funding from other sources?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

\*Funding Source: \_\_\_\_\_

\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)? \_\_\_\_\_

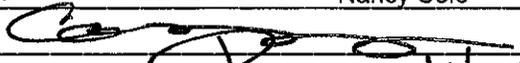
Contact: Denise Waldo Digitally signed by Denise Waldo  
Date: 2022.10.31 14:28:44 -07'00'

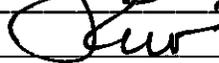
Scott Loomis Digitally signed by Scott Loomis  
Date: 2022.10.31 16:35:04 -07'00'

Department: Procurement Director Terri Spencer Digitally signed by Terri Spencer  
Date: 2022.11.01 15:59:02 -07'00'

Telephone: 520-724-8458

Department Director Signature/Date:  Digitally signed by Nancy Cole  
DN: cn=Nancy Cole, o=County of Maricopa, ou=County of Maricopa, email=Nancy.Cole@maricopa.gov, c=US  
Date: 2022.11.01 16:54:42 -07'00' Nancy Cole 11/1/2022

Deputy County Administrator Signature/Date:  11/2/2022

County Administrator Signature/Date:  11/2/2022  
(Required for Board Agenda/Addendum Items)



# MEMORANDUM

Capital Program Office

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DATE: 8/29/2022

TO: Terri Spencer  
Procurement Director

FROM: Nancy Cole  
CPO Director

RE: Request for Direct Selection of Professional Services from a Technical Registrant  
for CWW.3CRAEX – Canoa Ranch Sewer Extension

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**Background:** Pima County requires a technical registrant, civil engineer, with gravity sewer experience to design and document services (including post-design services) for the second phase of the Canoa Ranch Sewer Extension project. Kimley Horn and Associates (KHA) were selected through the QCL process as the first phase designer and to start and complete the second phase design up to 30% - establishing the basic sewer pipe alignment. At that time, Pima County RWRD Engineering staff would take-over second phase design and complete to 100%. However, since then, the RWRD in-house design staff have or are imminently about to separate from their employment with Pima County. RWRD will have no staff with the knowledge, skills and abilities to carry-on the phase 2 design effort. Moreover, the hiring and training of replacement staff to be able to carry-on design in a reasonable and realistic time frame is unlikely at best.

Through the phase 1 design effort (and initial Phase 2 design), KHA has become aware of the terrain and design challenges within the project footprint and is currently qualified and capable to handle the environmental and cultural challenges that exist in phase 2. Direct selecting KHA for phase 2 will allow the project schedule to remain mostly unchanged. KHA has a current relationship with the Construction Manager at Risk (CMAR) who is under contract with Pima County to construct both phases of the project. Additionally, KHA is currently on the Pima County Qualified Consultant List for Wastewater Design Services. The services for this contract are expected to be more than the contract threshold of \$250,000.

**Requested Action:** The Capital Program Office, on behalf of Pima County RWRD, requests Kimley Horn and Associates be selected to continue with Phase 2 of the Canoa Ranch Sewer Extension Project design in an estimated amount of \$330,000

Memo to: Terri Spencer, Procurement Director  
Re: Request for Direct Selection of Professional Services from a Technical Registrant for  
CWW.3CRAEX – Canoa Ranch Sewer Extension  
8/29/2022

for a contract term of 3-4 years pursuant to the Direct Select provisions of A.R.S.  
§34-103.

Approved:  Date: 9/2/2022  
Terri Spencer, Procurement Director

**PIMA COUNTY CAPITAL PROGRAM OFFICE**

**PROJECT:** Canoa Ranch Sewer Extension Segment 2 Design (3CRAEX)

**CONSULTANT:** Kimley-Horn and Associates, Inc.  
3800 N Central Ave Suite 460  
Phoenix, AZ 85012

**CONTRACT NO.:** CT-CPO-23-225

**AMOUNT:** \$326,250.00

**FUNDING:** Regional Wastewater Reclamation Department Obligations

**CONSULTANT SERVICES CONTRACT**

**1. Parties, Background and Purpose.**

- 1.1. Parties. This Contract is entered into between Pima County, a body politic and corporate of the State of Arizona, hereafter called County, and Kimley-Horn and Associates, Inc., hereinafter called Consultant, and collectively referred to as the Parties.
- 1.2. Purpose. County requires the services of a Consultant registered in the State of Arizona and qualified to provide Final Design of the Canoa Ranch Sewer Extension for the Canoa Ranch Sewer Extension Segment 2 Design (“Project”).
- 1.3. Authority. Kimley-Horn and Associates, Inc. was selected to be the segment 1 designer and to complete the segment 2 design to 30% for the Canoa Ranch Sewer Extension project. As the segment 1 designer and preliminary designer for segment 2, they have knowledge of the terrain and design challenges within the project. Consultant was determined under the direct select provisions of A.R.S. § 34-103 to be the best source for final design.

**2. Term and Extension/Renewal/Changes.**

- 2.1. Initial Term. This Contract, as approved by the Board of Supervisors, commences on December 6, 2022, and terminates on July 14, 2024, unless sooner terminated or further extended pursuant to the provisions of this Contract.
- 2.2. Extension Options. County has the option to extend the contract termination date for purposes of project completion. Any modification or extension of the contract termination date must be by formal written amendment executed by the Parties.

**3. Scope of Services.** Consultant agrees to provide completion of the Final Design for Segment 2 (southerly ~2-miles) to connect to Elephant Head Road along with the environmental clearance requirements for both Segments 1 & 2 for the County as described in Exhibit A – Scope of Work (7 Pages), an attachment to this contract. Amendments and changes to the Scope must be approved by the Board of Supervisors or the Procurement Director before the work under the amendment commences.

**4. Compensation and Payment.**

- 4.1. Rates. County will pay Consultant Not-to-Exceed \$326,250.00.
- 4.2. Fee Proposal. Consultant’s fees will be as stated in Exhibit B – Consultant Fee Proposal (18 Pages), attached to this Contract.

- 4.3. Hourly Rates. Hourly rates and all other rates included under this Contract will remain fixed throughout the term of the contract. County may consider adjustments to rates in connection with any extensions of the contract term.
- 4.4. Timing of Invoices. Unless otherwise agreed, Consultant will submit invoices monthly.
- 4.5. Content of Invoices. All invoices will be accompanied by a narrative description of the work performed during the period covered by the invoice, time accounting information, and an allocation of all direct costs, including reimbursable costs and Subconsultant charges, to the tasks identified in the Scope of Work for which those costs were incurred. The time accounting information should be sufficient to show the workers and hours worked by day for the period covered by the invoice. Subconsultant charges must be supported by appropriate documentation with each separate invoice submitted.
- 4.6. Invoice Adjustments. For the period of record retention required under Article 22, County reserves the right to question any payment made under this Article and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the Contract or law.
- 4.7. Additional Services. Consultant will not perform work in excess of the contract amount without prior authorization by an amendment executed by the Parties. Work performed in excess of the contract amount without prior authorization by amendment is at Consultant's own risk.
5. **Insurance**. The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. County in no way warrants that the minimum limits contained herein are sufficient to protect the Consultant from liabilities that arise out of the performance of the work under this Contract.
  - 5.1. Ratings. Consultant's insurance will be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers will have an "A.M. Best" rating of not less than A- VII. County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.
  - 5.2. Insurance Coverages and Limits.
    - 5.2.1. Minimum Scope and Limits of Insurance: Consultant will procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.
      - 5.2.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage.
      - 5.2.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000.
      - 5.2.1.3. Workers' Compensation and Employers' Liability - Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - \$1,000,000.

Note: The Workers' Compensation requirement will not apply to a Consultant that is exempt under A.R.S. § 23-901, and when such Consultant executes the appropriate County Sole Proprietor or Independent Consultant waiver form.
      - 5.2.1.4. Professional Liability (Errors and Omissions) Insurance – This insurance is required when soliciting work from licensed professionals. The policy limits will be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The policy will cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

5.2.1.5. Claims-Made Coverage. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy will precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two years beginning at the time work under this Contract is completed.

5.3. Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

5.3.1. Additional Insured: The General Liability and Business Automobile Liability Policies will each be endorsed to include County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insured's with respect to liability arising out of the activities performed by or on behalf of Consultant.

5.3.2. Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies will each contain a waiver of subrogation endorsement in favor of County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Consultant.

5.3.3. Primary Insurance: Consultant's policies will stipulate that the insurance afforded the Consultant will be primary and that any insurance carried by the Department, its agents, officials, employees or County will be excess and not contributory insurance.

5.3.4. Insurance provided by Consultant will not limit Consultant's liability assumed under the indemnification provisions of this Contract.

5.4. Notice of Cancellation:

Each required Insurance policy must provide, and certificates specify, that County will receive not less than 30 days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payments of a premium. Notice shall include the County project or contract number and project description.

5.5. Verification of Coverage:

Consultant will furnish County with certificates of insurance as required by this Contract. An authorized representative of the insurer will sign the certificates.

