

**CONTRACT FOR**

**ENGINEERING SERVICES**

**MAPS 4**

**PARKS PROGRAMMING FOR**

**NEIGHBORHOOD AND COMMUNITY PARKS**

**MASTER PLAN DEVELOPMENT**

**BETWEEN**

**THE CITY OF OKLAHOMA CITY**

**AND**

**KIMLEY-HORN ASSOCIATES, INC.**

**PROJECT M4-NP010**

## CONTRACT FOR ENGINEERING SERVICES

This Contract for engineering services for the MAPS 4 Parks Programming for Neighborhood and Community Parks Master Plan Development, ("Contract") is entered into this 16th day of August, 2022 by and between the City of Oklahoma City ("City"), a municipal corporation, and Kimley-Horn and Associates, Inc. ("Engineer").

### WITNESSETH:

#### **PROJECT M4-NP010 MAPS 4 PARKS PROGRAMMING FOR NEIGHBORHOOD AND COMMUNITY PARKS MASTER PLAN DEVELOPMENT**

**WHEREAS**, the City intends to engage the services of the Engineer to provide professional services for the MAPS 4 Park Programming for Neighborhood and Community Parks Master Plan Development ("project"); and

**WHEREAS**, the Engineer will provide professional services for the project in accordance with this Contract, including the scope of work incorporated herein and as set forth in Exhibit A attached hereto; and

**WHEREAS**, the Engineer has been selected under the standards adopted and the procedures prescribed by the resolution establishing procedures for selection of Architects, Engineers and Planners adopted by the City Council on July 23, 1974, amended on December 31, 1974, February 21, 1978, January 22, 1980, and November 18, 1986, which resolution, with its amendments, is made a part of this Contract by reference; and

**WHEREAS**, this contract may be amended to include design services for future proposed phases of the MAPS 4 Neighborhood and Community Parks Improvements.

**NOW, THEREFORE**, in consideration of the mutual covenants contained hereinafter relating to the project, the parties agree to the following

#### **Contract**

**Not to Exceed            \$496,200**

1. **Definitions.** All terms and phrases not expressly defined herein shall have their ordinary meanings, consistent with Oklahoma and Oklahoma City law, except where the context clearly indicates a different meaning. For purposes of this Contract, the following terms and phrases shall have the meaning subscribed herein:

A. *Engineering  
Services*

Those professional services associated with research, development, design and construction, alteration, and/or repair of real property and improvements thereon, as well as incidental services that members of these professions and those in their employ may

logically or justifiably perform, including but not limited to studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, design development, plans and specifications, cost estimates, observations, shop drawing reviews, sample recommendations, assemble operating and maintenance manuals, site visits and other related services.

- B. *Bidding Documents* Those documents required to construct, renovate and/or modernize the project, including but not limited to standard provisions, special provisions, drawings, plans and specifications.
- C. *City Engineer* The officer of the City of Oklahoma City or designee, e.g., "Project Manager", in charge of engineering, construction and maintenance contracts on public rights-of-way, on public lands and capital improvement projects.
- D. *Fixed Limit of Construction* Not-to-exceed amount which has been designated as the maximum amount for the construction cost of the project.
- E. *Program Manager* The Manager of the Program appointed by the City Manager.

2. **Basic Services.** The Engineer is hereby engaged by the City to perform in accordance with good engineering practices and in the best interest of the City in accordance with the professional standard of care, all the work as set out herein and also including **Exhibit A**, which is attached hereto and incorporated as a part of this Contract.

These services include, but are not limited to, the following:

- A. Master Plan Services – Task 1A
  - (1) The Engineer shall prepare all necessary surveys, investigations, studies, reports, sections, conceptual plans, and any other items specified in **Exhibit A** hereof.
  - (2) Meet with MAPS 4 Program Manager, MAPS 4 Neighborhoods Subcommittee, MAPS 4 Citizens Advisory Board, community groups, and stakeholder groups to establish overall goals of the project.
  - (3) Complete the Master Plan scope of work within three hundred sixty-five (365) calendar days of the notice to proceed issued by the Program Manager minus City review time.

- (4) Conduct research to assess locations of all existing utilities within the project areas.
- (5) The Engineer shall use this information along with any other information gathered to prepare the Master Plan.
- (6) Optional site layout plans may be required.
- (7) Prepare a detailed estimate of the construction costs of said Phased improvements, extensions, and repairs. This estimate should include a breakdown of costs for each of the major sections of the project.
- (8) Hold all necessary conferences with the Program Manager and all other interested parties as directed by the Program Manager.
- (9) Furnish the City five (5) copies of the draft Master Plan Report and one (1) electric copy, in Adobe Acrobat (PDF) format for review. Incorporate all recommended changes prior to submittal of the final Report.
- (10) Facilitate proposed Master Plan presentations to include a Microsoft PowerPoint presentation, presentation boards or a combination of both to describe the content of the Master Plan Report to the MAPS 4 Neighborhoods Subcommittee, MAPS 4 Citizens Advisory Board and City Council. Collect comments from attendees and include all necessary meeting information in the final Report.
- (11) Furnish the City five (5) copies of the Master Plan Report and one (1) electronic copy, in Adobe Acrobat (PDF) format, free of cost to the City. The cost of any additional copies of the Report as the Program Manager may require will be reimbursed at the net cost thereof.
- (12) Facilitate a final Master Plan presentation to the MAPS 4 Neighborhoods Subcommittee and MAPS 4 Citizens Advisory Board for recommendations, and to City Council for final approval.
- (13) Meet with City staff or its representatives at any time requested for consultation or conference as directed by the Program Manager.

**3. Additional Services.** Additional Services are Project-related services as enumerated in **Exhibit C**, attached hereto and made a part hereof, and are not included as Basic Services. Additional Services shall only be provided upon prior written and clearly detailed direction from the Program Manager, acting within the limits of State law, Ordinances of the City of Oklahoma City and policies established by the City Council, and upon acceptance by the Engineer. Any Additional Services performed pursuant to the above written direction shall be paid in accordance with the Compensation and Payment paragraph of this Contract.

**4. Authorization of Work and Services.** This Contract represents an agreement for the Engineer to provide Basic Services to be compensated through written authorization of a work

order by the Program Manager. All or part of the Basic Services may be authorized as required for the implementation of the MAPS 4 Program.

**5. Standard of Care.** In providing the services herein, the Engineer agrees to perform such services with a reasonable standard of care, skill, diligence, and professional competency normally employed by professionals performing the same or similar services. The Engineer agrees to require all of its sub-consultants, by the terms of its sub-consultants' contracts, to provide services at the same standard of reasonable care, skill, diligence, and professional competence required of the Engineer.

**6. Compensation and Payment.**

A. Compensation. The aggregate total compensation for all engineering services under this Contract shall not exceed a total fee of Four Hundred Ninety-Six Thousand Two Hundred Dollars (\$496,200). Under the terms of the Contract, the Engineer agrees to provide Basic Services to be compensated in an amount not to exceed Four Hundred Seventy-Six Thousand Two Hundred Dollars (\$476,200), and the Additional Services authorized may not exceed an amount of Twenty Thousand Dollars (\$20,000), both of which are specifically set forth in **Exhibit B**, attached hereto and incorporated herein.

