

Meeting Date: January 27, 2015

Agenda Item 12

REQUESTED COMMISSION ACTION:

Consent     Ordinance     Resolution     Consideration     Workshop     Initiative

SHORT TITLE OR MOTION: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES BETWEEN THE CITY OF POMPANO BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR RELOCATION OF TAXIWAY DELTA; PROVIDING AN EFFECTIVE DATE. (FISCAL IMPACT: \$59,227)

SUMMARY OF PURPOSE AND WHY:

RLI E-61-14 advertised for design services for the relocation of Taxiway Delta at Pompano Beach Airpark (PMP). The relocation is needed to correct the current separation distance between the taxiway and the primary parallel Runway 15-33. The existing centerline-to-centerline separation is greater than the required separation of 240 feet. The current taxiway layout does not permit a full length parallel taxi. Demolishing and realigning the taxiway to 240 feet separation will create a full length parallel taxiway for Runway 15-33. Two taxiway connectors will be provided and a portion of future Taxiway Quebec will be built in accordance with the Master Plan. The project is estimated to be in excess of \$3,000,000.00 construction cost.

 Accomplishing this item supports achieving initiative "6.2. Ensure the Air Park has the capacity to manage an increase in Tourism" identified in the City's: Superior Capacity Strategy

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Staff
- (2) Primary staff contact: Robert A. McCaughan, Public Works Director    Ext. 4097  
Tammy Good, Civil Engineer    /5512
- (3) Expiration of contract, if applicable: February 2, 2016
- (4) Fiscal impact and source of funding: Fiscal Impact: \$59,227.00-CIP# 14-247, FDOT Grant (\$236,905)

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Public Works	<u>1/16/15</u>	APPROVE	<u>Robert A. McCaughan</u>
Finance	<u>1/16/15</u>	APPROVE	<u>S. Sibbles</u>
City Attorney	<u>01/14/15</u>	APPROVE	<u>Memo# 2015-453</u>
Budget	<u>1-20-15</u>	APPROVE	<u>[Signature]</u>

Advisory Board  
 Development Services Director  
 City Manager [Signature]

[Signature: Dennis W. Beach]

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>	<u>Workshop</u>
1st Reading	1st Reading	Results:	Results:
_____	_____	_____	_____
2nd Reading	_____	_____	_____
_____	_____	_____	_____





**City Attorney's Communication #2015-453**

January 14, 2015

**TO:** Tammy Good, P.M.P., Civil Engineer II

**FROM:** Jill R. Mesojedec, FRP, Paralegal

**VIA:** Gordon B. Linn, City Attorney *GBL*

**RE:** Resolution – Contract for Consulting/Professional Services Relating to Relocation of Taxiway Delta

As requested in your email of January 14, 2015, I have prepared and attached the following form of Resolution:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES BETWEEN THE CITY OF POMPANO BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR RELOCATION OF TAXIWAY DELTA; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.

*Jill R. Mesojedec*  
\_\_\_\_\_  
JILL R. MESOJEDEC

/jrm  
l:cor/engr/2015-453

Attachment

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES BETWEEN THE CITY OF POMPANO BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR RELOCATION OF TAXIWAY DELTA; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That an Agreement between the City of Pompano Beach and Kimley-Horn and Associates, Inc. for relocation of Taxiway Delta, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Kimley-Horn and Associates, Inc.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**MARY L. CHAMBERS, CITY CLERK**

*CITY OF POMPANO BEACH,  
FLORIDA*

**CONSULTANT AGREEMENT**

**with**

**Kimley-Horn and Associates, Inc.**



***CONTRACT FOR PROFESSIONAL DESIGN SERVICES  
For  
Relocation of Taxiway Delta***

# CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

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This Contract is made as of the \_\_\_\_\_, by and between the CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, hereinafter referred to as "CITY", and Kimley-Horn and Associates, Inc. ( ) an individual, ( ) a partnership, (X) a corporation, authorized to do business in the State of Florida, hereinafter referred to as the "Consultant".

**WHEREAS**, the Consultant is able and prepared to provide such services as City requires under the terms and conditions set forth herein; and

**WHEREAS**, the City Commission has approved the recommendation that Consultant be employed by the City and authorized the negotiation of contractual terms.

