

**SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
(IH-35 INTERCEPTOR PROJECT)**

This **SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “Second 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 a Professional Services Agreement dated July 8, 2020 (the “Original Agreement”), for project management, routing and conceptual design, preliminary design, final design, bid phase services, construction phase services, and permitting services (collectively the “Original Services”) for the construction of the North Kuehler IH-35 15-, 18-, 21-, and 24-inch Interceptor Project (the “Project”) to be completed by June 7, 2023;

WHEREAS, NBU and the Professional entered into a First Amendment to Professional Services Agreement dated October 1, 2021, to (i) add additional project management, routing, design, permitting, and easement acquisition services, (ii) extend the time of completion to June 27, 2026, and define the time of completion for the new services, (iii) remove supplemental services relating to subsurface utility engineering and easement surveying and reallocate the related compensation, and (iv) include additional compensation (the “First Amendment” and, together with the Original Agreement, the “Agreement”);

WHEREAS, NBU and the Professional have identified the need for the additional services described in the attached Exhibit A, including (i) additional project management support, (ii) easement acquisition survey and support services, (iii) retaining wall analysis and design for access improvements, and (iv) odor control study and analysis pertaining to the NBU facilities at the property located at 470 Rio Drive, New Braunfels, Texas (the “Rio Bar Screen”), and (the “New Services” and, together with the Original Services, the “Services”);

WHEREAS, the New Services require an increase in compensation to the Professional;

WHEREAS, the Agreement requires NBU and the Professional to agree in writing to amend or modify the Agreement; and

WHEREAS, NBU and the Professional desire to amend the Agreement to (i) add the New Services and (ii) include additional compensation for the New 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 Second Amendment as of the effective date of this Second Amendment.

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

Section 3. Remaining Terms. Except as stated herein, all other terms and conditions of the Agreement remain in full force and effect.

Section 4. Entire Agreement. This Second 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 5. Binding Effect. This Second Amendment will extend to and be binding upon NBU and the Professional and their respective successors and permitted assigns.

Section 6. Severability. If any term or provision of this Second 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 Second Amendment shall not be affected thereby, and this Second Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 7. Governing Law. This Second Amendment shall be governed by and construed in accordance with the laws of the State of Texas.

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IN WITNESS WHEREOF, the Parties hereto, upon lawful approval and authority, have executed this Second Amendment on this the ____ day of _____, 2023.

NBU:

NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: Ryan Kelso
Title: Interim CEO

THE PROFESSIONAL:

KIMLEY-HORN AND ASSOCIATES, INC.,
a North Carolina corporation authorized to
transact business in the State of Texas


By: 
Name: SEAN MASON
Title: ASSOCIATE

EXHIBIT A – SCOPE OF SERVICES

NO CHANGE

Task 1 – Project Management

Design Management

NO CHANGE

Data Collection

NO CHANGE

MEETINGS

The Professional shall conduct the following meetings in connection with Task 1:

1. NO CHANGE
2. Progress Meetings:
 - a. the Professional shall conduct up to thirty (30) progress meetings with NBU.

DELIVERABLES

NO CHANGE

Task 2 – Routing and Conceptual Design

NO CHANGE

MEETINGS

NO CHANGE

DELIVERABLES

NO CHANGE

ITEMS PROVIDED BY NBU

NO CHANGE

Task 3 – Preliminary Design

NO CHANGE

MEETINGS

NO CHANGE

DELIVERABLES

NO CHANGE

ITEMS PROVIDED BY NBU

NO CHANGE

Task 4 – Final Design

NO CHANGE

MEETINGS

NO CHANGE

DELIVERABLES

NO CHANGE

ITEMS PROVIDED BY NBU

NO CHANGE

Task 5 – Bid Phase Services

NO CHANGE

Task 6 – Construction Phase Services

NO CHANGE

Task 7 – Permitting Services and Easement Acquisition Support

The Professional shall perform the permitting and easement acquisition support services required for the Project as described herein.

1. NO CHANGE
2. NO CHANGE
3. NO CHANGE
4. NO CHANGE
5. NO CHANGE

6. Up to five (5) additional permanent or temporary easements and revisions to said easements due to coordination with and requests from existing property owners if requested easements lay outside the original survey boundary for the Project. Additionally, survey will

stake up to three (3) different alignment options for the property owners.

MEETINGS

NO CHANGE

DELIVERABLES

NO CHANGE

Task 8 – Drainage Study Analysis and Access Improvements Design

NO CHANGE

PRELIMINARY TECHNICAL MEMORANDUM

1. NO CHANGE

DESIGN

1. NO CHANGE

2. NO CHANGE

3. NO CHANGE

4. NO CHANGE

5. NO CHANGE

6. NO CHANGE

7. NO CHANGE

8. NO CHANGE

9. NO CHANGE

10. NO CHANGE

11. retaining wall plan and profile (2 sheets) for 536 Lake Front Avenue, New Braunfels, Texas

12. retaining wall details (1 sheet)

13. retaining wall notes (1 sheet)

PROFESSIONAL'S DESIGN ASSUMPTIONS:

NO CHANGE

MEETINGS

NO CHANGE

DELIVERABLES

NO CHANGE

Task 9 – Rio Bar Screen Analysis

The Professional shall perform an odor control study, analyze, and provide a recommendation and conceptual design for improvements at the Rio Bar Screen. The Professional understands that NBU is considering options for modifying or replacing the existing bar screen to address hydraulic restrictions and odor issues at the facility and within the conveyance system. Currently, the accessibility to the existing wastewater line is limited by steep grades and private property improvements. The Professional shall follow the City of New Braunfels' drainage criteria manual in performing the drainage analysis.

