**PUBLIC NOTICE**
**REGULAR MEETING FOR THE COMMON COUNCIL OF**
**YOUNGTOWN, ARIZONA**

The Town of Youngtown provides notice that it will conduct its Town Council meeting on **November 4, 2021** through *in-person and technological* means in order to minimize the spread of COVID-19. Council members may attend the Council meeting in-person or via video/telephone conference, as authorized by A.R.S. Section 38-431(4).

The in-person meeting will occur at 12030 Clubhouse Square, Youngtown, AZ 85363, in the Town Council Chambers. A limited public audience will be allowed to attend on a first-come, first-served basis, with physical distancing.

The public may also listen to the Town Council meeting by calling in telephonically using the conference call and meeting identification number provided below. **Please state your name when you call in, then mute your telephone for the remainder of the call to ensure the Town Council can conduct its meeting without interference.** If you are appearing by remote means and would like to comment on any matter on the agenda, please download a public comment form and submit it via email to Town Clerk Nicole Smart, nsmart@youngtownaz.org at least one hour before the meeting. **The Town Clerk will read public comments submitted before the meeting into the record. You may also comment during the public hearing portion of the agenda by unmuting your phone and providing verbal comments, or coming up to the podium to speak if appearing in-person.**

**DATE:** **November 4, 2021**
**TIME:** **5:30 p.m.**
**PLACE:** **Join the Regular Meeting by phone: 1-346-248-7799**
**Meeting ID:** **823 7240 4314**
**Password:** **688087**
**Link to the zoom meeting:**
https://us02web.zoom.us/j/82372404314?pwd=RFp3eHhhaXZJb2NsSVR3WGNFT0VRUT09

1. **Call to Order**

2. **Roll Call**

3. **Pledge of Allegiance and Invocation**

4. **Summary of Current Events:** Brief Summary of Current Events pursuant to ARS § 38-431.02(K). Council may not propose, discuss or take legal action on the current event updates.
   - **A.** Summary of Current Events from Mayor and Council.
   - **B.** Summary of Current Events from Town Manager.

5. **Staff Reports:** Staff may provide reports to Council on the following subjects which may include discussion with Council. Council will not take legal action.
   - **A. Library:** The Library Manager may report to Council on library operations, monthly activities, book club events, and upcoming author visits.
   - **B. Public Works:** The Public Works Manager may report to Council regarding maintenance of Town facilities, recreational facilities, streets, parks, and schedules for work in the Town.

C. **Community Development:** The Community Development Manager and/or Community Development Coordinator may report to Council regarding business outreach, economic development projects, and code enforcement operations and activity reports.
D. **Finance:** The Finance Manager may report to Council regarding the Town's budget and monthly expenditures.
E. **Town Clerk:** The Town Clerk may report to Council regarding Town events, activities, meetings, and promotion of the Town on its website and social media sites.
F. **Municipal Court:** The Court Administrator may report to Council regarding activities of the Municipal Court, citations, hearings and schedules.

6. **Response to Call to the Community**

7. **Citizens Comments/Appearances from the Floor:** Please complete a speaker request form for the Town Clerk, listing the subject you would like to discuss. Each speaker is limited to five (5) minutes. Before you begin to speak, identify yourself clearly by stating for the record your name and address. Non-Agenda items: This is the time for citizens who would like to address the Town Council on any non-agenda item. The Council will listen to comments and may take one of the following: 1) Respond to criticism; 2) Request that staff investigate and report on the matter; or 3) Request that the matter be scheduled on a future agenda.

8. **Consent**
   A. **Approval of Minutes:**
      Regular Council Meeting Minutes of October 21, 2021.
9. **Business**

   A. **Presentation, Discussion and/or Action Re:** Approval of an agreement for services with design and engineering firm Kimley-Horn related to the design of sidewalk improvements (Arrington)

   B. **Presentation, Discussion and/or Action Re:** Ongoing efforts to address criminal activity, nuisances, and homelessness in the Town (Mayor).

10. **Call to Executive Session:**
    A. Convene Executive Session pursuant to ARS § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding any above agenda items, as needed.

11. **Future Agenda & Meetings**
    A. There may be discussion of whether to place an item on a future agenda and the date, but not the merits of the item.
    B. Announcement of the next Regular Council Meeting:
       **Next Regular Council Meeting will be Thursday, November 18, 2021 at 5:30 p.m.**

**Adjournment**

*NOTE: Persons with special accessibility needs, including large print materials or interpreter, should contact the Town Clerk's office at (623) 933-8286 or TDD (623) 974-3665 no later than 24 hours in advance of regular scheduled meeting times. Citizens may appear before the Council to present their views on any subject concerning Town Government. The Council, however, may not discuss, consider or decide items NOT on the Agenda (ARS § 38-431.02(H)) The Council will, if necessary, follow up at a later date. Due to limitation of time, citizens' comments are requested not to exceed five (5) minutes.

**POSTING CERTIFICATION OF THIS NOTICE**

The undersigned hereby certified that a copy of the attached notice and agenda were duly posted by 5:00 p.m. on **November 1, 2021** in the Town's designated posting locations pursuant to Resolution No. 06-04 and on the Town's website.

Nicole Smart

Nicole Smart, Town Clerk

**AGENDA DATE: October 21, 2021**

**STAFF REPORT TO COUNCIL**

| **DEPARTMENT:** ***General Government*** | **DEPARTMENT REPORT SUBMITTED BY:** ***Town Manager, Jeanne Blackman*** |
|---|---|

**REPORT:**

- **Met with Pat Walker and Mayor LeVault on our model city tax code**
- **Met with Affinium Security and Mayor LeVault for an update on our additional security services for the Town**
- **Attended the Dog Park Halloween walk and pet parade contest**
- **Attended the Goodyear 75th Anniversary Celebration luncheon**
- **Attended our ongoing team meetings for the upcoming Winter Miracle event in December**
- **Attended the West Valley Managers' meeting hosted by the City of Peoria**

AGENDA DATE: November 4, 2021

## STAFF REPORT TO COUNCIL

| DEPARTMENT: | DEPARTMENT REPORT SUBMITTED BY: |
|---|---|
| Public Works | Marty Mosbrucker, Public Works Manager |

**REPORT:**

- Two abandoned homeless camps and debris removed from the river bottom.
- Obtaining quotes to remove trees in various areas: river bottom.
- ADEQ well monitoring testing completed.
- Lighting upgrade to LED on the Town flag at United Car Care, Caliche Park and Memorial Park.
- Heavy equipment repairs and preventive maintenance performed.
- Generator contract renewed.
- Janitorial services contract renewed.

