



June 27, 2017

Mr. Travis Morgan
Planning Director
Town of Pineville
200 Dover Street
Pineville, NC 28134

Re: Professional Services Agreement
Johnston Drive Realignment Design

Dear Travis:

Kimley-Horn ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to The Town of Pineville ("Client") for providing transportation engineering services related to the intersection of Johnston Drive. Our project understanding, scope of services, and fee are below.

Project Understanding

We understand the objective of this project is to re-align existing Johnston Drive south of NC 51 (Main Street) to tie-into existing Church Street to the east to make it a proposed four leg intersection. This is proposed to eliminate the existing signal at Johnston Drive and modify the signal at Church Street. It is assumed that approximately 500 feet of Johnston Drive will be realigned, approximately 400 feet of the existing Johnston Drive will be removed, a northbound right turn lane on the realigned Johnston Drive will be added. Re-striping along NC 51 (Main Street) will be necessary to accommodate an eastbound left turn lane of 100 feet of storage and a westbound left turn lane of 100 feet of storage.

It is proposed that a parking lot will be installed in the location of the existing Johnston Drive. The limits of the proposed parking lot are proposed to be along the frontage of the existing shops along the west side of Johnston Road and extend to the east to establish a second parking aisle. It is assumed that no stormwater BMPs will be required.

It is assumed that the existing 6 inch watermain along Johnston Drive will need to be relocated for approximately 500 feet within the right-of-way of the proposed Johnston Drive alignment and will be considered a donated project by Charlotte Water.

This realignment will create a new intersection configuration between Childers Lane and Johnston Drive. It is assumed that Childers Lane is to be designed by GVEST, who is developing the adjacent parcels. It is assumed that all survey services will be provided by the Town through GVEST, including base mapping, staking for proposed geotechnical borings and surveying necessary for final plats.

The following additional assumptions were used in the development of this scope of services:

- Environmental permitting will not be required as a part of this scope.
- Retaining wall design will not be required as a part of this scope.
- No NCDOT involvement except for the signal design plan reviews.
- No storm water detention/retention pond will be required.

- No public involvement is anticipated as a part of this scope.
- No National Environmental Policy Act (NEPA) document is included in this scope.
- Sidewalk/Pedestrian accommodations will be provided.

The aforementioned improvements are taken from *Concept 3a* of the planning study and conversations with the Town. The scope below is based upon conversations with the Town of Pineville staff.

Scope of Services

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

TASK 1 - DATA COLLECTION AND ANALYSIS

PHASE 1 ENVIRONMENTAL SITE ASSESSMENT

The ESA will be performed consistent with the procedures included in ASTM E1527-13, *Standard Practice for Environmental Site Assessments: Phase I Environmental Assessment Process*.

Physical Setting – The physical setting for the site will be described based on a review of the applicable USGS topographic quadrangle map, USDA soil survey, and selected geologic reference information.

Historical Use Information – A review of selected historical sources will be conducted in an attempt to document obvious past land use of the site and adjoining properties back to 1940 or when the site was initially developed. The client and the current or past owners will be interviewed to provide information regarding past uses of the site and information pertaining to the use of hazardous substances and petroleum products on the site.

Regulatory Records Review – Consistent with ASTM E1527-13, selected federal, state, and tribal databases are typically reviewed for indications of RECs within their approximate minimum search distances. A database firm will be subcontracted to access governmental records used in this portion of the assessment. In addition to the database review, an attempt will be made to review reasonably ascertainable and useful local lists or records such as Brownfield sites, landfill/solid waste disposal sites, registered storage tanks, land records, emergency release reports, and contaminated public wells. A reasonable attempt will also be made to interview at least one staff member of any one of the following types of local government agencies: fire department, health agency, planning department, building department, or environmental department. As an alternative, a written request for information may be submitted to the local agencies.

Site and Adjoining/Surrounding Property Reconnaissance – A site reconnaissance will be conducted to identify RECs. The reconnaissance will consist of visual observations of the site from the site boundaries and selected interior portions of the site. The site reconnaissance

may include an interview with site personnel who the client has identified as having knowledge of the uses and physical characteristics of the site. The adjoining property reconnaissance will consist of visual observations of the surrounding properties from the site boundaries and accessible public rights-of-way.

