



March 21, 2017

AGENDA ITEM 5 C

CRTPA GENERAL PLANNING CONSULTANT CONTRACTS

TYPE OF ITEM: Discussion

STATEMENT OF ISSUE

At the January 17, 2017 CRTPA Board meeting, members selected Kimley-Horn & Associates, Inc. (KHA) and RS&H as the two General Planning Consultants (GPC). At today's meeting CRTPA staff is requesting that the Board approve the contracts with GPC's.

HISTORY AND ANALYSIS

In September of 2015, staff requested that the CRTPA Board approve staff moving forward with the re-initiating the general planning consultants (GPC) process with the caveat that the new Executive Director would want to continue this effort. The hiring of the new Executive Director, along with an infusion of funding, and the desire to address several issues prompted the initiation of the GPC process.

The GPC selections were approved by the CRTPA Board in January 2017. Since that time CRTPA staff and the respective staff at KHA and RSH have been working towards a final contract for the purposes of fulfilling the GPC effort.

To that end, the contracts for KHA and RSH are shown as **Attachment 1** and **Attachment 2**, respectively. CRTPA staff is seeking approval of these contracts.

OPTIONS

Option 1: Authorize the CRTPA Chairman to execute and the Executive Director to administer a contract with the Kimley Horn & Associates, Inc. and RS&H for CRTPA General Planning Consulting activities based on the Board approved Scope-of-Services and budget limitations.
(RECOMMENDED)

Option 2: Board Discretion.

ATTACHMENTS

Attachment 1: Kimley-Horn & Associates Contract for GPC Services.

Attachment 2: RSH Contract for GPC Services

GPC Agreement #: KHA-2017-1

**GENERAL PLANNING CONSULTANT AGREEMENT
BETWEEN
THE CAPITAL REGION TRANSPORTATION PLANNING AGENCY
AND KIMLEY-HORN AND ASSOCIATES**

This **Agreement** entered into this ____ day of _____, 2017, by and between the **Capital Region Transportation Planning Agency**, (“**CRTPA**”) and the General Planning Consultant firm of **Kimley-Horn and Associates** (“**GPC**”).

WITNESSETH

WHEREAS, CRTPA is the designated metropolitan planning organization for Florida’s capital region, and in support of its mission, CRTPA desires to contract with the GPC on tasks in support of the Adopted Unified Planning Work Program (UPWP). The work involves, among other things, performing a variety of technical, graphical, public involvement, and product review activities on a Task Order basis, to be assigned as needed; and

WHEREAS, CRTPA will provide payment to the GPC in the form of a lump sum fee based on the specific Task Order. Compensation, payments and task scopes will be incorporated into each Task Order assignment; and

WHEREAS, by a vote of CRTPA Board on March 21, 2017, the board has authorized its Chairman to enter into this agreement; and

WHEREAS, the GPC desires to perform the services outlined in this agreement;

NOW THEREFORE, in consideration of the mutual benefits to be derived by the terms of this Agreement, the parties agree as follows:

1. INCORPORATION OF RECITALS.

The parties agree that the above recitals are a material part of this agreement, are true and correct and are incorporated herein by reference.

2. SERVICES AND PERFORMANCE.

A. CRTPA does hereby retain the GPC to furnish certain services as described in Attachment A. The GPC will be required to perform policy, planning and engineering analyses and to develop specific recommendations and products, and provide assistance to CRTPA staff in completion of some or all of the Task Orders identified by CRTPA. The GPC shall also assist CRTPA by providing additional resources to accomplish the assigned task as authorized by CRTPA Board and directed by the Executive Director or his staff.

