

RESOLUTION NO. 2022-31
AUTHORIZING THE CITY OF NORTH AUGUSTA
TO ENTER INTO A PROFESSIONAL ENGINEERING SERVICES CONTRACT
WITH KIMLEY-HORN AND ASSOCIATES, INC., TO PERFORM DESIGN
SERVICES FOR THE GEORGIA AVENUE TRAFFIC CALMING AND
PEDESTRIAN ACCESS STUDY

WHEREAS, the City of North Augusta desires to retain the services of KIMLEY-HORN AND ASSOCIATES, INC. to provide services related to the evaluation and design of potential transportation infrastructure needs along Georgia Ave; and

WHEREAS, two (2) firms responded to a "Request for Proposals" and were reviewed by a committee consisting of the Director of Planning and Development, the Assistant City Administrator, Director of Engineering and Public Works, Aiken County Planning Director, Aiken County Transportation Planner and representatives of South Carolina Department of Transportation and the Federal Highway Administration; and

WHEREAS, based upon the ranking of the firms, it has been determined that KIMLEY-HORN AND ASSOCIATES, INC. was the preferred contractor; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of North Augusta, South Carolina, in meeting duly assembled and by the authority thereof that the City is authorized to enter into professional engineering services contract with KIMLEY-HORN AND ASSOCIATES, INC. to provide transportation study services.

BE IT FURTHER RESOLVED that the City Administrator is authorized to execute such documents as necessary to enter into said contracts for an amount not to exceed \$50,000

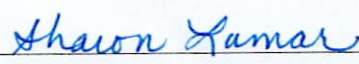
BE IT FURTHER RESOLVED that 80% of contract cost will be reimbursed by ARTS MPO Planning Funds, with a 20% match for funding for the transportation study services shall be from the Planning & Development Professional Services budget line item.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS 18th DAY OF July, 2022.



Briton S. Williams, Mayor

ATTEST:



Sharon Lamar
City Clerk

AGREEMENT AND CONTRACT BETWEEN
CITY OF NORTH AUGUSTA
AND
KIMLEY-HORN AND ASSOCIATES, INC

SECTION I. GENERAL RECITALS

THIS AGREEMENT and Contract, made and entered into this ____ day of _____, 20 ____, by and between the City of North Augusta, South Carolina, hereinafter referred to as "CITY", and Kimley-Horn and Associates, Inc., a corporation organized and existing under and by virtue of the laws of the North Carolina and qualified to do business in the State of South Carolina, with its principal offices in Raleigh, NC 27601 located at 421 Fayetteville Street, Suite 600, Raleigh, NC 27601, hereinafter referred to as "Consultant".

WITNESSETH:

WHEREAS, the CITY and the South Carolina Department of Transportation, hereinafter "Department", entered into a Local Public Agency Agreement which addresses the responsibilities of the parties thereof under the herein project; and

WHEREAS, the CITY desires to employ Consultant to furnish personnel and render professional engineering services for use and benefit of the CITY in the development of the project as hereinafter more particularly described; and

WHEREAS, the Consultant has represented to the CITY that the Consultant is experienced and qualified to provide the services contemplated by this Agreement and the CITY has relied upon such representation; and

NOW, THEREFORE, in consideration of these premises and of the mutual covenants herein set forth, it is agreed by and between the parties hereto as follows:

SECTION II. SCOPE OF SERVICES REQUIRED OF CONSULTANT

- A. PROJECT DESCRIPTION. Provide Engineering Services for the **Georgia Avenue Traffic Calming and Pedestrian Study** Federal Highway Administration (SC PL) Grant project funding of \$40,000 and the 20% match from North Augusta Planning and Development (SC PL Match) of \$10,000. The study will encompass an approximately 1.5-mile corridor along Georgia Avenue from the bridge over the Savannah River north to Martintown Road. The study will be concentrated in the commercial area south of Jackson Avenue, but should acknowledge the importance of continuing improvements along the remaining corridor. The study limits will generally use West Avenue and East Avenue as the western and eastern limits of the study, however, the contributing areas may be considered. Suggested improvements outside this area or areas for future study may result from this study. The Consultant will Provide a detailed project list and recommendations for specific improvements along SCDOT and local right-of-ways related to pedestrian, bicycle and other alternative transportation methods, ranking of projects based on cost, effort, impact, and feasibility, and Identification of alternate funding sources.
- B. GENERAL STATEMENT OF CONSULTANT'S ASSIGNMENT. For the heretofore described project, Consultant will provide engineering services as described in ATTACHMENT "A", SCOPE OF SERVICES AND SCHEDULE, attached hereto and specifically made a part of this Agreement. Work and liaison will be performed by the Consultant through its Columbia office in Columbia, South Carolina.