AGENDA DATE: November 4, 2021

**STAFF REPORT TO COUNCIL**

| **DEPARTMENT:**<br>LIBRARY | **DEPARTMENT REPORT SUBMITTED BY:**<br>HEIDI SPEED |
|---|---|

**REPORT:**

**The next Friends of the Library meeting will be on Thursday, November 18th at 9:00 am, followed by Our Book Club discussion at 10:00 am. This month's book discussion will be on the novel, "A Man Called Ove", by Fredrik Backman.**

**We will soon be offering Chrome Book and Hotspot check-outs for community members who do not have computers and/or internet in their home, thanks to funds from the CARES ACT Grant and a grant from the ARPA (American Rescue Plan Act).**

**STORY TIME is on Wednesday mornings at 11:00 am for kids of all ages. This month we will focus on the theme of "Giving Thanks".**

**Services we offer:**

- ***FREE WI-FI: Mon-Fri from 10:00 AM – 4:00 PM***
- ***FREE Faxes***
- ***FREE Tax Forms***
- ***FREE Legal Forms***
- ***FREE Resume assistance***
- ***E-books***
- ***Copies $ .15 each***

**STAFF REPORT TO COUNCIL**

| **DEPARTMENT: Community Development** | **DEPARTMENT REPORT SUBMITTED BY:**<br><br>*Community Development Manager, Gregory Arrington* |
|---|---|

**REPORT:**

- AMERICAN ASSOCIATION OF CODE ENFORCEMENT
  - ANNUAL BUSINESS MEETING - GLENDALE
- YOUNGTOWN ONE-STOP-SHOP
  - FIRST DEVELOPMENT SESSION
- MARICOPA ASSOCIATION OF GOVERNMENTS
  - ECONOMIC DEVELOPMENT COMMITTEE MEETING
- YOUNGTOWN CODE ENFORCEMENT
  - BI-WEEKLY STAFF MEETING
- YOUNGTOWN WINTER MIRACLE COMMITTEE
  - TEAM MEETING
- YOUNGTOWN CODE REVIEW COMMITTEE
  - MONTHLY MEETING

AGENDA DATE: NOVEMBER 4, 2021

**STAFF REPORT TO COUNCIL**

| | |
|---|---|
| **DEPARTMENT:** Town Clerk/Community Development Coordinator | **DEPARTMENT REPORT SUBMITTED BY:** Nicole Smart |

**REPORT:**

- Attended the Winter Miracle team meeting.
- Organizing the Annual Christmas Celebration for staff and Council.
- Working on the auction of Town Vehicles and two containers of old items.
- I would encourage all staff and Council to "like" the Town's page and submit pictures and stories. www.facebook.com/townofyoungtownaz.

AGENDA DATE: NOVEMBER 4, 2021

## STAFF REPORT TO COUNCIL

| DEPARTMENT: Youngtown Municipal Court | DEPARTMENT REPORT SUBMITTED BY: *Court Administrator – Jane Miller* |
|---|---|

**REPORT:**

No formal presentation will be given on the following items:

**Citation Activity for October 2021:**

Citations filed by MCSO: 8

Citations Filed by Code: 0

Long Forms Filed by Prosecutor: 1

**The Youngtown Municipal Court daily operations include:**

Handling general inquires, payments in person and by phone, collection contact for past due cases, sentencing of cases and processing warrants for failure to appear/non-compliance on classes, jail or probation. Assisting citizens to refer to correct court for handling cases, providing contact information for law enforcement, animal control, directions to other Town services and local businesses.

# MINUTES OF THE REGULAR
# MEETING COMMON COUNCIL OF YOUNGTOWN, AZ
# 12033 N. CLUBHOUSE SQUARE, TOWN COUNCIL CHAMBERS
# THURSDAY, OCTOBER 21, 2021 at 5:30 P.M.

1. **Call to Order:** Mayor LeVault called the meeting to order at 5:30 p.m.

2. **Roll Call:** Council present: Mayor Michael LeVault, Vice Mayor Chuck Vickers,
3. Council Members June Miller, Margaret Chittenden, Mike Francis. Councilmember Susan Hout and Councilmember Karen Haney Duncan called in telephonically.

   Mayor Michael LeVault noted that a quorum is established for transacting business.

   Staff present: Town Manager Jeanne Blackman, Town Clerk Nicole Smart, and Town Attorney Trish Stuhan called in telephonically.

4. **Pledge of Allegiance and Invocation:** Vice Mayor Vickers led the Pledge and Councilmember Chittenden gave the Invocation.

5. **Response to Call to the Community**

   Mayor LeVault mentioned he attended the Valley Metro Regional Public Transportation Authority (PRTA) Board meeting and that ridership is still down by fifty percent. The public has started entering the buses through the front entrance and Valley Metro has started collecting fares again.

   Mayor LeVault stated he attended the West Valley Chamber of Commerce reginal meeting last week, which was held at the West-MEC Northwest Campus. Several Legislators and Mayors from other Cities and Towns were present. One item that was discussed was transportation. Discission took place to add an extension for prop 400 on the ballot before 2025, to be approved.

   Mayor LeVault asked the Town Manager to get with Finance and bring forth to Council to review the Model Town Tax Code.

   Mayor LeVault mentioned he went down to the river bottom a few days ago with a Code Officer, and we found one active homeless camp, one empty homeless camp, and one abandoned vehicle.

   Mayor LeVault stated there are three issues; homelessness, drug abuse, and petty crimes. These issues will be ongoing, and these issues are not just in this Town, but everywhere. Mayor LeVault mentioned that fentanyl is coming in from Mexico, which they get from China. The state of Texas has taken steps to monitor and control their borders.

Councilmember Chittenden thanked Town Manager Blackman for attended the Dog Park Meeting last Saturday. Councilmember Chittenden mentioned the Dog Park Committee is putting on a Dog Halloween Costume Parade which will be held on Saturday, October 30th at 3:45 p.m.

**Summary of Current Events from Town Manager**

Town Manager Blackman attended the virtual West Valley Mayors' and Managers' meeting. Attended the Citizens' Dog Park Committee meeting.

Town Manager Blackman met with Cliff Colmone with Jack in the Box regarding issues at the site and our Façade Improvement program.

Town Manager Blackman attended the Winter Miracle Planning Committee meeting.
Met with representatives with FLOCK for additional camera placements throughout the Town.

Town Manager Blackman participated in the Code Review meeting.

Councilmember Chittenden asked where the three new flock cameras will be installed?