B. The GPC shall provide all facets of contract administration necessary to complete the project.

- C.** The GPC agrees to undertake the Project in accordance with all applicable federal, state and local statutes, rules and regulations, and standards.
- D.** The services outlined by CRTPA will be accomplished using separate Task Orders as approved by the CRTPA Board. A separate, detailed scope of services (SOS) will be developed by the GPC for each Task Order in coordination with and approval of CRTPA's Executive Director.
- E.** Details of the GPC's specific responsibilities, the work to be done, and the products to be delivered will be defined in the Task Order SOS along with the approved negotiated fee. No work will begin until the GPC receives a written Notice to Proceed (NTP) letter signed by CRTPA's Executive Director. CRTPA will have sole discretion for assigning any specific service(s) to any of the GPC.
- F.** CRTPA will be entitled at all times to be advised, at its request, as to the status of work being done by the GPC and of the details thereof. Coordination shall be maintained by GPC with CRTPA and the GPC shall provide CRTPA with progress/status reports. CRTPA will have the right to review all work of the GPC at any time.
- G.** The GPC shall not sublet, assign, or transfer any work under this Agreement without prior written consent and approval of CRTPA.
- H.** All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of CRTPA without restriction or limitation on CRTPA's use. Any reuse of the documents by the CRTPA without the prior written approval of the GPC shall be at the CRTPA's sole risk and liability.
- I.** All notices require by this Agreement shall be directed, in writing, to the following parties:

CRTPA:
Executive Director
Capital Region Transportation Planning Agency
300 South Adams Street
Box A-19
Tallahassee, FL 32301

Kimely-Horn and Associates:
Senior Vice President
2615 Centennial Boulevard, Suite 102
Tallahassee, FL 32308

3. TERM.

- A.** All services performed under this Agreement will be specified through Task Orders as provided by CRTPA's Executive Director. The project services to be rendered by the GPC for each Task Order will commence, upon written notice from CRTPA's Executive Director, and will be completed within the time period specified in each Task Order.
- B.** This Agreement shall remain in effect for three years from the date of execution with a possible extension for an additional two years; in one year increments, or a two-year increment, as agreed to by the parties herein. Any extensions shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.
- C.** In the event it becomes impracticable or impossible for the GPC to complete the expected services within the term of this Agreement due to delays on the part of CRTPA or circumstances beyond the control of the GPC, the Agreement may be extended, in the sole discretion of CRTPA. Any extension of the Agreement must be in writing. Should CRTPA decide not to extend this agreement pursuant to this section, the parties agree that the decision by CRTPA pursuant to this paragraph does not create a cause of action for the GPC.

4. COMPENSATION AND PAYMENT.

- A.** CRTPA will provide payment to the GPC in the form of a lump sum fee based on the specific Task Order assigned by CRTPA. Compensation, payments and task scopes will be incorporated into each Task Order.
- B.** Invoices shall be submitted by the GPC on a monthly basis, in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable and verifiable deliverables or as a percent complete for specific tasks depending on the type of work as established in the Task Order.
- C.** Supporting documentation for final payment must establish that all deliverables were received and accepted in writing by CRTPA and must also establish that the required minimum level of service to be performed was met, and that the criteria for evaluating successful completion was met.
- D.** Payment shall be made by CRTPA within 30-days of receipt of the GPC's monthly invoice.
- E.** CRTPA's obligation to pay under this Agreement is contingent upon CRTPA's annual appropriation and fiscal year budget. CRTPA, during any fiscal year, will not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts budgeted as available for expenditure during such fiscal year. If, during the performance of one or more Task Orders, the CRTPA notifies the GPC

that the funding for said Task Orders has been canceled or exceeded, this notice shall serve as a termination of the Task Order and the GPC shall be paid for only those services completed up to the date of the notification. GPC shall not be entitled to any future monies under the terminated Task Orders. The parties agree that any actions by CRTPA pursuant to this paragraph does not create a cause of action for the GPC.

5. INSURANCE AND INDEMNITY.

- A. The GPC will indemnify and hold harmless the City of Tallahassee (“City”) and CRTPA, its officers and employees, from all losses, damages, costs, expenses, liability, claims, actions, and judgments of any kind whatsoever brought or assessed against, or incurred by, the City and CRTPA, including without limitation attorney’s fees and costs of litigation, to the extent that the same arise out of or are caused by any negligence, recklessness, or intentionally wrongful conduct; or negligent act or omission of the GPC, its sub-consultants or subcontractors, or by the employees, officers, directors, or agents of the consultant, or its subcontractors in the performance of the contract.
- B. Neither the GPC nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the City or CRTPA or any of its officers, agents, or employees.