**NOW, THEREFORE**, in consideration of the mutual promises herein, the City and the Consultant agree as follows:

## ARTICLE 1 – SERVICES/CONSULTANT AND CITY REPRESENTATIVES

The Consultant's responsibility under this Contract is to provide professional consulting services as more specifically set forth in RLI No E-61-14 attached hereto as Exhibit A and incorporated herein in its entirety.

The Consultant's representative shall be Gary Ratay

The CITY's representative shall be City Engineer or designee,

## ARTICLE 2 – SCHEDULE/PERIOD OF SERVICE

The CONSULTANT shall commence services on February 2, 2015 and complete all services by February 2, 2016.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit A.

## ARTICLE 3 – PAYMENTS TO CONSULTANT

A. City agrees to pay Consultant in consideration for its services described herein. It is the intention of the parties hereby to ensure that unless otherwise directed by the City in writing, Consultant will complete the services specified in Exhibit A during the term of this Agreement set forth in Article 2, above.

B. Price Formula. City agrees to pay Consultant for the services set forth in this Agreement as follows:

Payment of a Fixed Fee of \$ \_\_\_\_\_ per month.

[OR]

[Payment of a Lump Sum Fee of \$296,132.00.]

**[OR]**

[Payment of an Hourly Rate of \$\_\_\_\_\_.]

C. The total amount to be paid by the City under this Contract for all services and materials including "out of pocket" expenses (specified in Paragraph E below) and also including any approved subcontracts shall not exceed a total contract amount of Two Hundred Ninety-Six Thousand One Hundred Thirty-Two Dollars (\$296,132.00). The Consultant shall notify the City's Representative in writing when 90% of the "not to exceed amount" for the total Task Order or Work Authorization has been reached. The Consultant will bill the City on a monthly basis, or as otherwise provided. Time and Materials billing will be made at the amounts set forth in Exhibit B for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date. It is acknowledged and agreed to by the Consultant that the dollar limitation set forth in this section is a limitation upon and describes the maximum extent of City's obligation to pay Consultant, but does not include a limitation upon Consultant's duty to perform all services set forth in Exhibit A for the total compensation in the amount or less than the guaranteed maximum stated above.

D. Invoices received by the City from the Consultant pursuant to this Contract will be reviewed and approved in writing by the City's Representative, indicating that services have been rendered in conformity with the Contract, and then will be sent to the City's Finance Department for payment. All invoices shall contain a detailed breakdown of the services provided for which payment is being requested. Invoices shall be paid in accordance with the Florida State Statutes governing this process. In addition to detailed invoices, upon request of the City's representative, Consultant will provide City with detailed periodic Status Reports on the project.

E. "Out-of-pocket" expenses shall be reimbursed up to an amount not to exceed N/A Dollars (\$N/A) and as provided for in Paragraph C of this Article. All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the City's Representative and to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in a Work Authorization and this Contract. All out-of-pocket, reimbursables and expenses shall be billed at actual amount paid by Consultant, with no markup.

F. Final Invoice: In order for both parties herein to close their books and records, the Consultant will clearly state "Final Invoice" on the Consultant's final/last billing to the City. This final invoice shall also certify that all services provided by Consultant have been properly performed and all charges and costs have been invoiced to the City. Because this account will thereupon be closed, any and other further charges not properly included on this final invoice are waived by the Consultant.

#### **ARTICLE 4 – TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Contract by the Consultant shall also act as the execution of a truth in negotiation certificate, certifying that the wage rates, overhead charges, and other costs used to determine the compensation provided for this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the Consultant's most favored customer for the same or substantially similar service. Should the City determine that said rates and costs were significantly increased due to incomplete, non-current or inaccurate representation, then said rates shall be adjusted accordingly.