Town Manager Blackman mentioned that one will be at the QuikTrip facing down into the river bottom, one at the corner of 111th and Tennessee, and one behind Lakeshore Drive in the alley.

6. **Staff Reports:** Staff may provide reports to Council on the following subjects which may include discussion with Council. Council will not take legal action.

   A. **Library:** The Library Manager may report to Council on library operations, monthly activities, book club events, and upcoming author visits.
   B. **Public Works:** The Public Works Manager may report to Council regarding maintenance of Town facilities, recreational facilities, streets, parks, and schedules for work in the Town.
   C. **Community Development:** The Community Development Manager and/or Community Development Coordinator may report to Council regarding business outreach, economic development projects, and code enforcement operations and activity reports.
   D. **Finance:** The Finance Manager may report to Council regarding the Town's budget and monthly expenditures.
   E. **Town Clerk:** The Town Clerk may report to Council regarding Town events, activities, meetings, and promotion of the Town on its website and social media sites.
   F. **Municipal Court:** The Court Administrator may report to Council regarding activities of the Municipal Court, citations, hearings, and schedules.

7. **Response to Call to the Community:** No response to Call to the Community.

8. **Citizens Comments/Appearances from the Floor:** No response from the Citizens.

9. **Consent**
   A. **Approval of Minutes:**

      Regular Council Meeting Minutes of October 7, 2021.

*Motion to approve the Consent Minutes – Councilmember Chittenden*
*Second –Councilmember Francis*
***Motion passed unanimously on a voice vote with all Councilmembers in attendance voting. Councilmember Hout and Councilmember Haney Duncan's telephonic voice votes were noted as a yes.***

**10. <u>Business</u>**

**A. Presentation, Discussion and/or Action Re:** Sun City Fire and Medical District (SCFD) Report, which may include discussion of inspections, fire prevention, staffing levels, response times, community needs, and ambulance services.

Assistant Fire Marshal/Fire Investigator presented the Sun City Fire and Medical District September monthly reports. Discussion followed including inspections, fire preventions, and response times.

**B. Presentation, Discussion and/or Action Re:** Maricopa County Sheriff's Office (MCSO) Report, which may include discussion of crime statistics, specific crimes including traffic violations, thefts, violent crimes, trespass and issues with homelessness, crime prevention, MCSO staffing levels, community needs, and response times.

Captain Stutsman reviewed the Maricopa County Sheriff's Office monthly reports, discussion followed including review of crime statistics, crimes including traffic violations, thefts, violent crimes, trespass and issues with the homelessness, and the Flock Safety cameras, etc.

Captain Stutsman mentioned Deputy Zane Hagen who has been our resource deputy will transfer to another department in the month of November. Deputy Zane Hagen made such an impression when he was helping out the family of Officer Ruiz, that the Health and Wellness Department in the Sherriff's Office will be transferring Deputy Zane Hagen to that department which has been something that Deputy Hagen has wanted to do for a long time.

Captain Stutsman mentioned their IT Department is looking for vendors to purchase Flock Cameras, and if they are successful, they will be adding more cameras where they are needed in Sun City West and Sun City.

Captain Stutsman introduced Lieutenant Kevin Thomas; he has been working with Captain Stutsman for the past seven months. He will be helping the captain with additional duties, etc., here in District III.

Councilmember Chittenden mentioned Deputy Hagen will do a good job in his new position, however he will be missed.

Councilmember Haney Duncan asked if they know what the loud boom was over the weekend.

Captain Stutsman mentioned they are looking in the matter, however from the paper they found it was just a loud fire cracker.

C. **Presentation, Discussion and/or Action Re**: Presentation from Discover "U" School. Principal Luis Montoya from Discover "U" School was present to give an update on the school progress, and answer any questions from Council.

Item tabled for a future Council meeting.

D. **Presentation, Discussion and/or Action Re:** Ongoing efforts to address criminal activity, nuisances, and homelessness in the Town including review of key laws in enforcement.

Mayor LeVault mentioned to the Town Attorney to look into the legal mechanism about charging them for calls for service as they are utilizing 70% of our law enforcement resources. Mayor LeVault stated other cities and towns are charging for false alarms.

Mayor LeVault mentioned that homelessness does correlate to a spike in petty crime along with policies that have been adopted at the state and federal level. All the immigrants that are coming in are not given a criminal background test and they are not tested for COVID at all. Mayor LeVault mentioned we will continue doing our part for this Town.

Town Attorney Stuhan stated she is still researching the matter and will report at a later date.

Town Citizen Mercy Vickers mentioned they are flying immigrants during the night and landing in New York, and they haven't found their families or someone to take care of them.

Councilmember Miller is asking if we can use the Rangers?

Mayor LeVault mentioned the Town is currently using Affinium Security and Law Enforcement Specialists; however, the Town can't use the Rangers due to them being a non-profit organization and the issues with coverage with liability insurance.

Councilmember Chittenden asked if Circle K has a security person on site?

Mayor LeVault mentioned they have security on Thursday, Friday, Saturday and Sunday from 6:00 p.m. to 2:00 p.m. They will be installing cameras and lights on the side of the building. Mayor LeVault mentioned they are working with other businesses in that corridor, like Jack in the Box, and QuikTrip.

Mayor LeVault asked Town Attorney Stuhan if she can help draft a letter to the Manager of Motel 6, as they have not been able to reach them. Mayor LeVault mentioned that there is activity in the back end of the motel that is bleeding into the community. The Town received a call from a person that had checked in to the hotel and felt in danger for his life in staying there.

Town Attorney Stuhan mentioned she will look into this matter and get back with the Town Manager.

Councilmember Miller mentioned there were people hanging out at the Century link building and the Circle K.

Mayor LeVault mentioned that Century Link will be putting up a fence around the building, and the Town also took out the bench and the cover at the bus stop to eliminate people hanging out in that area who are not waiting for the bus.

Councilmember Haney Duncan mentioned there are people hanging out at the old Denny's building.

Mayor LeVault asked if the new owner has applied for a permit?

Town Clerk Smart mentioned they have not applied for a permit, and as of today, they are working with MCDOT in regards to the location of entering and exiting the site.

Mayor LeVault asked for staff to contact the new owner to secure the building for the homeless people to not to be able to get in.

Town Manager Blackman mentioned they have been in contact with the new owner, and Affinium has been monitoring the area as well.

2. **Call to Executive Session:**

Councilmember Chittenden would like to have an update on Southwest Keys.

Mayor LeVault mentioned they have not changed hands, and they are well below the count of kids being in that building.

Town Manager Blackman mentioned they had three jobs fair in the council chambers, and we are working with them to schedule a time with them to do a presentation.