5.5.1. All certificates and endorsements, as required by this written agreement, are to be received and approved by County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

5.5.2. All certificates required by this Contract will be sent directly to the Department. County project or contract number and project description will be noted on the certificate of insurance. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

5.6. Approval and Modifications:

The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager and does not require a formal Contract amendment. Neither the County's failure to obtain a required insurance

certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Consultant, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

## 6. Indemnification.

- 6.1. To the fullest extent permitted by law, Consultant will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Consultant or any of Consultant's directors, officers, agents, employees, volunteers, or subconsultants. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Consultant from and against any and all Claims. Consultant is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
- 6.2. All warranty and indemnification obligations under this contract shall survive expiration or termination of the contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with A.R.S. § 34-226 is, in all cases, not void, but will be interpreted and applied as if it were consistent with A.R.S. § 34-226.
- 6.3. Upon request, Consultant may fully indemnify and hold harmless any private property owner granting a right of entry to Consultant for the purpose of completing the project. The obligations under this Article do not extend to the negligence of County agents, employees or indemnities.

## 7. Laws and Regulations.

- 7.1. Compliance with Laws. Consultant will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract.
- 7.2. Licensing. Consultant warrants that it is appropriately licensed to provide the services under this Contract and that its Subconsultants will be appropriately licensed.
- 7.3. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in Superior Court in Pima County.

8. **Status of Consultant.** Consultant is an independent Consultant. Neither Consultant, nor any of Consultant's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Consultant is responsible for paying all federal, state and local taxes on the compensation received by Consultant under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Consultant's failure to pay such taxes.

## 9. Consultant's Performance.

- 9.1. Performance. Consultant will perform the work with the degree of care and skill required of any similarly situated Arizona registrant. Consultant will employ suitably trained and skilled professional personnel to perform all required services under this Contract. Prior to changing any key personnel, especially those key personnel County relied upon in making this contract, Consultant will obtain County's approval.
- 9.2. Responsibility. Consultant is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by Consultant under this Contract. Without additional compensation, Consultant will correct or revise any errors, omission, or other

deficiencies in all products of its efforts and other services provided. This includes resolving any deficiencies arising out of the acts or omissions of Consultant found during or after the course of the services performed by or for Consultant under this Contract, regardless of County having knowledge of or condoning/accepting the products or the services. Correction of such deficiencies will be at no cost to County.

10. **Non-Waiver.** The failure of County to insist in any one or more instances upon full and complete compliance with any of the terms and provisions of this Contract or to take any action permitted as a result thereof is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
11. **Subconsultant.** Consultant will be fully responsible for all acts and omissions of its Subconsultant and of persons directly or indirectly employed by Subconsultant and of persons for whose acts any of them may be liable to the same extent that Consultant is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract creates any obligation on the part of County to pay any Subconsultant, except as may be required by law.
12. **Non-Assignment.** Consultant will not assign its rights or obligations under this Contract, in whole or in part, without County's prior written approval. County may withhold approval at its sole discretion.
13. **Non-Discrimination.** Consultant will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any Subconsultants. During the performance of this Contract, Consultant will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
14. **Americans with Disabilities Act.** Consultant will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
15. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
16. **Termination of Contract for Default.**
  - 16.1. Upon a failure by Consultant to cure a default under this Contract within 10 days of receipt of notice from County of the default, County may, in its sole discretion, terminate this Contract for default by written notice to Consultant. In this event, County may take over the work and complete it by contract or otherwise. In such event, Consultant will be liable for any damage to the County resulting from Consultant's default, including any increased costs incurred by County in completing the work.
  - 16.2. Default Events. The following constitutes an event of default:
    - 16.2.1. Abandonment of or failure by Consultant to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
    - 16.2.2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on schedule or at an acceptable level of quality;
    - 16.2.3. Failure to provide competent supervision at the site;
    - 16.2.4. Failure to take down, rebuild, repair, alter or amend any defective or deficient work, or remove any defective or deficient material;
    - 16.2.5. Failure to make prompt payment to Subconsultants or suppliers for material or labor;

- 16.2.6. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude Consultant's performance of this Contract;
  - 16.2.7. Disregard of laws, ordinances, or the instructions of County or its representatives, or any otherwise substantial violation of any provision of the contract;
  - 16.2.8. If a voluntary or involuntary action for bankruptcy is commenced with respect to Consultant, or Consultant becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.
- 16.3. Termination. In the event of a termination for default:
- 16.3.1. All finished and unfinished as-builts, drawings, specifications, documents, data, studies, surveys, photographs, reports and other information in whatever form, including electronic, acquired or prepared by Consultant for this project become County's property and will be delivered to County not later than five business days after the effective date of the termination;
  - 16.3.2. County may withhold payments to Consultant arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due County from Consultant is determined; and
  - 16.3.3. Subject to the immediately preceding subparagraph 16.3.2, County's liability to Consultant will not exceed the Contract value of work satisfactorily performed prior to the date of termination for which County has not previously made payment.
- 16.4. Non-Termination. County will not terminate the Contract for default or charge Consultant with damages under this Article if:
- 16.4.1. Except for subparagraph 16.2.8 in subsection 16.2 above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Consultant. Examples of such causes include:
    - 16.4.1.1. Acts of God or of the public enemy,
    - 16.4.1.2. Acts of County in either its sovereign or contractual capacity,
    - 16.4.1.3. Acts of another Contractor in the performance of a contract with County,
    - 16.4.1.4. Fires,
    - 16.4.1.5. Floods,
    - 16.4.1.6. Epidemics,
    - 16.4.1.7. Quarantine restrictions,
    - 16.4.1.8. Strikes,
    - 16.4.1.9. Freight embargoes,
    - 16.4.1.10. Unusually severe weather, or
    - 16.4.1.11. Delays of Subconsultants at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Consultant and the Subconsultant(s); and

16.4.2. Consultant, within seven days from the beginning of any event of default or delay (unless extended by County), notifies County in writing of the cause(s) therefor. In this circumstance, County will ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of County, the findings warrant such action, County may extend the time for completing the work.

16.5. Receipt of Notice. For the purposes of subsection 16.1 above, "receipt of notice" includes receipt by hand by Consultant's project manager, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.

16.6. Excusable. If, after termination of the Contract for default, County determines that the Consultant was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if County had terminated the Contract for convenience as set forth in Article 17.

16.7. Rights and Remedies. The rights and remedies of County in this Article are cumulative and in addition to any other rights and remedies provided by law or under this contract.

17. **Termination for Convenience of County**. County may terminate this Contract at any time by giving written notice to Consultant of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents and other materials will, at the option of the County, become its property. If County terminates the Contract as provided herein, County will pay Consultant an amount based on the time and expenses incurred by Consultant prior to the termination date, however, no payment will be allowed for anticipated profit on unperformed services.

18. **Non-Appropriation of Funds**. Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Contract. In the event of such termination, County will have no further obligation to Consultant, other than payment for services rendered prior to termination.

19. **Notices**. Any notice required or permitted to be given under this Contract must be in writing and be served by delivery or by certified mail upon the other party as follows:

COUNTY:

Nancy Cole, Director  
Capital Program Office  
201 N Stone Ave, 5th Floor  
Tucson, AZ 85701  
Tel: (520) 724-6312  
Email: [Nancy.cole@pima.gov](mailto:Nancy.cole@pima.gov)

CONSULTANT:

Kevin Payne, P.E., CFM, Project Manager  
Kimley-Horn & Associates, Inc.  
333 E Wetmore Road, Ste 280  
Tucson, AZ 85705  
Tel: (520) 615-9191  
Email: [kevin.payne@kimley-horn.com](mailto:kevin.payne@kimley-horn.com)

20. **Other Documents**. Consultant and County in entering into this Contract have relied upon information provided in Consultant 's response to a request for fee proposal. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this Contract. Consultant will perform services in accordance with the terms of the Contract and at a level of care consistent with prevailing industry standards. In the event any provision of this Contract is inconsistent with those of any other document, the Contract provisions prevail.

21. **Remedies**. Either party may pursue any remedies provided by law for the breach of this Contract, provided, however, that the procedures in Article 25 are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

22. **Severability**. Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

**23. Books and Records.**

23.1. Maintenance. Consultant will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County.

23.2. Retention. Consultant will retain all records relating to this contract at least five years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, Consultant may, at its option, deliver such records to County for retention.

24. **Delays**. Neither party will be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.

**25. Disputes.**

25.1. Resolving Dispute. In the event of a dispute between the Parties regarding any part of this Contract or the parties' obligations or performance hereunder, either party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Contract and Consultant's counterpart official, such meeting to be held within one week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.

25.2. Performance. The parties will continue performance of their respective obligations under this Contract notwithstanding the existence of any dispute.

26. **Ownership of Documents**. Ownership of all original drawings, field data, estimates, field notes, plans, specifications, documents, reports, calculations, and other information developed by Consultant under this contract vests in and become the property of County and shall be delivered to County upon completion or termination of the services, but Consultant may retain and use copies thereof. County agrees that the material will not be used for any project other than the project for which it was designed without the expressed permission of the Consultant.

**27. Public Records.**

27.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. §§ 34-603(H), 604(H), in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by Consultant in any way related to this contract, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

27.2. Records Marked Confidential.

27.2.1. Any information submitted related to this Contract that Consultant believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as Confidential prior to submittal to County and be accompanied by an index specifically identifying and describing the general contents of each page so marked. The index is a Public Record and must not include any information considered confidential.

