

## **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

This **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “First Amendment”) is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipally owned utility (“NBU”), and **QUIDDITY ENGINEERING, LLC**, a Texas limited liability company (the “Professional”) (collectively, “the Parties”).

### **RECITALS**

WHEREAS, NBU and the Professional entered into the Professional Services Agreement dated May 25, 2023, (the “Agreement”) for project management, final design phase services, field services, permitting and stakeholders coordination, bid phase services, and construction phase services (the “Original Services”) for the Western Downtown to Morningside Pressure Zone Conversion Project (the “Project”);

WHEREAS, in the course of design, NBU and the Professional identified a need to (i) realign a portion of the Project, (ii) add an extension of approximately 1,900 linear feet of new 18-inch water main along the north side of I-35 in New Braunfels, Texas, and (iii) divide the Project into two construction phases;

WHEREAS, as a result, NBU requires redesign services, including additional (i) project management services, (ii) final design phase services, (iii) field services, (iv) permitting and stakeholders coordination, (v) bid phase services, and (vi) construction phase services, all of which are more specifically described in Exhibit A to this First Amendment (the “New Services” and, together with the Original Services, the “Services”) that were not contemplated in the Agreement;

WHEREAS, the New Services require an increase in the compensation to the Professional and modification of the completion dates applicable to the Services;

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, (ii) include the additional compensation for the New Services, and (iii) modify the completion time for the 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 First Amendment as of the effective date of this First Amendment.

Section 2. Amendment to Exhibit B. Exhibit B to the Agreement is hereby deleted in its entirety and replaced by Exhibit B to this First Amendment as of the effective date of this First 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 First 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 First 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 First 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 First Amendment shall not be affected thereby, and this First Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

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

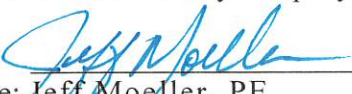
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**IN WITNESS WHEREOF**, the Parties hereto, upon lawful approval and authority, have executed this Amendment on this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**NBU:**  
**NEW BRAUNFELS UTILITIES,**  
a Texas municipally owned utility

By: \_\_\_\_\_  
Name: Ryan Kelso  
Title: Chief Executive Officer

**THE PROFESSIONAL:**  
**QUIDDITY ENGINEERING, LLC,**  
a Texas limited liability company

By:  \_\_\_\_\_  
Name: Jeff Moeller, PE  
Title: Vice President

Attest:  
By:  \_\_\_\_\_

## Exhibit A

### Services

The Professional shall provide all labor, material, and equipment necessary to provide project management, final design, field services, permitting and stakeholders coordination, bid phase services, and construction phase services (collectively the “Services”) for the Western Downtown to Morningside Pressure Zone (“PZ”) Conversion Project (the “Project”). The Project shall consist of replacing approximately 15,000 linear feet (“LF”) of existing water mains of varying size (1.5-inch, 2-inch, 6-inch, and 8-inch) with approximately 3,600 LF of 16-inch, 11,000 LF of 12-inch, and 300 LF of 8-inch mains located along Rusch Lane, FM 482, Old Highway 81, and the north side of I-35 and adding approximately 1,900 LF of new 18-inch water main along the north side of I-35 in New Braunfels, Texas.

### **SERVICES**

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

#### **Task 1. Project Management**

NO CHANGE

#### **Task 2. Final Design Phase**

2.1. NO CHANGE

2.2. NO CHANGE

2.3. NO CHANGE

2.4. NO CHANGE

2.5. The Professional shall perform additional 90% final design services for adjustments in design as described in this Section, during the timeframe for 90% final design described in Table 1.

2.5.1. The Professional shall prepare additional 90% design documents to include approximately 1,900 LF of 18-inch water main to extend the waterline from the existing pump station and ground storage tank on Rusch Lane to the new pump station and ground storage tank location along the I-35 frontage road of the NBU Headquarters property (the “Extension”).

