

AMENDMENT #1 TO AGREEMENT TO PERFORM PROFESSIONAL ENGINEERING  
SERVICES FOR AMERICAN TOBACCO DISTRICT WATERLINE REPLACEMENT  
PROJECT BETWEEN THE CITY OF DURHAM AND KIMLEY-HORN AND ASSOCIATES,  
INC.

This Contract Amendment (“Amendment #1”) is dated and entered into as of the 30<sup>th</sup> day of March, 2016, between Kimley-Horn and Associates, Inc. (“Engineer”) and City of Durham (“City”).

The City and the Engineer entered into a contract titled “Agreement to Perform Professional Engineering Services for the American Tobacco District Waterline Replacement Project between the City of Durham and Kimley-Horn and Associates, Inc.” dated **December 8, 2015**. That contract is referred to as the “Original Contract.” Amendment #1 to the Original Contract increases the Scope of Services and costs of engineering services for the American Tobacco District Waterline Replacement Project.

This Amendment #1 modifies the Original Contract by adding an additional **\$339,500** to the amount of funds appropriated by Council under the original contract. The scoping letter and breakdown for this is shown in Attachment 1.

The Original Contract is hereby changed as follows:

1. At the end of Article 8.02 “City of Durham Provision” of the Agreement, add the following new Section “I”:

**I. Iran Divestment Act Certification**

The Contractor certifies that, if it submitted a successful bid for this contract, then as of the date it submitted the bid, the Contractor was not on the Iran List. If it did not submit a bid for this contract, the Contractor certifies that as of the date that this contract is entered into, the Contractor is not on the Iran List. The Contractor shall not utilize on this contract any subcontractor that is identified on the Iran List. In this Iran Divestment Act Certification section, “Contractor” means the person entering into this contract with the City of Durham, and “Iran List” means the Final Divestment List – Iran and the Parent and Subsidiary Guidance List – Iran, both as issued by the N.C. State Treasurer to comply with G. S. 147-86.58 of the N.C. Iran Divestment Act.

2. In the first sentence under “Lump Sum” of page 12 of Exhibit A, titled “Scope of Services, American Tobacco District Waterline Replacement Project”, delete “Tasks 1, 2, and 3” and replace with “Tasks 1, 2, 3, and 7”.
3. On page 12 of Exhibit A, titled “Scope of Services, American Tobacco District Waterline Replacement Project”, delete the “Total Lump Sum Fee” line and add the following additional task and revised total lump sum amount:

**Task 7 – Amendment #1.....Task Total: \$33,500**

**Total Lump Sum Fee..... \$389,000**

4. In the first sentence under “Cost Plus Max” of page 13 of Exhibit A, titled “Scope of Services, American Tobacco District Waterline Replacement Project”, delete “Tasks 1, 2, 3, 4, 5, and 6” and replace with “Tasks 1, 2, 3, 4, 5, 6 and 7”.
5. On page 13 of Exhibit A, titled “Scope of Services, American Tobacco District Waterline Replacement Project”, delete the “Total cost Plus Maximum Fee” line and add the following additional task and revised total cost plus maximum fee:

**Task 7 – Amendment #1.....Task Total: \$306,000**

**Total Cost Plus Maximum Fee.....\$1,368,500**

6. Delete the Summary Table on page 14 of Exhibit A, titled “Scope of Services, American Tobacco District Waterline Replacement Project”, and replace with the following revised Summary Table:

Task	Lump Sum	Cost Plus Max	Total
Task 1 - Preliminary Engineering	\$ 244,500.00	\$ 62,000.00	\$ 306,500.00
Task 2 - Final Design Services	\$104,500.00	\$ 12,500.00	\$ 117,000.00
Task 3 - Bid Phase Services	\$ 6,500.00	-	\$ 6,500.00
Task 4 - Design Phase Public Relations Services	-	\$ 23,000.00	\$ 23,000.00
Task 5- Sub-consultant Services	-	\$ 905,000.00	\$ 905,000.00
Task 6 - Additional Services		\$ 60,000.00	\$ 60,000.00
Task 7 – Amendment #1	\$33,500	\$306,000	\$ 339,500.00
Total	\$389,000	\$1,368,500	\$ 1,757,500.00

7. Add the attached “Amendment #1 Scope of Services” to the contract.

All other terms of the Original Contract not modified or changed by this amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1,

ATTEST:

**KIMLEY-HORN AND ASSOCIATES, INC.**

\_\_\_\_\_  
By: Richard Adams, P.E.  
Title of Officer: Senior Associate

\_\_\_\_\_  
By: Jeremy Rivenbark, P.E.  
Title of Officer: Assistant Secretary

Corporate Seal - Engineer

Date Signed: \_\_\_\_\_

State of North Carolina

ACKNOWLEDGMENT BY CORPORATION

County of Wake

I \_\_\_\_\_, a notary public in and for the aforesaid county and state, certify that Jeremy Rivenbark personally appeared before me this day and stated that he is Assistant Secretary of Kimley-Horn and Associates, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing Contract or Agreement with the City of Durham was signed in its name by its Senior Vice President, whose name is Richard Adams, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary. This the \_\_\_\_ day of \_\_\_\_\_, 2016.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**CITY OF DURHAM**

ATTEST:

\_\_\_\_\_

By: \_\_\_\_\_

PRE AUDIT CERTIFICATE

## **Amendment #1 Scope of Services**

### **DESIGN SCOPE OF SERVICES**

The original American Tobacco District Waterline Replacement Project contract includes the data acquisition and design of waterline within the Main Street corridor. Upon further evaluation utilities adjacent to the original corridor, the project extents have been revised to include approximately 2,000 LF of additional waterline replacement areas along Ramseur, Walker, and Hood streets. Included in this amendment are the following additional data acquisition and design services for these additional areas:

- Design / study phase services for the additional waterline replacement area
- Ramseur Street stormwater investigation / study
- Data collection (survey and SUE) for additional waterline replacement areas
- ADA Ramp Evaluation for ramps in the Main Street corridor

Future amendments are anticipated at a later date for design and construction phase services associated with the remaining project area.

**Task 1 – Design Phase Services for Ramseur, Hood, and Walker Streets** – Following execution of the original contract, approximately 2,000 LF of additional waterline replacement area in Ramseur, Hood, and Walker streets was added to the project area. Additional final design phase services to include these areas will be included for a lump sum cost of \$33,500.

**Task 2 – Ramseur Street Stormwater Investigation / Study** – At the request of the City of Durham, Kimley-Horn will provide a feasibility study to determine whether existing stormwater facilities may be extended along Ramseur Street to S. Elizabeth and/or Hood streets. The feasibility study will determine approximate pipe sizing and an opinion of probable construction cost. A budget of \$10,000 has been used for this cost plus max feasibility study. Funds for this study will be from the City's Stormwater Enterprise Funds.

**Task 3 – Ramseur, Hood, and Walker Streets Data Collection** – Following execution of the original contract, approximately 2,000 LF of additional waterline replacement area in Ramseur, Hood, and Walker streets was added to the project area. Additional survey (\$15,500) and subsurface utility designating services (\$22,500) will be provided for these additional areas. A cost plus max budget of \$38,000 has been added for these services.

**Task 4 – ADA Ramp Evaluation in the Main St Corridor** – During the design of the Main Street corridor, Kimley-Horn will conduct a compliancy evaluation of existing ADA ramps within the Main Street corridor project extents to determine if they meet current standards. Non-conforming ramps will be reviewed with City of Durham staff, and may be replaced as part of the construction contract if desired. A cost plus max budget of \$5,000 has been added for the ADA Ramp Audit services in the Main Street corridor.

### **CONSTRUCTION PHASE SCOPE OF SERVICES**

Due to planned development adjacent to the Main Street corridor between Dillard and Fayetteville streets, the replacement of approximately 5,600 LF of waterline is being amended to the Downtown Loop Waterline Replacement construction contract in order to expedite construction. To support the City in amending the Downtown Loop Waterline Construction Contract in this vicinity, construction administration and observation services are necessary. Included in this amendment are the following construction phase services:

- Construction Administration and Observation services for the Main Street corridor
- Construction Phase Public Information efforts for the Main Street corridor
- Quality Control / Assurance materials testing for the Main Street corridor construction

**Task 5 – Construction Phase Public Information Efforts and Local Inter-agency Coordinations –**

Provide additional cost plus max hourly funding for outreach and coordination services including:

1. Provision of ongoing public outreach to specific venues, groups, and organizations.
2. Targeted property/business outreach along Main Street
3. Ongoing event coordination and with venues and City officials for items such as festivals, concerts, races, etc.
4. Project information support for local media print and television interviews and general project postings
5. Noise permits procurement and renewals
6. Ongoing schedule updates and information sharing (maps, schedules, project information compilations)
7. General construction phase public information efforts include City PR process refinements, additional property owner outreach/personal meetings, and multiple City department and civic group coordinations (i.e. Police, Fire, Public Works, private businesses, PAC5, DDI, and individual citizens and business owners) during construction phase activities.

For revised budget estimation of required ongoing public outreach, a monthly fee of \$4,200/month has been used based on required efforts for the adjacent Downtown Loop Waterline Replacement project. This monthly budget total is projected for six months of construction.

