

RESOLUTION 20-111

**A RESOLUTION TO APPROVE AMENDMENT NO. 02 FOR AGREEMENT
WITH KIMLEY HORN FOR RIGHT-OF-WAY SERVICES FOR BUCKNER
LANE WIDENING PROJECT**

WHEREAS, on October 21, 2019 the City of Spring Hill Board of Mayor and Aldermen approved the professional services agreement with Kimley Horn for design services for the Buckner Lane Widening Project (“Project”) with Resolution 19-191; and

WHEREAS, the original agreement for design services included a detailed description of right-of-way services for both the North and South Segments but did not include associated fees in order for preliminary engineering to advance to more accurately understand the extent of right-of-way and easements necessary for each segment of the Project along with associated cost for right-of-way support services; and

WHEREAS, the right-of-way services described in the attached Exhibit are necessary for the advancement of the Project in order to acquire the necessary right-of-way and easements needed to construct the Project; and

WHEREAS, Amendment No. 02 provides for specific right-of-way services from Kimley Horn and its subconsultants as described in the scope of services for a lump sum fee amount of \$459,300 as further described in Exhibit A attached hereto; and

WHEREAS, real estate closing expenses for the closing attorney estimated to be \$19,000 will be needed in addition to ROW services; and

WHEREAS, there is currently \$1,048,983 in professional engineering service contractual commitments for the Buckner Lane widening project including \$641,640 with Kimley Horn for engineering services, \$189,743 with Thomas & Hutton for utility engineering services, and \$217,600 for design contingency; and

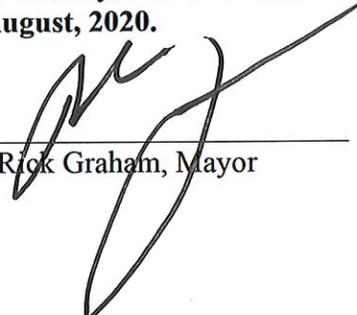
WHEREAS, Ordinance 20-13 contains a budget amendment to appropriate \$459,300 for right-of-way support services and an additional \$19,000 for closing costs associated with real estate closings required for right-of-way and easement acquisition for the North Segment of the Buckner Lane widening project to provide sufficient funding for the proposed amendment to the contract with Kimley Horn for right-of-way services; and

WHEREAS, according to Section XX, (e) vi., of the *City of Spring Hill Purchasing Manual*, “A public contract may include provisions for modification of the contract during performance, but no fixed-fee price contract may be increased by more than twenty-five (25) percent of the amount of the contract or ten thousand Dollars (\$10,000), whichever is greater, with the advance written approval of the City Administrator and the Mayor and Board of Alderman. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offer or from the consequence of an error in its bid or offer.”

NOW, THEREFORE BE IT RESOLVED, that the City of Spring Hill, Board of Mayor and Aldermen:

1. Approves Amendment No. 02 attached hereto for Kimley Horn Professional Services Agreement for Right-of-way services for the North Segment of the Buckner Lane widening project for a lump sum amount of \$459,300.
2. Authorizes Mayor to execute Amendment No. 02 attached hereto.
3. Appropriate \$19,000 from Adequate Facilities Tax fund for the purpose of related real estate closing expenses for the closing attorney.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 17th day of August, 2020.



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

**AMENDMENT NUMBER 02 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN
AND ASSOCIATES, INC.**

This is Amendment number 02 dated July 28, 2020 to the agreement between City of Spring Hill ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated October 21, 2019 ("the Agreement") concerning Buckner Lane Widening Project (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Consultant will perform the following services for the Buckner Lane Widening Project – Design Package #1 (North Segment):

Task 1 - Project Management

This task will consist of the following project management activities:

- Project Coordination – coordination with the City during the current bi-weekly project calls to provide updates on the right-of-way acquisition process, impromptu meetings calls, and other activities to help the City keep the project stakeholders generally informed of the progress of the project.
- Project Kick-off Meeting – consists of scheduling, setting the agenda, and producing meeting minutes for a single right-of-way acquisition team kick-off meeting.
- Project Administration – administrative and accounting activities related to the management of the right-of-way acquisition process and subconsultants.