- 2.5.2. The Professional shall prepare additional 90% design documents to include realignment design work for approximately 1,400 LF along FM 482, near the intersection with Old Highway 81 (the “Realignment”).
- 2.6. The Professional shall perform separate 90% final design services for adjustments in design as described in this Section, during the timeframe for 90% final design described in Table 2.
  - 2.6.1. The Professional shall prepare a separate set of 90% design documents by removing from the original design documents the pressure reducing valve assembly on Rusch Lane, and fifty (50) LF of 8-inch water main, creating plans for a separate construction package (the “Rusch Ln PRV”).
- 2.7. The Professional shall perform additional 100% final design services for both the Extension and the Realignment, during the timeframe for 100% final design described in Table 1.
- 2.8. The Professional shall perform separate 100% final design services for the Rusch Ln PRV, during the timeframe for 100% final design described in Table 2.

**Task 3. Field Services**

- 3. The Professional shall perform the field services described below.
  - 3.1. TOPOGRAPHIC SURVEY. NO CHANGE
    - 3.1.1. NO CHANGE
    - 3.1.2. NO CHANGE
    - 3.1.3. NO CHANGE
    - 3.1.4. NO CHANGE
    - 3.1.5. NO CHANGE
    - 3.1.6. The Professional shall tie in all existing surface topographic features and structures within the survey limits of the Extension, exclusive of the NBU Headquarters property, and the Realignment.
    - 3.1.7. The Professional shall conduct a utility survey and locate existing utilities within the limits of the Extension, exclusive of the NBU Headquarters property, and the Realignment based on utility location paint markings obtained from utility service providers notified by Texas 811.
  - 3.2. NO CHANGE

3.3. EASEMENT DOCUMENTS. The Professional shall prepare a metes and bounds description and exhibits for required easements for the Project for up to thirteen (13) parcels based on the following criteria:

3.3.1. the Professional shall perform deed, plat, and courthouse record research, request title reports from NBU, and obtain copies of deeds and easement documents if not provided;

3.3.2. the Professional shall survey property corners, fences, and appurtenant property evidence;

3.3.3. easements shall consist of a permanent easement and a temporary construction easement. There shall be a separate document for permanent easements and temporary easements for each parcel. Easements shall be signed and sealed by a registered professional land surveyor, currently registered in the State of Texas. Each easement shall have attached to it a copy of the corresponding deed for that property and a closure computation sheet for the easement tract. A draft copy of the easement shall be submitted for review by the Professional to NBU. The Professional shall incorporate comments as appropriate and submit one (1) final copy of the easement and deed to NBU. Each draft metes and bounds exhibit shall be revised up to one (1) time per NBU's review;

3.3.4. exhibit plat and legal description must meet all the rules of the Texas Board of Professional Land Surveying and the Professional Land Surveying Practices Act and the Manual of Practice for Land Surveying in the State of Texas as published by the Texas Society of Professional Surveyors. The latest revision shall be used;

3.3.5. legal descriptions shall include sufficient information to identify the location, boundaries, monumentation, and area of the described tract, as well as its relationship to the parent tract out of which it is surveyed. Each legal description shall be accompanied by an exhibit plat that depicts the worded description. Legal descriptions and exhibit plats shall be reproduced on 8.5" x 11" size paper. All documents provided by the Professional must be legible. The exhibit plat or legal description should be able to stand alone; and

3.3.6. the Professional shall stake final easement boundaries.

3.4. SUBSURFACE UTILITY ENGINEERING. The Professional shall perform subsurface

utility engineering (“SUE”) as described below.

3.4.1. The Professional shall perform SUE “Quality Level A” as defined by the American Society for Civil Engineers, for up to ten (10) pothole locations. Level A includes physically locating the actual utility – often by ‘potholing.’ Once the utility is potholed it is located horizontally and vertically by survey measurements. This location is typically to the top of pipe, which should be noted on the drawing.

3.4.1.1. The Professional shall provide coordination for all utility locates/clearance and permitting required to conduct SUE potholes.

3.4.1.2. The Professional shall provide traffic control based on an estimated six (6) traffic control setups, depending on the directed dig site locations.