3. **Future Agenda & Meetings**

   **A.** Future Agenda Items
   **B.** The next Regular Council Meeting will be held on:
      **I. Regular Council Meeting for Thursday, November 4, 2021 at 5:30 p.m.**

**Adjournment**

*Motion to Adjourn – Councilmember Miller*
*Seconded – Councilmember Francis*
***Meeting Adjourned 6:26 p.m.***

_____
Michael LeVault, Mayor

Attest:

_____
Nicole Smart, Town Clerk

Minutes approved at the November 4, 2021 regular meeting

**TOWN COUNCIL ACTION FORM**

| | |
|---|---|
| **SUBJECT:** Discussion and/or Action Re: Youngtown's Sidewalk Improvement Program - Professional Services Agreement | **STAFF PRESENTER**: Gregory Arrington, Community Development Manager |

**RECOMMENDATION:**

**Discussion and or action in regards to the contract between the Town of Youngtown and Kimley-Horn.**

**COMMUNITY BENEFIT:**

Youngtown has received a grant in the amount of $325,000.00 from Community Development Block Grants Program. The second phase of the sidewalk improvement program consists of creating the construction documents that shall meet Maricopa Association of Government and ADA Design Guidelines.

**DISCUSSION:**

Staff is recommending approval of the Professional Services Agreement between Kimley-Horn and the Town of Youngtown in the amount of $33,295.00 for services to be provided by the Kimley-Horn pursuant to the Agreement dated October 12, 2021

**FISCAL IMPACT:**

*N/A*

*per email*
Trish Stuhan, Town Attorney

Gregory Arrington, Community Development Manager

Nicole Smart, Town Clerk

Jeanne Blackman, Town Manager

# AGREEMENT FOR SERVICES

**PROJECT NAME: Youngtown Sidewalk Improvements Project – Phase II**
**PROJECT NO: DG1706 – CDBG21YT**

THIS Agreement is entered into as of this 4th day of November, 2021, by and between the Town of Youngtown, Arizona, a municipal corporation, hereinafter referred to as the "Town" and Kimley-Horn and Associates, Inc., a North Carolina corporation, hereinafter referred to as the "A/E."

FOR THE PURPOSE of providing professional architectural or engineering services for the Town of Youngtown on the Youngtown Sidewalk Improvements Project – Phase II, hereinafter referred to as the "Project," the Town and A/E do hereby mutually agree to the following:

1. SERVICES AND RESPONSIBILITIES

1.1 Retention of the A/E. In consideration of the mutual promises contained in this Agreement, the Town engages the A/E to render professional services set forth herein, in accordance with all the terms and conditions contained in this Agreement.

1.2 Scope of Services. The A/E shall do, perform, and carry out in a satisfactory and proper manner the services set forth in this Agreement, including all exhibits ("Services"). The specific scope of work for this Project is set forth in Exhibit A. At a minimum, construction documents shall conform to the following standards: (i) all plans (of the same type) shall be drawn at the same scale, (ii) the correct information shall be shown the least number of times, (iii) all plans shall have the same orientation, (iv) consistent terminology shall be used between the plans and specifications, (v) vague notes (such as "see architectural" or "see structural") shall be avoided and cross references shall be specific, (vi) match line locations shall be consistent in all descriptions, (vii) wall sections on the same sheet shall be shown at relative elevations to each other and (viii) references to "by others" shall be avoided and specific responsibilities shall be set forth. Construction documents shall satisfy all applicable standards of the industry for complete documents. A/E shall take measures necessary to comply with this requirement prior to final submittal to the Town. Incomplete items shall be completed by the A/E at its cost.

1.3 Responsibility of the A/E.

1.3.1 A/E hereby agrees that the specifications and Contract Documents prepared by A/E will fulfill the purposes of the Project, shall meet all applicable code requirements, and shall comply with applicable laws and regulations. In addition, and not as a limitation on the foregoing, such specifications and contract documents and all other documents prepared by A/E shall be prepared in accordance with professional architectural or engineering standards, as applicable. Any review or approval of said specifications and Contract Documents does not diminish these requirements. It is agreed that the A/E is not a fiduciary with respect to Town.

1.3.2 A/E shall tour the Project site and become familiar with existing conditions, including

utilities, prior to commencing the Services and notify Town of any constraints associated with the Project site. During design, A/E shall maintain cost controls to deliver the Project within the construction budget. A/E shall complete the Schematic, Design Development, and Construction Documents, such that construction cost of the Project designed by A/E will not exceed the construction budget and shall not proceed from one phase to another unless the budget for the phase in is compliance with the construction budget or any approved revised construction budget. If at any time during the design of the Project it appears the cost of construction may exceed the construction budget, A/E shall immediately notify Town.

It is understood that A/E does not control the cost of labor, materials, equipment, or services furnished by others. Methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The A/E cannot and does not guarantee that proposals, bids, or actual costs will not vary from its opinions of cost. If Town wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator.

1.3.3 If the Town retains a Construction Manager for the Project, A/E shall cooperate with the construction manager during the design phase in the performance of constructability reviews and value engineering studies. A/E shall incorporate construction manager's comments into the construction documents at no additional cost to Town; provided however, that if A/E believes such comments should not be incorporated, A/E shall notify construction manager of the reason the comments were not incorporated. Nothing in this paragraph shall authorize construction manager to design the Project and A/E shall remain solely responsible for the design of the Project.

1.3.4 A/E shall perform the Services under this Agreement with the assistance of Computer Aided Design Drafting (CADD) Technology. A/E shall deliver to Town, on request, the tape and/or his disc format and the name of the supplier of the software/hardware necessary to use the design file. In order to document exactly what CADD information was given to Town, A/E and Town shall each sign a "hard" copy of reproducible documents that depict this information at that time. Town agrees to release A/E from all liability, damages, and/or for claims that arise due to any changes made to this information subsequent to it being given to Town.

1.3.5 A/E shall procure and maintain during the course of this Agreement insurance coverage required by Paragraph 4 of this Agreement.

1.3.6 A/E shall designate Joel Varner as Project Manager and all communications shall be directed to him. Key A/E Personnel are set forth in Exhibit B. "Key Personnel" includes the A/E employee who will place his license number and signature on key documents and those employees who have significant responsibilities regarding the Services and Project. Prior to changing such designation, A/E shall first obtain the approval of the Town.

1.3.7 A/E's subcontracts are set forth in Exhibit B attached hereto and made a part hereof. Any modification to the list of Subcontractors on Exhibit B, either by adding, deleting, or changing

subcontractors, shall require the written consent of the Town.