Report Preparation – A PDF-formatted copy of the final report will be submitted that presents the results of this assessment, based upon the scope of services and limitations described herein. The final report will be signed by an environmental professional responsible for the Phase I ESA, and the report will contain an environmental professional statement as required by 40 CFR 312.21(d).

GEOTECHNICAL EVALUATION

Field Program – Based on the provided “Johnson Drive Alignment, Concept 3a” plan that was dated December 3, 2014, and ongoing discussions with Kimley-Horn, Kimley-Horn through the use of a sub-consultant proposes to perform six (6) soil test borings along the proposed Johnson Drive and Childers Lane alignments to depths of 10 to 15 feet below existing grades (or auger refusal, if shallower). The frequency and depths of these borings will be performed in accordance with the North Carolina Department of Transportation’s “Guidelines and Procedures Manual for Subsurface Investigations.” These borings will help determine geotechnical aspects of site grading and construction, such as suitability of onsite soils for fill, depth of relatively shallow rock, etc., as well as for pavement recommendations. Rock coring is neither planned nor included in this scope of services.

Sampling will be in general accordance with NCDOT standard procedures wherein split-barrel samples are obtained. Four samples will be obtained in the upper ten feet of each boring and at intervals of five feet thereafter. In addition, we will observe and record groundwater levels during and after drilling, if encountered within boring termination depths. Once the samples have been collected in the field, they will be placed in appropriate sample containers for transport to our laboratory.

Conditions/Items to be provided by Client: Items to be provided by the client include the right of entry to conduct the exploration and an awareness and/or location of any private subsurface utilities existing in the area. We will contact North Carolina One Call for location of utilities in public easements. Location of private lines is not part of the One Call Service. Consultant will utilize a private utility locator to assist with locating private utilities; however, all private lines should be marked by others prior to commencement of drilling. The cost of a private utility locator has been included in our scope of services and fee.

The borings will be located using hand measuring equipment and estimating angles and distances from existing features and/or by using a hand-held GPS unit (accurate to within about 15 feet). The layout of the boring locations will be approximate. The number and

locations may be adjusted in the field in response to existing site features or the subsurface conditions encountered.

For safety purposes, all borings will be backfilled immediately after their completion and patched with asphalt cold patch, where necessary. Excess auger cuttings will be disposed of on the site. Because backfill material often settles below the surface after a period of time, we recommend the boreholes be checked periodically and backfilled if necessary. We could provide this service at your request or grout the holes, but this would involve additional cost.

Laboratory Testing – The samples will be tested in our laboratory to determine physical engineering characteristics. Testing will be performed under the direction of a geotechnical engineer and will include visual classification, moisture content determination tests, California Bearing Ratio (CRB) tests, Standard Proctor tests, Atterberg limit tests, and grain size sieve analyses, as appropriate.

Engineering Analysis and Report – The results of our field and laboratory programs will be evaluated by a professional geotechnical engineer licensed in the State of North Carolina. Based on the results of our evaluation, an engineering report will be prepared that details the results of the testing performed, provides logs of the borings, and a diagram of the site/boring layout. The report will be prepared in accordance with generally accepted industry standards, and will not follow the report format of Inventory and Recommendation Reports as outlined in the NC DOT "Guidelines and Procedures Manual for Subsurface Investigations." The report will include the following:

- Computer generated boring logs with soil stratification based on visual soil classification
- Groundwater levels observed during and after completion of drilling
- Boring location plan
- Subsurface exploration procedures
- Encountered soils conditions
- Laboratory test results
- Pavement recommendations
- Suitability of onsite soils for reuse as fill
- Subgrade preparation/earthwork recommendations
- Comments regarding subsurface conditions that could potentially impact the project

TASK 2 - ROADWAY DESIGN

Kimley-Horn will prepare construction documents and assist the Town of Pineville to obtain anticipated permits for the roadway improvements for the preferred alternative. This scope of work assumes that *Concept 3a* from the planning study will be the preferred alternative.