27.2.2. Notwithstanding the above provisions, in the event records marked v are requested for public release pursuant to A.R.S. § 39-121 et seq., County will release records marked Confidential 10 business days after the date of notice to the Consultant of the request for release, unless Consultant has, within the 10 day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release is not counted in the time calculation. County will notify Consultant of any request for such release on the same day of the

request for public release or as soon thereafter as practicable. County is not, under any circumstances, responsible for securing a protective order or other relief enjoining the release of records marked v, nor is County in any way financially responsible for any costs associated with securing such an order.

## 28. Legal Arizona Workers Act Compliance.

- 28.1. Compliance with Immigration Laws. Consultant warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Consultant's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Consultant will further ensure that each Subconsultant who performs any work for Consultant under this contract likewise complies with the State and Federal Immigration Laws.
- 28.2. Books & Records. County has the right at any time to inspect the books and records of Consultant and any Subconsultant in order to verify such party's compliance with the State and Federal Immigration Laws.
- 28.3. Remedies for Breach of Warranty. Any breach of Consultant's or any Subconsultant's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Consultant to penalties up to and including suspension or termination of this Contract. If the breach is by a Subconsultant, and the subcontract is suspended or terminated as a result, Consultant must take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement Subconsultant, (subject to County approval if SBE or DBE preferences apply) as soon as possible so as not to delay project completion.
- 28.4. Subconsultants. Consultant will advise each Subconsultant of County's rights, and the Subconsultant's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subconsultant hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subconsultant's employees, and with the requirements of A.R.S. § 23-214 (A). Subconsultant further agrees that County may inspect the Subconsultant's books and records to insure that Subconsultant is in compliance with these requirements. Any breach of this paragraph by Subconsultant is a material breach of this contract subjecting Subconsultant to penalties up to and including suspension or termination of this contract."

- 28.5. Costs. Any additional costs attributable directly or indirectly to remedial action under this Article are the responsibility of Consultant. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Consultant's approved construction or critical milestones schedule, such period of delay is excusable delay for which Consultant is entitled to an extension of time, but not costs.
29. **Israel Boycott Certification**. Pursuant to A.R.S. § 35-393.01, if Consultant engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Consultant certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
  30. **Forced Labor of Ethnic Uyghurs**. Pursuant to A.R.S. § 35-394, if Consultant engages in for-profit activity and has 10 or more employees, Consultant certifies it is not currently using, and agrees for the duration of this Contract to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any consultants, subconsultants or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Consultant becomes aware during the term of the Contract that the Company is not in compliance with A.R.S. § 35-394, Consultant must notify the County within five business days and provide a written certification to County regarding compliance within one hundred eighty days.

- 31. **Amendment.** Except for the amendment provision above in Article 4, this Contract may be modified, amended, altered or extended only by a written amendment signed by the Parties.
- 32. **Entire Agreement.** This document constitutes the entire agreement between the Parties and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.
- 33. **Effectiveness and Date.** This contract will become effective when all Parties have signed it. The date of this Contract will be the date the Contract is signed by the last Party to sign it (as indicated by the date associated with that Party's signature).

Each Party is signing this Contract on the date below that Party's signature.

APPROVED:

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

CONTRACTOR:

*Timothy Rhine*

\_\_\_\_\_  
Signature

Tim Rhine, Authorized Signer

\_\_\_\_\_  
Name and Title (Please Print)

11-07-2022

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

This contract template has been approved as to form by the Pima County Attorney's Office.



August 10, 2022

Craig Roberts  
Project Manager  
Pima County Capital Program Office  
201 N. Stone Ave., 2<sup>nd</sup> Floor  
Tucson, AZ 85701

**RE: *Professional Services Agreement for the Canoa Ranch Sewer Extension***

Kimley-Horn and Associates (“Kimley-Horn” or “Consultant”) is pleased to submit this proposal to Pima County Regional Wastewater Reclamation Department (“RWRD”) and Pima County Capital Program Office (“CPO”) (“Clients”) to provide professional services for the *Final Design of Canoa Ranch Sewer Extension Segment 2*, along with *Environmental Services* for both Segments 1 & 2.

## **BACKGROUND**

Kimley-Horn is currently under contract (DO21\*31238) for the 30% Design of the Sewer Extension from Elephant Head Road to its connection approximately four miles north as well as the Final Design of Segment 1 (northerly ~2-miles) of the Sewer Extension. RWRD has asked Kimley-Horn to complete the Final Design for Segment 2 (southerly ~2-miles) to connect to Elephant Head Road along with the environmental clearance requirements for both Segments 1 & 2. We understand that CPO will manage the projects moving forward and that CMAR will be used for construction. The attached exhibit is provided to detail the project limits and phased segments related to this effort.

## **SCOPE OF SERVICES**

Based on the project understanding and discussions with RWRD and CPO, our effort will include the following tasks. Tasks B & C are not used in this document, to avoid any confusion with Tasks currently under contract for Segment 1.

### **TASK A. Project Management and Coordination**

Kimley-Horn will provide project management throughout the project duration, which includes meetings and coordination with Pima County & the project CMAR, schedule and budget management, internal management of resources to complete the project, and Quality Assurance/Quality Control (QA/QC). The scope of work and cost proposal assume the project schedule will extend through fall of 2023 for the completion of construction of Segment 2. The scope of work and cost proposal account for up to twelve (12) additional project meetings.

## **TASK D. Design of Canoa Ranch Outfall Sewer – Segment 2**

### **Task D.1 – Construction Documents**

Kimley-Horn will prepare sixty percent (60%) progress drawings, ninety percent (90%) and Final design drawings for Segment 2 to extend the Segment 1 design to the existing sewer at Elephant Head Road. Contract drawing documents will be in accordance with Pima County RWRD procedures and standards and in compliance with ADEQ requirements. Transmittal of an electronic set of drawings to the appropriate utility companies and agencies for their review and approval, if required, will be included in this task. The design will adhere to the recommendations presented in the 30% Design Report along with recommended review comments. The Basis of Design Report will be updated with each staged submittal until marked as the Final Basis of Design Report with the Final Design Drawings. This Task includes:

- 60% Design Drawings (40-scale plan and profile)
- 90% Design Drawings
- Final Design Drawings
- Final Design Drawings and Basis of Design Report for final review and approval by Pima County RWRD and ADEQ.

*Deliverables: One (1) electronic copy for review and comment by Pima County RWRD staff. One copy will be provided to ADEQ, ADOT, and other related utilities or agencies as appropriate. Kimley-Horn assumes one (1) Pima County RWRD review cycle for each submittal stage.*

An electronic PDF version of the signed and sealed plans and specifications shall also be transmitted to the Pima County RWRD for use as a record review set/archiving. Kimley-Horn will request the appropriate agency review fee(s) from Pima County prior to submittal(s).

### **Task D.2 – Additional Survey**

Darling Geomatics, as a subconsultant to Kimley-Horn, will provide additional survey services for final design of Segment 1 and 2 of the Sewer Extension. The additional survey services include the definition of the two existing easements that parallel the project alignment, definition of R/W at Elephant Head Road, and the inclusion of up to six (6) legal descriptions for new easements. The additional survey scope and fee assumes that Pima County Real Property will provide the recorded legal descriptions for the two existing easements to be defined. A detailed subconsultant scope is attached.

## **TASK E. Environmental Services**

### **Task E.1 – Environmental Compliance Certification (Two memos, one for Segment 1 (two miles by 60 feet wide) and one for Segment 2 (two miles by 60 feet wide))**

Kimley-Horn will prepare two Environmental Compliance Certification memos in support of the ADOT Encroachment Permit applications. The Environmental Compliance Certification memos will summarize findings related to biological resources, cultural resources, Clean Water Act, and hazardous materials. The following sections summarize specific tasks:

#### **Task E.2 – Biological Resources**

Kimley-Horn will obtain and review an Official Species List for the project area from the U.S. Fish and Wildlife Service (USFWS) Information, Planning, and Conservation (IPaC) system to determine if threatened, endangered, proposed, and/or candidate species may occur in the project vicinity. The Arizona Game and Fish Department (AGFD) on-line environmental review tool (OERT) report will be obtained to determine special status species are known to occur in the project vicinity. Kimley-Horn will conduct one site visit (combined with field visit for hazardous materials) to document site characteristics with ground photography. Results of this effort will be summarized in the Environmental Compliance Certification memos that will be submitted to ADOT for review.

Pima Pineapple Cactus (PPC) have been documented within three miles of the project limits. Kimley-Horn will conduct protocol surveys within the project limits for PPC and fence any located PPC for avoidance.

#### **Task E.3 – Cultural Resources**

Kimley-Horn will summarize cultural resources findings provided by Pima County. We assume Pima County is contracting separately for cultural resources services and that a Cultural Resources Report will be available to Kimley-Horn to be summarized and referenced in the Environmental Compliance Certification memos.