SECTION III. SERVICES OF CITY

The CITY agrees to provide to Consultant, and at no cost to Consultant, the services and data set forth in ATTACHMENT "B" SERVICES OF THE CITY, attached hereto and specifically made a part of this Agreement. Liaison for the CITY will be through the Director of Planning and Development or authorized designee.

SECTION IV. SCHEDULE (TIME OF PERFORMANCE)

The effective date of this Agreement will be the date of execution as shown in Section I. The Consultant shall begin work upon receipt of the CITY's written notice to proceed.

Consultant will prosecute all phases of the work in an expedient manner, exclusive of required review time by the CITY and if applicable the Department and the Federal Highway Administration as set forth in ATTACHMENT "A", SCOPE OF SERVICES AND SCHEDULE.

SECTION V. FEE AND COSTS

For the services covered under this AGREEMENT, Consultant shall be compensated by the CITY as follows:

A. LUMP SUM. For all work, materials, and services furnished under the terms of this Agreement, it is mutually agreed by and between Consultant and the CITY that compensation to Consultant will be a **Lump Sum Amount** of \$50,000.00.

B. PROGRESS PAYMENTS. Consultant will be paid in accordance with the milestone payment schedule as presented in Attachment C, attached hereto and incorporated herein.

C. INDIRECTRATE: Consultant and their subconsultants shall comply with SCDOT's Procurement Policy Memorandum (dated February 2, 2011) Implementing FHWA Order 4470.1A, dated October 27, 2010. This memorandum and FHWA Order reference a requirement for an approved Federal Acquisition Regulation (FAR) compliant indirect cost rate to be on file with SCDOT.

D. NON-ALLOWABLE COST. The CITY shall not reimburse Consultant for any expenses relating to business development activities, attendance at any special event, function, or ceremony where attendance is for social purposes. This does not include special events, functions or a ceremony in which a written the CITY request and approval has been given to Consultant to attend for the purpose of speaking and/or presenting purposes, or assisting the CITY staff with preparation and delivery of the function. Consultants are required to certify compliance with this paragraph on all invoices.

E. TOTAL COMPENSATION. The amount of compensation set forth in ATTACHMENT "C" of this AGREEMENT shall be the amount payable by the CITY to CONSULTANT.

F. COST RECORDS. Consultant, and its authorized subconsultants, shall maintain cost records in such manner as to comply with the policies set forth in Procurement, Management, and Administration of Engineering and Design Related Services (23 CFR 172) and also in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200), and other directives as appropriate.

G. PURCHASE AND RENTAL/LEASE. The CITY considers that Consultant should have the necessary equipment and other items to perform consultant work described in the scope of services. In those cases, where it becomes necessary to purchase, lease, or rent equipment or other items with project funds, prior written CITY approval is required. All equipment and other items approved by the CITY for purchase with project funds shall become the property of the CITY at the completion of the project.

H. RELOCATION COSTS. Consultant has represented to the CITY that Consultant has the necessary personnel to perform Consultant's scope of services, and CITY has relied upon such representation. The CITY will not pay any relocation costs.

SECTION VI. MODE OF PAYMENT

A. Monthly Invoices. For services performed in this Agreement, Consultant shall be paid monthly based on an approved invoice. Monthly or partial payments, at the discretion of the CITY, may have appropriate retainage withheld until completion and acceptance of the work.