B. Additional Services Compensation. Additional Services, as set out in **Exhibit C**, are to be used and paid to the Engineer based on prior written authorization of the Program Manager. Additional Services compensation shall be agreed to in writing by the Program Manager and the Engineer and shall not exceed the amount identified in the "Compensation and Payment" paragraph and **Exhibit B** of this Contract.

**C. Payment.**

- (1) Payment of claims for incremental work completed on each task may be submitted. Invoices for the amount and value of the work and services performed by the Engineer shall be submitted monthly to the City and shall meet the standards of quality as established under this Contract. The City agrees to pay the Engineer, as compensation for such engineering services as listed herein. The invoices shall be prepared and submitted by the Engineer and be accompanied by all supporting data required by the City, as well as a current copy of the Engineer's insurance certificates for this Project. Payment of any invoice for any work or services is not deemed to be recognition of satisfactory performance of said work or services or a waiver of any right of the City or any obligation of the Engineer should it be determined later that said work or services were negligently performed or provided or were not performed or provided in accordance with the standards required by this Contract. Surveyors or other professional consultants engaged by the Engineer for the normal structural, electrical, or mechanical engineering services shall be billed to the City by the Engineer at the actual cost thereof.
- (2) The Engineer shall present two (2) copies of the invoice with two (2) properly executed claim vouchers to the Program Manager for payment. Payments shall not exceed the Basic Services or Additional Services amounts identified

in the Contract. Any amounts to be paid in excess of those set forth in **Exhibit B** shall only be authorized by amendment to the Contract.

- (3) The Program Manager will review invoices and claim vouchers for payment. Should the Program Manager question or request additional documentation or disapprove all or a portion of any invoice, the Engineer will be notified so that it may provide additional documentation sufficient to demonstrate the invoice and claim should be paid, in whole or in part. However, no invoices or claims shall be paid the aggregate of which are in excess of the not to exceed amounts identified in the Compensation and Payment paragraph and **Exhibit B** of this Contract.
- (4) Final payment shall not be deemed to waive any rights or obligations of the Parties to this Contract.

7. **Stop Work Order.** Upon notice to the Engineer, the Program Manager may issue a Stop Work Order suspending the performance of work and/or services under this Contract. The Stop Work Order shall not terminate or suspend any of the required provisions of the Indemnity and Insurance paragraphs of this Contract.

8. **No Extra Work.** No claims for extra work of any kind or nature or character shall be recognized by or be binding upon the City unless such work or service is first approved in writing by the City.

9. **Notice of Design Limitations.** The Engineer will immediately advise the Program Manager at any time it believes that the Project being designed will exceed, or is likely to exceed, the fixed limit of construction cost as set forth in this Contract.

10. **Fixed Limit of Construction Cost.** If the lowest and best bid proposed in response to a timely solicitation of bids for construction of the Project, in accordance with the bidding documents provided by the Engineer, exceeds the fixed limit of construction cost for this Project, the Engineer, at no increase or additional cost to the City, shall redesign the Project and redraft the bidding documents so that the construction bids pursuant to a subsequent solicitation come within the fixed limit of construction cost.

11. **Corrections in Services and Deliverables.** The Engineer agrees to make any necessary corrections to the designs, drawings, specifications, or other services or deliverables furnished under this Contract, when such contain any errors, deficiencies or inadequacies caused by the Engineer, at no cost to the City. The Engineer further agrees to be liable for any damages caused by its negligence and/or the negligent failure to make such necessary corrections. The Engineer is not relieved of any liability or obligation to correct the Engineer's errors, deficiencies, or inadequacies undiscovered by the City upon its review or inspection, nor is the Engineer relieved from any liability or obligation to correct for the City staff's lack of review or inspection of said documents, work, services, or deliverables.

12. **Ownership of Work Product.** All documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, and any other materials produced, created, or accumulated in performing this Contract, shall become the property of the City upon payment for

services involved in its production, creation, and accumulation. The documents may be reproduced, distributed, and published in whole or part without permission or any additional payments or fees to the Engineer. Reuse of said documents by the City shall be at the City's risk and responsibility and not that of the Engineer. The parties may use any portions of said documents at their own risk and responsibility. During preparation of design documents, the Engineer shall do weekly backups of CADD computer files and maintain said backups in a safe and secure off-site location. These back up CADD computer files are the property of the Engineer.

### **13. Indemnity.**

A. General Indemnity. To the fullest extent permitted by law, the Engineer agrees to release, defend, indemnify and save harmless the City and its beneficiary trusts, their officers, agents and employees, from and against any and all loss of or damage to property, injuries to or death of any person or persons and/or all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind or nature whatsoever, including, without limitation, Worker's Compensation claims of or by anyone whomever, to the extent resulting from or arising out of the Engineer's negligent acts, operations, errors and/or omissions under or in connection with this Contract, or the Engineer's use and occupancy of any portion of the project site, including, without limitation, negligent acts, operations, errors and/or omissions of the Engineer's officers, employees, representatives, suppliers, invitees, contractors, subcontractors or agents. The Engineer shall promptly advise the City and its beneficiary trusts, in writing, of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and the Engineer, at its expense, shall assume the defense of the City and its beneficiary trusts, with counsel satisfactory to the City its beneficiary trusts. This section shall survive the expiration of the Contract. Provided, however, the Engineer need not release, defend, indemnify or save harmless the City and its beneficiary trusts, or their officers, agents and employees, from damages or injuries resulting from the negligence of the City and its beneficiary trusts, their officers, agents or employees or the independent acts, operations, errors and/or omissions of Architects and Engineers who are not officers, employees, representatives, suppliers, invitees, contractors, subcontractors, or agents of Engineer. It is understood that this indemnity and hold harmless provision is not limited by the insurance required under the provisions hereof. Notwithstanding anything to the contrary herein, the parties expressly agree that the obligations of Engineer set forth in this paragraph shall not apply to claims for professional negligence arising out of the Engineer's performance of professional services under this Agreement, as those matters are addressed under Paragraph 13(b) below.

B. Professional Liability Indemnity. To the fullest extent permitted by law, the Engineer agrees to release, indemnify and save harmless the City and its beneficiary trusts, their officers, agents and employees, from and against any and all loss of or damage to property, injuries to or death of any person or persons and/or all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind or nature whatsoever, including, without limitation, Worker's Compensation claims of or by anyone whomever, to the extent resulting from or arising out of the Engineer's negligent acts, operations, errors and/or omissions under or in connection with this Contract, or the Engineer's use and occupancy of any portion of the project site, including, without limitation, negligent acts, operations, errors and/or omissions of the Engineer's officers, employees, representatives, suppliers, invitees, contractors, subcontractors or agents. The Engineer shall promptly

advise the City and its beneficiary trusts, in writing, of any action, administrative or legal proceeding or investigation as to which this indemnification may apply.