1.3.8 A/E shall obtain its own legal, insurance, and financial advice regarding A/E's legal, insurance, and financial obligations under this Agreement.

1.3.9 A/E shall provide required reports on the progress of the Services and the design budget to the Town or, if a separate Construction Manager is retained by Town, then such reports shall be provided to the Construction Manager. A/E shall coordinate its activities with the Town's representative and Construction Manager, if any.

1.4 Responsibility of the Town.

1.4.1 The Town shall cooperate with the A/E by placing at A/E's disposal all available information concerning the site of the Project, including all previous plans, drawings, specifications, and design and construction standards; assistance in obtaining necessary accessto public and private lands; legal, accounting, and necessary permits and approval of governmental authorities or other individuals. Town agrees to obtain its own legal, insurance, and financial advice Town may require for the Project.

1.4.2 Town shall provide A/E with the budget for the Project in order that preparation of the Contract Documents will be consistent with such budget.

1.4.3 Town shall provide A/E with any technical requirements of the Town, which shall be incorporated into the specifications and Contract Documents.

1.4.4 Town designates Gregory Arrington as its Project Representative. All communications to Town shall be through its Project Representative or construction manager, if a construction manager is retained.

2. CONTRACT TIME AND CONTRACT SUM

2.1 Contract Time. The Contract Time and any applicable schedule of services are set forth in Exhibit A.

2.2 Contract Sum. All compensation for complete and satisfactory completion of services rendered by A/E, including its subcontractor(s), shall be set forth in Exhibit A and shall not exceed $33,295.00.

2.3 Method of Payment. Method of payment shall be set forth in Exhibit C. A/E shall prepare invoices and progress reports which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices shall be for services completed.

3. CHANGES TO THE SCOPE OF SERVICES

3.1 Change Orders. The Town may, at any time, by written change order, make changes in the Scope of Work. A form of change order is attached hereto as Exhibit D. If A/E believes a

change in the Scope of Work has been ordered, A/E shall submit a request for a change order in writing within ten (10) days from the date of receipt by A/E of notice of the change. It is distinctly understood and agreed by the parties that no claim for extra services provided, or materials furnished by A/E, will be allowed by Town except as provided herein. A/E shall not provide any services or furnish any materials not covered by this Agreement unless Town first approves in writing.

4. INSURANCE REPRESENTATIONS AND REQUIREMENTS

4.1 General. A/E agrees to comply with all Town ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of A/E, A/E shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non- admitted insurer) with policies and forms satisfactory to the Town. Failure to maintain insurance as specified may result in termination of this Agreement at Town's option.

4.2 No Representation of Coverage Adequacy. By requiring insurance herein, Town does not represent that coverage and limits will be adequate to protect A/E. Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve A/E from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

4.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Town, its agents, representative, officers, directors, officials, and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

4.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed, and formally accepted by the town, unless specified otherwise in this Agreement.

4.5 Primary Insurance. A/E's insurance shall be primary insurance. All insurance, except Workers' Compensation and Professional Liability, shall provide protection of the Town as an Additional Insured.

4.6 Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of

the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

4.7 Waiver. All policies, except Workers' Compensation Insurance and Professional Liability, shall contain a waiver of rights of recovery (subrogation) against Town, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of A/E. A/E shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

4.8 Policy Deductibles and or Self-Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to Town. A/E shall be solely responsible for any such deductible or self-insured retention amount. Town, at its option, may require A/E to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

4.9 Use of Subcontractors. If any Services under this Agreement are subcontracted in any way, A/E shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting Town and A/E. A/E shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.10 Evidence of Insurance. Prior to commencing any Services under this Agreement, A/E shall furnish Town with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by A/E's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance of and reliance by the Town on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to the Town Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be A/E's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

4.10.1 Town, its agents, representatives, officers, directors, officials, and employees is an Additional Insured as follows:

a. Commercial General Liability-Under ISO Form CG 2010 11 8 or equivalent.

b. Auto Liability-Under ISO Form CA 20 48 or equivalent.

c. Excess Liability-Follow Form to underlying insurance.

4.10.2 All policies, except Workers' Compensation and Professional Liability, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, directors, officials, and employees for any claims arising out of Services performed by A/E under this Agreement.

4.10.3 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

4.11 Required Coverage:

4.11.1 Commercial General Liability: A/E shall maintain "occurrence" form Commercial Liability Insurance with a policy limit of not less than $1,000,000 for each occurrence, $2,000,000 Products and Completed Operations Annual Aggregate, and a $2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Town, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you". If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.11.2 Professional Liability: A/E shall maintain Professional Liability insurance covering errors and admissions arising out of the Services performed by A/E, or anyone employed by A/E, or anyone for whose acts, mistakes, errors, and omissions A/E is legally liable, with a liability insurance policy limit of $1,000,000 each claim and $2,000,000 all claims. Professional Liability coverage specifically for Architects, Engineers and Surveyors shall contain contractual liability insurance covering the contractual obligations of this Agreement. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the Services, and A/E shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

4.11.3 Vehicle Liability: A/E shall maintain Business Automobile Liability Insurance with a limit of $1,000,000 each occurrence on A/E's owned, hired, and non-owned vehicles assigned to or used in the performance of the A/E's Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, the Town, its agents, representative, officers, directors, officials, and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc.

Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.11.4 Workers' Compensation Insurance: A/E shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of A/E's employees engaged in the performance Services under this Agreement and shall also maintain Employer Liability Insurance of not less than $500,000 for each accident, $500,000 disease for each employee and $1,000,000 disease policy limit.

5. INDEMNIFICATION

5.1 To the fullest extent permitted by law, A/E, its successors, and assigns shall indemnify and hold harmless TOWN, its officers, and employees from and against all liabilities, damages, losses, and costs (including reasonable attorney fees and court costs) to the extent caused by the negligence, recklessness, or intentional wrongful conduct of A/E or other persons employed or used by the A/E in the performance of this Agreement. A/E's duty to indemnify and hold harmless TOWN, its officers and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting there from, caused by A/E's negligence, recklessness or intentional wrongful conduct in the performance of this Agreement and the negligence, recklessness or intentional wrongful conduct of any person employed by A/E or used by A/E in the performance of this Agreement.

5.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

6. TERMINATION OF THIS AGREEMENT

6.1 Termination. The Town may, by written notice to the A/E, terminate this Agreement in whole or in part with seven (7) days' notice, either for the Town's convenience or because of the failure of the A/E to fulfill his contract obligations. Upon receipt of such notice, the A/E shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Town copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the A/E in performing this Agreement, whether completed or in process. This Agreement may be terminated in whole or in part by the A/E in the event of substantial failure by the Town to fulfill its obligations.