DESIGN CRITERIA DEVELOPMENT

Kimley-Horn will compile a summary of appropriate design criteria for this particular site and submit to the Town for review. Design criteria will consist of design speeds, lane and shoulder widths, horizontal and vertical curvature ("k" values), minimum and maximum grades, sight distance, turning radii, ditch grades, bridge design components, and drainage design parameters. Town comments will be incorporated into the final design criteria.

PRELIMINARY PLANS

Using the established design criteria and obtained survey, Kimley-Horn will develop preliminary roadway design plans. Preliminary plans will consist of a cover, typical sections, roadway plan, and profiles and cross sections. Preliminary plans will be developed to the stage at which approximately 30% of the final roadway design for the project is complete.

After an internal review of the preliminary plans, Kimley-Horn will submit copies of the preliminary plans to the Town of Pineville for review. Kimley-Horn will attend one meeting with the Town to review comments provided. Kimley-Horn will incorporate The Town of Pineville comments into the 90% Right-of-way plans. A preliminary opinion of probable construction cost (OPCC) will be provided to the Town for the design alternative as a part of this task. In addition to the elements necessary for the roadway construction, the OPCCs will include cost associated with right-of-way impacts, utility relocations and construction engineering and inspections. All quantities and approximated impacts will be based upon the survey information provided by the Client.

It is assumed that Kimley-Horn will determine potential impacts and coordinate with the affected utility providers regarding the scope of the project. Kimley-Horn will begin utility coordination once 30% plans are complete. Kimley-Horn will compile a list of utility providers within the project limits and submit the 30% plans along with an initial letter notifying the utility providers of the project. Shortly thereafter, Kimley-Horn will coordinate and conduct an initial field meeting to discuss the project. At this meeting, the team will identify potential utility conflicts. Kimley-Horn will request that the utility providers develop relocation plans, if necessary, and submit back to Kimley-Horn for incorporation into the roadway plans.

RIGHT-OF-WAY PLANS

Based on the requirements and comments received on the preliminary plans, Kimley-Horn will develop right-of-way roadway design plans. In addition to the preliminary roadway design revisions, right-of-way design will include driveway profiles (two assumed), pavement marking and signage plans, preliminary erosion control plans and calculations and drainage plans and calculations. Kimley-Horn will also provide traffic control phasing and details. A right-of-way data sheet and property strip maps also will be required before finalizing the

right-of-way plans. Right-of-way roadway plans will be developed to the stage at which approximately 90% of the roadway design for the project is complete.

Prior to initiating the drainage design, a field reconnaissance will be performed to inventory the existing storm drainage structures and to verify the boundaries of tributary watersheds draining throughout the project. An analysis of the existing storm drainage features will then be conducted. Kimley-Horn will then perform roadway drainage design, including determining invert elevations for longitudinal ditches, cross pipes, and energy dissipaters. In addition, Kimley-Horn will provide a sediment and erosion control plan to be used during the construction process to identify the areas requiring additional right-of-way. Kimley-Horn will submit a hydraulic design study and a stormwater management report outlining the results of the hydrology/hydraulics analyses and the proposed design.

In conjunction with the development of 90% plans, the utility providers will develop relocation designs for development of the utility-by-others (UBO) plans for incorporation into the plan set. Kimley-Horn will seek to resolve conflicts of proposed utility relocations among the providers.

After an internal review of the right-of-way plans, Kimley-Horn will submit to The Town of Pineville for review. Kimley-Horn will attend one meeting with the Town to review comments provided. Kimley-Horn will incorporate the Town of Pineville comments into the revised right-of-way plans and re-submit to the Town for approval prior to beginning ROW acquisition.

FINAL PLANS

Based on the requirements and comments received on the right-of-way plans, Kimley-Horn will develop final roadway design plans. In addition to the right-of-way design revisions, final design will include a summary of estimated quantities and general construction notes.