#### **Task E.4 – Section 404/401 Clean Water Act (CWA)**

##### **Abbreviated Jurisdictional Delineation- one delineation (four miles by 60 feet wide)**

Kimley-Horn will identify and establish boundaries for areas considered potentially jurisdictional waters of the U.S. (WOTUS) under Section 404 of the Clean Water Act within the project limits. WOTUS limits will be determined by desktop review of aerial photography and existing topography/contours that will be spot checked in the field, as needed. The Abbrev. Jurisdictional Delineation (JD) will be submitted to Pima County for concurrence. The task will include the following:

- Field reconnaissance (1 day/2 people) to spot check boundaries of potential WOTUS
- Photographic and field note documentation of the establishment of the jurisdictional boundaries
- Preparation of an Abbrev. JD request that will document the methodology and results of the evaluation and will include the following:

- Abbrev. JD request letter
- USGS 7.5' Quadrangle Map
- JD Map
- Ground Photographs
- KMZ

Kimley-Horn will submit the draft Abbrev. JD request to Pima County for review and comments. Kimley-Horn will finalize the Abbrev. JD based on the Pima County comments.

#### Section 404 Nationwide Permit (NWP) No. 58- Non-Notify Documentation

Kimley-Horn will prepare a package including the following:

- Cover letter
- Impacts to Waters of the U.S. Map (based on 60% design)
- KMZ

Kimley-Horn will submit the draft NWP No.58- Non-Notify Documentation to Pima County for review and comments. Kimley-Horn will finalize the NWP No. 58- Non-Notify Documentation based on the Pima County comments. Should the project require Pre-Construction Notification (PCN) , that effort is included as part of As-Needed Task G.

#### **Task E.5 – PISA / Hazardous Materials**

Kimley-Horn will prepare a Preliminary Initial Site Assessment (PISA) to identify potential contamination concerns within the project limits. The PISA documentation will include observations from field reconnaissance (combined with field visit for biological resources) and the review of an environmental database search that be prepared by a third party for the vicinity of the project (typically 1/8 miles). Kimley-Horn will submit the draft PISA to the Pima County for review and one (1) round of comments. Kimley-Horn will finalize the PISA based on the Pima County comments. Kimley-Horn will subcontract with Ninyo & Moore for testing of load-bearing structures and roadway striping for asbestos and lead. A detailed subconsultant scope is attached.

#### **Task E.6 – Environmental Coordination**

Kimley-Horn will support CPO and RWRD in coordinating with other Pima County Departments (NRPR, RFCDD, OSC, and Real Property) regarding compliance with Conservation Land restrictions associated with Canoa Ranch. Our understanding, based upon previous discussions during 30% stage, is that restrictions will be limited and/or waved if subsurface impacts remain in ADOT right-of-way and/or the existing Public Sewer Easement, and if impacts outside of right-of-way or easements is limited to the ground surface. Due to the limited and unknown nature of this task, we have assumed the effort will not exceed 20 Project Manager, 20 Senior Professional, and 20 Junior Professional hours for this task. Additional coordination and/or documents beyond these hours is included in As-Needed Task G.

### **TASK F. Permitting Support and Post-Design Services**

Kimley-Horn will coordinate with Arizona Department of Environmental Quality (ADEQ) and Arizona Department of Transportation (ADOT) regarding permitting submittals and review. Regulatory agency coordination with ADEQ will be completed to assist Pima County in obtaining required permitting and receive Approval to Construct (ATC) and Approval of Construction (AOC). Coordination with ADOT will be completed to assist Pima County in obtaining the required encroachment permit for construction within ADOT R/W. Kimley-Horn will coordinate with the project CMAR and County inspectors to compile construction documentation necessary for the AOC. Kimley-Horn will also provide coordination and assistance during construction to include responses to RFIs, review of shop drawings, and requests for material or equipment changes. We assume that Kimley-Horn will attend up to 12 construction meetings.

### **TASK G. As-Needed Services**

The following As-Needed Services are speculative in nature as the need for them, and the ultimate level of effort, is unknown. Therefore, relative budgets for each of these potential tasks have been identified, but may be further defined, and/or modified, should the need for them or other efforts arise as part of the overall scope of work. As-Needed Services will not commence without written direction from the Client Project Manager.

#### **Task G.1 – Prepare and Process Section 404 Nationwide Permit (NWP) 58 Pre-Construction Notification (PCN)**

As needed, Kimley-Horn will prepare a PCN package including the following:

- Cover letter
- NWP PCN Form
- Figure 3. Impacts to Potential Waters of the U.S. (based on 60% plans provided by County)
- Figure 4. Impacts to Potential Waters of the U.S.-Cross Sections (based on 60% plans provided by County)
- Biological Evaluation (see **task below**)
- Cultural Resources Survey (provided by Pima County)
- KMZ of Impacts to Waters of the U.S.

Kimley-Horn will submit this PCN package to the Client for review and one (1) round of comments. Kimley-Horn will submit this PCN package to the Corps for review and two (2) rounds of comments.

For budget purposes, we assume a maximum of 50 hours for this task.

#### **Task G.2- Biological Evaluation**

As needed, Kimley-Horn will prepare a Biological Evaluation (BE) for the project area. Kimley-Horn will obtain and review an Official Species List for the project area from the U.S. Fish and Wildlife

Service (USFWS) Information, Planning, and Conservation (IPaC) system to determine if threatened, endangered, proposed, and/or candidate species may occur in the project vicinity. The Arizona Game and Fish Department (AGFD) on-line environmental review tool (OERT) report will be obtained to determine special status species are known to occur in the project vicinity. Kimley-Horn's biologists will conduct one site visit to document site characteristics with ground photography. An analysis of effects, determination of effects and USFWS/Agency consultation requirements will be documented in the BE. State sensitive species, noxious and invasive species, and the Migratory Bird Treaty Act, and any required mitigation measures will be discussed (as applicable). Kimley-Horn will assess potential impacts to listed species and make recommendations for future surveys/detailed assessments/mitigation measures (if applicable). Kimley-Horn will submit the draft BE to the Client for review and one (1) round of comments. Kimley-Horn will finalize the BE based on the Client's comments. For budget purposes, we assume a maximum of 45 hours for this task.

**Task G.3 – Canoa Ranch Conservation Lands Restrictions**

As needed, Kimley-Horn will provide additional coordination with Pima County Departments (NRPR, RFCDD, OSC, and Real Property) and provide additional documentation regarding use of the Canoa Ranch properties for the project. For budget purposes, we assume 20 Project Manager, 20 Senior Professional, and 20 Junior Professional hours for this task.

**Task G.4 – Access Plans**

As needed, Kimley-Horn will provide access plans for the proposed sewerline. Due to the constraints of the project, grading design and detailing (such as guardrail modifications) may be necessary to provide maintenance access. For budget purposes, we assume up to 120 hours for this task. If additional hours are required, a change order will be requested.

**Task G.5 – Revised Alignment**

As needed, Kimley-Horn will prepare an updated alignment through the Pima County Canoa Ranch property. We assume the new alignment will utilize the existing public sewer easement as much as possible. An updated Roll-Plot with Plan and Profile will be generated for the entire 4-mile project. As 60% Plans have already been completed and reviewed for Segment 1, we assume the next plan submittal will be 90% stage.

## EXCLUSIONS

Any other services, including but not limited to the following, are not included in this Agreement but can be added through a contract modification.

- Hydraulic computer modeling
- Planning and future development projections
- Future sewer flow calculations and projections
- Traffic control plans
- Sewer bypass plans
- Sewer connections under/west of I-19
- Record of Survey services
- Hydrogeologic Studies
- Soil Contamination Sampling
- Permit Fees
- Stormwater Pollution Prevention Plan (SWPPP) – Contractor to Complete

## CLOSURE

We appreciate the opportunity to provide these services to you and begin to move forward with this very important project. Please contact Kevin Payne at (520) 352-8624 or [kevin.payne@kimley-horn.com](mailto:kevin.payne@kimley-horn.com) if you have any questions and thank you for the opportunity to continue to work with Pima County CPO and RWRD.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES



Kevin W. Payne, P.E., CFM  
Project Manager



Ray Montoya, P.E.  
Project Manager

End of Exhibit A

## Exhibit B – Consultant Fee Proposal (18 Pages)

### COST ITEMS

1. Hourly Billing
  - a. Hourly Billing Rates
    - Actual Payroll Rates within published industry standards
    - Actual payroll rates for each person anticipated to be performing services on the assignment will be provided in advance of execution of the Agreement. Said listing may be updated on an annual basis during the term of the contract
  - b. Annual Salaried Professionals
    - Annual Salary individuals working a normal forty (40) hour week will be divided by two thousand eighty (2,080) hours to arrive at hourly billing rates
    - Annual Salary individuals working a normal thirty-seven and one-half (37.5) hour week will be divided by one thousand nine hundred fifty (1,950) to arrive at hourly billing rates
  - c. Allowable Annual Increases
    - Reasonable annual salary increases within published industry standards may be allowed and approved in advance
    - Unusually high proposed increases and increases above published industry standards may be agreed to on a case by case basis.
  - d. Sub consultants

Specific billing arrangements will be negotiated with specialty sub-consultants such as the following:

    - Attorneys
    - Financial Advisors
    - Surveyors
    - Subsurface Consultants
    - Specialty Consultants
  - e. Vacation/Holidays
    - Included in firm's audited multiplier
  - f. Sick Time
    - Included in firm's audited multiplier
  - g. Billing for non-productive idle time
    - No billing for vehicle driving time (commuting time)
    - Allow billing during air travel to Pima County for actual time worked on Pima County projects
    - Short-term assignments are negotiable
2. Multipliers
  - a. Only audited multipliers following Generally Accepted Accounting Principles (GAAP) or Federal Single Audit principles are allowed
  - b. Corporate, Regional or Local Audited Multipliers of firms will be negotiated for each contract
  - c. Job Site multipliers will be negotiated in the event the County provides office space or job site trailers for the consultant
  - d. County will consider annual audited multipliers or fixed multipliers for the contract period