6.2 Payment to A/E Upon Termination. If the Agreement is terminated, the Town shall pay the A/E for the services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

7. ASSURANCES

7.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the A/E for Services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the A/E of the A/E's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

7.2 Immigration Law Compliance Warranty. As required by A.R.S. § 41-4401, A/E hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A/E further warrants that after hiring an employee, A/E verifies the employment eligibility of the employee through the E-Verify program. If A/E uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of the Contract. A/E is subject to a penalty of $100 per day for the first violation, $500 per day for the second violation, and $1,000 per day for the third violation. The Town, at its option, may terminate the Agreement after the third violation. A/E shall not be deemed in material breach of this Agreement if the A/E and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). The Town retains the legal right to inspect the papers of any A/E or subcontractor employee who works on the Agreement to ensure that the A/E or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

7.3 Examination of Records. The A/E agrees that duly authorized representatives of the Town shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the A/E involving transactions related to this Agreement.

7.4 Ownership of Document and Other Data. Original documents, such as tracings, plans, specifications, maps, basic survey notices and sketches, charts, computations, and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of the Town unless otherwise agreed to by both parties. Town may use such documents for other purposes without further compensation to the A/E; however, any reuse without written verification or adaptation by A/E for the specific purpose intended will be at Town's sole risk and without liability or legal exposure to A/E. Any verification or adaptation of the documents by A/E for other purposes than contemplated herein will entitle A/E to further compensation as agreed upon between the parties.

7.5 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, that all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

7.6 Independent Contractor. A/E shall be an independent contractor and not an agent of the Town and shall direct and supervise the services required by this Agreement and shall be responsible for all means, methods, techniques, sequences, and proceedings associated with the Services and shall be responsible for the acts and omissions of its employees, agents and other persons performing any of the Services under a contract with the A/E.

7.7 Exclusive Use of Services - Confidentiality. The services agreed to be provided by A/E within this Agreement are for the exclusive use of the Town and A/E shall not engage in conflict of interest nor appropriate Town work product or information for the benefit of any third parties without Town consent.

7.8 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

7.9 Caption. Paragraph captions are for convenience only and are not to be construed as a part of this Agreement; and in no way do they define or limit the Agreement.

7.10 Time is of the Essence. The timely completion of the Project is ofcritical importance to the economic circumstances of the Town.

Notwithstanding any other provision of this Agreement, the Consultant shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the Client, third parties, or governmental agencies.

7.11 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

| TOWN: | A/E: |
|---|---|
| Town Manager<br>Town of Youngtown<br>12030 North Clubhouse Square<br>Youngtown, Arizona 85363 | Kimley-Horn and Associates, Inc.<br>Attention: Joel Varner, Project Manager<br>7740 North 16th Street, Suite 300<br>Phoenix, Arizona 85020 |

The address may be changed from time to time by either party by serving notices as provided above.

7.12 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

8. SUSPENSION OF WORK

8.1 Order to Suspend. The Town may order the A/E, in writing, to suspend all or any part of the Services for such period of time as he may determine to be appropriate for the convenience of the Town.

8.2 Adjustment to Contract Sum. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of the Town in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance was suspended or delayed for any other cause, including the fault or negligence of the A/E, or (2) for which a change order is executed.

9. INTERESTS AND BENEFITS

9.1 Conflict of Interest of A/E. The A/E covenants it will make every reasonable effort to ensure it has no interest nor acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The A/E further will make every reasonable effort to ensure that in the performance of this Agreement, no person having any such interest shall be employed, and the A/E will resolve any COI which the Town identifies to A/E to the satisfaction of the Town.

9.2 Interest of Town Members and Others. No officer, member or employee of the Town and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

9.3 Non-Solicitation. A/E agrees that it has not employed or retained any company or person, other than a bona fide employee working for A/E, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this clause, the Town may terminate this Agreement without liability, or, in its discretion, deduct from the Contract Sum, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingency fee.

9.4 Notice Regarding A.R.S. § 38-511. Under Section 38-511, Arizona Revised Statutes, as amended, the Town may cancel any Agreement it is a party to within three (3) years after its execution and without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the Town is, at any time while the Agreement or any extension thereof is in effect, an employee or agent of any

other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. In the event the Town elects to exercise its rights under Section 38-511, Arizona Revised Statutes, as amended, the Town agrees to immediately give notice thereof to the A/E.

10. ASSIGNABILITY

The A/E shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of the Town thereto; provided, however, that claims for money due or to become due to the A/E from the Town under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Town.

11. AGREEMENT SUBJECT TO APPROPRIATION

Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep A/E informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. A/E hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

12. ISRAEL

A/E certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in, a boycott of goods and services from Israel, as that term is defined in Ariz. Rev. Stat.§ 35-393.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Town and the A/E have executed this Agreement as of the date first written.

**TOWN**
TOWN OF YOUNGTOWN, ARIZONA,
a municipal corporation

By _____
Michael LeVault, Mayor

ATTEST:

By _____
Nicole Smart, Town Clerk

APPROVED AS TO FORM:

By: _____
Trish Stuhan, Town Attorney

**A/E**
KIMLEY-HORN & ASSOCIATES, INC.,
a North Carolina corporation

By _____

**EXHIBIT A**

SCOPE OF WORK

[See following pages.]

Kimley»Horn

October 12, 2021

Gregory Arrington
Community Development Manager
12030 Clubhouse Square
Youngtown, AZ 85363

Re: Professional Services Agreement
Youngtown Sidewalk Improvements Phase II

Dear Mr. Arrington,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the Town of Youngtown ("Client" or "Town") for providing Phase II of sidewalk improvements throughout the Town at the locations shown in the attached project limits exhibit.

**Project Understanding**

Phase II of this sidewalk improvements projects consists of providing new 4-ft wide sidewalk on both sides of residential streets in various locations throughout the Town. This project also includes the installation of new curb ramps at intersections and relocating/removing existing features that are in conflict with the proposed sidewalks. The Town has secured Community Development Block Grant (CDBG) funds as well as local Town funds for this project.

**Scope of Services**

Kimley-Horn will provide the services specifically set forth below:

## TASK 1: DATA COLLECTION

Kimley-Horn will obtain existing as-built plans from the Town. The Town will furnish digital copies of the latest quarter section maps (water, sewer, right-of-way, storm drain and aerials) and roadway/utility as-builts that are available for the project limits. Kimley-Horn will contact Arizona Blue Stake and obtain private utility maps not provided by the Town.

