

**NORTH CAROLINA
DURHAM COUNTY**

**DESIGN CONSULTANT
CONTRACT AMENDMENT**

THIS CONTRACT AMENDMENT is made and entered into this **23rd day of June, 2017**, by and between the **COUNTY OF DURHAM** (hereinafter referred to as "**County**") and **BLACK & VEATCH CORPORATION** (hereinafter referred to as "**Design Consultant**").

WITNESSETH:

THAT WHEREAS, the County and Design Consultant entered into a Design Consultant contract dated January 12, 2017, for the provision of preliminary engineering design of an improved aeration method to augment existing brush aerators in one oxidation ditch at the TWWTP (FR17-832, RFQ 17-012), (hereinafter the "Original Agreement"); and

WHEREAS, the County and Design Consultant desire to (#1) amend the Original Agreement, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. The Term of the Original Agreement is hereby extended through **June 30, 2018**.
2. The compensation paid to Design Consultant shall remain an amount not to exceed of **Thirty-eight thousand and No/100 Dollars (\$38,000.00)**.
3. **SECURITY BACKGROUND CHECKS.** The Design Consultant is responsible for requesting and paying for criminal history checks on all individuals providing services under this contract who will be obtaining County identification badges and allowed unescorted access to County facilities. Background checks must be provided by Checkmate, Intelius, Been Verified, or be from a North Carolina State agency. The Sheriff's Office will conduct background investigations for those Design Consultant employees who will be working at the Courthouse or Detention Center. A criminal history will not automatically disqualify a Design Consultant employee from employment on a County contract unless explicitly mandated by law.

The Design Consultant will send the results of the background checks to their County point of contact who will provide them to the Durham County Security Manager. The Security Manager will individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in Durham County buildings. The Security Manager will consult the Legal Office on any negative determinations. The Security Manager will notify the Design Consultant's County point of contact of the results of the review. A Design Consultant can appeal a negative determination by the Security Manager to the County Manager for final disposition. Appeals need to be submitted in writing to the contract point of contact within 30 days of notice of a decision to remove or deny an individual from working the County contract due to adverse information in the background check.

This information will be updated annually by the Design Consultant, 90 days prior to the renewal or extension of the contract, and submitted to their County point of contact who will provide them to the Durham County Security Manager. Personnel without a currently approved background check will have their access to those buildings restricted.

Additional background screening may be necessary at specific county buildings. The Design Consultant shall provide names of all individuals in the Design Consultant communications log and to the County Representative. This information will be reviewed annually.

For those Design Consultant employees who will be working at the Courthouse or Detention Center, the Sheriff's Office will make the security determination. The Design Consultant will provide the results of their background check to the Major for Support Services who will conduct an additional investigation and then individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in the Courthouse or Detention Facility. A Design Consultant can appeal a negative determination to the Chief Deputy for final disposition. Appeals need to be submitted in writing to the Chief Deputy within 30 days of notice of a decision to remove or deny an individual from working the contract due to adverse information in the background check. While an appeal is pending, the employee will not be allowed access to the Courthouse or Detention Facility.

This information will be updated by the Design Consultant and submitted to the Sheriff's Office annually, 90 days prior to the renewal or extension of the contract. Personnel without a currently approved background check will have their access to those buildings restricted.

4. **IRAN DIVESTMENT ACT CERTIFICATION. (Applicable only to contracts/agreements valued at \$1,000.00 or more).** DESIGN CONSULTANT by signing/executing this contract certifies that as of the date of this contract DESIGN CONSULTANT is not on the Final Divestment List as created by the State Treasurer pursuant to North Carolina General Statute 147-86.58 and in compliance with the requirements of the Iran Divestment Act and North Carolina General Statute 147-86.59. DESIGN CONSULTANT shall not utilize in the performance of this contract any subcontractor that is identified on the Final Divestment List.
5. **DISPUTE RESOLUTION PROCEDURE.** To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between COUNTY and the DESIGN CONSULTANT, arising from this Agreement or the services and/or materials being provided by the DESIGN CONSULTANT, shall be sent to the Durham County Manager who shall appoint a qualified mediator to address the issue. Such request shall be submitted to the County Manager in writing within ten (10) days of the claim or dispute. Upon receipt of a timely written claim, the Manager, or his designee, shall notify the Mediator who will conduct a mediation and notify the DESIGN CONSULTANT in writing of the decision within forty-five (45) calendar days from the date of the submission of the claim or dispute, unless the Mediator requires additional time to gather information or allow the parties to provide additional information. The Mediator's orders, decisions and decrees shall be non-binding. Mediation, pursuant to this provision, shall be a pre-condition to initiating litigation concerning the dispute. During the pendency of any dispute and after a determination thereof, parties to the dispute shall act in good faith to mitigate any potential damages including utilization of schedule changes and alternate means of providing services and/or materials. The costs of mediation shall be divided equally between parties to the dispute.

The mediation session shall be private and shall be held in Durham County, North Carolina. Mediation under this provision shall not be the cause for a delay of services and/or materials being provided which is the focus of the dispute.

If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the County of Durham and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this provision, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.
6. By execution hereof, the person signing for Design Consultant below certifies that he/she has read this Contract Amendment and that he/she is duly authorized to execute this contract on behalf of the Design Consultant.

7. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties have expressed their agreement to these terms by causing this Contract Amendment to be executed by their duly authorized office or agent. This Contract Amendment shall be effective as of the date herein.

**DESIGN CONSULTANT
BLACK & VEATCH CORPORATION**

DocuSigned by:
By: Jeff Coggins
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Name/Title: Jeff Coggins
Associate Vice-President

DURHAM COUNTY

DocuSigned by:
By: Wendell M. Davis
Wendell Davis, County Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:
George K. Quick
George K. Quick, Durham County Chief Financial Officer