

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This **AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “Amendment”) is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipal owned utility (“NBU”), and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation authorized to transact business in the State of Texas (the “Professional”) (collectively, “the Parties”).

RECITALS

WHEREAS, NBU and the Professional entered into the Professional Services Agreement dated October 10, 2019 (the “Agreement”), for project management, routing and alignment study, preliminary design, final design, bid phase services, construction phase services, and permitting services (the “Services”) for construction of the Interstate Highway 35 24-inch Water Line Downtown Project to be completed by December 31, 2022;

WHEREAS, NBU and the Professional included professional supplemental services, subsurface utility engineering services, and easement survey services in the Agreement as Supplemental Services (the “Supplemental Services”) whereby NBU and the Professional would agree in writing to engage such Supplemental Services at a later date, if needed;

WHEREAS, the Agreement requires NBU and the Professional to agree in writing to (i) engage the Supplemental Services, (ii) detail the Supplemental Services, (iii) authorize the related compensation, and (iv) define a time of completion for the Supplemental Services;

WHEREAS, NBU and the Professional desire to amend the Agreement to: (i) define the professional supplemental services described in the Supplemental Services to include preliminary and final construction plans and specifications for the 2,000 LF of 8-inch water and sewer lines; (ii) modify the subsurface utility engineering services described in the Supplemental Services; (iii) modify the easement survey services described in the Supplemental Services; (iv) add Geotech Supplemental Services in the Agreement; (v) define the completion time for the Supplemental Services in the Agreement; and (vi) adjust the related compensation for the modified Supplemental Services; and

WHEREAS, NBU also desires to engage the Supplemental Services and authorize the related compensation for such Supplemental Services.

NOW THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree, as follows:

AGREEMENT

Section 1. Amendment to Exhibit A. Exhibit A to the Agreement is hereby amended, in part, as described by Exhibit A to this Amendment as of the effective date of this Amendment.

Section 2. Amendment to Exhibit B. Exhibit B to the Agreement is hereby replaced in its entirety by Exhibit B to this Amendment as of the effective date of this Amendment.

Section 3. Engaging Supplemental Services. NBU and the Professional hereby engage all of the Supplemental Services and the related compensation described in Exhibit A and Exhibit B of this Amendment.

Section 4. Remaining Terms. Except as stated herein, all other terms and conditions of the Agreement remain in full force and effect.

Section 5. Entire Agreement. This Amendment, together with the Agreement, sets forth the entire understanding of NBU and the Professional and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter hereof.

Section 6. Binding Effect. This Amendment will extend to and be binding upon NBU and the Professional and their respective successors and permitted assigns.

Section 7. Severability. If any term or provision of this Amendment is held to be invalid, illegal, or unenforceable in any respect under applicable law, the legality, validity or enforceability of the remaining terms or provisions of this Amendment shall not be affected thereby, and this Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the Parties hereto, upon lawful approval and authority, have executed this Amendment on this the ____ day of _____, 20____.

NBU:

NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: _____
Title: _____

THE PROFESSIONAL:

KIMLEY-HORN AND ASSOCIATES, INC.,
a North Carolina corporation

By: _____
Name: _____
Title: _____

Exhibit A

Scope of Services

The Professional shall provide all labor, material, and equipment necessary to provide project management, routing and alignment study, preliminary design, final design, bid phase services, construction phase services, and permitting services (the “Services”) for the construction of the Interstate Highway (“IH”) 35 24-inch Water Line Downtown Project (the “Project”). The Professional shall design a 10,100 linear foot (“LF”) 24-inch diameter water transmission main pipeline and appurtenances along IH 35 that connects to NBU’s water system at South Castell Avenue and State Highway 46.

The Professional shall perform the Services in accordance with the tasks described herein.

Task 1 – Project Management

NO CHANGE

Task 2 – Routing and Alignment Study

NO CHANGE

Task 3 – Preliminary Design

NO CHANGE

Task 4 – Final Design

NO CHANGE

Task 5 – Bid Phase Services

NO CHANGE

Task 6 – Construction Phase Services

NO CHANGE

Task 7 – Permitting Services

NO CHANGE

SUPPLEMENTAL SERVICES

Pursuant to Section 4(B) of the Agreement, the Professional shall seek prior written approval from NBU before commencing work on any services described in this Section. If the Professional

receives written notice from NBU to commence work on the services described in this section, the Professional shall perform the services described herein.

Supplemental Task 1 – Professional Supplemental Services

The Professional shall perform Supplemental Services as needed for the Project. Services include assistance during easement acquisition and addressing unknown conditions encountered throughout alignment, design, bidding, and construction contract administration.