After an internal review of the final design, Kimley-Horn will submit copies of the final plans to the Town of Pineville for review. Kimley-Horn will incorporate The Town of Pineville comments and re-submit for approval. Once approved by the Town, Kimley-Horn will submit erosion control drawings and calculations to North Carolina Department of Environmental Quality (NCDEQ) for a grading permit. One round of comments from NCDEQ will be completed as part of the final plan task. All permitting fees will be paid for by The Town of Pineville.

Once NCDEQ has approved the final plans, Kimley-Horn will submit hard-copies of the final sealed plans to The Town of Pineville, as well as electronic copies.

TASK 3 - TRAFFIC SIGNAL DESIGN

TRAFFIC SIGNAL PLANS

Kimley-Horn will upgrade the existing fully-actuated metal pole and mast arm traffic signal for the intersection of NC 51 (Main Street) and Church Street. The traffic signal will be owned and maintained by NCDOT. NCDOT will review our plans and provide field inspection of the signal installation. The project will also remove the existing metal pole and mast arm signal at NC 51 (Main Street) and Johnston Drive.

Based on the survey data, Kimley-Horn will design the traffic signal in conformance to NCDOT standards. The signal will be designed to use a NEMA TS-1 cabinet, 2070 (NEMA adapted) controller and inductive loop detection. The intersection will utilize permissive phasing for all approaches.

A signed Traffic Signal Agreement (TSA) is required by NCDOT before traffic signal designs are reviewed by NCDOT. NCDOT plan review can be conducted in parallel with processing of the Agreement if a deposit (typically \$5,000) is included with the request for the Agreement (prepared by Kimley-Horn on the behalf the Client) to cover NCDOT anticipated labor costs for these services.

Signal plans will be prepared in English units and will include the preparation of the following items:

Intersection Layout Plan. This plan will include the overall layout of the intersection showing the items proposed for construction. Items on the plans will include intersection striping and marking location (not to be considered a pavement marking plan); detection design and location; identification of conduit runs; signal head placement; pole location; location of controller cabinet and pull boxes; phasing diagram; a timing chart; a detection chart; a table of operation; a stop bar location diagram; a pole location diagram; and signal head and sign legends.

Intersection Timing and Phasing Plans. Kimley-Horn will prepare a phasing plan and develop the traffic signal timing to be implemented for the intersection. These timing plans will be based on coordination with the Client, and existing traffic data. The proposed coordinated signal timing will be shown on the signal plan.

Electrical Details Plan. This plan will include details for: the signal monitor programming detail, load resistor installation detail, back-up protection notes and details, and equipment information notes. Kimley-Horn will provide a field connection hook-up chart and electrical detail notes.

Metal Pole Plans. Kimley-Horn will prepare metal pole structural loading plan for each metal pole as required for the traffic signal design. Kimley-Horn will design the structural loading plans to current NCDOT guidelines. The structural loading plans will be based on the traffic signal plans developed for the referenced intersection. The metal pole structural loading plans will include the proposed signal head placement on the span wires, a signal head information chart and an NCDOT metal pole base detail. Design elevation and vertical clearances will be based on the survey and roadway design files provided by the client. Metal pole and foundation

fabrication details and structural analysis will be prepared by the signal contractor and/or their subcontracted pole supplier and is not a part of this agreement.

Kimley-Horn will coordinate with the NCDOT Division office and the Raleigh Signal Design Section of NCDOT to present our initial design concepts and recommendations and seek their input and initial approval. Kimley-Horn will make adjustments and revisions to our design parameters as discussed in this initial conference.

Kimley-Horn will prepare and submit to NCDOT our 90% signal, electrical and metal pole plans. Upon receipt of 90% review comments, Kimley-Horn will revise our plans if needed. Kimley-Horn will then sign, seal, and submit the 100% signal and electrical plans to NCDOT. It is assumed that only the three (3) submittals will be required.

Kimley-Horn will prepare Project Special Provisions for the traffic signal work based on the latest version of the electronic file available on the NCDOT website. If NCDOT releases an update to the Project Special Provisions during the course of this project, Kimley-Horn will revise the Project Special Provisions as an additional service.