3. Travel Time
  - a. Air Travel
    - Allow only for time spent on aircraft working on Pima County projects
  - b. Land Travel
    - Not allowed from Phoenix Metro Area to Pima County (both ways)
    - Not allowed to and from airports
  - c. Local Travel between meetings and job sites
    - Allowed
4. Expenses
  - a. Mileage (Between Phoenix Metro Area and Pima County)
    - Approve at the established County mileage rate
    - Included in firm's audited multiplier or as other direct cost
    - Mileage for commuting not allowed
  - b. Mileage – local
    - Approve at the established County mileage rate only allowable for projects outside a radius of 50 miles from 130 W. Congress, Tucson, AZ 85701.
    - Included in firm's audited multiplier or as other direct cost
    - Mileage for commuting to and from work place not allowed
  - c. Car Rental/Lease/Corporate Vehicles
    - Included in firm's audited multiplier or as other direct cost
  - d. Hotel/Meals
    - Allow only for infrequent call-in of an out of state consultant for a limited period of time
    - Establish daily limits in accordance with Federal Guidelines and negotiable for unusual circumstances
    - Allowed charges to be identified as other direct costs
  - e. IT/Phone/Internal Delivery Charges/Normal Postage/Miscellaneous/Other Administrative Charges
    - Include in firm's audited multiplier
  - f. Relocation, second domicile or subsistence expenses
    - Negotiable on a case by case basis
  - g. Reproduction Costs
    - Bill as other direct costs if not in audited multiplier
  - h. All other direct costs will be detailed in the contract billing
5. Unallowable Costs
  - a. Bonus
    - Not allowed as a direct charge or in the multiplier
  - b. Entertainment Costs
  - c. Marketing Costs
    - Only as allowed in audited multipliers
  - d. Non-identifiable Costs

- e. Donations
  - Only as allowed in audited multipliers
- f. Mark-up on sub-consultants
- g. Travel time from Phoenix Metro Area to Pima County (both ways)
- h. Air travel for commuting purposes

## INVOICING

CONSULTANT will submit invoices to the Project Manager, with appropriate supporting data and documentation and in a format as prescribed by the Project Manager. The Project Manager may delay approval for up to five (5) working days to review the Progress Report and invoice. The invoice will tabulate the costs associated with each individual task. All Task (deliverables) and Subcontracted Service costs will be appropriately documented. The Project Manager will review and check the invoice to determine if it is complete and acceptable. If the Project Manager determines the invoice to be complete and acceptable, the Project Manager will approve the invoice and forward it for processing the payment.

Remainder of page intentionally left blank



**BUDGET SUMMARY**

TASK A. Project Management and Coordination	\$30,129
TASK D. Segment 2 Final Design	\$140,489
TASK E. Environmental Services	\$67,936
TASK F. Permitting Support and Post-Design Services	\$22,097
<b><i>Kimley-Horn Labor Fee</i></b>	<b>\$260,651</b>
Ninyo & Moore (HAZMAT Testing) Subconsultant Fee	\$7,696
Darling Geomatics (Survey) Subconsultant Fee	\$12,950
<b><i>Outside Services Fee</i></b>	<b>\$20,646</b>
Estimated Expenses	
Reproductions	\$500
Environmental Risk Information Services (PISA Database Search)	\$300
<hr/>	
<b>SUB-TOTAL:</b>	<b>\$282,097</b>
Task G. As-Needed Services	\$44,153
<hr/>	
<b>TOTAL:</b>	<b>\$326,250</b>

**Kimley-Horn Exhibit 1 - Cost Proposal Summary Pima County  
RWRD - Canoa Ranch Sewer Extension July 14, 2022**

(Costs Rounded to the Nearest \$1.00)

<b>ESTIMATED DIRECT LABOR (Tasks A, D, E, F)</b>			
	Estimated	Hourly Rate*	Labor
Classification	Man-Hours		Costs
Project Principal	18	\$271.09	\$ 4,880
Project Manager	249	\$214.05	\$ 53,299
Senior Professional	172	\$204.67	\$ 35,204
Professional	458	\$163.22	\$ 74,755
Junior Professional	720	\$122.25	\$ 88,020
Admin Support I	12	\$153.10	\$ 1,838
Admin Support II	33	\$80.45	\$ 2,655
<b>Total Man-Hours</b>	<b>1,662</b>	<b>Total Labor Costs</b>	<b>\$ 260,651</b>
<b>ESTIMATED DIRECT EXPENSES</b>			
Reproductions			\$ 500
PISA Database Search			\$ 300
<b>Total Direct Expenses</b>			<b>\$ 800</b>
<b>ESTIMATED OUTSIDE SERVICES AND CONSULTANTS</b>			
HAZMAT Testing (Ninyo & Moore)			\$ 7,696
Survey (Darling Geomatics)			\$ 12,950
<b>Total Estimated Outside Services</b>			<b>\$ 20,646</b>
Direct Labor			\$ 260,651
Total Direct Expenses			\$ 800
Total Estimated Outside Services			\$ 20,646
<b>TOTAL BASE COST (NOT TO EXCEED)</b>			<b>\$ 282,097</b>
Additional Services Direct Labor (Task G)			\$ 44,153
Additional Services Outside Services			N/A
<b>TOTAL ADDITIONAL SERVICES COST (NTE)</b>			<b>\$ 44,153</b>
<b>TOTAL (NTE)</b>			<b>\$ 326,250</b>

Task	Description	Project Principal	Project Manager	Senior Professional	Professional	Junior Professional	Admin Support I	Admin Support II	Total
<b>Task A - Project Management and Coordination</b>									
	PM & Coord	6	72	12	36	16	12	12	166
	<b>Task A Totals</b>	<b>6</b>	<b>72</b>	<b>12</b>	<b>36</b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>166</b>
<b>Task D - Segment 2 Design</b>									
D.1	Construction Documents	8	80	40	320	340	0	16	804
	Basis of Design Report	2	8	16	40	20	0	5	91
D.2	Additional Survey Coord	0	8	4	0	4	0	0	16
	<b>Task D Totals</b>	<b>10</b>	<b>96</b>	<b>60</b>	<b>360</b>	<b>364</b>	<b>0</b>	<b>21</b>	<b>911</b>
<b>Task E - Environmental</b>									
E.1	Environmental Compliance Certification Memos (two)	0	8	12	0	40	0	0	60
E.2	Biological Resources Analysis	0	2	8	0	32	0	0	42
	Pima Pineapple Cactus Survey	0	2	20	0	80	0	0	102
E.3	Cultural Resources Summary	0	1	4	0	8	0	0	13
E.4	Clean Water Act (Abbrev. PJD and Non-Notify NWP 58 documentation)	0	4	20	20	80	0	0	124
E.5	PISA / Hazardous Materials	0	2	12	0	40	0	0	54
E.6	Environmental Coordination	0	20	20	0	20	0	0	60
	<b>Task E Totals</b>	<b>0</b>	<b>39</b>	<b>96</b>	<b>20</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>455</b>
<b>Task F - Permitting Support and Post Design</b>									
	Permitting Support and Post Design	2	24	4	24	40	0	0	94
	Construction Meetings	0	18	0	18	0	0	0	36
	<b>Task F Totals</b>	<b>2</b>	<b>42</b>	<b>4</b>	<b>42</b>	<b>40</b>	<b>0</b>	<b>0</b>	<b>130</b>
	<b>BASE SERVICES TOTALS</b>	<b>18</b>	<b>249</b>	<b>172</b>	<b>458</b>	<b>720</b>	<b>12</b>	<b>33</b>	<b>1662</b>
<b>Task G - As-Needed Services</b>									
G.1	Prepare and Process Section 404 Nationwide Permit (NWP) 58 Pre-Construction Notification (PCN)	0	2	10	0	40	0	0	52
G.2	Biological Evaluation	0	2	4	0	39	0	2	47
G.3	Canoa Ranch Conservation Lands Restrictions	0	20	20	0	20	0	0	60
G.4	Access Plans	0	20	20	40	40	0	0	120
G.5	Revised Alignment	0	12	4	30	60	0	0	106
	<b>Task G Totals</b>	<b>0</b>	<b>56</b>	<b>58</b>	<b>70</b>	<b>199</b>	<b>0</b>	<b>2</b>	<b>385</b>

RATE INFORMATION TABLE

FIRM NAME: Kimley-Horn and Associates, Inc.  
 PROJECT/CONTRACT: Pima County Canoa Sewer Extension Segment 2

OVERHEAD %	194.54%
PROFIT%	8%

	A	B	C	D
DISCIPLINE	DIRECT LABOR RATE	OVERHEAD	PROFIT	BILLING RATE
<b>Project Principal</b>	\$ 85.22	\$ 165.79	\$ 20.08	<b>\$ 271.09</b>
<b>Project Manager</b>	\$ 67.29	\$ 130.91	\$ 15.86	<b>\$ 214.05</b>
<b>Senior Professional</b>	\$ 64.34	\$ 125.17	\$ 15.16	<b>\$ 204.67</b>
<b>Professional</b>	\$ 51.31	\$ 99.82	\$ 12.09	<b>\$ 163.22</b>
<b>Junior Professional</b>	\$ 38.43	\$ 74.76	\$ 9.06	<b>\$ 122.25</b>
<b>Admin Support I (Professional)</b>	\$ 48.13	\$ 93.63	\$ 11.34	<b>\$ 153.10</b>
<b>Admin Support II</b>	\$ 25.29	\$ 49.20	\$ 5.96	<b>\$ 80.45</b>

Formulas:

- (A) Direct Labor Rate
- (B) Overhad % x (A)
- (C) Profit % x (A+B)
- (D) Billing Rate (A+B+C)



July 13, 2022  
Proposal No. 13TUC03-00265

Mr. Kevin Payne  
Kimley-Horn & Associates, Inc.  
333 East Wetmore Road, Suite 280  
Tucson, Arizona 85705

Subject: Proposal for Environmental Services  
Canoa Ranch Sewer Extension  
Lead Based Paint & Limited Asbestos Survey  
Pima County, Arizona

Dear Mr. Payne:

In accordance with your request, Ninyo & Moore is pleased to submit this proposal to provide environmental services for the Canoa Ranch Sewer Extension project in Pima County, Arizona. This proposal outlines our scope of environmental services, project assumptions, anticipated schedule and estimated fee for the work associated with this project.