C. LIABILITY INSURANCE.

Prior to commencing work, the GPC shall procure and maintain at the GPC’s own cost and expense for the duration of the agreement liability insurance as specifically outlined in the RFQ, which includes a professional liability policy or policies with a company or companies authorized to do business in Florida, affording professional liability insurance coverage for the professional services to be rendered in accordance with this Agreement. The liability insurance procured must also cover against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work or services hereunder by the GPC, its agents, representatives, employees or subcontractors. The GPC shall maintain limits no less than *Commercial General/Umbrella Liability Insurance*- \$500,000 limit per occurrence for property damage and bodily injury; *Business Automobile/Umbrella Liability Insurance*- \$500,000 limit per accident for property damage and personal injury; *Professional Liability Insurance*- \$2,000,000 or as per project (ultimate loss value per occurrence).

D. WORKERS’ COMPENSATION.

The GPC shall also carry and keep in force *Workers’ Compensation and Employers’/Umbrella Liability Insurance* for \$1,000,000 per accident. Worker’s Compensation coverage is required as a condition of performing work or services for the City

whether or not the Contractor or Vendor is otherwise required by law to provide such coverage. The insurer shall agree to waive all rights of subrogation against CRTPA, members of its Board, committees, officers, agents, employees and volunteers for losses arising from activities and operations of the GPC in performance of services under this Agreement.

- E. As outlined specifically in the RFQ, CRTPA, members of its Board, committees, officers, agents, employees and volunteers are to be covered as additional insured as respects to: liability arising out of activities performed by or on behalf of the GPC; products and completed operations of the GPC; premises owned, leased or used by the GPC or premises on which the GPC is performing services on behalf of CRTPA. The coverage shall contain no special limitations on the scope of protection afforded to the members of CRTPA Board and committees, officers, agents, employees and volunteers.

6. COMPLIANCE WITH LAWS.

- A. The GPC shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- B. CRTPA and the GPC agree that GPC, its employees and subcontractors are not agents of the CRTPA as a result of this Agreement.
- C. Upon approval by CRTPA, the GPC shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the GPC in conjunction with this Agreement. Failure by the GPC to grant such public access, after CRTPA approval, shall be grounds for immediate unilateral cancellation of this Agreement by CRTPA.
- D. The GPC agrees that it will make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CRTPA and securing its consent in writing. The GPC also agrees that it will not publish, copyright or patent any of the data developed under this Agreement, it being understood that such data or information is the property of CRTPA.
- E. The GPC covenants and agrees that it and its employees will be bound by the standards of conduct provided in applicable Florida Statutes and applicable rules of the Department of Business and Professional Regulation as they relate to work performed under this Agreement.
- F. The GPC shall utilize the U.S. department of Homeland Security's E-Verify system, in accordance with the terms governing the use of the system, to confirm the employment

eligibility of:

- (1) All persons employed by the GPC during the term of the Agreement to perform employment duties within Florida; and
- (2) All persons, including subcontractors, assigned by the GPC to perform work pursuant to the Agreement with CRTPA.

7. TERMINATION AND DEFAULT.

A. CRTPA may terminate this Agreement in whole or in part at any time the interest of the CRTPA requires such termination, as follows:

- (1) If CRTPA determines that the performance of the GPC is not satisfactory, the CRTPA will notify the GPC in writing of the deficiency with the requirement that the deficiency be corrected within a specified time. If the GPC has not addressed the concerns of CRTPA within the specified time, CRTPA shall terminate the Agreement at the end of such time, in its sole discretion.
- (2) If CRTPA requires termination of the Agreement for reasons other than unsatisfactory performance of the GPC, CRTPA will notify the GPC of such termination, with instructions as to the effective date of work stoppage or specify the stage of work at which the Agreement is to be terminated.
- (3) If the Agreement is terminated before performance is completed, the GPC will be paid for the work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by the Agreement.

B. CRTPA reserves the right to cancel and terminate this Agreement in the event the GPC or any employee or agent of the GPC is convicted for any crime arising out of or in conjunction with any Work Order being performed by the consultant for or on behalf of the Department, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans specifications, computer files, maps, and data prepared or obtained under this Agreement will immediately be turned over to CRTPA.

8. ASSIGNMENT AND SUBCONTRACTORS.

The GPC will maintain an adequate and competent professional staff so as to enable GPC to timely perform under this Agreement and must be authorized to do business within the State of Florida and may associate with it such sub-consultants, for the purpose of its services hereunder, without additional cost to CRTPA, other than those costs negotiated within the limits and terms of this Agreement. The GPC is fully responsible for satisfactory completion of all subcontracted

work. The GPC, however, will not sublet, assign or transfer any work under this Agreement to other than sub-consultants specified in the Agreement without the written consent of CRTPA.