In the event that a claim against the City and any participating trust is based upon vicarious responsibility for the negligence of Engineer, then Engineer shall defend such party against such claim, but only to the extent such claim is based on the vicarious responsibility of Engineer.

This section shall survive the expiration of the Contract. Provided, however, the Engineer need not release, defend, indemnify or save harmless the City and its beneficiary trusts, or their officers, agents and employees, from damages or injuries resulting from the negligence of the City and its beneficiary trusts, their officers, agents or employees or the independent acts, operations, errors and/or omissions of Architects and Engineers who are not officers, employees, representatives, suppliers, invitees, contractors, subcontractors, or agents of Engineer. It is understood that this indemnity and hold harmless provision is not limited by the insurance required under the provisions hereof.

**14. Insurance.** Prior to approval of this contract, the Engineer shall obtain insurance coverage as provided below. The Engineer must provide, pay for, and maintain the types of insurance policies provided herein, in amounts of coverage not less than those set forth below. Certified, true and exact copies of all insurance policies required, and endorsement pages shall be provided to the City and its participating trusts on a timely basis if requested by City staff. The Engineer will provide the Certificate(s) of Insurance to the City and its participating trusts with the executed contract (contract will not be processed for approval without the contract-required verification of insurance indicated on the Certificate(s) of Insurance). Certificate(s) of Insurance must be insurance industry standard forms, such as ACORD.

All insurance must be from responsible insurance companies which are authorized to do business in the state of Oklahoma and are acceptable to the City and its participating trusts. The required insurance coverage and policies shall be performable in Oklahoma City, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

Nothing in this Section shall define or limit the rights of any party to this Contract under any other provision of this Contract, including but not limited to any indemnification provision.

A. Additional Insureds: All liability policies (except professional liability and worker's compensation and employer's liability policies) shall provide that the City is named additional insureds without reservation or restriction. The City and any of its participating trusts shall be named as loss payees on the Engineer's valuable papers insurance policy for this Project.

All insurance coverage of the Engineer shall be primary to any insurance or self-insurance program carried by the City and its participating trusts.

All insurance policies shall include a severability of interest provision wherein claims involving any insured hereunder, except with respect to limits of insurance, interests shall be deemed separate from any and all other interest herein, and coverage shall apply as though each such interest was separately insured.

Subrogation as to any additional insured shall be waived.



B. Deductibles: All policies must be fully insured with any single policy deductible not exceeding \$25,000. All deductibles must be declared on the certificate of insurance. If no deductible is declared, the Engineer is stating a deductible does not exist and thus a deductible is not approved or accepted. If the Engineer's deductible is different than declared, then the City and its participating trusts will hold an equal amount from pay claims until corrected.

Self-insured retentions will not be accepted unless accompanied by a bond (financial guarantee bond) or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration and defense expenses not otherwise covered by the Engineer's self-insured retention. Alternately, Engineer may provide a Reduced Retention Endorsement which provides that as respects to any claim arising out of operation pursuant to this Contract, the Limit of Liability amount of Engineer shall be increased by the amount necessary to cover the entire self-insured retention on Engineer's policy.

C. Policy Limits: The insurance coverage and limits required of the Engineer under this Contract are designed to meet the minimum requirements of the City and its participating trusts. Such coverage and limits are not designed as a recommended insurance program for the Engineer. The Engineer alone shall be responsible for the sufficiency of its own insurance program. Should the Engineer have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed therefore, the Engineer should seek professional assistance.

Except for professional liability insurance, all policies shall be in the form of an "occurrence" insurance coverage or policy. If any insurance is written in a "claims-made" form, the Engineer shall also provide tail coverage that extends a minimum of two years from the expiration of this Contract.

The minimum aggregate limits of such insurance policies and continuing coverage shall be:

- (1) Worker's Compensation and Employer's Liability Insurance. The Engineer shall provide and maintain, during the term of the Contract, worker's compensation insurance as prescribed by the laws of the state of Oklahoma and employer's liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) each for all its employees employed at the site of the Project, and in case any work is subcontracted, the Engineer shall require the subcontractor similarly to provide worker's compensation and employer's liability insurance for all the subcontractor's employees, unless such employees are covered by the protection afforded by the Engineer. In the event any class of employees engaged in work performed under the Contract or at the site of the Project is not protected under such insurance heretofore mentioned, the Engineer shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.
- (2) Commercial General Liability Insurance. The Engineer shall provide and maintain commercial general liability insurance coverage sufficient to meet the maximum cumulative liability of all parties to this Contract, including the

City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, as provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy-Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (3) Automobile Liability Insurance. The Engineer shall provide and maintain comprehensive automobile liability insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, unless otherwise specifically and expressly provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy-Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (4) Professional Liability Insurance. The Engineer shall provide and maintain professional liability insurance coverage in an amount not less than \$1,000,000 aggregate annual limit liability. Such insurance coverage shall be maintained during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City.

D. Certificates: The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on the form furnished by The City or on forms approved by the Oklahoma Insurance Commissioner. Copies of these certificates have been provided to the City Engineer prior to execution of this Contract and are attached hereto. The certificate(s) must be signed by the authorized representative of the insurance company(s) shown in the certificate(s). The certificate must include the Project number and Project description or name.

E. Cancellation. There may be no termination, non-renewal, reduction in coverage, or modification of such insurance coverage.

The Engineer authorizes the City and its participating trusts to confirm all information so furnished as to the Engineer's compliance with its bonds and insurance requirements with the Engineer's insurance agents, brokers, surety, and insurance carriers. The lapse of any insurance policy or coverage required by this Contract is a breach of this Contract. In the event of any lapse of coverage, Engineer will have ten (10) business days to cure such breach. During the lapse of coverage, the City will not process or make any payments to Engineer. Further, in the event of any lapse of coverage, Engineer shall be legally responsible for such other damages, losses, and costs incurred by the City and its participating trusts as a result of such lapse. The City and its participating trusts may at their option suspend this Contract until there is full compliance with this paragraph or may cancel or terminate this Contract and seek damages for the breach of this Contract. The remedies in this paragraph shall not be deemed to waive or release any remedy available to The City and its participating trusts. The City and its participating trusts expressly reserve the right to pursue and enforce any other cause or remedy in equity or at law.

In the event of a reduction in any aggregate limit below the limits required in this Contract, the Engineer shall immediately notify the City and its participating trusts and shall make reasonable efforts to have the full amount of the limits appearing on the certificate reinstated. If at any time the City and its participating trusts request a written statement from the insurance company(s) as to any impairments to or reduction of the aggregate limit, the Engineer hereby agrees to promptly authorize and have delivered to the City and its participating trusts such statement.

The Engineer must carry and maintain the contract-required insurance coverages and may not cancel, fail to be renewed, nor decrease their limits without thirty (30) days written notice to the City and its participating trusts. In the event that a contract-required insurance coverage (policy) is canceled by the Engineer's insurance company and through no fault of the Engineer, the Engineer must immediately provide written notice to the City and its participating trusts and immediately provide properly executed Certificate(s) of Insurance evidencing coverage (policy) replacement of the canceled coverage(s). Additionally, the Engineer must provide to the City and its participating trusts thirty (30) days advanced written notice prior to any cancellation, lapse, reduction, limitation, or non-renewal of any contract-required insurance coverage or policy. The foregoing notice requirement in no way waives or releases the insurance broker from any notice obligations set forth in the insurance policies.