## SCOPE OF SERVICES

### Project Coordination

Ninyo & Moore will perform the following project coordination tasks:

- Coordinate with an Arizona-certified analytical laboratory; and
- Prepare a Site-specific Health and Safety Plan.

### Field Activities

Ninyo & Moore's proposed scope of services for the Lead Based Paint Survey will include the activities listed below:

- The Lead Based Paint (LBP) Survey will consist of a visual assessment of the ADOT frontage road striping (both white and yellow painted/thermal applied striping). Each homogeneous suspect LBP will be observed for material type, location and condition.
- Following identification of homogenous suspect LBP, Ninyo & Moore will collect bulk samples of suspect LBPs from readily accessible areas representative of the features within the Project Area. The samples will be collected in general accordance with Occupational Safety and Health Administration (OSHA). The samples will be collected in re-sealable plastic bags and labeled with unique sample identification numbers.

- Samples of suspect LBPs will be delivered to a laboratory accredited in the National Voluntary Laboratory Accreditation Program.

Ninyo & Moore's proposed scope of services for the Limited Asbestos Survey will include the activities listed below:

- The Limited Asbestos Survey will consist of a visual assessment of up to 12 drainage crossings to identify homogeneous areas of suspect asbestos-containing materials (ACMs), including the concrete used to form each culvert. Each homogeneous suspect ACM will be observed for material type, location, condition, and friability.
- Following identification of homogenous suspect ACM, Ninyo & Moore will collect bulk samples of suspect ACMs from readily accessible areas representative of the features within the Project Area. The samples will be collected in general accordance with Occupational Safety and Health Administration (OSHA), National Emission Standard for Hazardous Air Pollutants (NESHAP), and AHERA guidelines. The samples will be collected in re-sealable plastic bags and labeled with unique sample identification numbers.
- Samples of suspect ACMs will be delivered to a laboratory accredited in the National Voluntary Laboratory Accreditation Program for bulk asbestos fiber analysis.
- Bulk samples will be analyzed for the presence and quantification of asbestos fibers using Polarized Light Microscopy (PLM), in general accordance with USEPA Method 600/M4-82-020.

## REPORTING

Ninyo & Moore will prepare up to two letter reports (northern half and southern half) within two weeks of our receipt of the analytical data. The reports will contain a description of field activities and analytical results, figures illustrating sampling locations, and appendices with laboratory analytical reports.

## UNDERSTANDINGS

The following conditions will apply to the performance of the scope of services described herein:

- The client will provide access to the Site.
- Our LBP Survey includes a maximum of 20 samples collected for lead analysis which will be collected from the white striping at quarter mile intervals along the four-mile sewer extension alignment, and any white or yellow striping that maybe within the alignment at the intersection of Elephant Head Road and East Frontage Road. If survey of additional areas or collection of additional samples is requested, or otherwise warranted, then a request for additional time and materials will submitted before proceeding with the additional work.

- Our Limited ACM survey includes a maximum of 18 bulk samples collected for asbestos analysis by PLM. Six of these bulk samples will be collected of white roadway paint along the alignment and yellow paint at the intersection, and the remaining 12 will be collected from concrete or other suspect ACMs identified at the 12 drainage crossings/culverts within the project area. If additional areas or collection of additional samples is requested, or otherwise warranted, then a request for additional time and materials will be submitted before proceeding with the additional work.
- Ninyo & Moore will not dismantle roadway components due to accessibility and safety issues; therefore, unidentified asbestos may be present at the Project Area. Should renovation/demolition activities begin and suspect ACM be discovered in inaccessible features or other areas on the Project Area, the material should be evaluated for asbestos prior to disturbance.
- Our proposal excludes the cost of ADOT or Pima County Right-of-Way permitting, or traffic control services. If required, then the actual cost of this permitting and subcontracted services will be invoiced.

## SCHEDULE

Ninyo & Moore estimates the proposed services can be completed within 30 working days (approximately 6 weeks) of receipt of written notice to proceed and permission for access to the Project Area.

## ESTIMATED FEE

Ninyo & Moore proposes to perform the scope of services described above, subject to the listed assumptions, on a time and materials basis not to exceed fee of \$7,696 (Seven Thousand Six Hundred Ninety-Six Dollars). We propose to provide our services under our existing contract with the District. If the scope of services and fee contained in this proposal are acceptable, please provide a task order as formal authorization for us to proceed.

Ninyo & Moore appreciates the opportunity to provide the District with this proposal.

Respectfully submitted,

**NINYO & MOORE**



Fred F. Narcaroti  
Principal/Tucson Office Manager



Mark J. Guatney, P.E.  
Principal Engineer/Environmental  
Operations Manager

FFN/MJG/jom

Attachments: Table 1 – Breakdown of Estimated Fee  
Work Authorization and Agreement

## Table 1 - Breakdown of Estimated Fee

### Background Review, Mobilization and Demobilization

Principal Engineer/Geologist/Environmental Scientist	1 hour @ \$ 180.00 /hour	\$ 180.00
Senior Engineer/Geologist/Environmental Scientist	hour @ \$ 150.00 /hour	\$ -
Senior Project Engineer/Geologist/Environmental Scientist	2 hours @ \$ 140.00 /hour	\$ 280.00
Project Engineer/Geologist/Environmental Scientist	hour @ \$ 120.00 /hour	\$ -
Senior Staff Engineer/Geologist/Environmental Scientist	hour @ \$ 115.00 /hour	\$ -
Staff Engineer/Geologist/Environmental Scientist	2 hours @ \$ 110.00 /hour	\$ 220.00
Data Processor	2 hours @ \$ 55.00 /hour	\$ 110.00
<b>Subtotal</b>		<b>\$ 790.00</b>

### Field Services

Principal Engineer/Geologist/Environmental Scientist	2 hours @ \$ 180.00 /hour	\$ 360.00
Senior Engineer/Geologist/Environmental Scientist	hour @ \$ 150.00 /hour	\$ -
Senior Project Engineer/Geologist/Environmental Scientist	hour @ \$ 140.00 /hour	\$ -
Project Engineer/Geologist/Environmental Scientist	12 hours @ \$ 120.00 /hour	\$ 1,440.00
Senior Staff Engineer/Geologist/Environmental Scientist	hour @ \$ 115.00 /hour	\$ -
Staff Engineer/Geologist/Environmental Scientist	8 hours @ \$ 110.00 /hour	\$ 880.00
Senior Technician	hour @ \$ 75.00 /hour	\$ -
Field Vehicle and Equipment Usage	12 hours @ \$ 10.00 /hour	\$ 120.00
Sampling Supplies	Lump Sum	\$ 50.00
<b>Subtotal</b>		<b>\$ 2,850.00</b>

### Laboratory Analyses

Asbestos Bulk Sample Analysis by PLM/ds	18 ea @ \$ 12.00 /test	\$ 216.00
Paint Chip Analysis by Flame AAS	20 ea @ \$ 11.00 /test	\$ 220.00
<b>Subtotal</b>		<b>\$ 436.00</b>

### Report Preparation

Principal Engineer/Geologist/Environmental Scientist	4 hours @ \$ 180.00 /hour	\$ 720.00
Senior Engineer/Geologist/Environmental Scientist	hour @ \$ 150.00 /hour	\$ -
Senior Project Engineer/Geologist/Environmental Scientist	6 hours @ \$ 140.00 /hour	\$ 840.00
Project Engineer/Geologist/Environmental Scientist	hour @ \$ 120.00 /hour	\$ -
Senior Staff Engineer/Geologist/Environmental Scientist	hour @ \$ 115.00 /hour	\$ -
Staff Engineer/Geologist/Environmental Scientist	14 hours @ \$ 110.00 /hour	\$ 1,540.00
Technical Illustrator/CAD Operator	4 hours @ \$ 75.00 /hour	\$ 300.00
Data Processor	4 hours @ \$ 55.00 /hour	\$ 220.00
<b>Subtotal</b>		<b>\$ 3,620.00</b>