The Professional shall prepare preliminary and final construction plans and specifications for the 2,000 LF of 8-inch water and sewer lines. Construction plans shall be prepared on 11”x17” size sheets and in PDF format and shall consist of the following:

1. water plan sheets (only) and wastewater plan and profiles sheets at 1”=80’ (11 Sheets).

Supplemental Task 2 – Subsurface Utility Engineering

The Professional shall perform the following subsurface utility engineering (“SUE”) services to quality level A, B, and D as described below. The following SUE shall be performed in accordance with the American Society of Civil Engineers Standard 38-02:

1. Quality Level A:
 - a. the Professional shall perform up to three (3) test hole locates to be performed with vacuum excavation equipment;
2. Quality Level B:
 - a. the Professional shall perform up to 1,000 LF of quality Level B within the area to be surveyed (approximately 50-foot width) to be performed with electrical toning equipment; and
3. Quality Level D:
 - a. the Professional shall collect existing utility record information from utility purveyors, municipalities, counties, and other agency suppliers within the area of investigation. Typical utilities included are: primary electric, telephone, cable TV, fiber optic, gas, petroleum, water, sanitary sewer, and storm drain systems.

Supplemental Task 3 – Easement Survey

The Professional shall perform an on the ground survey on a per-easement basis for temporary or permanent utility easements. Assumptions are based on a total of three (3) easement documents. The Professional shall perform the following survey services:

1. perform deed, plat, and courthouse record research;
2. request title report and obtain copies of deeds and easement documents;
3. prepare a metes and bounds description with exhibit for each proposed permanent utility easement and each proposed temporary construction easement. Separate documents shall

be provided for permanent and temporary easements for each parcel and certified by a Professional Land Surveyor, registered in the State of Texas; and

4. the Professional shall be responsible for paying required taxes applicable for easement document preparation and title report.

Supplemental Task 4 –Geotech

The Professional shall perform additional geotechnical analysis of the proposed water line horizontal directional drill alignment to determine subsurface conditions, rock hardness, and make recommendations regarding tunneling length and method. The geotechnical analysis shall include the following:

1. subsurface exploration including up to three (3) sample bores at various locations and depths one (1) at 30-feet and two (2) at 50-feet, along the proposed tunnel.

TIME OF COMPLETION

The Professional is authorized to commence work on the Services upon execution of this Agreement and agrees to complete the Services in accordance with the following schedule.

Task	Beginning Date	Ending Date
Notice to Proceed	October 7, 2019	
Task 1 – Project Management	October 8, 2019	April 5, 2021
Task 2 – Routing and Alignment Study	October 8, 2019	February 10, 2020
Task 3 – Preliminary Design	February 11, 2020	June 29, 2020
Task 7 – Permitting Services	June 30, 2020	September 21, 2020
Task 4 – Final Design	June 30, 2020	October 19, 2020
Task 5 – Bid Phase Services	February 1, 2021	June 30, 2021
Task 6 – Construction Phase Services	June 30, 2021	December 31, 2022

The Professional shall complete the Services and the Supplemental Services by December 31, 2022.

Exhibit B

Compensation

Fee and Expenses

NBU agrees to pay the Professional for the Services and the Supplemental Services rendered under this Agreement in accordance with the tables below and made a part of this Agreement.

Services:

Cost Breakdown	Original Agreement	First Amendment	Contract Amount
Task 1 – Project Management	\$29,000	\$0	\$29,000
Task 2 – Routing and Alignment Study	\$39,000	\$0	\$39,000
Task 3 – Preliminary Design	\$261,000	\$0	\$261,000
Task 4 – Final Design	\$64,000	\$0	\$64,000
Task 5 – Bid Phase Services	\$13,000	\$0	\$13,000
Task 6 – Construction Phase Services	\$79,000	\$0	\$79,000
Task 7 – Permitting Services	\$9,000	\$0	\$9,000
Sub-Total	\$494,000	\$0	\$494,000

Supplemental Services:

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement not to exceed \$95,000; provided, however, that NBU must provide written approval prior to the Professional performing the Supplemental Services.

Supplemental Cost Breakdown	Original Agreement	First Amendment	Contract Amount
Task 1 - Professional Supplemental Services	\$30,000	\$18,000	\$48,000
Task 2 - Subsurface Utility Engineering	\$25,000	\$0	\$25,000
Task 3 -Easement Survey	\$40,000	(\$28,000)	\$12,000
Task 4 – Geotech	N/A	\$10,000	\$10,000
Total Supplemental Services	\$95,000	\$0	\$95,000

Exhibit C

Evidence of Insurance