3.4.2. The Professional shall provide SUE “Quality Level B” as defined by the American Society for Civil Engineers, for up to 20,000 LF and for a corridor width of up to forty (40) feet, along the alignment of the pipeline as deemed necessary by the Professional and NBU. Level B includes two-dimensional horizontal information obtained through the application and interpretation of non-destructive surface geophysical methods providing horizontal positioning of subsurface utilities to within approximately one (1) foot.

3.5. GEOTECHNICAL DATA REPORT. The Professional shall conduct a geotechnical investigation to complete a Geotechnical Data Report (“GDR”) for the Project as described below.

3.5.1. Field Exploration:

3.5.1.1. The Professional shall determine the required boring location along the Extension, exclusive of the NBU Headquarters property. The Professional shall provide the Extension boring location map that shows the exploratory boring within the vicinity of the proposed improvements and along the proposed water main alignment.

3.5.1.2. The Professional shall coordinate with NBU, City of New Braunfels, and Texas 811 regarding underground utilities within the vicinity of the planned boring location prior to commencement of the field exploration activities.

3.5.1.3. The Professional shall drill exploratory boring for the proposed improvements according to the schedule provided below:

- 3.5.1.3.1. one (1) boring to a maximum depth of twenty-five (25) feet below existing grade.
- 3.5.1.4. The boring method conducted along the Extension shall be advanced using standard rotary drilling equipment with continuous-flight augers or rotary wash methods. Subsurface samples shall be collected using 2-inch diameter split-spoon sampler in conjunction with the standard penetration test (“SPT”). Intermittent 3-inch diameter Shelby tube samples shall be collected in between the SPTs.
- 3.5.1.5. The Professional shall record groundwater observations within the boring at the time of drilling and at the completion of drilling and sampling.
- 3.5.1.6. The Professional shall backfill boring with auger cuttings upon completion of drilling and sampling.
- 3.5.1.7. The Professional shall patch boring drilled through pavement with like material (asphalt, concrete) upon completion of backfilling.
- 3.5.1.8. The Professional shall have personnel experienced in logging boring, directing the drilling, and handling and transporting the samples. The Professional shall provide visual classification of the subsurface stratigraphy in general accordance to the American Society for Testing and Materials, standard number D2488 and the Unified Soil Classification System during drilling and sampling.
- 3.5.2. The Professional shall provide laboratory testing to include the following:
  - 3.5.2.1. testing on samples obtained from the boring to determine soil classification and pertinent engineering properties of the subsurface materials;
  - 3.5.2.2. laboratory tests assigned for the specific subsurface materials encountered during exploration along the Extension, but which are expected to include the following number and type of tests:
    - 3.5.2.2.1. Atterberg limits tests (up to two (2) tests);
    - 3.5.2.2.2. percent passing the #200 sieve (up to two (2) tests);
    - 3.5.2.2.3. moisture content tests (up to three (3) tests); and
    - 3.5.2.2.4. unconfined compressive strength tests (with unit weights; up to two (2) tests).



3.5.3. The Professional shall prepare a GDR that includes the following information and recommendations, as applicable:

3.5.3.1. a summary of the field and laboratory sampling and testing program;

3.5.3.2. boring log and laboratory testing results;

3.5.3.3. a review of general site conditions including descriptions of the site, the subsurface stratigraphy, groundwater conditions, and the presence and condition of fill materials, if encountered;

3.5.3.4. trenchless construction feasibility and recommendations of auger boring and/or horizontal directional drilling;

3.5.3.5. general discussion of expected construction related issues; and

3.5.3.6. earthwork related recommendations for use during development of plans and specifications.

3.6. ENVIRONMENTAL AND CULTURAL INVESTIGATIONS. The Professional shall conduct an environmental and/or cultural study along the Extension, exclusive of the NBU Headquarters property. The Professional shall perform the following:

3.6.1. complete the desktop analysis and provide NBU field delineation of Waters of the U.S. and wetlands utilizing global positioning system equipment to identify areas that could contain jurisdictional waters and wetlands the information;

3.6.2. complete Wetland Determination Data Forms;

3.6.3. provide NBU a pedestrian survey to identify potential habitat for federally listed threatened and endangered species including potential karst habitat identification;

3.6.4. provide a coordination letter and desktop review to the Texas Historical Commission that identifies areas that would potentially require archeological pedestrian surveys and/or historical reconnaissance field surveys;

3.6.5. obtain identification of permits, clearances, and additional required actions.