Task 7.5 – Acquisition Exhibits and Legal Descriptions

Kimley-Horn, through Ragan-Smith & Associates, will prepare exhibits for up to 38 impacted properties for the required right-of-way and easements on the project. Legal Descriptions will be provided for each property anticipated to require easement or right-of-way acquisition. Permanent right-of-way and permanent drainage easements will be described by meets and bounds. Temporary slope easements and temporary construction easements will be described in a general nature and will include the square footage and acreage of the easement to be acquired.

As part of this task, if required, Ragan-Smith & Associates will utilize design CADD files for Cherry Grove Phase 3 and the Wilkerson Development and include the paper located property information for a total of 7 tracts not included in the original surveying effort.

This task will consist of the following:

- Datum/control check and realignment of the Cherry Grove Phase 3 and Wilkerson Development CADD files
- Creation of up to 7 new tracts, tract numbers, and owner names
- Labeling of bearing, distances, and station offsets of new tract boundaries
- Update of the right-of-way acquisition table

Task 7.6 – Preliminary Title Reports and Property Owner Coordination

Kimley-Horn, through Lehman & Lehman, will obtain a Preliminary Title Report and Abstract for each subject property. The purpose of the Title Report is to determine the legal owner of a property, and to identify liens, encroachments, and easements that may be held against the property. Based on a review of the properties along the corridor and the current project Preliminary plans, it is estimated that there may be up to 38 properties that will require title reports.

Each property owner will be contacted using the information from the Title Report. Information regarding the acquisition process as well as property owner rights to each owner via certified mail. Included in this mailing will be an invitation to attend a Right-of-Way meeting for the project.

Kimley-Horn will organize, prepare for, and run a Right-of-Way meeting (in person or virtual) for the project. During this meeting, Kimley-Horn will provide an overview of the project and a summary of the overall Right-of-Way acquisition process that will be followed. Kimley-Horn will coordinate with City staff for inclusion in this meeting. Following the meeting, Kimley-Horn will prepare a written summary of the meeting and attendees.

Task 7.7 – Appraisal Services Coordination

Kimley-Horn will coordinate with Randy Button & Associates and Boozer & Company in the execution of the services outlined in sub-tasks 7.8 through 7.9 below. Kimley-Horn will provide the appraisers with the following documentation for their use in performing the services:

- Right-of-Way plans of the overall project
- Exhibits and Legal Description for all required acquisitions (prepared under Task 7.5)
- Title Report for all properties requiring acquisitions (prepared under Task 7.6)
- Available contact information for property owners

Kimley-Horn will coordinate with the appraisers throughout the appraisal process, answering questions related to the project design, acquisition requirements, project schedule, or other relevant items that may impact the appraisal of the properties. Kimley-Horn will provide project mapping and copies of design plans as needed by the appraisers.

Task 7.8 – Property Appraisals

All property owners on the project, regardless of the value or type of acquisition, have a right to an appraisal of their property. The individual property owners may waive their right to an appraisal if the estimated value of the acquisition is less than \$10,000. However, any property acquisition with an estimated value of \$10,000 or greater must go through an appraisal and review appraisal process.

The first step in the appraisal process is the preparation of a Market Data Brochure for the project area. This document details property values and sale amounts for properties located within the project corridor and is intended to serve as a guide for the appraisers as they make their determinations of property values on the subject properties. The brochure will contain:

- A description of the process followed in the development of the brochure
- Sale / Lease / Listing / Cost data for multiple comparable properties in the corridor
- Pertinent Area and Neighborhood Analyses
- Market Data location map(s) with sufficient legible detail to allow for third party readers to locate and inspect all data in the field
- Any other repetitive data to be referenced in individual appraisal reports. (i.e. cost for fencing, landscaping, wells, septic systems, etc.)