## **ARTICLE 5 – TERMINATION**

This Contract may be cancelled by the Consultant, upon thirty (30) days prior written notice to the City's Representative, in the event of substantial failure by the City to perform in accordance with the terms of this Contract through no fault of the Consultant. It may also be terminated, in whole or in part, by the City, with or without cause, immediately upon written notice from the City's Representative or the City Manager to the Consultant. Unless the Consultant is in breach of its Contract, the Consultant shall be paid for services rendered to the City's satisfaction through the date of termination. Ten Dollars (\$10.00) paid to the Consultant, the adequacy of which is acknowledged, is given as specific and independent consideration of the City's right to terminate this Contract for convenience. Termination for cause by the City shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of the City as set forth herein, or multiple breach of the provisions of this Contract notwithstanding whether any such breach was previously waived or cured. After receipt of a Termination Notice and except as otherwise directed by the City the Consultant shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work documents in process, completed work, and other materials related to the terminated work to the City.
- D. Continue and complete all parts of the work that have not been terminated.

## **ARTICLE 6 – PERSONNEL**

The Consultant is, and shall be, in the performance of all work services and activities under this Contract, an independent Contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the Consultant's sole direction, supervision, and control and shall not in any manner be deemed to be employees of the City. The Consultant shall exercise control over the means and manner in which it and its employees perform the work. This contract does not create a partnership or joint venture between the parties.

The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, nor shall such personnel be subject to any withholding for tax, Social Security or other purposes by the City, nor be entitled to any benefits of the City including, but not limited to, sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation benefits, or the like from the City.

All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the Consultant's key personnel, as may be listed in Article 1, must be made known to the City's Representative at the time substitution becomes effective.

The Consultant warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

#### **ARTICLE 7 – SUBCONTRACTING**

Consultant may subcontract any services or work to be provided to City with the prior written approval of the City's Representative. The City reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make determination as to the capability of the subcontractor to perform properly under this Contract. The City's acceptance of a subcontractor shall not be unreasonably withheld. The Consultant is encouraged to seek small business enterprises and to utilize businesses that are physically located in the City of Pompano Beach with a current Business Tax Receipt for participation in its subcontracting opportunities.

#### **ARTICLE 8 – FEDERAL AND STATE TAX**

The City is exempt from payment of Florida State Sales and Use Taxes. The City will provide the Consultant with the current state issued exemption certificate. The Consultant shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Consultant authorized to use the City's Tax Exemption Number in securing such materials.

The Consultant shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract

#### **ARTICLE 9 – AVAILABILITY OF FUNDS**

The City's performance and obligation to pay under this contract is contingent upon appropriation for various projects, tasks and other professional services by the City Commission.

#### **ARTICLE 10 - INSURANCE REQUIREMENTS**

The Consultant shall not commence work under this Contract until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the City, nor shall the Consultant allow any Subcontractor to commence work on its sub-contract until the aforementioned approval is obtained.

CERTIFICATE OF INSURANCE, reflecting evidence of the required insurance, shall be filed with the Risk Manager prior to the commencement of the work. The Certificate shall contain a provision that coverage afforded under these policies will not be cancelled, will not expire and will not be materially modified until at least thirty (30) days prior written notice has been given to the City. Policies shall be issued by companies authorized to conduct business under the laws of the State of Florida and shall have adequate Policyholders and Financial ratings in the latest ratings of A. M. Best and be part of the **Florida Insurance Guarantee Association Act**.

Insurance shall be in force until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the City. In the event the Insurance Certificate provided indicates that the insurance shall terminate and lapse during the period of this Contract, the Consultant shall furnish, at least ten (10) days prior to the expiration of the date of such insurance, a renewed Certificate of Insurance as proof that equal and like coverage for the balance of the period of the Contract and extension thereunder is in effect. The Consultant shall not continue to work pursuant to this Contract unless all required insurance remains in full force and effect.

Limits of Liability for required insurance are shown in Exhibit C.

The City of Pompano Beach must be named as an additional insured for the Automobile and Commercial General Liability Coverage.

For Professional Liability, if coverage is provided on a claims made basis, then coverage must be continued for the duration of this Contract and for not less than one (1) year thereafter, or in lieu of continuation, provide an "extended reporting clause" for one (1) year.

Consultant shall notify the City Risk Manager in writing within thirty (30) days of any claims filed or made against the Professional Liability Insurance Policy.

For Workers' Compensation Insurance, coverage shall be maintained during the life of this Contract to comply with statutory limits for all employees, and in the case of any work sublet, the Consultant shall require any Subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Consultant. The Consultant and his Subcontractors shall maintain during the life of this Contract Employer Liability Insurance.

