



June 8, 2020

Chuck Warbington, P.E.
City Manager, City of Lawrenceville
70 South Clayton Street
Lawrenceville, GA 30046

Re: Scenic Highway (SR 124) at Grayson Highway/South Clayton Street (SR 20) Professional Services Agreement

Dear Chuck:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Lawrenceville ("Client") for professional engineering services for a roadway intersection project at Scenic Highway (SR 124) at Grayson Highway (SR 20)/South Clayton Street (SR 20).

Project Understanding

The City of Lawrenceville requested that Kimley-Horn advance the concept created as part of the Traffic Engineering Study that was prepared in April 2020 (See attached proposed layout). The concept included proposed improvements for the signalized intersections at Scenic Highway (SR 124) at Grayson Highway (SR 20)/South Clayton Street (SR 20).

The design at the intersection of Scenic Highway (SR 124) at Grayson Highway (SR 20)/South Clayton Street (SR 20) will consist of adding dual westbound left-turn lanes along Scenic Highway. Full construction plans for this intersection improvement will be developed.

Scope of Services

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

Scenic Highway (SR 24) at Grayson Highway (SR 20)/South Clayton Street

Task 1 – Data Collection and Topographic Survey for Scenic Highway (S.R. 124) at Grayson Highway (S.R. 20)/South Clayton Street (S.R. 20)

Kimley-Horn is partnering with Terramark Land Surveyors, who will provide topographic survey for the project area at the intersection of S.R. 124/Scenic Highway and Grayson Highway (S.R. 20)/South Clayton Street (S.R. 20) and prepare the corresponding database in Microstation V8i and InRoads format. The survey will be prepared by a duly registered land surveyor in accordance with the most current Minimum Technical Standards of Georgia Survey Law.

Topographic survey and property research will be limited to the project area shown in the attached Exhibit. Survey data will consist of edge of pavement, roadway crown, curb and gutter, front and back of existing sidewalk and hardscape areas, building corners, trees with type and caliper size, driveway limits, retaining walls, existing street and business signage limits to scale, visible above ground utilities and existing top and invert information for storm and sanitary sewer structures, pipe size and material as evident from structure connections and traced to outfalls.

Task 2 –Construction Documents for Scenic Highway (S.R. 124) at Grayson Highway (S.R. 20)/South Clayton Street (S.R. 20)

This task includes development of roadway improvement construction documents for the proposed roadway signal modification and intersection improvements. Kimley-Horn will advance design and plan preparation of the roadway improvements required by the City and County. The roadway construction drawings will consist of the following:

Traffic Signal Modifications

Using digital base mapping in Microstation format, Kimley-Horn will design a traffic signal modification for the existing signalized intersection Scenic Highway (S.R. 124) at Grayson Highway (S.R. 20). The design will be based on the proposed intersection geometrics and will consist of the following:

- Existing/proposed pole and cabinet locations,
- Existing/proposed controller input file assignments,
- Existing/proposed signal head locations,
- Proposed phasing diagrams,
- Proposed detector locations,
- Pedestrian accommodations,
- Proposed conduit and junction box locations
- Necessary notes

Traffic signal plans will be submitted at a scale of 1"=30'. The signal will be designed in accordance with Georgia Department of Transportation (GDOT) and Gwinnett County standards.

Construction Documents

The roadway construction drawings will consist of the following:

- Cover/Index
- General Notes
- Typical Sections
- Mainline Construction Plans
- Utility Plans
 - Existing utilities as provided as a part of topographic survey will be shown on the plans. Utility coordination is not included in this scope of services. Any coordination with utility owners is assumed to be performed by the City or the Contractor.
- Signing and Marking Plans
- Traffic Signal Modification Plans
- BMP Location Plans
 - It is assumed that the construction plans will have less than one (1) acre of disturbed area and NPDES plans will not be required.
- Construction Details

It is understood that all improvements (except installation of signal equipment) will be done within the existing edges of pavement.

Kimley-Horn will submit the plans to the Client for review. Kimley-Horn will address up to two (2) rounds of comments from the Client.

If, during coordination or permitting, Gwinnett County or GDOT imposes additional requirements, such as detention, stormwater requirements or any LDP requirements, these services will be billed as additional services or require an amendment to this contract.

Task 3 – Coordination and Permitting for Scenic Highway (S.R. 124) at Grayson Highway (S.R. 20)/South Clayton Street (S.R. 20)

Kimley-Horn will provide coordination and permitting services as follows:

- Construction documents will be submitted to Gwinnett County for coordination and permitting. Consultant will respond to and address up to two (2) rounds of comments from the County. The City of Lawrenceville will be responsible for any costs required as part of the permitting process.
- A subset of construction documents for will be submitted to GDOT for signal and encroachment permitting. Consultant will respond to and address up to two (2) rounds of comments related to the signal permit and up to three (3) rounds of comments related to the encroachment permit.
- Up to two (2) Consultant staff will attend up to three (3) meetings with the City or others at the request of the City, throughout the design process.

Additional Services

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

- Cross Sections
- Driveway Profiles
- Quantities/Schedule of Values
- Environmental Studies and Permitting
- Meetings other than those listed above
- Traffic Counts or Studies
- Concept Report
- Geotechnical services including, but not limited to, pavement evaluation, soil surveys, hazardous materials studies, or bridge/wall foundation investigations
- Revisions to the construction documents other than those listed above
- Subsurface Utility Engineering (SUE) Services
- Right-of-way plans and platting, dedication or abandonment services
- Wall envelopes, special design walls and/or structural designs
- Utility Coordination Services beyond those described in the scope of services
- Utility Coordination and/or Design
- Tree Protection and Replacement Plans
- NPDES Erosion Control Plans and EPD Permitting
- GDOT Post Construction Stormwater Report

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client acknowledges that verifying the accuracy and completeness of such items is not part of Kimley-Horn's scope of services.

Schedule

We will provide our services as expeditiously as practicable. Upon issuance of Notice to Proceed, a schedule will be coordinated with and developed for the City of Lawrenceville. Our fee assumes that design services will be completed within 12 months of NTP.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1-3 on a labor fee plus expense basis with the maximum fee shown below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1 – Data Collection and Topographic Survey	\$ 11,500
Task 2 – Construction Documents	\$ 21,000
Task 3 – Coordination and Permitting (Hourly)	\$ 17,000

Maximum Not-to-Exceed Fee	\$ 49,500
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Kimley-Horn will not exceed the total maximum fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.00 times cost. 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.


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

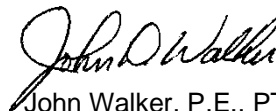
We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



By: Diana Mitchen, P.E.
Project Manager
Kimley-Horn and Associates



John Walker, P.E., PTOE
Senior Vice President
Kimley-Horn and Associates

Agreed to this ____ day of _____, 20__.

City of Lawrenceville

(Date)

(Print or Type Name and Title)

(Email Address)

_____, Witness

(Print or Type Name)

Attachment – Standard Provisions

Attachment – Proposed Layout Exhibit

KIMLEY-HORN AND ASSOCIATES, INC. STANDARD PROVISIONS

(1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.00 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- (g) Obtain any independent accounting, legal, insurance, cost estimating and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Client shall pay Consultant as follows:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
- (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 25 days of receipt.
- (d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- (e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the

documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

(6) **Opinions of Cost.** Because the Consultant 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 the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

(8) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section 9 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 9 shall require the Client to indemnify the Consultant.

(10) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

(12) **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger,

contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) Construction Phase Services.

(a) If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) Confidentiality. The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) Miscellaneous Provisions. This Agreement is to be governed by the law of the State of Georgia. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.