F. Duration of Coverage. All insurance coverage required under this Contract except professional liability insurance shall be maintained in full force and effect until completion

and formal acceptance of the Project by the City and its participating trusts. The Engineer shall maintain in full force in effect the required professional liability insurance stated above during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City and its participating trusts.

The requirements of the insurance provisions listed above shall survive the completion, expiration, cancellation, or termination of this Contract.

**15. Independent Contractor.** The Parties agree that the Engineer is an independent contractor and not an employee or joint venture with the City. No third-party beneficiary relationship is hereby established.

**16. Sub-Consultants and Sub-Contractors.** The Engineer agrees to provide to the Program Manager, for pre-engagement approval and to be submitted with this Contract, a list of any sub-consultants or sub-contractors the Engineer intends to engage to perform services related to this Contract. This list identified as **Exhibit D** is attached hereto and made a part of the Contract. Such approval may not be unreasonably withheld by the Program Manager. The Engineer is required to update this list as additional sub-consultants or sub-contractors are engaged to perform work on this Project. Notwithstanding the approval of any sub-consultant or sub-contractor hired by the Engineer, the Engineer shall be solely responsible for the fees of such sub-consultant and sub-contractor, the services performed by such sub-consultant and sub-contractor and directing and supervising such sub-consultant and sub-contractor.

**17. Sub-Consultant, Sub-Contractor, and Employee Conflict of Interest.** Any work performed by the Engineer's employees, sub-consultants or subcontractors on this Project shall prohibit said persons from contracting with, working for, or otherwise assisting any potential bidder to do any Project-related work for the bidder which may in any way be (or construed to be) a conflict of interest. The Engineer will fully inform and advise all sub-consultants and sub-contractors hired of the provisions contained in this Contract and of the City's requirements hereunder and will not enter into any contracts inconsistent with the provisions hereof and will secure performance of the services to be rendered by such sub-consultants and sub-contractors in accordance with and as required by the provisions of this Contract.

It is the requirement of the Engineer to inform all employees, sub-consultants and subcontractors engaged by the Engineer that they are prohibited from entering into any business relationships, formal or otherwise, which may pertain directly or indirectly to this Project and which may in any way, or be construed in any way, be a conflict of interest. It is the duty of the Engineer to notify the Program Manager and City Engineer of any business relationships, formal or otherwise, that its employees, sub-consultants, or subcontractors have which may in any way, or be construed in any way, to be a conflict of interest. Any conflict of interest discovered by the City staff may be cause for rejection of the contract or bid in question and may result in termination of this Contract.

**18. Limitation on Services.** This Contract contemplates the City will enter into separate agreements with Architects, Engineers, and/or consultants to provide Architectural and Engineering services for the Project. Further, the City will enter into separate contracts with contractors to provide for the construction of the Project. In providing the services required under this Contract, the Engineer shall endeavor to maintain working relationships with the Architects and/or Engineers of record and the contractors on behalf of the City. However, nothing in the

Contract shall be construed to mean or imply the Engineer assumes any of the responsibilities or duties of the Architects and/or Engineers of record or the contractors.

**19. Prohibition Against Collusion.** The Engineer warrants it has not employed or retained any company or person other than a bona fide employee working solely for the Engineer to solicit or secure this Contract, and the Engineer further warrants it has not paid nor agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. In addition, the Engineer must execute the Anti-Collusion Affidavit attached as **Exhibit E**.

**20. Nondiscrimination.** In connection with the performance of work under this Contract, the Engineer agrees as follows:

A. The Engineer agrees not to discriminate against any employee or applicant for employment because of age, race, creed, color, sex, national origin, ancestry, or disability as defined by the Americans with Disabilities Act. The Engineer shall take affirmative action to insure that employees or applicants for employment are treated without regard to their age, race, creed, color, national origin, sex, ancestry, or disability as defined by the Americans with Disabilities Act. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Engineer shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of the City of Oklahoma City setting forth provisions of this Section and §25-41 of the Oklahoma City Municipal Code. In addition, the Engineer must execute the Certificate of Nondiscrimination attached as **Exhibit F**.

B. In the event of the Engineer's non-compliance with this nondiscrimination clause, the Contract may be canceled or terminated by the City. The Engineer may be declared by the City ineligible for further contracts with the City until satisfactory proof of intent to comply shall be made by the Engineer.

C. The Engineer agrees to include this nondiscrimination clause in any subcontracts connected with the performance of the Contract.

**21. Reporting to the City.** The Engineer shall report to the City through the Program Manager on a regular monthly basis and on an as needed basis.

**22. Hazardous Materials.** The Engineer shall have no responsibility for the discovery, presence, handling, removal, disposal of or exposure of persons to hazardous materials of any type or in any form at the Project sites. However, the Engineer agrees to notify the Program Manager of any hazardous materials identified during the performance of the work.

**23. Records and Accounts.** During the term of this Contract and continuing for a period the longer of five (5) years after the final acceptance of the completed Project by the City, or until the final resolution of any outstanding disputes between the City and the Engineer or the contractor(s) on the Project, the Engineer shall maintain: all documents, notes, drawings, specifications, reports, estimates, summaries, renderings, models, photographs, field notes, as-

built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract that have not been submitted to the City subsequent to final completion of the Project and its internal accounting records, and other supporting documents pertaining to the claims and/or invoices for costs of work and/or services of this Contract. The Engineer must maintain its accounting records in accordance with generally accepted accounting principles applied on a consistent basis. The Engineer shall permit periodic audits by the City and the City's authorized representative. The periodic audits of the records in support of claims and invoices for the Contract shall be performed at times and places mutually agreed upon by the City and Engineer. Agreement as to the time and place for audits may not be unreasonably withheld.

## **24. Termination of Contract.**

A. Discretionary Termination. This Contract may be terminated in whole or in part by the City, in its sole discretion, with or without cause, upon seven (7) days written notice to the Engineer. Such notice of termination shall be effectuated by delivery of a Notice to the Engineer pursuant to the Notices paragraph hereof. Upon discretionary termination by the City, the City will pay the Engineer for all work and services rendered up to the time of the notice of termination, in accordance with the terms, limits, and conditions of this Contract and as further limited by the not to exceed amounts set out in this Contract.

B. Termination for Default. Either party may cancel this Contract (with or without cause), in whole or in part, for failure of the other party to fulfill or promptly fulfill its obligations under this Contract.

After due notice and thirty (30) days within which to correct the default, this Contract may be terminated by either party for default upon fourteen (14) days written notice should the other party fail substantially to perform in accordance with the Contract terms through no fault of the party initiating the termination. Upon termination for cause by the City and/or Trust, the City and/or Trust shall pay the Engineer for all work and services rendered, up to the time of the effective date of termination.