## **ARTICLE 11 – INDEMNIFICATION**

1. The Consultant agrees to indemnify and hold harmless the City, its officers, agents and employees against any loss, damage or expense (including all costs and reasonable attorneys' fees and appellate attorneys' fees) suffered by City from any claim, demand, judgment, decree, or cause of action of any kind or nature to the extent caused by any negligence, recklessness, or intentionally wrongful conduct of Consultant, or its agents, servants, or employees, in the performance of services in the performance of the contract.

2. The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, agents and employees against any loss, damage, or expense (including all costs and reasonable attorneys' fees and appellate attorneys' fees) suffered by the City from (a) any breach by the Consultant of this Contract; (b) any misconduct by the Consultant; (c) any inaccuracy in or breach of any of the representations, warranties or covenants made by the Consultant herein; (d) any claims, suits, actions, damages or causes of action arising during the term of this Contract for any personal injury, loss of life or damage to property to the extent caused by any negligence, recklessness, or intentionally wrongful performance of this Contract by the Consultant and the Consultant's agents, employees, invitees. Such obligation to indemnify and hold harmless shall include all costs, expenses and liabilities incurred by the City in connection with any such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof. Consultant acknowledges and agrees that City would not enter into this contract without this indemnification of City by Consultant, and that the City entering into this Contract shall constitute good and sufficient consideration for this indemnification. These

provisions shall survive the expiration or earlier termination of this Contract. Nothing in this Contract shall be construed to affect in any way the City's rights, privileges, and immunities as set forth in Florida Statute § 768.28.

3. Twenty-five Dollars (\$25.00) of the amount paid to Consultant is given as separate, distinct and independent consideration for the Consultant's grant of this indemnity, the sufficiency and receipt of this consideration is acknowledged by the Consultant.

#### **ARTICLE 12 – SUCCESSORS AND ASSIGNS**

The City and the Consultant each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the City nor the Consultant shall assign, sublet, encumber, convey or transfer its interest in this Contract without prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Consultant.

#### **ARTICLE 13 – REMEDIES**

The laws of the State of Florida shall govern this Contract. Any and all legal action between the parties arising out of the Contract will be held in Broward County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

#### **ARTICLE 14 – CONFLICT OF INTEREST**

The Consultant represents that it has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The Consultant further represents that no person having any interest shall be employed for said performance.

The Consultant shall promptly notify the City's representative, in writing, by certified mail, of a potential conflict(s) of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the Consultant's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Consultant may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Consultant. The City agrees to notify the Consultant of its opinion by certified mail within thirty (30) days of receipt of notice by the Consultant. If, in the opinion of the City, the prospective business association, interest, or circumstance would not constitute a conflict of interest by the Consultant, the City shall so state in the notice and the Consultant shall at its option, enter into said association, interest or circumstance and it shall be deemed not a conflict of interest with respect to services provided to the City by the Consultant under the terms of this Contract.

#### **ARTICLE 15 – EXCUSABLE DELAYS**

The Consultant shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Consultant or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God; natural or public health emergencies; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the work and, if the Consultant's failure to perform was without it, or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time.

#### **ARTICLE 16 – DEBT**

The Consultant shall not pledge the City's credit or attempt to make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Consultant further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **ARTICLE 17 – DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The Consultant shall deliver to the City's representatives for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the City or at its expense will be kept confidential by the Consultant and will not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the City's expense shall be and remain the City's property and may be reproduced and reused at the discretion of the City.

The City and the Consultant shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated thereby.

#### **ARTICLE 18 – CONTINGENT FEES**

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. Violation of this Article shall constitute a forfeiture of this Contract by Consultant.

## **ARTICLE 19 – ACCESS AND AUDITS**

The Consultant shall maintain adequate records to justify all charges, expenses, and cost incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business.

## **ARTICLE 20 – NONDISCRIMINATION**

The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, and sexual orientation.

## **ARTICLE 21 – INTERPRETATION**

The language of this Contract has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied to either party hereto. The headings are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular, the plural, and vice versa, unless the context otherwise requires.

## **ARTICLE 22 – AUTHORITY TO PRACTICE**

The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the City's representative upon request.