Market Data Brochures will be prepared in accordance with the current edition of the TDOT Right-of-Way Division's *Guidelines for Appraisers*.

For properties where the owner requests an appraisal, and for all properties where the acquisition value is anticipated to be more than \$10,000, Kimley-Horn, through Randy Button and Associates, will prepare a property appraisal report for the acquisition. The appraisals will be prepared in accordance with the current edition of the TDOT Right-of-Way Division's *Guidelines for Appraisers*.

Any necessary changes to the appraisals due to plans revisions will be billed at 50% of the original

appraisal tract fee as an additional service.

Task 7.9 – Property Review Appraisals

A second "review appraisal" will be prepared by Boozer & Company for all property appraisals performed under Task 7.8. The review appraisals will be prepared in accordance with the current edition of the TDOT Right-of-Way Division's *Guidelines for Appraisers*.

If a property owner elects to waive their right to an appraisal, a Waiver of Appraisal document will be prepared for the project files.

Any revisions to the reviews and/or Form 2 document as a result of plan changes will be billed as an additional service.

Task 7.10 – Right-of-Way Staking

Kimley-Horn, through Ragan-Smith & Associates, will field locate the right-of-way, permanent drainage easements and construction easement locations for impacted properties. In fully developed or paved areas spray marking will be used to note the locations of proposed acquisitions. Ragan-Smith & Associates will mark the proposed right-of-way, proposed permanent drainage easements, and proposed construction easements only. The "slope limits" or physical limits of the construction will not be marked. Project staking limits will be photographed for documentation purposes.

Task 7.11 – Negotiation and Acquisition

Kimley-Horn, through R&D Enterprises, will notify all affected property owners of their rights in the property acquisition process. R&D Enterprises will negotiate with the property owners and make offers for acquisition as authorized by the City. A Negotiator's Report of Call will be kept for each property affected to provide a written record of commitments made to the property owner during the negotiation phase. R&D Enterprises will prepare the Offer to Acquire. This document will itemize the elements of compensation, state whether relocation is involved, and itemize tenant owned improvements not included in the offer.

It is assumed that there will be no relocations or condemnations required on any of the subject properties, and no effort is included for these activities. Any tasks and effort required for the relocation or condemnation of the subject properties will be performed solely by the City of Spring Hill.

For properties where the acquisition occurs through donation, a donation document outlining the terms of the donation agreement will be prepared. R&D Enterprises will prepare a Deed or Easement document, as appropriate, for each property transaction.

Kimley-Horn will coordinate with the negotiators throughout the negotiating process, answering questions related to the project design, coordinating counter negotiation offers, or other relevant items that may impact the appraisal of the properties.

Kimley-Horn has allotted up to one weeks' worth of time for a 3 person right-of-way design team for revisions to the plans associated with property owner negotiations and requests, as approved by the City.

Task 7.12 – Closing

Kimley-Horn, through Lehman & Lehman, will submit the executed acquisition documents outlined in the tasks above to the City for the City's use in closing and official recording as appropriate. The City will be responsible for any fees associated with filing and recording the documents.

For the services set forth above, Client shall pay Consultant the following compensation:

Task 1 – Project Management	\$16,000
Task 7.5 – Acquisition Exhibits and Legal Descriptions	\$35,000
Task 7.6 – Preliminary Title Reports and Property Owner Coordination	\$62,850
Task 7.7 – Appraisal Services Coordination	\$11,000
Task 7.8 – Property Appraisals	\$133,000
Task 7.9 – Property Review Appraisals	\$70,300
Task 7.10 – Right-of-Way Staking	\$14,500
Task 7.11 – Negotiation and Acquisition	\$80,300
Task 7.12 – Closing	\$36,350
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Total Fee	\$459,300

CLIENT:

CITY OF SPRING HILL

By: _____

Title: _____

Date: _____





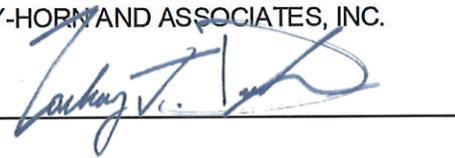
CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____

Title: Vice President

Date: July 28, 2020





REQUEST: Resolution 20-111, Approve Amendment No. 02 for Agreement with Kimley-Horn for Right-of-way Services for Buckner Lane Widening Project

SUBMITTED BY: Chuck Downham, Assistant City Administrator and Victor Lay, City Administrator

DATE: August 17, 2020

ATTACHMENTS: Resolution 20-111 and Supporting Documents

PURPOSE:

To approve Resolution 20-111 to approve Amendment No. 02 to the Professional Services Agreement with Kimley-Horn for right-of-way services and related expenses for the Buckner Lane widening project.

BACKGROUND:

In October 2019 the Board of Mayor and Aldermen approved Resolution 19-191 to approve the Professional Services Agreement between the City and Kimley-Horn for design services for the Buckner Lane widening project (attached). The Agreement specifically provided that the right-of-way services associated with the North Segment that is currently under design (Tasks 7.5 through 7.15) would be priced once design work was underway. The reasoning for this approach was to allow preliminary design to progress to a point where a better understanding of actual right-of-way and easement needs for the project could be determined to better define the level of effort that would be needed for right-of-way services.

With the completion of the 30% preliminary engineering milestone, the project is now progressing toward 60% engineering design. Another critical and time-sensitive component of the project is right-of-way and easement delineation and correspondingly moving forward with right-of-way services as described in the scope of services. This follows the milestone schedule that has been prepared for the project (see attached schedule). With the completion of the 30% design plans, two public meetings were held virtually that included a Powerpoint presentation (attached) sharing plan information with interested citizens.

With the extent of right-of-way and easements better defined as a result of 30% preliminary engineering plans (see attached illustrative plans depicting ROW and easements), Kimley-Horn has prepared for consideration a detailed scope of services along with a corresponding cost proposal for consideration by the City in the form of Amendment No. 02 (attached as exhibit to Resolution). The scope of work outlines a variety of right-of-way related services that will be needed to define and acquire required right-of-way and easements needed to allow the project to progress to completion. The proposal from Kimley-Horn includes a lump sum fee in the amount of \$459,300 that is not inclusive of the actual cost for required right-of-way and easements that will require a separate budget appropriation once an estimated preliminary valuation has been established.

An additional expenditure was identified by City staff that will need to be funded involving real estate closing expenses for the closing attorney that based upon past experience including most recently with the Duplex Road widening project were paid by the City rather than through the consultant. The estimated cost for real estate closing expense for the closing attorney is \$19,000.

PRELIMINARY UPDATED PROJECT COST ESTIMATE

As part of the scope of services for the preparation of 30% preliminary engineering plans, Kimley-Horn was to prepare a preliminary project cost estimate based upon the plans prepared utilizing the TDOT cost estimate model. Kimley Horn presented with the preliminary engineering plan package the preliminary project cost estimate for the North Segment with a cost estimate of \$14.1M (attached). The cost estimate provides a detailed breakdown of cost components using the TDOT model including a preliminary estimate for ROW and utilities along with project contingencies.

The City has been generating cost estimates for this project since 2015 with the initial estimate (\$9,453,900) being submitted by ICA as part of the feasibility study for the widening project. The initial planning-level cost estimate that has been most recently for the entire road widening project from Duplex Road to Buckner Road was \$14.88M that was generated by HDR (formerly ICA) in February of 2019 using the TDOT planning-level cost estimating tool. It was noted that the estimate could be as high as \$18M if the city bore the costs of all the utility relocations. Staff has mentioned several times in the past when discussing the Buckner Lane widening that the estimates were probably low based on our recent experience with Duplex Road.