If the City and/or Trust fails to make undisputed payment when due the Engineer for services and expenses, the Engineer may, upon seven (7) days' written notice to the City and the Trust, suspend performance of services under this Contract. Unless payment in full is received within twenty-one (21) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Engineer shall have no liability to the City and/or Trust for delay or damage caused the City and/or Trust because of such suspension of services.

If this Contract is terminated by reason of a default of the Engineer prior to the completion of this project, regardless of the reason for said termination, the Engineer shall immediately assign to the City and the Trust any contracts and/or agreements relative to this project entered into between the Engineer and its subcontractors and sub-consultants, as the City and the Trust may designate in writing and with the consent of the subcontractors and sub-consultants so designated. With respect to those contracts and/or agreements assigned to and accepted by the City and the Trust, the City and the Trust shall only be required to compensate such subcontractors and sub-consultants for compensation accruing to such parties under the terms of their agreements with the Engineer from and after the date of

such assignment to and acceptance by the City and the Trust. All sums claimed by such subcontractors or sub-consultants to be due and owing for services performed prior to such assignment and acceptance by the City and the Trust shall constitute a debt between the Engineer and the affected subcontractors or sub-consultants, and the City and the Trust shall in no way be deemed liable for such sums. The Engineer shall include this provision and the City and the Trust's rights and obligations hereunder in all agreements or contracts entered into with the Engineer's subcontractors and sub-consultants.

Termination herein shall not terminate or suspend any of the required provisions of the paragraph "Indemnity" or "Insurance" of this Contract.

**25. Assignment.** Inasmuch as this Contract is a personal and professional service agreement which relies upon the personal and professional integrity, financial standing and unique ability and expertise of the Engineer to provide professional and personal services to the City, the parties agree that the Engineer may not assign its obligations, rights or interest in this Contract except as set forth in the "Termination of Contract" paragraph.

**26. Compliance with Law, Ordinances, Specifications and Regulations.** The Engineer shall comply with all existing and applicable federal, Oklahoma and Oklahoma City laws, and shall exercise the Standard of Care specified in Paragraph 5 of this Contract in incorporating standards, codes, ordinances, administrative regulations and all amendments and additions thereto, applicable to the work and/or services provided by this Contract.

**27. Construction and Enforcement.** This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the terms of this Contract, it shall not be construed for or against any party on the basis that such party did or did not author the same.

**28. References Not Incorporated.** The use of language or definitions from the Federal Acquisition Regulations ("FAR"), the American Institute of Architects ("AIA") or any other publication, are not intended to adopt by reference or otherwise any or all of the language, definitions, regulations or publications or any interpretation thereof.

**29. Entire Contract.** This Contract, including its **Exhibits** and any documents or certificates incorporated herein by reference, expresses the entire understanding of the City and the Engineer concerning the Contract. Neither the City nor the Engineer has made or shall be bound by any agreement or any representation to the other concerning this Contract, which is not expressly set forth herein.

**30. Amendment.** This Contract may only be modified by written amendment of subsequent date hereto, approved by the City and the Engineer. This Contract may be amended as is determined to be necessary including but not limited to, providing for additional Engineering services. In the event the Engineer's Basic Services and/or Additional Services are increased or changed so as to materially increase the not to exceed total compensation, the Engineer shall adjust its insurance policies required under this Contract based upon the amended total not to exceed amount.

**31. Notices.** All notices and orders given pursuant to this Contract shall be in writing and may be delivered (a) by personal delivery; (b) by deposit in the U.S. Mail, marked certified or registered mail, return receipt requested, with postage prepaid; (c) by delivery to a reputable

national overnight courier service; or (d) facsimile with electronic confirmation, in any case, addressed to the parties at the addresses and facsimile numbers set forth below, or set forth in a notice given by a party in accordance with this Section:

**To the City:**

David E. Todd, P.E., Program Manager  
The City of Oklahoma City  
MAPS Project Office  
420 West Main Street, Suite 400  
Oklahoma City, OK 73102  
Phone: (405) 297-3461

with a copy to:

**To the Engineer:**

Aaron Rader, P.E., Vice President  
Kimley-Horn and Associates, Inc.  
14101 Wireless Way #150  
Oklahoma City, OK 73142  
Phone: (405) 241-5423

The address of any person or party may be changed by notice to the other party given in the manner described above. All such notices and orders shall be deemed received when delivered or when deposited in the United States mail.

**32. Time Is of the Essence.** The City and the Engineer expressly agree that time is of the essence with respect to this Contract, and the time for performance of each task established by the work orders shall be made a part of this Contract and shall be strictly observed and enforced, subject, however, to the exercise of the Standard of Care set forth in Paragraph 5 of this Contract. Should the Engineer believe that its services will be delayed it will promptly provide notice to the City. Any failure on the part of the City to timely object to the time of performance shall not waive any right of the City to object at a later time.

**33. No Damage for Delay.** No payment, compensation, or adjustment of any kind, other than an approved extension of time, shall be made to the Engineer for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays be avoidable or unavoidable. The Engineer agrees that it will make no claim for compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.

**34. Severability.** In the event that any provision, clause, portion or section of this Contract is unenforceable or invalid for any reason, such unenforceability or invalidity shall not affect the enforceability or validity of the remainder of this Contract.

**35. Execution in Counterparts.** This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.



36. **Descriptive Headings.** The descriptive headings of the sections of this Contract are inserted or annexed for convenience of reference only and do not constitute a part of this Contract, and shall not affect the meaning, construction, interpretation or effect hereof.

37. **Survival of Representations.** All representations and covenants of the Parties shall survive the expiration of the term of the Contract.

38. **Parties Bound.** This Contract shall be binding upon and inure to the benefit of all parties and their respective successors and permitted assigns. This Contract is solely for the benefit of the Parties, and none of the provisions hereof are intended to benefit third parties.

39. **Venue of Actions.** The Parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted in the District Court of Oklahoma County.

40. **Effective Date.** The effective date of this Contract shall be the date of execution of this Contract by the City.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract the day and year first written above.

ATTEST

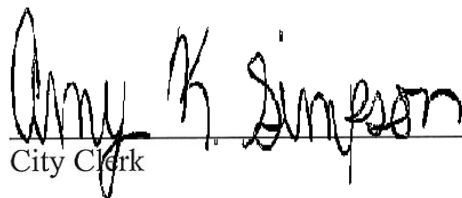
KIMLEY-HORN AND ASSOCIATES, INC.

  
Secretary


  
Vice President

ATTEST:

THE CITY OF OKLAHOMA CITY

  
City Clerk



  
David Holt

REVIEWED for form and legality.

  
Assistant Municipal Counselor

**EXHIBIT A  
BASIC SERVICES  
PROJECT M4-NP010  
MAPS 4 PARKS PROGRAMMING FOR  
NEIGHBORHOOD AND COMMUNITY PARKS  
MASTER PLAN DEVELOPMENT**

The following descriptions are intended to supplement Section 2, Basic Services Master Plan Services – Task 1A of the Contract. The detailed scope of services for each subtask is outlined below. The intent of the project is to develop a Master Plan for the Neighborhood and Community Parks Improvement Program as identified in the MAPS 4 Program Implementation Plan including planning, park assessment, public engagement, and park improvement recommendations.