## **ARTICLE 23 – SEVERABILITY**

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

## **ARTICLE 24 – ENTIRETY OF CONTRACTUAL AGREEMENT**

The City and the Consultant agree that this Contract, together with the Exhibits hereto, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and off equal dignity herewith. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties

hereto in accordance with Article 25 – Modification of Work. In the event of any conflict or inconsistency between this Contract and the provisions in the incorporated Exhibits, the terms of this Contract shall supersede and prevail over the terms in the Exhibits.

## **ARTICLE 25 – MODIFICATION OF SCOPE OF WORK**

The City reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the Consultant of the City's notification of a contemplated change, the Consultant shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change; (2) notify the City of any estimated change in the completion date; and (3) advise the City if the contemplated change shall affect the Consultant's ability to meet the completion dates or schedules of this Contract.

If the City so instructs in writing, the Consultant shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the City's decision to proceed with the change.

If the City elects to make the change, the City shall initiate a Work Authorization or Task Order Amendment and the Consultant shall not commence work on any such change until such written amendment is signed by the Consultant and the City Manager, and if such amendment is in excess of \$25,000, it must also first be approved by the City Commission and signed by the appropriate City Official authorized by the City Commission

The City shall not be liable for payment of any additional or modified work, which is not authorized in the manner provided for by this Article.

## **ARTICLE 26 – NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, to the following:

### **FOR CITY:**

City Manager  
City of Pompano Beach  
Post Office Drawer 1300  
Pompano Beach, Florida 33061

### **FOR CONSULTANT:**

Kimley-Horn and Associates, Inc.  
600 North Pine Island Road / Suite 450  
Plantation, FL 33324

## **ARTICLE 27 – OWNERSHIP OF DOCUMENTS**

All finished or unfinished documents, data, reports, studies, surveys, drawings, maps, models and photographs prepared or provided by the Consultant in connection with this Contract shall become property of the City, whether the project for which they are made is completed or not, and shall be delivered by Consultant to City within ten (10) days of notice of termination. If applicable, City may withhold any payments then due to Consultant until Consultant complies with the provisions of this section.

"CITY"

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

(SEAL)

\_\_\_\_\_  
MARY L. CHAMBERS  
CITY CLERK

Approved As To Form:

\_\_\_\_\_  
GORDON B. LINN  
CITY ATTORNEY

**STATE OF FLORIDA**  
**COUNTY OF BROWARD**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH**, as City Manager and **MARY L. CHAMBERS**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

"CONSULTANT"

Witnesses:

Claudette Smith

Signature

Claudette Smith

Name Typed, Printed or Stamped

Kimley-Horn and Associates, Inc.

By: Gary R. Batacy  
Signature

GARY R BATACY  
Name Typed, Printed or Stamped

Title: SENIOR ASSOCIATE

Address: 600 NORTH PINE ISLAND ROAD  
PLANTATION, FLORIDA  
33324

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of January, 2015 by Gary R. Batacy, on behalf of Kimley-Horn. He/she is personally known to me or who has produced (type of identification) as identification.

NOTARY'S SEAL:

Linda Reid  
NOTARY PUBLIC, STATE OF FLORIDA

Linda Reid  
(Name of Acknowledger Typed, Printed or Stamped)

EE217573  
Commission Number





April 14, 2014

Kimley-Horn & Associates, Inc.  
5200 NW 33<sup>rd</sup> Avenue, Suite 109  
Ft. Lauderdale, Florida 33309  
Phone: (954) 535 5100  
Fax: (954) 739 2247

Attention: Mr. Michael Carey, P.E.

Re: **Proposal for Geotechnical Services**  
**Proposed Taxiway Delta – Relocate/Replace**  
**Pompano Air Park**  
**Pompano Beach, Florida**  
**TSF Proposal No.: 1404-201**

Dear Mike:

As requested, Tierra South Florida, Inc. (TSF) is pleased to submit this proposal for the above-referenced project. The proposal is based on the information obtained from your electronic mail dated April 11, 2014, and a Site Plan indicating proposed improvements.

We understand that the improvement consist of relocating and replacing Taxiway Delta at the Pompano Air Park in Pompano Beach, Florida.

