

**AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT  
ADDITIONAL SERVICES**

Professional Services Agreement:  
**2022 SANGER I-35 - UTILITY-RELOCATIONS**  
**Amendment Scope of Services**

This is Amendment Number 03 to the Professional Service Agreement between Kimley-Horn and Associates, Inc. (ENGINEER) and the City of Sanger (City) executed on February 09, 2022.

**Identification of Project:** 061322300-02 Sanger 2022 I-35 Utility Relocations for TxDOT CSJ 0195-02-074

**Project Understanding:** The CITY has requested that the ENGINEER perform the following additional services due to ongoing construction and in order to aid the City in the reimbursement process.

**Specific scope of basic Services:** See Below

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**Task 3 - Construction Contract Administration**

Consultant will provide additional professional construction phase services to the Client during construction of this project. The estimated construction period of the project is twelve (12) months for the basis of establishing the Consultant's Fee. The construction phase services are as follows:

- A. Visits to Site and Construction\_Observation – the Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client informed of the general progress of the Work.
- B. Clarifications and Interpretations – the Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
- C. Inspections and Tests – the Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate, and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.

- D. Disagreements between Client and Contractor – the Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- E. Applications for Payment – Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
- F. By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.
- G. Substantial Completion – the Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.
- H. Final Notice of Acceptability of the Work – the Consultant will conduct a final site visit 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. 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.
- I. Limitation of Responsibilities – the Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.
- J. Record Drawings – Prepare project "Record Drawings" based on information provided by the Contractor and/or Client as to the actual field placement of the work including any changes or

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deletions. Consultant is not responsible for the accuracy of the information provided by the Contractor and/or the Client. Consultant will provide the following deliverables:

- a) One (1) set of reproducible (22" x 34") Record Drawings.
- b) One (1) set of .pdf file Record Drawings (each sheet will be a separate .pdf file)

K. Additional coordination time with TxDOT to aid in the reimbursement agreement. This includes creating a Supplemental Agreement with TxDOT and aiding the City with reimbursable invoice preparation.

**Deliverables:**

- a. Shop Drawing Reviews – as described above.
- b. Contractor’s Estimates – as described above.

**Services/Deliverables provided by the Client:**

- a. Provide input on progress of work.
- b. Payment of the Contractor.

**Method of compensation:** Kimley-Horn will perform the Services on a labor fee plus expense basis. Labor fee will be billed on an hourly basis according to our then-current rates. See below for Task budget breakdowns.

The additional services described above will be accommodated by increasing the contract amount by \$40,000. The following table summarizes the revised contract amount:

Task	Original Contract	Amd No. 1/2	Amd No. 3	Revised Contract
Task 1 – Water and Sewer Design	\$408,600	\$0	\$0	\$408,600
Task 2 – Bidding	\$16,000	\$0	\$0	\$16,000
Task 3 – Construction Contract Administration	\$75,000	\$75,000	\$45,000	\$150,000
<b>Total Estimated Fee</b>	<b>\$499,600</b>	<b>\$75,000</b>	<b>\$45,000</b>	<b>\$619,600</b>

This amendment and including the IPO 061322300- 02 for easement acquisition services, brings the new total contract amount to **\$662,015**.

All permitting, application, and similar project fees will be paid directly by the Client. Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services performed or actual services performed, and expenses incurred as of the invoice date. Payment will be due within 25 days of your receipt of the invoice.

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Other special terms of Individual Project Order: None.

ACCEPTED:

CITY OF SANGER, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: \_\_\_\_\_  
John Noblitt

BY: , P.E.  
John R. Atkins. P.E.

TITLE: City Manager

TITLE: Senior Vice President

DATE: \_\_\_\_\_

DATE: 11/22/2024