**Task 1A Master Plan**

The following subtasks will be required for Task 1A:

**Subtask 1A.1 Project Management**

**A. Project Management**

The Consultant will maintain project records, budgets, and communication for the duration of the project.

**B. Progress Reports and Invoices**

The Consultant will prepare and submit progress reports and itemized invoices to the MAPS Department. Invoices will include a summary of work performed during the previous reporting period.

**C. Control and Scheduling**

The Consultant will adhere to a mutually agreed upon schedule. The duration of the project is anticipated to be approximately 12 months. The kickoff meeting will be used to identify the subsequent meeting schedule.

**D. Sub-Consultant Management**

The Consultant will prepare contracts for any sub consultant(s) monitor sub consultant staff activities, monitor sub consultants(s) adherence to the project schedule, and review and recommend approval of sub consultant invoices.

**E. Quality Assurance and Quality Control**

The Consultant will provide continuous quality assurance and quality control of the Consultant's professional services throughout the duration of the project.

**Subtask 1A.2 Stakeholder Engagement**

**A. Kick-off Meeting**

1. The Consultant will conduct an initial kick-off meeting consisting of the City staff and other appropriate stakeholders.

**B. Project Development Team Meetings**

1. The Consultant will meet with the project team on a monthly basis to provide updates on the progress of the project. Participants of the meeting could include the following:
  - i. MAPS 4 Staff
  - ii. Oklahoma City Parks Department Staff
  - iii. Other City Staff
  - iv. Other key stakeholders as requested by the MAPS department

C. Meetings/ Presentations

1. Attend MAPS 4 Subcommittee and Citizens Advisory Board meetings at key intervals to present progress and findings of the master planning process
2. Present the master plan findings to City Council

**Subtask 1A.3 Public Involvement**

A. Public Engagement Strategy

1. The Consultant will develop a public engagement strategy that identifies the timeline of the public engagement process. The strategy will identify engagement opportunities and the responsibilities of key personnel throughout the process.

B. Project Branding/Graphics

1. The Consultant will utilize the branding/graphics developed during the proposal process and apply them to the project.

C. Online project website and survey tool to include:

1. Social Pinpoint project homepage including a brief project description
2. Geospatial map survey
3. Survey monkey-style questionnaire
4. Information related to in-person engagement opportunities
5. The consultant will monitor the project website and the information gathered on a weekly basis

D. Project Park Signs/QR Codes

1. The Consultant will develop and install park signs with a QR code directing park users to the project website
  - i. Installation methods will include an approximate 2'x2' weather resistant sign mounted to a fence or an approximate 2'x2' concrete graphic decal installed on a concrete surface/sidewalk
  - ii. Once the public involvement process is completed the Oklahoma City Park's Department Maintenance Staff will be responsible for removing and disposing of the signs during their regular scheduled maintenance for each park

E. Online and Paper Survey

1. Needs Assessment Survey based on park type and amenities
2. Recommendation Survey based on each park's proposed recommendations
3. Children's Survey – Performed during the Needs Assessment subtask
4. Digital surveys to be distributed to key stakeholder groups such as neighborhood/homeowner's groups, schools, churches, etc. A list of relevant

stakeholder groups will be developed using City-provided information such as City of Oklahoma City GIS data and OKC Park's Department databases.

**F. Public Meetings**

1. Needs Assessment - The Consultant will conduct up to eight (8) public meetings geographically located to gather needs assessment input from the park users of approximately 13 parks each meeting. The Client will be responsible for securing the meeting locations and advertising the meetings (other than posting on the project website).
2. Recommendations – The Consultant will conduct up to eight (8) public meetings geographically located to gather feedback on the proposed recommendations from the park users of approximately 13 parks each meeting. The Client will be responsible for secure the meeting locations and advertising the meetings (other than posting on the project website).

G. Deliverables for the Public Engagement task include a methodology, summary of feedback, and outcomes/findings to be included in the Master Plan Report

**Subtask 1A.4 Park, Facilities and Recreation Services Inventory and Needs Assessment**

The Consultant will identify and evaluate the state of parks and amenities based on field visits to each park to determine the conditions of the grounds, equipment, and overall appearance. The Consultant will identify any major deferred maintenance items and provide a general review of the accessibility of the park amenities. The Consultant will also review the adequacy for stated purposes and use and the potential for expansion based on previously prepared master plans, examine the functionality of the existing park site plans, and make recommendations for improved parking areas, pedestrian flow, operations, and efficiency.

**A. On-Site Analysis Documentation**

1. The park elements and conditions will be photographed and identified on an aerial photo background. GIS and AutoCAD technology will be utilized to provide park element locations that will be coordinated with the existing City GIS data previously compiled for each park site.
2. Prior to starting the documentation process the Consultant will provide the MAPS 4 staff a documentation template for approval. Once approved the Consultant will proceed with the on-site analysis documentation.
3. Deliverable: 11x17 aerial park inventory with legend for 107 parks. One (1) round of comments from the City staff will be incorporated into the On-Site Analysis Documentation.

**B. Park Assets Assessment Matrix**

1. A matrix will be developed that identifies reviewed park assets and condition assessment criteria including the park facilities' condition and life cycle status.
2. Deliverable: Park Inventory and Assessment Matrix for 107 parks. One (1) round of comments from the City staff will be incorporated into the Park Assets Assessment Matrix.

### **Subtask 1A.5 Park and Amenities Recommendation**

#### **A. Rank and Prioritize Demand and Opportunities**

1. Based on the Inventory and Needs Assessment information and Community Engagement, the Consultant will rank and prioritize current and future opportunities for each park.
2. The Consultant will develop budget-level construction cost estimates for each of the proposed improvements
3. Deliverable: 11x17 aerial park plans depicting the proposed improvements for each park along with the projected cost for each improvement. One (1) round of comments from the City staff will be incorporated into the Park and Amenities Recommendations.

### **Subtask 1A.6 Master Plan**

The Consultant will develop the Parks Master Plan consisting of the documented results of the tasks included in the master plan process. The Plan format will consist of an 11x17 format and include the previously mentioned documentation for each park performed during the planning process.