B. Acceptable Invoices. The CITY considers an acceptable invoice to include:

1. A breakdown of man-hours by classification and rate
2. A line item for overhead
3. A line item for profit
4. A breakdown for other direct costs
5. A breakdown for sub-consultant services
6. Signature of certification by an authorized representative of the firm
7. The CITY'S Project Manager may request additional certifications relating to work performed.

NOTE: For approved unit cost agreements numbers 1, 2 and 3 may be combined and identified by services, volume and rate. Numbers 4 and 5 shall be by breakdown costs.

C. Certification of prompt payment to sub-consultants. Consultant shall certify on each invoice for payment that the charges thereon are true and correct. The submittal of such invoice shall constitute the Consultant's certification that all sub-consultants have incurred the charges shown on the invoice, will be paid within seven (7) days upon receipt of payment from the CITY, and have been paid for all charges shown on previous invoices.

D. Prompt release of retainage. The Consultant may withhold as retainage up to five (5%) percent of a sub-consultant's payment until satisfactory completion of all work items of a subcontract. "Satisfactory completion of all work items of the subcontract" shall mean when the CITY pays the Consultant for the last work item of the subcontract. The Consultant must release to the sub-consultant any retainage withheld within seven (7) calendar days of the date the Consultant receives payment from the CITY for the last work item of the subcontract.

E. Sanctions for failure to comply. Failure to comply with any of the above prompt payment provisions shall result in one or more of the following sanctions: (1) no further payments being made to the Consultant until compliance is achieved; (2) the Consultant being declared in default of the Contract; (3) the CITY terminating the Contract in accordance with Section VII, Paragraph (K) of this Agreement.

SECTION VII. GENERAL PROVISIONS

The CITY and the Consultant mutually agree as follows:

- A. OWNERSHIP OF DOCUMENTS. Basic notes, sketches, charts and other data prepared, furnished or obtained under this Agreement will become the property of the CITY without restriction or limitation on their use. No material produced in whole or in part under this Agreement will be subject to copyright in the United States or in any other country. The CITY shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Agreement. The CITY shall retain ownership of all plans, drawings, specifications and related documents.
- B. INFORMATION TECHNOLOGY. All program management systems, software, or information technology products developed or utilized by Consultant for the project shall be able to interface with information technology systems utilized by the CITY and Department. All systems, software, or information technology developed for this project shall become the sole property of the CITY and Department upon Contract completion, including any source code. No program management systems, software or information technology products produced in whole or in part under this Agreement will be subject to copyright by Consultant. The CITY and Department shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all program management systems, software, or information technology products prepared by Consultant, or its sub-consultants, under this Agreement.
- C. FINDINGS CONFIDENTIAL. Any reports, information, data, etc. furnished to or prepared or assembled by the Consultant under this Agreement which the CITY requests to be kept as confidential will not be made available to any individual or organization by the Consultant without prior written approval of the CITY. This section does not prohibit the release of information required under Federal or State "Freedom of Information (FOI)" statutes.
- D. PROGRESS. The Consultant shall at all time work closely with the designated representatives of the CITY and shall keep them fully advised as to the status of the work. The Consultant or his authorized representative will be present at all conferences, field inspections and other meetings as may be requested by the CITY. Conferences or consultations may be called at any time by either party to this Agreement. The plans and work of the Consultant will be available to the CITY, and if applicable to appropriate representatives of the Federal Highway Administration for review at all times.
- E. QUALITY CONTROL. All work by Consultant is to be done in a manner satisfactory to the CITY and in accordance with the established customs, practices, and procedures of the CITY, State of South Carolina, Federal Highway Administration, including compliance with applicable sections of the Department/Federal Highway Administration STEWARDSHIP AND OVERSIGHT PLAN, dated June 2014 (included herein by reference) and any revisions thereto, and in conformity with the standards adopted by

the American Associations of State Highway and Transportation Officials and approved by the Secretary of Transportation as provided in Title 23, U. S. Code, Section 109-B, as amended. For work involving the development of plans, the Consultant shall implement all necessary quality control measures to produce plans that conform to the DEPARTMENT and FHWA guidelines and standard, including the aforementioned. Prior to submittal to the DEPARTMENT, all plans shall be thoroughly reviewed by the CONSULTANT for completeness, correctness, accuracy and consistency with the aforementioned requirements. Plan sheets shall be initialed as applicable by both the preparer and the reviewer to indicate appropriate quality reviews have been completed. CONSULTANT shall maintain copies of any quality control documents, including check prints, throughout the duration of the project, with them becoming part of the official file, and shall submit copies of these to the DEPARTMENT upon request.