Kimley-Horn will obtain a to-scale aerial image from NearMap which will serve as a base map for developing a conceptual layout. Design-level horizontal and vertical topographic survey will not be collected. Limitations on aerial photography accuracy may result in contractor change orders to address actual field conditions and quantities.

Kimley-Horn will perform a site visit to obtain existing condition information. Pictures and notes will be taken to document readily observable existing conditions. Conflicts that are not visible on the surface may result in contractor change orders to address actual field conditions.

## TASK 2: TECHNICAL SPECIFICATIONS

Kimley-Horn will prepare a Technical Specifications document which will consist of the following elements:

- **Project Technical Specifications**, which provide references for each bid item to the Maricopa Association of Governments standard specifications and details
- **Property Owner Summary Table**, which summarizes anticipated impacts and design improvements along each property owner frontage, organized by street address

- **Design Details**, which provide design direction for various improvements throughout the project limits
- **Project Limits Map**, summarizing the limits of the improvement area
- **Engineer's Opinion of Probable Cost**, see Task 3 for details

Final design construction plans will not be prepared by Kimley-Horn under this contract. Conceptual design details, quantities, and anticipated impacts will be based on the limitations of the accuracy of the aerial photography and the conflicts identified during field review. Actual field conditions, quantities, or conflicts not visible on the surface may alter the impacts identified for each property. Public involvement efforts from the Town should make residents aware of these limitations in order to establish an appropriate level of expectations.

This task allows for up to two submittals of the Technical Specifications. Kimley-Horn will respond to comments received from the Town on the first submittal. These comments will be addressed prior to the second submittal. More than two submittals and/or more than one round of comments will be considered additional services.

## TASK 3: ENGINEER'S OPINION OF PROBABLE COST

Kimley-Horn will prepare an Engineer's Opinion of Probable Cost (EOPC). The EOPC will be prepared using sequential bid items (Item 1, Item 2, etc.) with bid item descriptions based off of the MAG bid item list.

Quantities will be developed using aerial photography and field review notes. The accuracy of the EOPC is limited to the accuracy of the materials and approach utilized to develop the deliverables.

## TASK 4: PROJECT MEETINGS

Kimley-Horn will attend up to three (3) meetings as a part of this task. The following meetings are included in this scope:

- First submittal review meeting
- Up to two additional meeting at the request of the Town

Meetings will be held at the Town's office. For each meeting, Kimley-Horn will prepare an agenda, sign-in sheet, and meeting notes summarizing major items discussed and major decisions made.

## TASK 5: PROJECT MANAGEMENT & COORDINATION

Kimley-Horn will prepare monthly invoices and progress reports and will perform regular budget and schedule monitoring. This task also includes times for internal project meetings and coordination with the Town and its representatives and stakeholders.

It is assumed the Town will perform utility coordination and this effort is excluded from this scope of services.

**Services Not Included**

Any other services, including but not limited to the following, are not included in this Agreement:

- Topographic Survey and Control
- Private utility design
- Utility coordination
- Preliminary or Final Design plans, layouts, or drawings

- Geotechnical services
- Traffic control plans
- Stormwater Pollution Prevention plans
- Signing and striping plans
- Utility locating
- Right-of-way plans
- As-builts
- Public involvement
- Environmental services
- Construction phasing plans
- Profile design
- Permitting (including fees)
- Attending any meetings in addition to those specifically listed above

**Additional Services**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Final design plans
- Construction phase services

**Information Provided By Client**

We shall be entitled to rely on the completeness and accuracy of all information provided by the Town or the Town's consultants or representatives. The Town shall provide all information requested by Kimley-Horn during the project, including but not limited to existing roadway, drainage, and City-owned utility as-builts, quarter section maps, and GIS information.

**Schedule**

We will provide our services as expeditiously as practicable with the goal of meeting the design schedule, which is attached at the end of this document.

**Fee and Expenses**

Kimley-Horn will perform the services in Tasks 1 – 6 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Town; should the Town request Kimley-Horn to advance any such project fees on the Town's behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Town.

- Task 1: Data Collection .....$9,680
- Task 2: Technical Specifications.....$15,165
- Task 3: Engineer's Opinion of Probable Cost.....$2,510
- Task 4: Project Meetings.....$2,550
- Task 4: Project Management & Coordination .....$3,000
- Estimated Fees and Expenses:.....$390
- **Total Lump Sum Labor Fee:.....$33,295**

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

**Closure**

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

By: Joel Varner, P.E.
Project Manager

**Youngtown**
**Sidewalk Improvements Phase II**
**Kimley-Horn Fee Proposal**
**10/12/2021**

| TASK DESCRIPTION | SUBTOTAL | Senior Professional | Project Manager | PE/ Professional | Analyst | Designer | Admin |
|---|---|---|---|---|---|---|---|
| | | $ 200.00 | $ 175.00 | $ 155.00 | $ 135.00 | $ 115.00 | $ 70.00 |
| **1. DATA COLLECTION** | $ 9,680 | - | - | 24 | 40 | - | 8 |
| As-built research | $ 410 | | | | 2 | | 2 |
| Blue Stake Request | $ 420 | | | | | | 6 |
| Aerial Image/Base File Preparation | $ 540 | | | | 4 | | |
| Site Visit (up to 3 days for 2 people) | $ 6,960 | | | 24 | 24 | | |
| Field Notes | $ 1,350 | | | | 10 | | |
| **2. TECHNICAL SPECIFICATIONS** | $ 15,105 | 6 | 6 | 31 | 42 | 20 | 2 |
| Property Owner Impacts Summary | $ 5,400 | | | | 40 | | |
| Specifications Document | $ 3,875 | | | 25 | | | |
| Typical Detail Sheets | $ 2,460 | | | 4 | | 16 | |
| Project Limits Map | $ 730 | | | | 2 | 4 | |
| Summary of Comments | $ 450 | | | 2 | | | 2 |
| Quality Control/Quality Assurance | $ 2,250 | 6 | 6 | | | | |
| **3. ENGINEER'S OPINION OF PROBABLE COST** | $ 2,510 | - | - | 4 | 14 | - | - |
| Quantities and Estimate | $ 2,510 | | | 4 | 14 | | |
| **4. PROJECT MEETINGS** | $ 2,550 | - | - | 6 | 12 | - | - |
| Attending Project Meetings (Up to 3) | $ 1,740 | | | 6 | 6 | | |
| Meeting Agendas and Notes | $ 810 | | | | 6 | | |
| **5. PROJECT MANAGEMENT & COORDINATION** | $ 3,000 | - | 12 | 4 | - | - | 4 |
| Project Management and Coordination | $ 1,400 | | 8 | | | | |
| Project Invoicing | $ 1,600 | | 4 | 4 | | | 4 |
| **SUBTOTAL DIRECT LABOR** | $ 32,905 | 6 | 28 | 73 | 112 | 20 | 14 |
| **DIRECT EXPENSES** | | | | | | | |
| **EXPENSES** | $ 390 | | | | | | |
| Vehicular Mileage (6 trips, 80 miles/trip, $0.50/mile) | $ 240 | | | | | | |
| Submittal Deliveries ($50/submittal, 3 Submittals) | $ 150 | | | | | | |
| **CONTRACT TOTAL** | $ 33,295 | | | | | | |