#### **A. Capital Improvement Plan**

1. The Consultant will develop a Capital Improvement Plan based on the proposed budget for the MAPS 4 parks improvements.
  - i. Capital Improvement Plan identifies the improvements based on the proposed five (5) phases of the MAPS 4 Parks Improvements program. Appropriate cost escalations will be applied to future year phases.
2. Deliverable: A Master Plan Report consisting of all the documents and results of the tasks included in the master plan process including the capital improvement plan based on the proposed budget for the MAPS 4 Parks improvements. Two (2) rounds of comments from the City staff will be incorporated into the Master Plan Report

### **Duration of Tasks:**

The project schedule will be established upon execution of the contract for services. Durations for tasks identified in the Basic Scope of Work are as follows (some items may be undertaken concurrently):

<b>Task #</b>	<b>Task Name</b>	<b>Calendar Days</b>	
1A	Master Plan	365 days	

**EXHIBIT B**  
**COMPENSATION AND SCHEDULE OF VALUES**  
**PROJECT M4-NP010**  
**MAPS 4 PARKS PROGRAMMING FOR**  
**NEIGHBORHOOD AND COMMUNITY PARKS**  
**MASTER PLAN DEVELOPMENT**

Under the terms of this Contract, the Engineer agrees to perform the work and services described in this Contract. The City agrees, in accordance with the limitations and conditions set forth in the Contract, to pay an amount not to exceed \$496,200, which includes: for Basic Services an amount not to exceed \$476,200 as specifically set forth in this **Exhibit B**; and, for Additional Services, an amount not to exceed \$20,000 as specifically set forth in **Exhibit C**.

**B.I. Basic Work and Services**

Compensation for basic services may not exceed \$476,200, and in no event may the Engineer receive compensation in excess of the amount listed for each task for performance of its basic services.

The Engineer may receive up to the following amounts of the not to exceed amounts for services rendered upon the completion of the following tasks. Partial payments of the not to exceed amounts for each task may be invoiced for incremental work completed. Not to exceed amounts below are accumulative for successive tasks.

Task 1A an amount not to exceed:  
\$476,200

Completion and approval by the City of the  
Master Plan.

**EXHIBIT C**  
**ADDITIONAL SERVICES**  
**PROJECT M4-NPC10**  
**MAPS 4 PARKS PROGRAMMING FOR**  
**NEIGHBORHOOD AND COMMUNITY PARKS**  
**MASTER PLAN DEVELOPMENT**

Additional Services shall only be provided upon prior written and clearly detailed direction of the Program Manager. The Engineer may be directed to perform any, all or none of the following Additional Services that may include, but not be limited to, the following:

1. Expenses of reproductions for reports, plans and specifications beyond Basic Services requirements.
2. Provide assistance, analysis and coordination for work or services to be performed under separate contracts or performed by the City's own forces, which work or services are outside the scope of this Project, but affect this Project.
3. Provide analysis and services relative to future facilities, systems improvements, and equipment that are not intended to be constructed during the construction of this Project, but which relate or affect this Project.
4. Provide design required for the selection, procurement or installation of furniture, fixtures and related equipment for this Project beyond Basic Services requirements.
5. Make revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals previously given or are required by the enactment or revision of codes, laws or regulations occurring subsequent to the preparation of such documents.
6. Provide services after issuance of City approved final certificate of payment to the contractor.
7. Provide additional Project contract administration services beyond Basic Services requirements.
8. Provide additional part-time or full-time Project on-site observation services beyond Basic Services requirements.
9. Produce miscellaneous presentation materials beyond Basic Services requirements.
10. Provide compensation of fees for grants, permits and applications necessary for the design and/or construction of this Project not required at the time of effective date of this Contract.
11. Provide additional bid packages along with related bidding and construction administration services beyond Basic Services requirements.
12. Geotechnical testing services.
13. Prepare additional documents required for right-of-way and/or easement acquisitions beyond those included in Basic Services.
14. Any other Additional Services agreed to in writing by the Program Manager.

Compensation for Additional Services: Included in the not to exceed total compensation is an allowance for Additional Services in an amount not to exceed \$20,000. This allowance is to be used and paid to the Engineer in the manner established in this Contract. The Additional Services compensation may only be used upon prior written authorization by the Program Manager. Invoices submitted for Additional Services shall represent only hours actually worked on this Project by the Engineer's employees, sub-consultants, and subcontractors and shall be accounted for separately for each Additional Service performed.



**EXHIBIT D**  
**SUB-CONSULTANT AND SUB-CONTRACTORS**  
**PROJECT M4-NP010**  
**MAPS 4 PARKS PROGRAMMING FOR**  
**NEIGHBORHOOD AND COMMUNITY PARKS**  
**MASTER PLAN DEVELOPMENT**

The following is a list of any sub-consultants and/or sub-contractors known or expected to perform work for Engineer for this Project. If there are no known sub-consultants or subcontractors at this time please indicate "none" below. The Engineer is required to update this list as additional sub-consultants or sub-contractors are engaged to perform work on this Project.

**Consultant:**

Aaron Rader, P.E., Vice President  
Kimley-Horn and Associates, Inc.  
14101 Wireless Way #150  
Oklahoma City, OK 73142  
Phone: (405) 241-5423

**Sub-Consultants and Sub-Contractors**

**Public Engagement**

White Hawk Engineering  
2204 S. Eastern Avenue  
Moore, OK 73160

  
\_\_\_\_\_  
Engineer Signature

07/11/2022  
Date

**EXHIBIT E**  
**ANTI-COLLUSION AFFIDAVIT**  
**PROJECT M4-NP010**  
**MAPS 4 PARKS PROGRAMMING FOR**  
**NEIGHBORHOOD AND COMMUNITY PARKS**  
**MASTER PLAN DEVELOPMENT**

State of Texas )  
County of Harris ) SS

The undersigned Engineer, of lawful age, being duly sworn, upon his/her oath, deposes and says: That the undersigned has the lawful authority to execute the within and foregoing proposal for, and on behalf of, the Engineer; that the Engineer has not, directly or indirectly, entered into any agreement, express or implied, with any other Engineer(s), having for its object the controlling of the price or amount of the Contract, the limiting of the services of the Engineer, the parceling or farming out to any Engineer(s) or other persons, of any part of the Contract or any part of the subject matter of the Contract, or of the profits thereof.

The Engineer further states that the Engineer has not been a party to any collusion: among the Engineer in restraint of freedom of competition, by any agreement to Contract at a fixed price or to refrain from bidding; or with any City official, City employee or City agent as to the quantity, quality, or price in the prospective Contract, or any other terms of the said prospective Contract; or in any discussions between the Engineer or City official, City employee or City agent concerning the exchange or money or other thing of value for special consideration in the letting of a Contract. The Engineer states that it has not paid, given or donated or agreed to pay, give or donate to any City official, officer or employee of the City or awarding agency, any money or other thing of value, either directly or indirectly, in the procuring of the award of this Contract.

Printed name of the Engineer: Aaron K. Rader

Signature of executing individual: Aaron K. Rader, P.E.