F. INSPECTION OF WORK. The CITY, Department and their authorized representatives shall have access to and the right to inspect all project work and materials during regular business hours of the Consultant. The Consultant and its subcontractors shall keep and preserve all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and make such materials available at its respective offices at reasonable times during the Contract period and for three years from date of final payment under the Contract for inspection by the CITY, if applicable any authorized representative of the Department and the Federal Highway Administration, and copies thereof shall be furnished if requested.

G. CHANGES IN CONTRACT. The CITY may desire Consultant to render services for changes in connection with this project in addition to that provided for by the express provisions of this Agreement. Such additional services for changes will require a contract modification, setting forth the nature and scope of such additional services and the compensation therefor, as determined by mutual agreement between the CITY and Consultant. Work under such contract modification shall not proceed until formally approved by the CITY and if applicable the Department and the Federal Highway Administration.

H. DELAYS AND EXTENSIONS. The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by Consultant for any delays or hindrance, from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the CITY may decide. Time extensions may be granted only for excusable delays such as delays beyond the control and without the fault or negligence of the Consultant.

I. FAILURE TO MAINTAIN SATISFACTORY PROGRESS

The Consultant will proceed with the work in a timely fashion, providing sufficient manpower and resources to meet the commitment to schedules, milestones, and

completion dates set forth in the Contract. The CITY may monitor the progress of the work to determine that the work is progressing sufficiently to meet the commitments agreed to in the Contract.

The CITY's Program Manager may make a preliminary finding of delinquency if at any time the Consultant has not met the schedules, milestones, or completion dates established in the Contract, and it appears unlikely that the work will be completed by the specified date. Upon review of the preliminary finding of delinquency, the CITY's Program Manager may issue a Preliminary Notice of Delinquency. The Consultant will have 15 days to present information to the CITY as to why the Consultant should not be found delinquent. This information should contain a specific plan of action to meet the Contract schedules, milestones, and completion dates and/or show circumstances beyond the Consultant's control that have directly affected the Consultant's ability to meet the commitments in the Contract. Upon review of the information submitted, the CITY's Program Manager will make a determination to place or not place the Consultant in a delinquent status. If a determination of delinquent status is made, the CITY's Program Manager will issue a Final Notice of Delinquency. A Consultant receiving a Final Notice of Delinquency may appeal within 15 days to the CITY's Administrator for a review of the delinquent status.

A Consultant receiving a Final Notice of Delinquency may be terminated under the terms of this Agreement.

J. TERMINATION OF CONTRACT.

(a) This Contract may be terminated by the CITY at any time for the convenience of CITY by written notice to Consultant specifying the termination date of the Contract. In the event of such termination of the Contract by the CITY the Consultant will be compensated on a quantum meruit basis for its work satisfactorily performed through the termination date.

(b) Consultant also has the right to terminate this Contract if the CITY unreasonably fails to timely provide the service required of the CITY under scope of services or unreasonably fails to make timely payment for Consultant services rendered. In the event of such termination which is not the fault of Consultant, the CITY shall pay to Consultant the compensation properly due including reasonable overhead and profit on work performed for services properly performed (prior to the effective date of the termination) and for reasonable reimbursable expenses properly incurred as a result of the termination.