CABLE ROUTING PLANS

At the request of NCDOT, communication cable routing plans will be developed in accordance with NCDOT standards for the intersection of NC 51 (Main Street) and Church Street. The interconnect plans will tie into the existing system on NC 51 (Main Street). The interconnect plans will be developed from base mapping from available data provided by NCDOT and field reconnaissance. The fiber optic cable will be installed underground to interconnect the proposed traffic signal with the existing closed loop signal system along NC 51 (Main Street). Using input from the field review and NCDOT, Kimley-Horn will develop design plans.

The cable layout plans will depict the following:

- Approximate cable location
- Cable type and cable fiber count
- Approximate conduit location with offset from edge of roadway
- Cable splice details
- Conduit installation method
- Location of junction boxes
- Hardware to be installed in the signal cabinets

CORRIDOR TIMING PLANS

Kimley-Horn will use the existing system timings provided by NCDOT for implementation at the new traffic signal.

This task will consist of the following items:

- Analyses:
 - Cycle lengths will be based on existing system cycle lengths being used.
 - Set-up and analysis using Synchro 8.0 under 2015 conditions with the planned geometry/phasing (per signal plans obtained) to determine recommended offsets and splits to synchronize this signal with current corridor offsets and timings.
 - We will prepare timing plans for weekday AM peak, off peak, and PM peak.
- We will provide one coding sheet for the intersection. The coding sheet will consist of cycle, splits and offsets only. This assumes the system timing parameters will be fit into the existing system without impact to adjacent system intersections (i.e. no changes to other system intersections).
- We will coordinate with the Town and NCDOT for approval of the coding sheet prior to implementation. This scope accounts for up to three hours of coordination.
- We will provide up to one full weekday of fine tuning.

TASK 4 - SITE/CIVIL DESIGN

SITE/CIVIL CONSTRUCTION DOCUMENTS

Based upon the Client approved Concept 3a, Kimley-Horn will develop Construction Documents for the parking lot with the following information:

- Site Plan with:
 - Location data (dimensions, horizontal control)
 - Materials indications (paving, curb and gutter)
 - On-site pavement markings for surface parking areas
- Two-Phase Erosion Control Plan with:
 - Erosion Control measures (silt fence, inlet protection)
 - Stabilization
- Grading and Drainage Plan with:
 - Contours at one-foot intervals and spot elevations at critical locations
 - Stormwater drainage pipe layout
 - Stormwater drainage structures (rim and invert elevations; structural design of underground detention vaults, if required, is not included in the base scope)
- Code Required Planting Plan
 - Areas to receive required landscape materials
 - Plant list with location and spacing
 - An enhanced landscaping/hardscape plan can be provided as an additional service
- Construction Details (Civil)
 - Site materials (paving, curb and gutter.)
 - Erosion control

- Storm drainage
- Construction Specifications

SITE/CIVIL PERMITTING

Kimley-Horn will submit Site Construction Documents or assist with submittals to the appropriate government review agencies (listed below) for the following:

- Kimley-Horn will submit to the Town of Pineville for full plan review. Kimley-Horn will administer this process and lead the review with coordination from the Client and project co-consultants. Kimley-Horn will incorporate comments from one review. The submittal will include the following department reviews:
 - Grading and Erosion Control
 - Engineering
 - Planning
- Kimley-Horn will submit to NCDEQ for grading and erosion control plan review. The work performed as a part of this task will be included within the overall grading and erosion control plan package that will be submitted to NCDEQ. Kimley-Horn will incorporate comments from one review. Kimley-Horn will administer this process and lead the review with coordination from the Client and project co-consultants

TASK 5 - WATER MAIN DESIGN

The Consultant will provide the following professional services:

DATA COLLECTION

Review data provided by the Charlotte Water Including any GIS, record drawings or historical sewer maps.