1. **Background Review:** Review plan and profile information for the existing and proposed connecting interceptors. Review plans, operations, maintenance information for the Rio Bar Screen facilities, and historical odor monitoring data.
2. **Field Investigation:**
 - a. Conduct a one (1) day site visit to observe odor and hydraulic conditions at the Rio Bar Screen facility.
 - b. Collect two (2) rounds of grab samples for dissolved sulfide and gas phase odor compounds (hydrogen sulfide, ammonia/amines, mercaptans) to characterize and compare the odor condition at up to five (5) locations within the study area.
 - c. Conduct continuous hydrogen sulfide monitoring and differential pressure monitoring for a period of one (1) week to characterize the potential for odor emissions at the same five locations. Review the hydrogen sulfide data remotely prior to retrieval of the monitoring equipment and collect a second round of grab samples during diurnal peak hydrogen sulfide conditions at the end of the one week monitoring period.
 - d. **Ambient Monitoring:** Perform one (1) week of continuous ambient hydrogen sulfide monitoring at one secure location within the study area. The location will be selected based on the review of background information, NBU input, and observations made during the field investigation. The monitor will be installed during the field investigation site visit. Data will be incorporated into the odor control evaluation.
3. **Odor Control Evaluation:** Based on the results of the background review and field investigation, identify potential sources and contributing factors to odor emissions within the study area to include:
 - a. Evaluate up to two (2) treatment alternatives (including liquid and vapor phase treatment), identify the required design/performance criteria to meet the odor control goals.
 - b. Prepare up to two (2) exhibits for proposed odor control equipment.

- c. Prepare up to two (2) opinions of probable construction cost (“OPCC”) for the odor control improvements.
 - d. Recommend a preferred odor control strategy to mitigate odor emissions and complaints associated with the Rio Bar Screen.
4. Hydraulic and Screen Evaluation: Based on the background review and field investigation, identify hydraulic/screen restrictions in the study area.
 - a. Evaluate up to two (2) hydraulic alternatives, identify the required design/performance criteria to meet the screening goals, and provide equipment recommendations.
 - b. Prepare up to two (2) opinions of probable construction cost (“OPCC”) for the hydraulic/screen improvements.
 - c. Prepare one (1) exhibit for proposed screen conceptual design exhibit (plan and section view).
 - d. Recommend a screen and hydraulic strategy to mitigate existing hydraulic issues associated with the Rio Bar Screen.
5. Technical Memorandum: Summarize the results of the field investigation and odor control evaluation and hydraulic/screen evaluation in a technical memorandum (“TM”).

MEETINGS

The Professional shall conduct the following meetings in connection with Task 9:

1. up to two (2) meetings with NBU staff and operations.

DELIVERABLES

The Professional shall submit the following deliverables to NBU in connection with Task 9:

1. three (3) hard copies and a PDF of the draft TM, exhibits, and OPCCs; and
2. five (5) hard copies and a PDF of the final TM, exhibits, and OPCCs.

SUPPLEMENTAL SERVICES

NO CHANGE

TIME OF COMPLETION

The Professional commenced work on the Services upon execution of the Original Agreement and

agrees to complete the Services in accordance with the schedule below.

Task	Beginning Date	Ending Date
Notice to Proceed	NO CHANGE	
Task 1 – Project Management	NO CHANGE	NO CHANGE
Task 2 – Routing and Conceptual Design	NO CHANGE	NO CHANGE
Task 3 – Preliminary Design	NO CHANGE	NO CHANGE
Task 4 – Final Design	NO CHANGE	December 31, 2024
Task 7 – Permitting Services and Easement Acquisition Support	NO CHANGE	August 28, 2025
Task 8 – Drainage Study Analysis and Access Improvements Design	NO CHANGE	April 4, 2025
Task 9 – Rio Bar Screen Analysis	December 15, 2023	April 30, 2024
Task 5 – Bid Phase Services	NO CHANGE	NO CHANGE
Task 6 – Construction Phase Services	NO CHANGE	NO CHANGE

EXHIBIT B - COMPENSATION

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

Services

NBU shall pay the Professional for the Services during the term of this Agreement in an amount not to exceed \$1,055,000.

Project Phase	Original Agreement Amount	First Amendment	Second Amendment	Total Amount
Task 1 – Project Management	\$20,000	\$52,000	\$20,000	\$92,000
Task 2 – Routing and Conceptual Design	\$31,000	\$15,000	\$0	\$46,000
Task 3 – Preliminary Design	\$118,000	\$160,000	\$0	\$278,000
Task 4 – Final Design	\$52,000	\$40,000	\$0	\$92,000
Task 5 – Bid Phase Services	\$10,000	\$2,000	\$0	\$12,000
Task 6 – Construction Phase Services	\$58,000	\$20,000	\$0	\$78,000
Task 7 – Permitting Services and Easement Acquisition Support	\$9,000	\$190,000	\$60,000	\$259,000
Task 8 – Drainage Study Analysis and Access Improvements Design	\$0	\$79,000	\$30,000	\$109,000
Task 9 – Rio Bar Screen Analysis	\$0	\$0	\$89,000	\$89,000
Total	\$298,000	\$558,000	\$199,000	\$1,055,000

Supplemental Services

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement not to exceed \$40,000 as modified below; provided, however, that NBU must provide written approval in the form of a supplemental services agreement or contract amendment, as appropriate, prior to the Professional performing the Supplemental Services.

Project Phase	Original Contract Amount	First Amendment	Second Amendment	Total Amount
Supplemental Task 1 – Professional Services	\$40,000	\$0	\$0	\$40,000
Supplemental Task 2 – Subsurface Utility Engineering	\$15,000	(\$15,000)	\$0	\$0
Supplemental Task 3 – Easement Survey	\$21,000	(\$21,000)	\$0	\$0
Total	\$76,000	(\$36,000)	\$0	\$40,000