

AMENDMENT #4 TO AGREEMENT TO PROVIDE PROFESSIONAL  
SERVICES FOR THE DURHAM ELEVATED WATER STORAGE TANK  
PROJECT BETWEEN THE CITY OF DURHAM AND  
KIMLEY-HORN AND ASSOCIATES, INC.

This Contract Amendment (“Amendment #4”) is dated and entered into as of \_\_\_\_\_, 2014 between Kimley-Horn and Associates, Inc. (“Engineer”) and City of Durham (“City”).

The City and the Engineer entered into a contract titled “Contract for Professional Engineering Services between the City of Durham, North Carolina and Kimley-Horn and Associates, Inc. for Design and Permitting services related to the Durham Elevated Water Storage Tank Project” dated August 12, 2008. That Contract is referred to as the “Original Contract.” The Original Contract provides for services to design a 3 million gallon elevated water storage tank for a total potential contract amount of \$511,100.

The Original Contract was subsequently amended on June 28, 2010, by instrument titled, “Amendment to Agreement to Provide Professional Services for the Durham Elevated Water Storage Tank Project between the City of Durham Kimley-Horn and Associates, Inc.,” (“Amendment # 1”). Amendment # 1. added \$146,600 to the Engineer’s fee for services related to the design of the Southeast Pressure Zone pump station, housed within the new elevated Storage Tank..

A Second Amendment was entered into on February 5, 2013 by instrument titled “Amendment #2 to Agreement to Provide Professional Services for the Durham Elevated Water Storage Tank between the City of Durham and Kimley Horn and Associates Inc.” Amendment # 2 adjusted the scope and fee of the contract for additional services rendered by the Engineer during design, bidding and early construction phases for a total increase of \$98,067.34.

A Change Order was entered into on October 15<sup>th</sup> of 2013 by instrument titled “Amendment #3 to Agreement to Provide Professional Services for the Durham Elevated Water Storage Tank between the City of Durham and Kimley Horn and Associates Inc.” (Amendment No. 3) the Amendment adjusted the scope and fee of the contract for additional services rendered by the Engineer during construction for a total amount of \$15,000.00.

This Amendment includes additional services provided by the Engineer during the construction phase. The services include services caused by contractor performance of the work, City requests and authorization for potential additional services anticipated as a result of the construction Contractor that may result from further construction delays.

Attachment No. 1 - Part C adds Scope for “additional services” due to the Engineer for construction phase services. The total fees as detailed in Attachment No 1 shall increase the Construction Phase services by a fee of \$47,840.11 as modified below and provide for up to \$30,000.00 of compensation for potential contractor time delays.

The Original Contract is hereby amended as follows:

**1. Exhibit A, Engineer’s Services shall include the addition of the following:**

- Attachment No. 1 – Part C

**2. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.** In Article 4 – PAYMENTS TO THE ENGINEER, delete Sub-Article “C4.01 For Basic Services Having a Determine Scope – Lump Sum Method of Payment”, Paragraph A, Sub-Paragraph 1, in its entirety and replace with the following:

1. A Lump Sum amount of **\$566,048.44** based on the following assumed distribution of compensation:

	TASK	ORIGINAL AMOUNT*	AMENDED AMOUNT
a.	Study and Report Phase	\$ 26,000.00	\$ 26,000.00
b.	Preliminary Design Phase	\$ 58,000.00	\$ 58,000.00
c.	Final Design Phase	\$330,067.34	\$330,067.34
d.	Bidding and Negotiating Phase	\$ 21,000.00	\$ 21,000.00
e.	<b>Construction Phase</b>	\$ 79,000.00	<b>\$116,981.10</b>
f.	Post Construction Phase	\$ 14,000.00	\$ 14,000.00
	<b>TOTAL AMOUNT</b>	\$528,067.34	<b>\$566,048.44</b>

**3. Exhibit C Payments to Engineer for Services and Reimbursable Expenses.**

Delete paragraph “C.4.02. A. 1 for Basic Services Having An Undetermined Scope – Standard Hourly Rates Method of Payment” and replace with the following:

1. Resident Project Representative Services. For services of Engineer's Resident Project Representative, if any, under paragraph A1.05A.2.a of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is **\$145,259.00** based upon Contract Times as set forth in paragraph C4.01.

4. 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. 4.

ATTEST:

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

\_\_\_\_\_  
By: Richard R. Rohrbaugh, P.E.  
Title of Officer: Senior Vice President

\_\_\_\_\_  
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 R. Rohrbaugh, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary. This the \_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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

**CITY OF DURHAM**

ATTEST:

\_\_\_\_\_

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

PRE AUDIT CERTIFICATE