(c) In the event Consultant through any cause fails to perform any of the terms, covenants, or provisions of this Contract on its part to be performed, or if it for any cause fails to make progress in work hereunder in a reasonable manner, or if the conduct of Consultant impairs or prejudices the interest of the CITY, or if Consultant

violates any of the terms, covenants, or provisions of this Contract, the CITY shall have the right to terminate this Contract by giving seven (7) days-notice in writing of the termination and date of such termination to Consultant. The CITY shall have the sole discretion to permit the Consultant to remedy the cause of the contemplated termination without waiving the CITY's right to terminate the Contract. All drawings, specifications, and other documents relating to the design or supervision of consultant work shall be surrendered forthwith by Consultant to the CITY. The CITY may take over work to be done under this Agreement and prosecute the work to completion by contract or otherwise, and Consultant shall be liable to the CITY for all reasonable cost in excess of what the CITY would have paid the Consultant had there been no termination.

K. DISPUTES. In any dispute concerning a question or fact in connection with the work of this Agreement, or compensation therefore, the decision of the CITY in the matter shall be final and conclusive for both parties.

L RESPONSIBILITY FOR CLAIMS AND LIABILITY. The Consultant shall assume certain risks in connection with the performance of this Agreement and shall be liable for and shall indemnify and hold harmless the CITY and other agencies of government from claims and liability due to negligent acts of the Consultant, its subcontractors, agents or employees in connection with the prosecution and completion of the work covered by this Agreement.

Consultant shall, until this Agreement has been fully performed or until it has been terminated by the CITY, take out and maintain as a normal business expense Liability and Professional Errors and Omissions Insurance with coverage in the amount not less than customarily carried by any party in the performance of similar work and Public Liability and Property Damage Insurance with coverage in the amount not less than customarily carried by any party in the performance of similar work and in such form and with such insurance carriers as are available to it and acceptable to the CITY. Consultant will secure and maintain such insurance, including vehicular insurance, as will protect it from claims under worker's compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of its employees or of any person other than its employees, and for claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom.

M. GENERAL COMPLIANCE WITH LAWS. The Consultant and its subcontractors shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations affecting the conduct of the work.

N. SUBLETTING, ASSIGNMENT OR TRANSFER. The Consultant shall not assign, sublet, or transfer any of the work, except as specifically provided for under the terms of this Contract, without prior written consent of the CITY. Such consent does not

release or relieve the Consultant, as principal, from any of its obligations and liabilities under this Agreement.

The Consultant shall furnish all Contract provisions to each sub-consultant which shall apply to all sub-consultant agreements. All sub-consultant agreements shall be provided to the CITY by the Consultant upon request.

O. ETHICS ACT. By execution of this Agreement Consultant certifies Consultant is in compliance with South Carolina's Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of public employee – Section 8-13-790, (b) Recovery of kickbacks- Section 8-13-790, (c) Offering, soliciting, or receiving money for advice or assistance of public official – Section 8-13-720, (d) Use or disclosure of confidential information – Section 8-13-725, (e) Persons hired to assist in the preparation of specifications or evaluation of bids – Section 8-13-1150, (f) Solicitation of state employees – Sections 8-13-755, 8-13-760 and 8-13-725.

P. DRUG FREE WORK PLACE CERTIFICATION. By execution of this Agreement Consultant certifies Consultant will comply with all applicable provisions of The Drug-Free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

Q. COVENANT AGAINST CONTINGENT FEES. The Consultant warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, at its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

R. TITLE VI. CIVIL RIGHTS ACT OF 1964. During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations:

Consultant shall comply with the regulations relative to non-discrimination in Federally-assisted programs of the United States Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as "Regulations"), which are

herein incorporated by reference and made a part of this Agreement.

2. Non-discrimination:

Consultant, with regard to work performed by it after award and prior to completion of the Contract work, shall not discriminate on the grounds of race, religion, color, sex, age, handicap, national origin, or political affiliation in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Sub-contracts, including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or lease of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, religion, color, sex, age, handicap, national origin, or political affiliation.

4. Information and Reports:

Consultant shall provide all information and reports required by the Regulations, or directions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY and/or Department to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-compliance:

In the event of Consultant's non-compliance with the non-discrimination provisions of this Contract, the CITY and/or Department shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to Consultant under the Contract until Consultant complies, and/or

- (b) Cancellation, termination or suspension of the Contract, in whole or in part.