UTILITY DESIGN

The Consultant will provide the following professional services:

- Prepare Documents - Prepare engineering plans, specifications, and construction contract documents for project bidding and regulatory approval. Plans will consist of 22"x34" plan and profile sheets at a scale of 1"=20'. Kimley-Horn anticipates preparing approximately 3 plan sheets. Kimley-Horn will provide the following information on the plan sheets:
 - Plan view
 - Profiles
 - Details
 - General Notes

- Specifications will include technical specifications for materials and installation of the proposed facilities.
- Submit to the Client 95% complete plans, specifications, Contract Documents, and final opinion of probable construction cost (OPCC) for review and comments.
- Submit to the Charlotte Water 95% complete plans, specifications and any Contract Documents for review and comments.
- Make one round of revisions based on the Client's review of the 95% submittal and submit final plans.
- Provide engineers certification and record drawings based on contractor's mark-ups and final survey.

PERMITTING

Kimley-Horn will prepare applications and standard supporting documentation for the following Regulatory Agency reviews required for this Project:

- Prepare and submit design documents and permit applications to Charlotte Water.

TASK 6 - LIGHTING DESIGN

PHOTOMETRIC PLANS

Kimley-Horn will prepare intersection lighting plans for the proposed realignment and adjacent sidewalk. This project will utilize street lights and poles selected by the Town. Street lights will be metered for power from Town of Pineville. Street lights will include receptacles mounted on the street lighting poles and photocells.

The Consultant will model proposed roadway luminaires within the proposed project area using lighting design software AGI-32TM. Kimley-Horn will perform photometric calculations supporting light pole locations, heights, and fixtures in accordance with the NCDOT criterion for fixture type, height, spacing, minimum light levels, and maximum light levels. The ground light level calculations will be measured in foot-candles (FC) on a 10' x 10' grid. The Consultant will submit preliminary photometric plans for review by the Town. Final photometric plans will be developed from the preliminary plans, once comments are received from the Town.

The photometric design will include the following elements:

- Photometric modeling of the proposed luminaire placements to achieve the FC requirements using AGI-32TM lighting design software.
- Diagrammatic horizontal layout of lighting fixtures/poles for the proposed roadway areas.
- Luminaire Summary Schedule.

- Photometric Schedule identifying lighting FC minimums, FC maximums, average FC values, maximum to minimum FC values and average to minimum FC values as required by any NCDOT requirements.
- Centerline station and offset distances at 100% submittal

TASK 7 - CONSTRUCTION ADMINISTRATION

BID PHASE SERVICES

Kimley-Horn will prepare and assemble construction bidding documents, including specifications for the subject Work and the construction contract, based on "Standard General Conditions of the Construction Contract" (EJCDC No. C-700, 2007 edition) prepared by the Engineers Joint Contract Documents Committee. Kimley-Horn will issue bid packages for the submittal of quotations to perform the work and answer questions from potential bidders. Kimley-Horn will tabulate the bids received and evaluate the compliance of the bids received with the bidding documents. Kimley-Horn will prepare a written summary of this tabulation and evaluation. If requested by the Client, Kimley-Horn will notify the selected Contractor. For fee estimating purposes, a total of 60 hours was assumed for this item. Time expended beyond this allotment shall be considered an additional service.

CONSTRUCTION PHASE SERVICES

The estimated hourly fee for this task was developed assuming that during the construction phase Kimley-Horn and it's sub-consultant shall perform:

General Administration

- Project construction administration will be conducted by Kimley-Horn in an offsite capacity.
- The Kimley-Horn sub-consultant fee is assumed as an average of 40 hours a week for 6 months. Actual time invoiced will be based on actual time needed to meet contract requirements. Additional scope of work or extension of project duration will need to be negotiated.
- Kimley-Horn's sub-consultant will observe project construction per plans, specifications, construction contract and NCDOT Standards and specifications.

Project Quantities – The sub-consultant will track quantities of materials used on the project and document material received in accordance with the NCDOT standards and practices, based on the latest version of the Standard Specifications and Project Special Provisions (2012).

Construction Engineering and Construction Services

- *Daily Observation Reports* – Kimley-Horn's sub-consultant will observe daily operations of contractor per NCDOT standard specifications. The Town will provide pertinent forms it typically uses for construction projects.

