

HOLD HARMLESS AGREEMENT
THOMPSON NURSERY ROAD EXTENSION
EXISTING SURVEY

1. The Agreement is made this day of February 19, 2024, by and between Polk County ("the County"), and Kimley-Horn and Associates, Inc. ("the Consultant") for the Thompson Nursery Road Extension via RFP 21-648. ("the Project"). The Consultant previously entered into an agreement with the Client for the furnishing of professional services at the Project ("the Contract"), dated 06/07/2022, County Contract Number 2022-041.

2. As part of its scope of services on the Project, the Consultant is to provide professional design services for the construction of two design segments; the first is a 2.2 mile roadway from the intersection of CR 540 and US 17 to intersection of Eloise Loop Road and Rifle Range Road and the second design segment is the widening of existing Thompson Nursery Road from approximately 1,000 FT west of Terranova Blvd to W. Ruby Lake Dr.. In accordance with the Contract, the County agreed to furnish Consultant with a survey which it could rely upon in providing its services. The current survey provided by the County created by NV5, Inc (the "Survey"), is not certified. Additionally, the Consultant understands the County's in-house surveyor is going to provide additional survey at requested areas and update the survey with missing features as needed for the Consultant to provide the professional design services but no signed and sealed copy will be provided. While the Consultant recommends the Survey be signed and sealed by the original surveyor, or a member of the County's in-house survey team, the County has directed the Consultant to proceed without a signed and sealed survey.

3. The County acknowledges that using the Survey without obtaining a signed and sealed copy is not recommended by the Consultant, and the County knowingly assumes all risk of designing the Project off of this Survey. The County hereby RELEASES, WAIVES, DISCHARGES, AND COVENANTS NOT TO SUE the Consultant for any damages, of whatever kind or nature, incurred as a result of basing its design off of the Survey as directed by the County.

4. Should a signed and sealed survey be required by any agency to permit the construction of the Project (i.e. Southwest Florida Water Management District (SWFWMD), Florida Department of Environmental Protection (FDEP), etc.), the County shall be responsible for providing the necessary steps/actions as required to provide a signed and sealed survey for the requesting agency.

5. To the extent and within the limitations of Section 768.28, Florida Statutes, the County shall INDEMNIFY, DEFEND AND HOLD HARMLESS the Consultant from any and all liability, claims, third-party claims, demands, action, judgments, costs, expenses, court costs, attorney fees and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that may be sustained by Consultant as a result basing its design off of the Survey as directed by County. The foregoing indemnification shall not constitute a waiver of the County's sovereign immunity beyond the

limits set forth in Section 768.28, Florida Statutes. Indemnity for any other claims not related to the Survey shall be governed by the indemnification clause in section 10 of the contract with the County dated June 6, 2022.

6. The County hereby further agrees that this Hold Harmless Agreement shall be construed in accordance with the laws of the State of Florida.

CLIENT: POLK COUNTY

(Signature)

(Printed Name)

(Title)

Reviewed as to form and legal sufficiency
Elizabeth W. Van

County Attorney's Office Date

KIMLEY-HORN and ASSOCIATES, INC .

Lindsey Tercilla, Esq.
(Signature)

Lindsey Tercilla, Esq.
(Printed Name)

In-House Counsel
(Title)

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Cigelsitz W. Vor

County Attorney's Office

KIMLEY-HORN and ASSOCIATES, INC .

Lindsey Tercilla, Esq.
(Signature)

Lindsey Tercilla, Esq.
(Printed Name)

In-House Counsel
(Title)

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C. Matthew Van

County Attorney's Office Date

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Lindsey Tercilla, Esq.
(Signature)

Lindsey Tercilla, Esq.

(Printed Name)

In-House Counsel

(Title)