9. MISCELLANEOUS.

- A.** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- B.** The GPC shall not be obligated or liable hereunder to any party other than CRTPA. This agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto.
- C.** In no event shall the making by CRTPA of any payment to GPC constitute or be construed as a waiver by CRTPA of any breach of covenant or any default which may then exist, on the part of the GPC, and the making of such payment by CRTPA while any such breach or default exists shall in no way impair or prejudice any right or remedy available to CRTPA with respect to such breach or default. Additionally, failure of either party to insist on one or more occasions on the strict performance or compliance with any term or provision of this Agreement shall not be deemed a waiver or relinquishment in the future of the enforcement thereof, and such term or provision shall continue in full force and effect unless waived or relinquished in writing by the party seeking to enforce the same.
- D.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- E.** If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
- F.** This Agreement shall be governed by and construed in accordance with the laws of the State

of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.

- G.** This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until all Work Orders are completed and accepted and payment made by CRTPA or terminated in accordance with Section 6.
- H.** An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity. By signing this agreement, the GPC affirms that the GPC is not in violation of this section.
- I.** Each party represents to the other that the individual signing below on its behalf is fully authorized to execute this Agreement, and no further action by any board, council, employee or officer is required for the due execution and effectiveness of this Agreement.
- J.** No term or provision of this Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.
- K.** The parties hereto shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in Circuit Court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, the prevailing party shall be paid by the non-prevailing party the reasonable attorneys' fees and costs incurred in enforcing its rights and remedies, whether incurred at the pretrial, trial, or appellate levels.

IN WITNESS WHEREOF, CRTPA has caused this General Planning Consultant Agreement to be executed in its behalf this _____ day of _____, 2017, by its Chairman authorized to enter into and execute same by a vote of CRTPA Board on the 21st day of March, 2017, and the GPC has caused this Agreement to be executed in its behalf through its President, on the date set forth below.

CRTPA

KIMLEY-HORN AND ASSOCIATES

CHAIRMAN

VICE-PRESIDENT

Date: _____

Date: _____

APPROVED AS TO FORM:

LEGAL REVIEW:

CRTPA GENERAL COUNSEL

GENERAL COUNSEL

**GENERAL PLANNING CONSULTANT AGREEMENT
BETWEEN
THE CAPITAL REGION TRANSPORTATION PLANNING AGENCY
AND RS&H**

This **Agreement** entered into this ____ day of _____, 2017, by and between the **Capital Region Transportation Planning Agency**, (“**CRTPA**”) and the General Planning Consultant firm of **RS&H** (“**GPC**”).

WITNESSETH

WHEREAS, CRTPA is the designated metropolitan planning organization for Florida’s capital region, and in support of its mission, CRTPA desires to contract with the GPC on tasks in support of the Adopted Unified Planning Work Program (UPWP). The work involves, among other things, performing a variety of technical, graphical, public involvement, and product review activities on a Task Order basis, to be assigned as needed; and

WHEREAS, CRTPA will provide payment to the GPC in the form of a lump sum fee based on the specific Task Order. Compensation, payments and task scopes will be incorporated into each Task Order assignment; and

WHEREAS, by a vote of CRTPA Board on March 21, 2017, the board has authorized its Chairman to enter into this agreement; and

WHEREAS, the GPC desires to perform the services outlined in this agreement;

NOW THEREFORE, in consideration of the mutual benefits to be derived by the terms of this Agreement, the parties agree as follows:

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The parties agree that the above recitals are a material part of this agreement, are true and correct and are incorporated herein by reference.

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B. The GPC shall provide all facets of contract administration necessary to complete the project.