Given the difference between the initial planning-level cost estimate and the latest preliminary cost estimate for the Northern Segment, it will be necessary and appropriate for the City to recalibrate its project financial model to the preliminary cost estimate for the north segment along with an appropriate extrapolation of cost for the southern segment that has not yet begun preliminary engineering. A straight proration of the latest cost estimate for the entire corridor would suggest \$22M. Of course, that does not take into account the different conditions and constraints that vary between the sections. Additional financial information will be prepared by City staff for presentation to BOMA outlining adjusted financial modeling that will be needed for the project to ensure sufficient funding is in place to fully execute the project.

FINANCIAL IMPACT:

After reviewing the budgeted appropriation for the Buckner Lane widening project, City staff determined the original amount budgeted of \$2,303,493 was in excess of the actual appropriation needed in Fiscal Year 2020-21 for professional engineering services. To address this overbudgeting, City staff has presented as part of Ordinance 20-13 to amend the City's FY2020-21 fiscal budget to remove the original budget amount of \$2,303,493 and to replace same with the amount of \$1,527,283 representing the actual amount of outstanding contracts currently active on the project at this time as well as the proposed amounts needed for right-of-way services and real estate closing costs. Below is a summary of the outstanding contracts that are currently active:

\$ 373,440	Kimley Horn (engineering services for North Segment)
\$ 268,200	Kimley Horn (engineering services for South Segment)
\$ 189,743	Thomas & Hutton (utility engineering services)
\$ 217,600	Design Contingency
\$ 459,300	Kimley Horn (right-of-way services for North Segment)
<u>\$ 19,000</u>	Real Estate closing costs (North Segment only)
\$1,527,283	Total Appropriation for FY20-21

The proposal presented by Kimley Horn contains a lump sum fee amount of \$459,300 for right-of-way services for the North Segment of the Buckner Lane widening project. This fee does not include the actual cost for acquisition of right-of-way and/or easements involving affected property owners. City staff recommends consideration of an additional appropriation in the amount of \$19,000 for real estate closing costs anticipated during the closing process for each of the parcels impacted by the project. Ordinance 20-13 contains a budget amendment to FY2020-21 fiscal budget to appropriate \$459,300 for right-of-way services (as provided in Addendum No. 02 from Kimley Horn) along with the \$19,000 appropriation for real estate closing costs.

During the Board of Mayor and Aldermen Work Session, an inquiry was made about the appropriateness of allowing such a significant increase from the base contract value of the professional services agreement with Kimley Horn. According to Section XX, (e) vi., of the City of Spring Hill Purchasing Manual, "A public contract may include provisions for modification of the contract during performance, but no fixed-fee price contract may be increased by more than twenty-five (25) percent of the amount of the contract or ten thousand Dollars (\$10,000), whichever is greater, with the advance written approval of the City Administrator and the Mayor and Board of Alderman. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offer or from the consequence of an error in its bid or offer." Addendum No. 02 as presented by Kimley Horn does not represent relief of an offer or from the consequence of an error in its bid or offer. In accordance with the Purchasing Manual, City staff is presenting the contract addendum to the Board of Mayor and Aldermen for their consideration and approval to satisfy the requirement as stipulated in the Purchasing Manual.

RECOMMENDATION:

Staff recommends approval of Resolution 20-111 to approve Amendment No. 02 to the Agreement with Kimley-Horn to provide right-of-way services for the Northern Segment of the Buckner Lane widening project for a lump sum fee amount of \$459,300 and to authorize the Mayor to execute the Amendment. Staff further recommends that an appropriation in the amount of \$19,000 be provided for real estate closing costs that are anticipated to be incurred with the closing attorney for the various closings that will take place during the right-of-way and easement acquisition process. Sufficient funding will be provided through the approval of Ordinance 20-13 that will address current contractual commitments as well as the funding necessary for right-of-way services and real estate closing expenses.