6. Incorporation of Provisions:

Consultant shall include the provisions of Paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directions issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as the CITY, may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, Consultant may request the CITY and/or Department to enter into such litigation to protect the interest of the CITY and/or Department and, in addition, Consultant may request the United States to enter into such litigation to protect the interest of the United States.

S. MINORITY BUSINESS ENTERPRISE.

(a) Policy. It is the policy of the CITY to ensure nondiscrimination in the award and administration of federally-assisted contracts and to use Disadvantaged Business Enterprises (DBEs) in all types of contracting and procurement activities according to State and Federal laws. This Contract is subject to the provisions of the Department's DBE program and 49 CFR Part 26.

(b) Consultant/Sub-consultant assurances. Neither the consultant, nor its sub-consultants, shall discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of federally-assisted contracts. Failure by the Consultant, or any of its sub-consultants, to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the CITY deems appropriate. Consultant shall advise its sub-consultant of these provisions by including this clause in each of its subcontracts.

(c) Quoter information. At the conclusion of this Contract, the Consultant shall submit to Department the names and addresses of all sub-consultants who quoted subcontracts for this Contract.

(d) Reports on Sub-consultant payments. At the conclusion of this Contract, the Consultant shall report to the CITY all payments made to sub-consultants on this Contract. The report shall include the following information as to each sub-consultant: the name and address of the sub-consultant and the total payments made to the sub-consultant.

T. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the execution of this Contract, Consultant shall not discriminate against any employee or applicant for

employment because of race, religion, color, sex or national origin. Consultant shall comply with Executive Order 11246, as amended by the Executive Order 11375, and as supplemented by Department of Labor Relations (41 CFR, Part 60) (OMB Circular A-102; Attachment O; Part 14C) and shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, or national origin. Such actions will include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training, including apprenticeship.

U. PARTICIPATION BY FOREIGN CONSULTANTS AND SUB-CONSULTANTS

The CITY will not consider for award any proposal submitted by any consultant, and will not consent to subletting any portions of the Contract to any sub-consultant, of a foreign country during any period in which such foreign country is listed by the United States Trade Representative as discriminating against U. S. firms in conducting procurements for public works projects.

For the purpose of this Special Provision, any consultant or sub-consultant who is a citizen or national of a foreign country or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a consultant or sub-consultant of such foreign country.

V. PROHIBITION ON PROCUREMENT OF CERTAIN TELECOMUNICATIONS EQUIPMENT. In accordance with 2 CFR 200.216, Consultants, in the performance of this Contract, are prohibited from procuring or obtaining telecommunication or video surveillance equipment, services, or systems produced by:

- Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

W. COMPLIANCE CONCERNING ILLEGAL ALIENS. By execution of this Agreement the Consultant as the prime consultant does hereby agree:

- a) to certify its compliance with the requirements of Chapter 14 of Title 8 of the S.C. Code of Laws regarding Unauthorized Aliens and Public Employment;
- b) to provide the CITY with any documents required to establish such compliance upon request; and
- c) to register and participate and require agreements from sub-consultants to

register and participate in the federal work authorization program to verify the employment authorization of all new employees, or to employ only workers who supply the documents required pursuant to S.C. Code 8-14-20(B)(2).

X. SUCCESSORS AND ASSIGNS. The CITY and Consultant each binds itself, its successors, and assigns to the other party with respect to these requirements, and also agrees that neither party shall assign, sublet, or transfer its respective interest in the Agreement without the written consent of the other.

Y. ENTIRE AGREEMENT. This Agreement with referenced exhibits, and/or attached certifications, and attachments constitutes the entire Agreement between the parties and, except for contract modifications prepared in accordance with provisions thereof, there are no collateral contracts or agreements between the parties relating to this work. The execution of this Agreement by the parties hereto represents the execution of each individual certification hereof. This Agreement and Contract is to be interpreted under the laws of the State of South Carolina.

IN WITNESS WHEREOF, the parties herein have executed this Agreement as of the day and year first written above.