This proposal includes an outline of our proposed scope of work, an estimate of the total fees, and our anticipated schedule for completion of the work.

## **PROPOSED SCOPE OF WORK**

All work performed by TSF will be in general accordance with Advisory Circular AC 150. As requested, we propose to drill a total of sixteen (16) Standard Penetration Test (SPT) borings to a depth of 10 feet below existing grade. Additionally, we have been requested to perform five (5) field CBR from the material collected from the upper 12 inches and four (4) pavement cores to determine the asphalt and base course thickness.

Borings and test locations will be located in the field by surveyors prior to us mobilizing to the site. Elevations at boring locations can be interpreted from topographic plans if furnished by others.

Prior to drilling at the project site, TSF will notify the local utility companies and request that underground utilities be marked. Our experience, however, is that the utility companies will not mark privately owned utilities. Therefore, we have budgeted for the use of GPR to locate utility lines in the field prior to mobilization of the drill rig. We believe that significant coordination will likely be required to perform the field operation.

Upon completion of the field exploration, laboratory testing will be performed on selected samples. A geotechnical engineer will evaluate the results of all drilling and laboratory testing. A report will be issued that contains the exploration data, laboratory data, and a discussion of the site and subsurface conditions.

## **ESTIMATED FEES**

It is proposed that the fee for the performance of the services outlined above is determined on a unit price basis in accordance with the attached Fee Schedule and that the work be performed pursuant to TSF's General Conditions enclosed herewith and incorporated into this proposal. On the basis of the proposed quantities, it is estimated that the total fee will be approximately **\$15,532**.

Our estimate covers the work needed to present our findings and recommendations in a formal report. Not included are reviews of foundation drawings, preparation of construction specifications, special conferences and any other work requested after submittal of our report.

This estimated fee assumes that the site is readily accessible to our truck-mounted drilling equipment. Any bulldozer or wrecker services required to provide access pathways or mobility assistance to our truck-mounted drill rig are not included in this proposal.

Boring, sampling, and testing requirements are a function of the subsurface conditions encountered. Therefore, the estimated fee previously indicated is approximate, and compensation for the exploration will be based on the actual work and tests performed. We will endeavor to keep the exploration cost at a minimum consisting with good engineering practice.

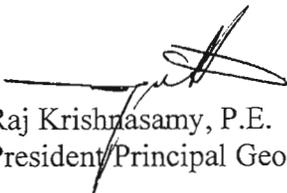
### SCHEDULE AND AUTHORIZATION

TSF will proceed with the work after receipt of a signed copy of this proposal. With our present schedule, we can commence work within several days of project approval (weather permitting) and fieldwork will take about four days to complete. The written report can be submitted in about two weeks after completion of the field exploration, depending on the extent of the laboratory-testing program. Verbal preliminary recommendations can be made to appropriate parties prior to submittal of the written report.

We at TSF appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you should have any questions concerning our proposal, please contact our office.

Respectfully submitted,

**TIERRA SOUTH FLORIDA, INC.**

  
Raj Krishnasamy, P.E.  
President/Principal Geotechnical Engineer

Attachments: 1. Fee Estimate

AUTHORIZED BY:	INVOICE TO:
Name:	Firm:
Title:	Name:
Date:	Address:

UNIT FEE  
SCHEDULE

	Unit	# of Units	Unit Price	Total
<b>I. FIELD INVESTIGATION</b>				
Mobilization of Men and Equipment				
Truck-Mounted Equipment	Each	1	\$ 350.00	\$ 350.00
Specialized ATV/Mudbug	Each	0	\$ 712.00	\$ 0.00
Support Vehicle	Each	2	\$ 150.00	\$ 300.00
Standard Penetration Test Borings (By Truck-Mounted Equipment)				
Land: 0 - 50 ft depth	L.F.	160	\$ 12.50	\$ 2,000.00
Grout-Seal Boreholes (By Truck-Mounted Equipment)				
Land: 0 - 50 ft depth	L.F.	160	\$ 6.00	\$ 960.00
Casing Allowance (By Truck-Mounted Equipment)				
Land: 0 - 50 ft depth	L.F.	0	\$ 8.00	\$ 0.00
Standby/Decontamination (Drill Rig & Crew)	Hour	2	\$ 125.00	\$ 250.00
Pavement Cores	Each	4	\$ 150.00	\$ 600.00
Ground Penetrating Radar	Day	1	\$ 1500.00	\$ 1,500.00
<b>II. LABORATORY TESTING</b>				
Natural Moisture Content Tests	Each	4	\$ 11.00	\$ 44.00
Grain-Size Analysis - Full Gradation	Each	4	\$ 67.00	\$ 268.00
Grain-Size Analysis - Single Sieve	Each	0	\$ 40.00	\$ 0.00
Organic Content Tests	Each	2	\$ 50.00	\$ 100.00
Atterberg Limit Tests	Each	2	\$ 95.00	\$ 190.00
Liquid Limit Tests (Only)	Each	0	\$ 58.00	\$ 0.00
Plastic Limit Tests (Only)	Each	0	\$ 37.00	\$ 0.00
Field CBR	Each	5	\$ 600.00	\$ 3,000.00
Permeability Test-Falling Head	Each	3	\$ 275.00	\$ 825.00
Grain-Size with Hydrometer	Each	1	\$ 125.00	\$ 125.00
Proctor Test a) Modified	Each	2	\$ 120.00	\$ 240.00
b) Standard	Each	0	\$ 115.00	\$ 0.00
<b>III. FIELD ENGINEERING AND TECHNICAL SERVICES</b>				
Boring Layout/Utility & Airport Access Coordination				
Sr. Engineering Technician	Hour	20	\$ 80.00	\$ 1,600.00
<b>IIIA. ENGINEERING AND TECHNICAL SERVICES</b>				
Principal	Hour	4	\$ 160.00	\$ 640.00
Sr. Engineer	Hour	12	\$ 140.00	\$ 1,680.00
Draftperson	Hour	8	\$ 80.00	\$ 640.00
Administrative Assistant	Hour	4	\$ 55.00	\$ 220.00
<b>TOTAL</b>				<b>15,532.00</b>

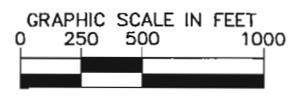
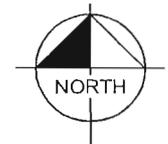
Plotted By: Parham, Cody Sheet Set: K14 Layout: SURVEY LIMITS April 11, 2014 11:15:37am C:\MCorey\PPP\Taxiway Delta Relocation\CADD\Survey\_Exhibit.dwg  
 No warranty is made by the engineer for any purpose other than that specifically stated on the drawings. The drawings are prepared only for the specific purpose and shall be void if not prepared by the engineer. The drawings are prepared by the engineer and shall be void if not prepared by the engineer. The drawings are prepared by the engineer and shall be void if not prepared by the engineer.



**PROJECT ELEMENTS:**

- ① RELOCATE TAXIWAY TO 240' FROM RUNWAY CENTERLINE AND TAXIWAY CENTERLINE
- ② CONSTRUCT TAXIWAY SIERRA
- ③ CONSTRUCT TAXIWAY TANGO
- ④ RELOCATE TAXIWAY MIKE BETWEEN RUNWAY 15/33 AND OLD TAXIWAY DELTA (ALTERNATE)
- ⑤ DEMOLISH OLD TAXIWAY DELTA
- ⑥ CONSTRUCT TAXIWAY QUEBEC

--- LIMITS OF SURVEY



<b>Kimley-Horn and Associates, Inc.</b> 800 NORTH PALM BLVD. SUITE 400, PALM BEACH, FL 33480 PHONE: 561-835-5100 WWW.KIMLEY-HORN.COM		No. _____ REVISIONS _____ DATE _____
LICENSED PROFESSIONAL ENGINEER STATE OF FLORIDA LICENSE NUMBER _____ EXPIRES _____ LAC DATE _____	RMA PROJECT DATE 4/10/2014 SCALE AS SHOWN DESIGNED BY LAC DRAWN BY CTP CHECKED BY LAC DATE _____	RELOCATION OF TAXIWAY DELTA PREPARED FOR POMPANO BEACH AIRPARK FLORIDA
SHEET NUMBER 1		DATE