- *Project Diaries* – Construction activities will be monitored and documented by the sub-consultant per NCDOT standards, specifications, and Construction Manual with the approved daily report form. Pertinent forms will be provided to the sub-consultant prior to project so that the correct documentation is used.
- *Materials Received* – Project materials received to be used on the project will be recorded by the sub-consultant per NCDOT standards specifications and Construction Manual.
- *Keep Red Book for Pay Items* – The sub-consultant will maintain and update pay record books to document pay quantities and material received per NCDOT standards specifications and Construction Manual.
- *Coordinate Testing with Contractor and Materials Lab* – The sub-consultant will coordinate testing with the Materials Lab.
- *Verify Testing Certification* – The sub-consultant will conduct verification testing per NCDOT standards, specifications, and Construction Manual.
- *Subgrade Evaluation* – The sub-consultant will observe subgrade operations, including density test and proof rolls.
- *Material Testing* – The sub-consultant will provide NCDOT certified inspectors to conduct concrete testing per NCDOT standards and specifications.
- *Pre-construction Conference* – Attend one pre-construction conference.
- *Site Visits* – Attend up to three (3) site visits during construction to observe the Contractor's progress.
- *Shop Drawings* – Review and approve or take other appropriate action in respect to shop drawings, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- *Clarifications/interpretations* – Issue necessary clarifications and interpretations of the Contract Documents to the Client as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be made by the Client.
- *Record Drawings* – Upon completion of the construction phase, provide to the Client "Record Drawings" of the proposed water line facilities, based on red-lined construction plans as marked up during construction by the Contractor to designate field adjustments made to the plans. Record Drawings will consist of one set each of full- and half-size signed/sealed plans and one CD with the associated AutoCAD files.
- *Final Walk-through* – Kimley-Horn will conduct a final site visit with the Contractor and Town to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor upon Town/NCDOT

approval. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.

Quality Control/Quality Assurance

As part of QA/QC process, the sub-consultant's project manager will conduct field observations to assess the compliance and quality of work. During the construction phase of the project, the sub-consultant's project manager will make bi-weekly visits to monitor the projects conformity to the approved plans, NCDOT specifications, and all other contractual obligations. Project management reimbursement will be invoiced per the estimate attached.

TASK 8 - PROJECT ORGANIZATION AND MANAGEMENT

The scale, level of complexity, and overall importance of the project to the Town necessitates the involvement of and interface with key public agencies (NCDOT, NCDEQ and The Town of Pineville). As such, regular communication and coordination between Kimley-Horn and the Town will be essential. The scope of work outlines many of the milestone and significant project planned meetings. However, we expect additional coordination among, Kimley-Horn, their sub-consultants and the Town.

a. Project Team Meetings

Kimley-Horn will prepare for and attend up to two (2) project team meetings not already included in the scope above. Kimley-Horn will prepare and distribute meeting notes following the meetings, and will revise meeting notes based on attendee comments.

b. General Agency Coordination

It is expected that in addition to meetings specifically enumerated within this scope of services, there will be additional informal coordination between Kimley-Horn and the key public agencies. This coordination will take the form of individual phone calls, conference calls, interim documents, etc.

c. General Project Coordination

It is expected that in addition to meetings specifically enumerated within this scope of services, there will be additional informal coordination between the consultant and the Town of Pineville. This coordination will take the form of individual phone calls, conference calls, interim documents, written summaries of current aspects of the project, etc.

UNSPECIFIED ADDITIONAL SERVICES

Any services not specifically provided for in the above scope, as well as any changes in the scope the Town requests, will be considered additional services and will be performed at our then current hourly rates. No specific scope has been identified for this task, but a budget has been set aside to accommodate tasks outside the aforementioned scope of services.