Title: Vice President

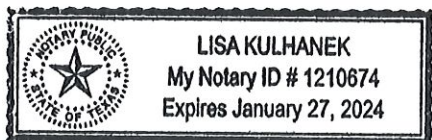
11700 Katy Freeway, Suite 800, Houston, TX 77079  
Address of the Engineer (Please Print) Zip Code

281-597-9300  
(A.C.) Tel. Number (and FAX No., if any)

Signed and sworn to before me on this 11<sup>th</sup> day of July, 2022, by  
Aaron K. Rader

01/27/2024 1210674  
Commission Expiration and Number:

Lisa Kulhanek  
Notary Public (49 Okla. Stat. 1985 §119)





**EXHIBIT F**  
**NONDISCRIMINATION CERTIFICATE**  
**PROJECT M4-NP010**  
**MAPS 4 PARKS PROGRAMMING FOR**  
**NEIGHBORHOOD AND COMMUNITY PARKS**  
**MASTER PLAN DEVELOPMENT**

State of Texas)

County of Harris)

SS

In connection with the performance of work under this Contract, the Engineer agrees as follows:

- A. The Engineer agrees not to discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). The Engineer shall take affirmative action to insure that employees are treated without regard to their race, creed, color, national origin, sex, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The Engineer and sub-consultants shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of the City of Oklahoma City setting forth the provisions of this section.
- B. In the event of the Engineer's noncompliance with this Nondiscrimination Certificate, the Contract may be canceled, terminated, or suspended by the City. The Engineer may be declared, by the City, ineligible for further contracts until satisfactory proof of intent to comply shall be made by the Engineer and/or sub-consultants.
- C. The Engineer agrees to include the requirements of this Nondiscrimination Certificate in any subcontracts connected with the performance of this Contract.

I have read the above clause and agree to abide by its requirements.

Printed name of the Engineer: Aaron K. Rader

Signature of executing individual: Aaron K. Rader, P.E.

Title: Vice President

11700 Katy Freeway, Suite 800, Houston, TX 77079  
Address of the Engineer (Please Print) Zip Code

281-597-9300  
(A.C.) Tel. Number and (FAX No. if any)

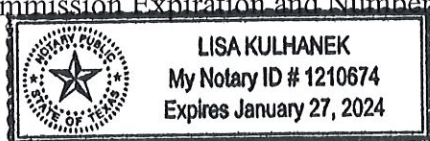
Signed and sworn to before me on this 11<sup>th</sup> day of July, 2022, by

Aaron K. Rader

01/27/2024 1210674

Commission Expiration and Number:

Lisa Kulhanek  
Notary Public (49 Okla. Stat. 1985 §119)



**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

7/28/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Greyling Ins. Brokerage/EPIC</b> <b>3780 Mansell Road, Suite 370</b> <b>Alpharetta, GA 30022</b>	<b>CONTACT NAME:</b> Jerry Noyola <b>PHONE (A/C, No, Ext):</b> 770-220-7699 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> jerry.noyola@greyling.com <b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> National Union Fire Ins. Co. <b>NAIC #</b> 19445 <b>INSURER B:</b> Allied World Assurance Company (U.S.) <b>19489</b> <b>INSURER C:</b> New Hampshire Ins. Co. <b>23841</b> <b>INSURER D:</b> Lloyds of London <b>085202</b> <b>INSURER E:</b> Zurich American Insurance Co <b>16535</b> <b>INSURER F:</b>
<b>INSURED</b> <b>Kimley-Horn and Associates, Inc.</b> <b>421 Fayetteville Street, Suite 600</b> <b>Raleigh, NC 27601</b>	

**COVERAGES****CERTIFICATE NUMBER: 22-23****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Contractual Liab</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			<b>GL5268169</b>	<b>04/01/2022</b>	<b>04/01/2023</b>	EACH OCCURRENCE <b>\$1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) <b>\$500,000</b> MED EXP (Any one person) <b>\$25,000</b> PERSONAL & ADV INJURY <b>\$1,000,000</b> GENERAL AGGREGATE <b>\$2,000,000</b> PRODUCTS - COMP/OP AGG <b>\$2,000,000</b> \$
<b>A</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			<b>CA4489663</b>	<b>04/01/2022</b>	<b>04/01/2023</b>	COMBINED SINGLE LIMIT (Ea accident) <b>\$2,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>B</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION <b>\$10,000</b>			<b>03127930</b>	<b>04/01/2022</b>	<b>04/01/2023</b>	EACH OCCURRENCE <b>\$5,000,000</b> AGGREGATE <b>\$5,000,000</b> \$
<b>C</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			<b>WC015893685 (AOS)</b> <b>WC015893686 (CA)</b>	<b>04/01/2022</b> <b>04/01/2022</b>	<b>04/01/2023</b> <b>04/01/2023</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT <b>\$1,000,000</b> E.L. DISEASE - EA EMPLOYEE <b>\$1,000,000</b> E.L. DISEASE - POLICY LIMIT <b>\$1,000,000</b>
<b>D</b>	<b>Professional Liab</b>			<b>B0146LDUSA2204949</b>	<b>04/01/2022</b>	<b>04/01/2023</b>	<b>Per Claim \$2,000,000</b> <b>Aggregate \$2,000,000</b>
<b>E</b>	<b>Valuable Papers</b>			<b>CPP585223109</b>	<b>04/01/2022</b>	<b>04/01/2023</b>	<b>Limit \$500,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**Re: MAPS 4 Project# M4-NP010; Parks Programing for Neighborhood and Community Parks Master Plan Development. The City of Oklahoma City & its participating trusts are named as Additional Insureds with respects to General & Automobile Liability where required by written contract. The above referenced liability policies with the exception of workers compensation and professional liability are primary & non contributory where required by written contract. Waiver of Subrogation is applicable where required by (See Attached Descriptions)**

**CERTIFICATE HOLDER****CANCELLATION**

**The City of Oklahoma City**  
**MAPS Office**  
**420 W. Main Street, Suite 400**  
**Oklahoma City, OK 73102**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



## DESCRIPTIONS (Continued from Page 1)

written contract & allowed by law. Should any of the above described policies be cancelled by the issuing insurer before the expiration date thereof, 30 days' written notice (except 10 days for nonpayment of premium) will be provided to the Certificate Holder. Deductibles: General Liability - \$0; Automobile Liability - \$0; Workers Compensation - \$0; Professional Liability - \$25,000. The City of Oklahoma City is/are included as a Loss Payee with respects to Valuable Papers where required by written contract.

## 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 TO WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT AS SUCH PERSON'S OR ORGANIZATIONS LIABILITY ARISING OUT OF 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

**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.**

**INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSURED**

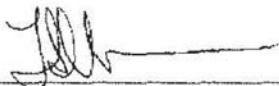
*This endorsement modifies insurance provided under the following:*

**BUSINESS AUTO COVERAGE FORM**

**Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c.,** is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.

  
\_\_\_\_\_  
Authorized Representative or  
Countersignature (in States Where  
Applicable)

## ENDORSEMENT

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

policy No. CA4489663 issued to KIMLEY-HORN & 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



**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**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location(s) Of Covered Operations</b>
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**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location And Description Of Completed Operations</b>
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 – 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.

**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.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
ELECTRONIC DATA LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES  
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

### SCHEDULE

**Name Of Person(s) Or Organization(s):**  
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 against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

**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.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2022 forms a part of Policy No. WC015893685 (AOS)

Issued to KIMLEY-HORN AND ASSOCIATES, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

Premium INCLUDED

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 CONTRACT OR AGREEMENT YOU ENTER  
INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, or Washington.

WC 00 03 13  
(Ed. 04/84)

Countersigned by \_\_\_\_\_



**Authorized Representative**