### TOTAL ESTIMATED FEE

**\$ 7,696.00**

## WORK AUTHORIZATION AND AGREEMENT

Please Sign and Return One Copy to:

**NINYO & MOORE**  
1991 East Ajo Way, Suite 145  
Tucson, Arizona 85713

PROPOSAL NO. **13TUC03-00265**

1. PROJECT ADDRESS: **Canoa Ranch Sewer Extension, Pima County, Arizona**
2. PROJECT DESCRIPTION: **Lead Based Paint & Limited Asbestos Survey**
3. SCOPE OF STUDY: **Please refer to proposal dated July 13, 2022.**
4. FEE: **\$7,696 (Seven Thousand Six Hundred Ninety-Six Dollars – Time and Materials)**
5. PORTION OF FEE IN ADVANCE OF WORK: **None**
6. CLIENT: **Kimley Horn & Associates, Inc.** PHONE: **520-615-9191**  
**333 East Wetmore Road, Suite 280**  
**Tucson, Arizona 85705**
- CONTACT: **Mr. Kevin Payne** PHONE: **520-615-9191**
7. STATEMENT TO BE SENT TO: **Client**

## CONDITIONS OF AGREEMENT BETWEEN CLIENT AND NINYO & MOORE

This AGREEMENT is made by and between: NINYO & MOORE GEOTECHNICAL AND ENVIRONMENTAL SCIENCES CONSULTANTS, hereinafter referred to as CONSULTANT, and **Kimley Horn & Associates, Inc.**, hereinafter referred to as CLIENT. This AGREEMENT between the parties consists of these TERMS, the attached Proposal identified as No. **13TUC03-00265** dated **July 13, 2022**, and any exhibits or attachments noted in the Proposal. Together, these elements will constitute the entire AGREEMENT superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this AGREEMENT must be mutually agreed to in writing.

## STANDARD OF CARE

CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by CONSULTANT will be based solely on information available to CONSULTANT. CONSULTANT is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

Services performed by CONSULTANT under this AGREEMENT are expected by CLIENT to be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the geotechnical engineering profession practicing contemporaneously under similar conditions in the locality of the project. Under no circumstance is any warranty, expressed or implied, made in connection with the providing of geotechnical consulting services.

## SITE ACCESS AND SITE CONDITIONS

CLIENT will grant or obtain free access to the site for all equipment and personnel necessary for CONSULTANT to perform the work set forth in this agreement. CLIENT will notify any and all possessors of the project site that CLIENT has granted CONSULTANT free access to the site. Client will protect all property, inside and out, including all plants and landscaping. CONSULTANT will take reasonable precautions to reduce the potential for damage to the site, but it is understood by CLIENT that, in the normal course of work, some damage may occur and the correction of such damage or alteration is not part of this AGREEMENT unless so specified in the Proposal.

CLIENT is responsible for accurately delineating the locations of all subterranean structures and utilities. CONSULTANT will take reasonable precautions to avoid known subterranean structures, and CLIENT waives any claim against CONSULTANT, and agrees to defend, indemnify and hold CONSULTANT harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, CLIENT agrees to compensate CONSULTANT for any time spent or expenses incurred by

CONSULTANT in defense of any such claim, with compensation to be based upon CONSULTANT's prevailing fee schedule and expense reimbursement policy.

## **SAMPLE DISPOSAL**

CONSULTANT will dispose of remaining soil, rock, and water samples approximately thirty (30) days after submission of the report covering those samples. Further storage or transfer of samples can be made at CLIENT's expense upon CLIENT's prior written request.

## **MONITORING**

If CONSULTANT is retained by CLIENT to provide a site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the Proposal, then this phrase applies. For the specified assignment, CONSULTANT will report observations and professional opinions to CLIENT or CLIENT's agent. No action of CONSULTANT or CONSULTANT's site representative can be construed as altering any AGREEMENT between the CLIENT and others. CONSULTANT will report to CLIENT or CLIENT's agent any observed geotechnically related work which, in CONSULTANT's professional opinion, does not conform with plans and specifications. The CONSULTANT has no right to reject or stop work of any agent or subcontractor of CLIENT; such rights are reserved solely for CLIENT. Furthermore, CONSULTANT's presence on the site does not in any way guarantee the completion or quality of the performance of the work of any party retained by CLIENT to provide field or construction-related services.

If CONSULTANT is not retained by Client for the purpose of monitoring construction work or field activities, CONSULTANT will expressly not be held liable or responsible for such activities or for the geotechnical performance of the completed project. Monitoring of construction work or field activities and the geotechnical performance of the completed project is and will remain the sole and express responsibility of the CLIENT or other party designated by the CLIENT. CLIENT hereby agrees to indemnify and hold harmless CONSULTANT from and against any loss or judgment, suffered by the CONSULTANT as a result of a claim or lawsuit resulting from CLIENT's failure to monitor construction work or field activities for which CONSULTANT has not been retained.

CONSULTANT will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any agent or agreement of CLIENT. It is mutually understood and agreed by CLIENT and CONSULTANT that CONSULTANT has no control or enforcement ability over any persons or parties who are not employees of CONSULTANT. CONSULTANT does not purport to be, nor is CONSULTANT responsible for, any safety precautions nor programs incident thereto for such non-employees of CONSULTANT.

## **OWNERSHIP AND MAINTENANCE OF DOCUMENTS**

Unless otherwise specified in this Agreement or in an Addendum, and provided that CONSULTANT has been fully paid for the Services, CLIENT shall have the right to use the documents, maps, photographs, drawings and specifications resulting from CONSULTANT's efforts on the project, for purposes reasonably contemplated by the parties. CONSULTANT shall have the right, but shall not be obligated, to retain copies of all such materials and shall have the right to use the same for any purpose, unless such use would be expected to cause harm to CLIENT. CLIENT shall specify in advance, in writing, and be charged for all arrangements for special or extended-period maintenance of such materials by CONSULTANT. CONSULTANT retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from its Services.

Reuse of any material described by CLIENT, including publication to third parties, on extension of this project or on any other project without CONSULTANT's written authorization, shall be at CLIENT's risk, and CLIENT agrees to indemnify, defend, and hold harmless CONSULTANT from all claims, damages, and expenses, including attorney's fees, arising out of such unauthorized reuse.

## **BILLING AND PAYMENT**

CLIENT will pay CONSULTANT in accordance with the procedures indicated in the Proposal and its attachments. Invoices will be submitted to CLIENT by CONSULTANT, and will be due and payable upon presentation. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify CONSULTANT in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.

Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. CLIENT will pay an additional charge of three quarters of a percent (.75) per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by CLIENT to CONSULTANT per CONSULTANT's current fee schedules. In the event CLIENT fails to pay CONSULTANT within sixty (60) days after invoices are rendered, CLIENT agrees that CONSULTANT will have the right to consider the failure to pay the CONSULTANT's invoice as a breach of this AGREEMENT and CONSULTANT may cease work on the project. At CONSULTANT's option, CONSULTANT may waive said major breach upon payment by CLIENT of all arrearages and outstanding invoices.

## TERMINATION

This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by either party, or if CLIENT suspends the work for more than three (3) months. In the event of termination, CONSULTANT will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to, the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

## RISK ALLOCATION

Many risks potentially affect CONSULTANT by virtue of entering into this AGREEMENT to perform professional consulting services on behalf of CLIENT. The principal risk is the potential for human error by CONSULTANT. For CLIENT to obtain the benefit of a fee which includes a nominal allowance for dealing with CONSULTANT's liability, CLIENT agrees to limit CONSULTANT's liability to CLIENT and to all other parties for claims arising out of CONSULTANT's performance of the services described in this AGREEMENT. The aggregate liability of CONSULTANT will not exceed \$50,000 for negligent professional acts, errors, or omissions, including attorney's fees and costs which may be awarded to the prevailing party, and CLIENT agrees to indemnify and hold harmless CONSULTANT from and against all liabilities in excess of the monetary limit established above.

Limitations on liability and indemnities in this AGREEMENT are business understandings between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action, except for willful misconduct or gross negligence. The parties also agree that CLIENT will not seek damages in excess of the limitations indirectly through suits with other parties who may join CONSULTANT as a third-party nor by an award of attorney's fees and costs to the prevailing party in excess of the aggregate liability agreed upon herein by the parties. Parties means CLIENT and CONSULTANT and their officers, employees, agents, affiliates, and subcontractors.

Both CLIENT and CONSULTANT agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this AGREEMENT.

## INDEMNIFICATION

If any claim is brought against CONSULTANT, its employees, agents and subcontractors and/or CLIENT by a third party, relating in any way to the Services, the contribution and indemnification rights and obligations of CONSULTANT and Client, subject to the paragraph titled "Risk Allocation" above, such claim shall be determined as follows:

1. If any negligence, breach of contract, or willful misconduct of CONSULTANT caused any damage, injury, or loss claimed by the third party, then CONSULTANT and CLIENT shall each indemnify the other against any loss or judgement on a comparative negligence basis (CLIENT responsibility to include that of its agents, employees, and other contractors); and
2. Unless CONSULTANT was liable for negligence, breach of contract, or willful misconduct which in whole or in part, caused the damage, injury, or loss asserted in the third party claim, CLIENT shall indemnify CONSULTANT against the claim, liability, loss, legal fees, consulting fees, and other costs of defense reasonably incurred.

## DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

CLIENT represents that CLIENT has made a reasonable effort to evaluate if hazardous materials are on or near the project site, and that CLIENT has informed CONSULTANT of CLIENT's findings relative to the possible presence of such materials.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. CONSULTANT and CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. CONSULTANT and CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for CONSULTANT to take immediate measures to protect health and safety. CLIENT agrees to compensate CONSULTANT for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

CONSULTANT agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold CONSULTANT harmless for any and all consequences of disclosures made by CONSULTANT which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is CLIENT's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CONSULTANT and, to the maximum extent permitted by law, agrees to defend, indemnify, and save CONSULTANT harmless from any claim, liability, and/or defense costs for injury or loss arising from CONSULTANT's discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the property's value.

CLIENT will be responsible for ultimate disposal of any samples secured by CONSULTANT which are found to be contaminated.

## DISPUTE RESOLUTION

If a dispute at law arises from matters related to the services provided under this AGREEMENT and that dispute requires litigation, then:

1. The claim will be brought and tried in judicial jurisdiction of the court of the county where CONSULTANT's principal place of business is located and CLIENT waives the right to remove the action to any other county or judicial jurisdiction, and;
2. The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' and expert witness fees, and other claim-related expenses.

## GOVERNING LAW AND SURVIVAL

If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Risk allocation and indemnities will survive termination or failure of this AGREEMENT for any cause.

The parties have read, or had the opportunity to read, the foregoing, including all attachments, addendums, and exhibits hereto, have had an opportunity to discuss the same, understand completely the terms, and willingly enter into this AGREEMENT which will become effective on the date signed below by CLIENT.

\_\_\_\_\_  
**Printed Name of Client or Authorized Agent**

\_\_\_\_\_  
**Signature of Client or Authorized Agent**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Fred Narcaroti, Principal/Tucson Office Manager**

\_\_\_\_\_  
**Date**

**PM: MJG**



September 21, 2022

**Kevin W. Payne, P.E., CFM**  
**Kimley-Horn**  
 333 East Wetmore Road, Suite 280  
 Tucson, AZ 85705  
 Direct: (520) 352-8624 | Mobile: (520) 237-3783  
[Kevin.payne@kimley-horn.com](mailto:Kevin.payne@kimley-horn.com)

Kevin,

I've reviewed the documents that were available for the referenced Project. I am pleased to forward this proposal for land surveying services to provide construction layout and office support. The following will outline an itemized, detailed scope of work, exclusions, fee schedule and miscellaneous language as it pertains to this Project. Darling Geomatics is an award winning certified DBE, WBE, WOSB and SBE land surveying company.

**SCOPE OF WORK – Right of way and Easement survey along I-19**

- 1) Office computations to support field survey layout throughout the Project's duration.
- 2) Field survey to verify existing control and find existing monuments that support location of existing gas and sewer easements. Pima County Real Property to provide research of legal descriptions for both easements
- 3) Perform survey to confirm the location of the Elephant Road/1-19 ROW.
- 4) Update AutoCAD drawing of Measured ROW and existing easements.
- 5) Prepare 6 legal descriptions for new sewer easement.
- 6) Registered Land Surveyor's supervision throughout the Project duration.

**The Time and Materials Not to Exceed fee for work outlined in the Scope of Work shall be:**  
**\$12,950.00**

**COST BREAK DOWN**

Position	Hours	Rate	Total
2 Man Survey Crew	48	\$145	\$6,960.00
RLS	12	\$160	\$1,920.00
CAD Drafter	32	\$95	\$3,040.00
Vehicle	7 days	\$75	\$525.00
Supplies		\$65	\$65.00
Admin	8	\$ 55	\$440.00
<b>Total</b>			<b>\$12,950.00</b>

Additional work or re-staking will be billed at \$145.00/hr field and \$160.00/hr office.



**EXCLUSIONS (Items not included in the above price). If your company request excluded items, Darling Geomatics employees will perform the requested services and bill them on a time and materials basis:**

- 1) Employee security clearance screening and/or facility badging expenses.
- 2) Onsite training / Site Specific training.
- 3) Electric trench staking, manholes, vaults, switches and other related appurtenances not mentioned in the scope of work outlined above.
- 4) Any work due to changes in the documents used to generate this proposal.
- 5) Meeting attendance.
- 6) Crew time lost (Down Time), as a result of waiting on contractor or sub-contractor crews.
- 7) Collection of As-Built information, and/or, preparation of As-builts drawings, unless otherwise specified within the scope of work above.

**This proposal, its terms, fees and conditions are effective for ninety (90) days from date of this proposal. Fees are based on the scope of services presented above from our review and understanding of the project.**

#### **ADDITIONAL WORK:**

Any work not defined in the Scope of Work as written above shall be considered additional work. Additional work shall be agreed upon in writing prior to its start or the additional field work can be completed upon request if it is agreed that a Darling Change Order Form will be signed by the Client's representative on site the day that the additional field survey services are provided. Additional work may include office support and supervision.

#### **MISCELLANEOUS:**

An electronic copy of the project plans in an AutoCAD format shall be required forty-eight hours prior to the initial request for layout. Twenty-four hour notice is required for additional layout requests.

**Payment of invoices by the Client using a pay service, i.e. Textura, or a credit card, that both charge the payee a fee, shall not be an acceptable method of payment of Darling invoices without Darling charging the Client the fees that are associated with use of those services.**

In performing its services, Darling Geomatics may receive information prepared or compiled by others, including plans, CAD files, and/or other information. Darling Geomatics is entitled to rely upon the accuracy and completeness of said information, without independent evaluation or verifications. Darling Geomatics will not be held liable for any errors or omissions resulting from the use of plans or data provided by the client or client's agents in completing the scope of work.

All work shall be performed under the direct supervision of an Arizona Registered Land Surveyor and shall conform to the current Standards for the practice of land surveying in the State of Arizona.



Should work be authorized and begin and then be terminated for any reason, all work completed prior to notice of termination shall be due and payable at the hourly rates in effect when the work was completed.

There are no understandings or agreements, written or verbal, other than those written herein.

In lieu of a separate subcontract agreement accepted by both parties, the Terms & Conditions outlined below shall apply.

Thank you for the opportunity to provide this proposal. Please call if you have any questions. If acceptable, you can sign where indicated below or forward a separate agreement for our review.

Respectfully submitted,



Richard D. Darling, RLS  
President

***Darling Geomatics***

**Award Winning Certified DBE, WBE, WOSB, SBE 3D Scanning and Environmental Consulting Firm Award  
Winning Certified WBE, WOSB and SBE Land Surveying Company**

U of A Tech Park

9040 South Rita Road, Ste #2350, Tucson, AZ 85747

Ph (520) 298-2725 / Fax (520) 298-2767 / Cell (360) 720-0212

[www.darlingltd.com](http://www.darlingltd.com)

**It is agreed the attached terms and conditions are incorporated into and made a part of the Agreement.**

ACCEPTANCE AND AUTHORIZATION TO PROCEED:

Accepted by: \_\_\_\_\_

On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

End of Exhibit B





## DESCRIPTIONS (Continued from Page 1)

thereof, 30 days' written notice (except 10 days for nonpayment of premium) will be provided to the Certificate Holder. Umbrella Follows Form with respects to General, Automobile & Employers Liability Policies.

## ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2022 forms a part of

policy No. CA4489663 issued to Kimley-Horn and Associates, Inc.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

### **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

*This endorsement modifies insurance provided under the following:*

#### BUSINESS AUTO COVERAGE FORM

**Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us**, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

\_\_\_\_\_  
/ AUTHORIZED REPRESENTATIVE

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**ENDORSEMENT**

This endorsement, effective 12:01 A.M. 04/01/2022 forms a part of

Policy No. CA4489663 issued to Kimley-Horn and Associates, Inc.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT**

*This endorsement modifies insurance provided under the following:*

BUSINESS AUTO COVERAGE FORM

SCHEDULE

**ADDITIONAL INSURED:**

ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT OF SUCH PERSON'S OR ORGANIZATIONS LIABILITY ARISING OUT OF THE USE OF A COVERED AUTO.

**I. SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:**

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.



\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

This endorsement, effective 12:01 AM<sup>04/01/2022</sup>

forms a part of Policy No. WC015893685 (AOS)

Issued to Kimley-Horn and Associates, Inc.

By **NEW HAMPSHIRE INSURANCE COMPANY**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

**Schedule**

**ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME  
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY  
AGAINST, UNDER ANY WRITTEN CONTRACT OR AGREEMENT  
YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.**

This form is not applicable in Kansas for private construction contracts as defined in K.S.A. 16-1801 through K.S.A. 16-1807 or public construction contracts as defined in K.S.A. 16-1901 through 16-1908, except where permitted by statute or other applicable law, such as for use in wrap-up insurance programs.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas, or Utah.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

**(1)** The additional insured is a Named Insured under such other insurance; and

**(2)** You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	PER THE CONTRACT OR AGREEMENT.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II 6 Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;  
whichever is less.

This endorsement shall not increase the applicable limits of insurance.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
<p>ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.</p>	<p>PER THE CONTRACT OR AGREEMENT.</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Person Or Organization:**

PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV - Conditions**:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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