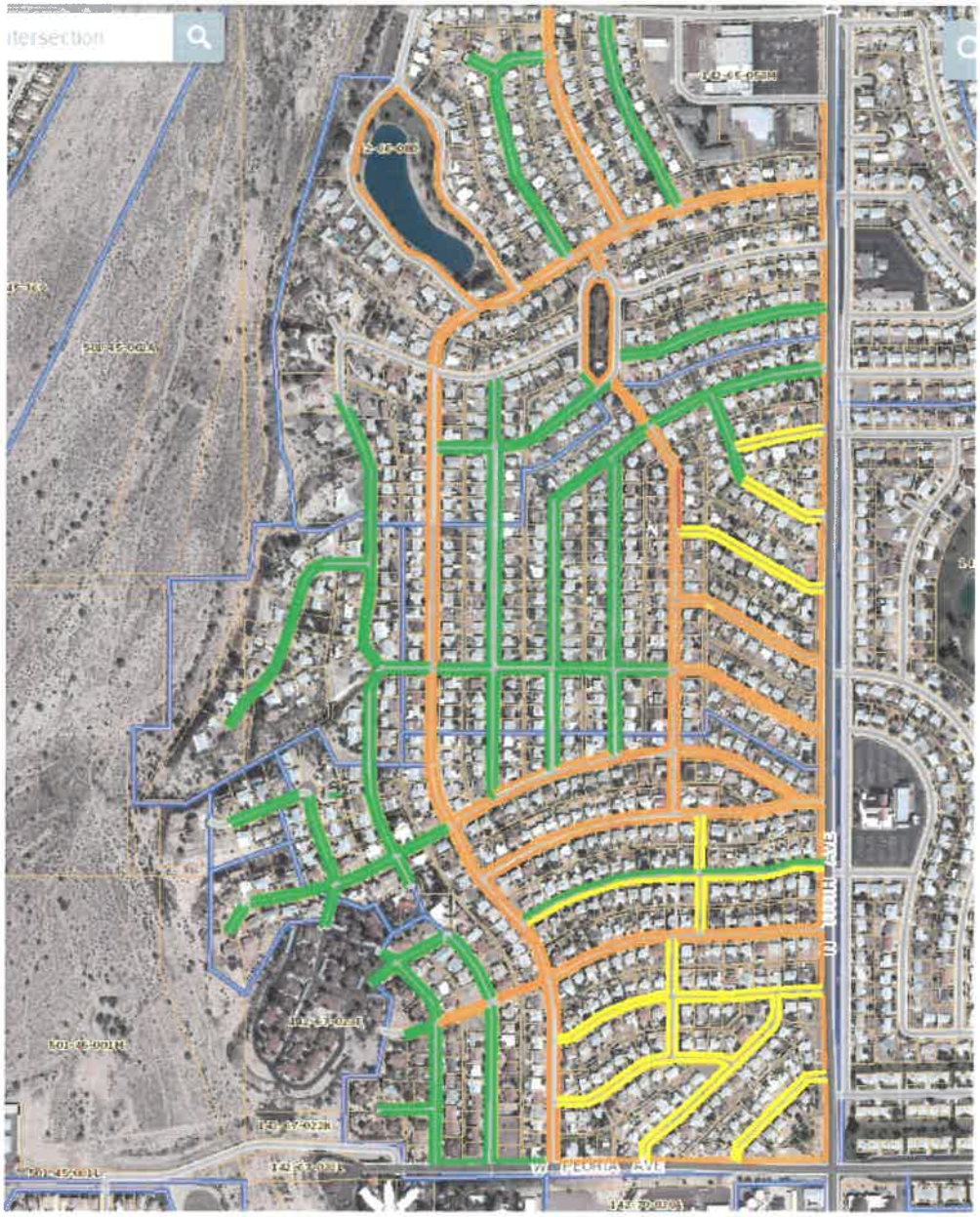
# EXHIBIT "A"

**YOUNGTOWN SIDEWALK IMPROVEMENT PROGRAM INVENTORY MAP**

NORTH

EXISTING SIDEWALK

PROPOSED SIDEWALK




**YOUNGTOWN SIDEWALK IMPROVEMENT PROGRAM INVENTORY MAP**

NORTH

EXISTING SIDEWALK

PROPOSED SIDEWALK

**EXHIBIT B**

A/E KEY PERSONNEL AND SUBCONTRACTORS

A/E KEY PERSONNEL:

Joel Varner, Project Manager Kimley-Horn and Associates, Inc.

SUBCONTRACTORS:

# EXHIBIT C

## PAYMENT SCHEDULE

**Method of Payment**

1. Invoices shall be on a form and in the format provided by the Town and are to be submitted in triplicate to the Town via the Town's authorized representative.

2. Upon receipt and approval of Engineer's invoices, the Town agrees to make payments within 25 days.

**EXHIBIT D**

**CHANGE ORDER**

CHANGE ORDER NO. ____

Distribution: TOWN[ ]
A/E [ ]
CM (If any) [ ]
OTHER [ ]

PROJECT: Youngtown Sidewalk Improvements Project No. DG1706 Phase II
DATE:
OWNER: Town of Youngtown
A/E:
AGREEMENT DATED: November 4, 2021

CHANGES: The Agreement is changed as follows:

Not valid until signed by both TOWN and A/E. Signature of A/E indicates acceptance.

The original compensation was: _____ Net change by previously authorized Change Orders_____. The compensation prior to this Change Order was _____

The compensation will be increased by this Change Order in the amount of _____

_____

The new compensation under the Agreement including this Change Order will be: _____

_____

The Contract will increase by: _____

ACCEPTANCE STATUS:

A/E

By_____

DATE:_____

Town of Youngtown

By_____

DATE:_____