

AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PALM DESERT AND KIMLEY-HORN AND ASSOCIATES, INC.

1. Parties and Date.

This Amendment No. 3 to the PROFESSIONAL SERVICES AGREEMENT is made and entered into as of this 23rd day of May, 2024, by and between the City of Palm Desert ("City") and **Kimley-Horn and Associates, Inc., a corporation incorporated in North Carolina, with its principal place of business at 45-025 Manitou Drive, Suite 11, Indian Wells, CA 92210** ("Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and Consultant have entered into an agreement entitled "Professional Services" dated April 22, 2021 ("Agreement" or "Contract") for the purpose of retaining the services of Consultant to provide professional engineering services.

2.2 Amendment. The City and Consultant desire to amend the Agreement to extend the term and for additional compensation. The Parties have heretofore entered into that Amendment No. 2 dated March 23, 2023.

2.3 Amendment Authority. This Amendment No. 3 is authorized pursuant to Section 3.6.14 of the Agreement.

3. Terms.

3.1 Section 3.1.2 Term. Section 3.1.2 of the Agreement is hereby amended in its entirety to read as follows:

3.1.2 Term. The term of this Agreement shall be from April 22, 2021, to June 30, 2025, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Section 3.3.1 Compensation. Section 3.3.1 of the Agreement is hereby amended in its entirety to read as follows:

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed **One Million Four Hundred Sixty-Three Thousand Six Hundred Forty-Four dollars (\$1,463,644.00)** without written approval of the City Council or City Manager, as applicable.

3.3 Continuing Effect of Agreement. Except as amended by this Amendment No. 3, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 3. From and after the date of this Amendment No. 3, whenever the term "Agreement" or "Contract" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 3.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they

have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

3.5 Severability. If any portion of this Amendment No. 3 is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6 Counterparts. This Amendment No. 3 may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PALM DESERT AND KIMLEY-HORN AND ASSOCIATES, INC.

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 3 to the **PROFESSIONAL SERVICES AGREEMENT** as of the day and year first above written.

CITY OF PALM DESERT

KIMLEY-HORN AND ASSOCIATES, INC.

Approved By:

L. Todd Hileman
City Manager

Signature

Name

Title

Attested By:

Anthony J. Mejia
City Clerk

Signature

Name

Title

Approved As To Form:

By:

Isra Shah
Best Best & Krieger LLP
City Attorney

QC: _____

Insurance: _____

Initial Review

Final Approval