**Task 6 – Construction Administration Services** – Provide construction contract administration services in support of the project team. Service will be an hourly cost plus max task for the required efforts based on the anticipated 6 month construction duration:

- Construction field issue resolutions
- Provide contractor and City coordinations
- Payment application and change order evaluations and processing
- Provide general engineering oversight and City requested reporting
- Ongoing interdepartmental coordination (Transportation, General Services, City Manager’s Office, etc.)

For budget estimation of required construction administration, a monthly fee of \$17,658/month has been used matching assumptions from the adjacent Downtown Loop Waterline Replacement project. This monthly budget total is projected for six months.

**Task 7 –Resident Project Representative Services** – Provide full time project representative cost plus max hourly funding for the anticipated six month contract duration of the Main Street corridor. It is anticipated that construction will require some night and weekend work or providing additional contractor crews on the project to accommodate water service constraints, business / venue impacts, and traffic restrictions for the Main Street corridor while completing installations. Arrangements requiring more than one inspector to safely monitor the work may be necessary for portions of the project area.

For revised budget estimation of required ongoing construction observation, a monthly fee of \$18,166.67/month has been used. This monthly budget total is projected for six months of construction.

**Task 8 – Quality Control / Assurance Testing and Hazardous Conditions Testing** – During construction, the Resident Project Representative (RPR) will schedule and coordinate all construction related quality control and quality assurance testing for soils, concrete, and pavement, as determined required. The RPR will also schedule and coordinate all hazardous soil and groundwater testing, as determined required. A cost plus max budget of \$12,500 has been added for these services.

The review of testing data will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. The Engineers shall be entitled to rely on the results of such tests and the facts being certified.

**\*\*\*REMAINDER OF PAGE LEFT BLANK INTENTIONALLY\*\*\***

**FEE, EXPENSES, AND BILLING** - Tasks are provided as listed in the above scope.

**Lump Sum**

Kimley-Horn will perform the services in Task 1 listed below for the total lump sum fee below. All permitting, application, and similar project fees will be paid directly by the Client as specified in the original contract.

Task 1 – Design Phase Services for Ramseur, Hood, & Walker St ..... Task Total: \$33,500

**Total Lump Sum Fee..... \$33,500**

**Cost Plus Max**

Kimley-Horn will perform the services in Task 1, 2, 3, 5, 6, 7, and 8 listed below on a labor fee plus expense basis with the maximum fee shown below. Tasks include subconsultant costs and anticipated permitting/application fees, which will be billed to the Client at 1.12 times cost.

Task 2 – Ramseur Street Stormwater Investigation / Study ..... Task Total: \$10,000

Task 3 – Ramseur, Hood, & Walker Streets Data Collection ..... Task Total: \$38,000

Task 4 – ADA Ramp Evaluation in the Main St Corridor..... Task Total: \$5,000

Task 5 – Construction Phase Public Information Efforts..... Task Total: \$25,500

Task 6 – Construction Administration Services..... Task Total: \$106,000

Task 7 – Resident Project Representative Services ..... Task Total: \$109,000

Task 8 – Quality Control/Assurance Testing ..... Task Total: \$12,500

**Total Cost Plus Max Fee ..... Task Total: \$306,000**

Kimley-Horn shall not exceed the total maximum fee shown. Kimley-Horn may reallocate amounts among tasks only after receiving prior written authorization from the City.

Cost Plus labor fee will be billed according to the original contract’s rate schedule. As for these tasks, direct reimbursable expenses such as express delivery services, fees, and other direct expenses will be billed at 1.12 times cost and are included in the fees above. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client at 1.12 times cost.

## Summary Table

<b>Task</b>	<b>Task Description</b>	<b>Lump Sum</b>	<b>Cost Plus Max</b>	<b>Total</b>
1	Design Phase Services for Ramseur, Hood, and Walker Streets	\$ 33,500.00	\$ -	\$ 33,500.00
2	Ramseur Street Stormwater Investigation / Study	\$ -	\$ 10,000.00	\$ 10,000.00
3	Ramseur, Hood, and Walker Streets Data Collection	\$ -	\$ 38,000.00	\$ 38,000.00
4	ADA Ramp Evaluation in the Main St Corridor	\$ -	\$ 5,000.00	\$ 5,000.00
5	Construction Phase Public Information Efforts	\$ -	\$ 25,500.00	\$ 25,500.00
6	Construction Administration Services	\$ -	\$ 106,000.00	\$ 106,000.00
7	Resident Project Representative Services	\$ -	\$ 109,000.00	\$ 109,000.00
8	Quality Control/Assurance Testing	\$ -	\$ 12,500.00	\$ 12,500.00
Total		\$ 33,500.00	\$ 306,000.00	\$ 339,500.00