Signed, sealed and executed for the Consultant:

WITNESS:

(Consultant's Legal Name)

By:

(Signature)

Title:

Federal ID No.:

Signed, sealed and executed for the CITY:

WITNESS:

By:

(Signature)

Title:

ENGINEER CERTIFICATION FOR PROJECT PLANS AND SPECIFICATIONS

Consultant's Name: _____
Route Number: _____
File Number: _____
Project Number: _____
Project Description: _____

In order to advance projects in an expeditious and efficient manner, _____ hereby assigns to the above-named consulting firm, hereinafter referred to as the Undersigned, and the Undersigned accepts full responsibility for all project plan and specification reviews including the approval of all information, dimensions, quantities, details and designs involved in the preparation and production of the project plans and specifications for the above-named project. In accepting this responsibility, the undersigned makes the following certification:

THE UNDERSIGNED CERTIFIES to be a South Carolina registered engineering firm with absolute authority to accept the responsibility for the project plans and specification involved in the project; and,

THE UNDERSIGNED CERTIFIES to produce project plans and specifications that will conform with all guidelines and requirements stated in this Agreement unless a specific deviation has been requested in writing and approved by the _____, DEPARTMENT, and, if applicable, the Federal Highway Administration (FHWA); and,

THE UNDERSIGNED CERTIFIES that all project plans and specifications will be checked in their entirety for completeness, correctness, accuracy and consistency with other details in all respects, and will be thoroughly reviewed by the undersigned consulting firm to be in compliance with the requirements in effect at the time of submission to the _____; and,

THE UNDERSIGNED CERTIFIES that each project plan sheet submitted on this project will be signed and sealed by a South Carolina Registered Engineer; and,

THE UNDERSIGNED CERTIFIES that all of the work performed under this Contract will be performed in accordance with the special provisions and specifications, and will be performed so as to meet or exceed reasonable standard of care of the profession; and

THE UNDERSIGNED CERTIFIES that by signing and sealing the plans, the undersigned assumes full, complete and conclusive liability for all discrepancies, errors or omissions found at any time in the plans or specifications. Further, that all corrections to the plans or specifications will be made at the consultant's expense and the consultant will not include the cost of corrections of faulty or deficient work on its invoice to the _____; and

THE UNDERSIGNED FURTHER CERTIFIES that it agrees that failure to meet any of the above requirements may be deemed just cause, at the discretion of the _____, for withholding payment on the Contract and/or termination of the Contract, without damages due to the Undersigned by _____.

This Engineering Certification for Project Plans and Specification is attached to and becomes part of the Agreement and project, with all terms and conditions of the Agreement and project applicable hereto.

Seal

Date

Firm: _____

By: _____

Title: _____

CERTIFICATION OF CONSULTANT

I hereby certify that I am the/a duly authorized representative of the Consultant and that neither I nor the above consultant I here represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this Agreement;
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract except as here expressly stated (if any).
- (d) been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department, state department or agency thereof. The Consultant further certifies full compliance with 23 CFR 633 Subpart A of the Federal Code.

I acknowledge that this certificate is to be furnished to the CITY, Department, the Federal Highway Administration, and the U.S. Department of Transportation, and is subject to applicable State and Federal laws, both criminal and civil.

By: _____

Date: _____

CERTIFICATION OF CITY

I hereby certify that I am the CITY ADMINISTRATOR of the CITY OF NORTH AUGUSTA of the State of South Carolina and that the above Consultant or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contributions, donations, or consideration of any kind, except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Department, Federal Highway Administration, and U. S. Department of Transportation, and is subject to applicable State and Federal laws, both criminal and civil.

By: _____

Date: _____

Certification for Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, and contracts and subcontracts under grants, sub-grants, loans, and cooperative agreements) which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____

Date: _____

ATTACHMENT "A"
SCOPE OF SERVICES
AND SCHEDULE

See Attachment/ Exhibit "A"

ATTACHMENT "B"
SERVICES OF THE CITY OF NORTH AUGUSTA

The CITY agrees to provide to the CONSULTANT, and at no cost to the CONSULTANT, the following upon request:

- 1) direction relative to key stakeholder's involvement and input; and
- 2) information related to approved developments and planned growth along the corridor;
and
- 3) feedback on project directives; and
- 4) support for interagency coordination.