- C.** The GPC agrees to undertake the Project in accordance with all applicable federal, state and local statutes, rules and regulations, and standards.
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- G.** The GPC shall not sublet, assign, or transfer any work under this Agreement without prior written consent and approval of CRTPA.
- H.** All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of CRTPA without restriction or limitation on CRTPA's use. Any reuse of the documents by the CRTPA without the prior written approval of the GPC shall be at the CRTPA's sole risk and liability.
- I.** All notices require by this Agreement shall be directed, in writing, to the following parties:

CRTPA:
Executive Director
Capital Region Transportation Planning Agency
300 South Adams Street
Box A-19
Tallahassee, FL 32301

RS&H:
Senior Planning Group Leader
7 E Congress Street, Suite 402 E
Savannah, GA 31401

3. TERM.

- A.** All services performed under this Agreement will be specified through Task Orders as provided by CRTPA's Executive Director. The project services to be rendered by the GPC for each Task Order will commence, upon written notice from CRTPA's Executive Director, and will be completed within the time period specified in each Task Order.
- B.** This Agreement shall remain in effect for three years from the date of execution with a possible extension for an additional two years; in one year increments, or a two-year increment, as agreed to by the parties herein. Any extensions shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.
- C.** In the event it becomes impracticable or impossible for the GPC to complete the expected services within the term of this Agreement due to delays on the part of CRTPA or circumstances beyond the control of the GPC, the Agreement may be extended, in the sole discretion of CRTPA. Any extension of the Agreement must be in writing. Should CRTPA decide not to extend this agreement pursuant to this section, the parties agree that the decision by CRTPA pursuant to this paragraph does not create a cause of action for the GPC.

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- E.** CRTPA's obligation to pay under this Agreement is contingent upon CRTPA's annual appropriation and fiscal year budget. CRTPA, during any fiscal year, will not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts budgeted as available for expenditure during such fiscal year. If, during the performance of one or more Task Orders, the CRTPA notifies the GPC

that the funding for said Task Orders has been canceled or exceeded, this notice shall serve as a termination of the Task Order and the GPC shall be paid for only those services completed up to the date of the notification. GPC shall not be entitled to any future monies under the terminated Task Orders. The parties agree that any actions by CRTPA pursuant to this paragraph does not create a cause of action for the GPC.

5. INSURANCE AND INDEMNITY.

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- B. Neither the GPC nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the City or CRTPA or any of its officers, agents, or employees.

C. LIABILITY INSURANCE.

Prior to commencing work, the GPC shall procure and maintain at the GPC’s own cost and expense for the duration of the agreement liability insurance as specifically outlined in the RFQ, which includes a professional liability policy or policies with a company or companies authorized to do business in Florida, affording professional liability insurance coverage for the professional services to be rendered in accordance with this Agreement. The liability insurance procured must also cover against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work or services hereunder by the GPC, its agents, representatives, employees or subcontractors. The GPC shall maintain limits no less than *Commercial General/Umbrella Liability Insurance*- \$500,000 limit per occurrence for property damage and bodily injury; *Business Automobile/Umbrella Liability Insurance*- \$500,000 limit per accident for property damage and personal injury; *Professional Liability Insurance*- \$2,000,000 or as per project (ultimate loss value per occurrence).

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The GPC shall also carry and keep in force *Workers’ Compensation and Employers’/Umbrella Liability Insurance* for \$1,000,000 per accident. Worker’s Compensation coverage is required as a condition of performing work or services for the City

whether or not the Contractor or Vendor is otherwise required by law to provide such coverage. The insurer shall agree to waive all rights of subrogation against CRTPA, members of its Board, committees, officers, agents, employees and volunteers for losses arising from activities and operations of the GPC in performance of services under this Agreement.

- E. As outlined specifically in the RFQ, CRTPA, members of its Board, committees, officers, agents, employees and volunteers are to be covered as additional insured as respects to: liability arising out of activities performed by or on behalf of the GPC; products and completed operations of the GPC; premises owned, leased or used by the GPC or premises on which the GPC is performing services on behalf of CRTPA. The coverage shall contain no special limitations on the scope of protection afforded to the members of CRTPA Board and committees, officers, agents, employees and volunteers.

6. COMPLIANCE WITH LAWS.

- A. The GPC shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- B. CRTPA and the GPC agree that GPC, its employees and subcontractors are not agents of the CRTPA as a result of this Agreement.
- C. Upon approval by CRTPA, the GPC shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the GPC in conjunction with this Agreement. Failure by the GPC to grant such public access, after CRTPA approval, shall be grounds for immediate unilateral cancellation of this Agreement by CRTPA.
- D. The GPC agrees that it will make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CRTPA and securing its consent in writing. The GPC also agrees that it will not publish, copyright or patent any of the data developed under this Agreement, it being understood that such data or information is the property of CRTPA.
- E. The GPC covenants and agrees that it and its employees will be bound by the standards of conduct provided in applicable Florida Statutes and applicable rules of the Department of Business and Professional Regulation as they relate to work performed under this Agreement.
- F. The GPC shall utilize the U.S. department of Homeland Security's E-Verify system, in accordance with the terms governing the use of the system, to confirm the employment

eligibility of:

- (1) All persons employed by the GPC during the term of the Agreement to perform employment duties within Florida; and
- (2) All persons, including subcontractors, assigned by the GPC to perform work pursuant to the Agreement with CRTPA.