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:

- Structural Design/Retaining wall design
- Public involvement
- Stormwater Best Management Practice (BMP) design and analysis
- Additional submittals to NCDOT for permitting
- Additional meetings with Client
- Additional meetings with NCDOT
- Additional meetings with utility providers
- Electrical cabling details for lighting
- Environmental Services beyond those outlined in this agreement
- Metal signal pole analysis
- National Environmental Policy Act (NEPA) documentation if state funds are obtained

FEE AND EXPENSES

Kimley-Horn will perform the services in Tasks 1 - 8 for the total lump sum labor fee below. Individual task amounts are informational only. In addition to the lump sum labor fee, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1	Data Collection and Analysis	\$ 20,600
Task 2	Roadway Design	\$ 53,200
Task 3	Traffic Signal Design	\$ 19,000
Task 4	Site/Civil Design	\$ 11,000
Task 5	Water Main Design	\$ 11,000
Task 6	Lighting Design	\$ 7,500
Task 7	Construction Administration	\$133,000
Task 8	Project Organization and Management	\$ 19,700
	<u>Unspecified Additional Services</u>	<u>\$ 25,000</u>
	Total Lump Sum Labor Fee	\$300,000
	Direct Reimbursables	\$ 7,000
	Total Contract Amount	\$307,000

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Reimbursable expenses will be invoiced based upon expenses incurred. 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

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and "Client" shall refer to the Town of Pineville.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

(Remainder of page intentionally left blank.)

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.



Tony Spacek, PE
Associate



Matt Edwards, PE
Vice President

TOWN OF PINEVILLE
A Municipality



Ryan Spitzer, Town Manager

(Print or Type Name and Title)

rspitzer@pineville-nc.gov

(Email Address)

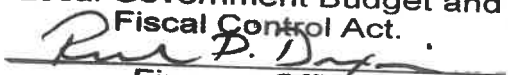


, Witness

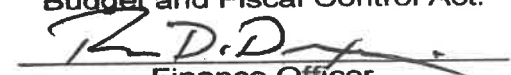
Barbara Monticello

(Print or Type Name)

Official Seal:

**This disbursement has been
approved as required by the
Local Government Budget and
Fiscal Control Act.**

Finance Officer

Attachment – Request for Information
Attachment – Standard Provisions

**This instrument has been
preaudited in the manner
required by the Local Government
Budget and Fiscal Control Act.**

Finance Officer

Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client	TOWN OF PINEVILLE		
Mailing Address for Invoices	PO BOX 249 PINEVILLE, NC 28134		
Contact for Billing Inquiries	RICHARD DIXON		
Contact's Phone and e-mail	704-889-1722 RDIXON@PINEVILLENC.GOV		
Client is (check one)	Owner <input checked="" type="checkbox"/>	Agent for Owner <input type="checkbox"/>	Unrelated to Owner <input type="checkbox"/>

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
Town of Pineville in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

STBG-DA FUNDS

Attach additional sheets if there are more than 4 parcels or more than 4 owners

Kimley-Horn AND ASSOCIATES, INC.

STANDARD PROVISIONS

(1) Consultant's Scope of Services and Additional Services. The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, 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 1.15 times cost.

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

- (a) Designate in writing a person to act as its representative with respect to this Agreement, 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 including all numerical criteria that are to be met and all standards of development, design, or construction.
- (c) Provide to the Consultant all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
- (d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
- (e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of 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 for completion of the Consultant's services.
- (g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
- (i) Bear all costs incidental to the responsibilities of the Client.

(3) Period of Services. Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of 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 (cumulatively), Consultant's compensation shall be renegotiated.

(4) Method of Payment. Compensation shall be paid to the Consultant in accordance with the following provisions: Compensation shall be paid to the Consultant in accordance with the following provisions:

- (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 for the duration of the project 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 to the Consultant 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 in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.
- (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, including but not limited to drawings, specifications, reports, and data or programs stored electronically, 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, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation 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 developed in the development of application 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. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(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 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 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 through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, 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. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and general liability insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client's expense.

(9) **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 undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the 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, resulting from or in any way related to the services under this Agreement from any cause or 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. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) **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.

(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 Construction Industry Mediation Procedures of 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.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, 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's services include the preparation of documents to be used for construction 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) If the Consultant provides construction phase services, 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 the design professional 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 for 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 North Carolina. 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. Provided, however, that 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.