7. TERMINATION AND DEFAULT.

A. CRTPA may terminate this Agreement in whole or in part at any time the interest of the CRTPA requires such termination, as follows:

- (1) If CRTPA determines that the performance of the GPC is not satisfactory, the CRTPA will notify the GPC in writing of the deficiency with the requirement that the deficiency be corrected within a specified time. If the GPC has not addressed the concerns of CRTPA within the specified time, CRTPA shall terminate the Agreement at the end of such time, in its sole discretion.
- (2) If CRTPA requires termination of the Agreement for reasons other than unsatisfactory performance of the GPC, CRTPA will notify the GPC of such termination, with instructions as to the effective date of work stoppage or specify the stage of work at which the Agreement is to be terminated.
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B. CRTPA reserves the right to cancel and terminate this Agreement in the event the GPC or any employee or agent of the GPC is convicted for any crime arising out of or in conjunction with any Work Order being performed by the consultant for or on behalf of the Department, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans specifications, computer files, maps, and data prepared or obtained under this Agreement will immediately be turned over to CRTPA.

8. ASSIGNMENT AND SUBCONTRACTORS.

The GPC will maintain an adequate and competent professional staff so as to enable GPC to timely perform under this Agreement and must be authorized to do business within the State of Florida and may associate with it such sub-consultants, for the purpose of its services hereunder, without additional cost to CRTPA, other than those costs negotiated within the limits and terms of this Agreement. The GPC is fully responsible for satisfactory completion of all subcontracted

work. The GPC, however, will not sublet, assign or transfer any work under this Agreement to other than sub-consultants specified in the Agreement without the written consent of CRTPA.

9. MISCELLANEOUS.

- A.** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- B.** The GPC shall not be obligated or liable hereunder to any party other than CRTPA. This agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto.
- C.** In no event shall the making by CRTPA of any payment to GPC constitute or be construed as a waiver by CRTPA of any breach of covenant or any default which may then exist, on the part of the GPC, and the making of such payment by CRTPA while any such breach or default exists shall in no way impair or prejudice any right or remedy available to CRTPA with respect to such breach or default. Additionally, failure of either party to insist on one or more occasions on the strict performance or compliance with any term or provision of this Agreement shall not be deemed a waiver or relinquishment in the future of the enforcement thereof, and such term or provision shall continue in full force and effect unless waived or relinquished in writing by the party seeking to enforce the same.
- D.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- E.** If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
- F.** This Agreement shall be governed by and construed in accordance with the laws of the State

of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.

- G.** This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until all Work Orders are completed and accepted and payment made by CRTPA or terminated in accordance with Section 6.
- H.** An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity. By signing this agreement, the GPC affirms that the GPC is not in violation of this section.
- I.** Each party represents to the other that the individual signing below on its behalf is fully authorized to execute this Agreement, and no further action by any board, council, employee or officer is required for the due execution and effectiveness of this Agreement.
- J.** No term or provision of this Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.
- K.** The parties hereto shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in Circuit Court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, the prevailing party shall be paid by the non-prevailing party the reasonable attorneys' fees and costs incurred in enforcing its rights and remedies, whether incurred at the pretrial, trial, or appellate levels.

IN WITNESS WHEREOF, CRTPA has caused this General Planning Consultant Agreement to be executed in its behalf this _____ day of _____, 2017, by its Chairman authorized to enter into and execute same by a vote of CRTPA Board on the 21st day of March, 2017, and the GPC has caused this Agreement to be executed in its behalf through its President, on the date set forth below.

CRTPA

RS&H

CHAIRMAN

PRESIDENT

Date: _____

Date: _____

APPROVED AS TO FORM:

LEGAL REVIEW:

CRTPA GENERAL COUNSEL

GENERAL COUNSEL