3.7. DELIVERABLES. The Professional shall provide the field services deliverables during 100% Final Design as described in Table 1. The field service deliverables do not relate to the Rusch Ln PRV.

#### **Task 4. Permitting & Stakeholders**

4. The Professional shall coordinate the following stakeholders/agencies as described below.

- 4.1. NO CHANGE
- 4.2. NO CHANGE
- 4.3. NO CHANGE
- 4.4. NO CHANGE
- 4.5. DELIVERABLES. The Professional shall provide the permitting and stakeholder service deliverables during Permitting as described in Table 1 for all aspects of the Project other than the Rusch Ln PRV:
  - 4.5.1. TCEQ permit/ approval letter - one (1) PDF electronic copy;
  - 4.5.2. City of New Braunfels permit - one (1) PDF electronic copy;
  - 4.5.3. Comal County permit - one (1) PDF electronic copy; and
  - 4.5.4. TxDOT permit - one (1) PDF electronic copy.
- 4.6. DELIVERABLES. The Professional shall provide the separate permitting service deliverables for the Rusch Ln PRV design documents during Permitting as described in Table 2:
  - 4.6.1. City of New Braunfels permit - one (1) PDF electronic copy; and
  - 4.6.2. TxDOT permit - one (1) PDF electronic copy.

**Task 5. Bid Phase Services**

- 5. Upon completion of the final design, the Professional shall proceed with the bid phase Services described below.
  - 5.1. NO CHANGE
  - 5.2. NO CHANGE
  - 5.3. NO CHANGE
  - 5.4. NO CHANGE
  - 5.5. DELIVERABLES. The Professional shall provide bid service deliverables during the Bid Phase as described in Table 1 for all aspects of the Project other than the Rusch Ln PRV:
    - 5.5.1. written responses to issues identified at the pre-bid conference in the form of addenda – each addendum shall be submitted as a PDF electronic copy;
    - 5.5.2. letter of recommendation - one (1) PDF electronic copy; and
    - 5.5.3. conformed construction documents - one (1) PDF electronic copy.
  - 5.6. DELIVERABLES. The Professional shall provide separate bid service deliverables for the

Rusch Ln PRV design during the Bid Phase as described in Table 2:

- 5.6.1. written responses to issues identified at the pre-bid conference in the form of addenda – each addendum shall be submitted as a PDF electronic copy;
- 5.6.2. letter of recommendation - one (1) PDF electronic copy; and
- 5.6.3. conformed construction documents - one (1) PDF electronic copy.

## **Task 6. Construction Phase Services**

### 6. NO CHANGE

6.1. NO CHANGE

6.2. NO CHANGE

6.3. NO CHANGE

6.4. NO CHANGE

6.5. NO CHANGE

6.6. NO CHANGE

6.7. DELIVERABLES. The Professional shall provide the following deliverables during the Construction Phase as described in Table 1 for all aspects of the Project other than the Rusch Ln PRV:

6.7.1. project site visit memos and construction progress meeting minutes;

6.7.2. record drawings including plans and specifications in accordance with NBU standards, with features adjusted to the location of global positioning system (“GPS”) points collected in the field by the Contractor - one (1) PDF electronic copy; and one (1) georeferenced drawing (“.dwg”); and

6.7.3. asset information memorandum - one (1) PDF electronic copy.

6.8. The Professional shall provide the following deliverables for the Rusch Ln PRV during the Construction Phase as described in Table 2:

6.8.1. project site visit memos and construction progress meeting minutes;

6.8.2. record drawings including plans and specifications in accordance with NBU standards, with features adjusted to the location of GPS points collected in the field by the Contractor - one (1) PDF electronic copy; and one (1) georeferenced drawing (“.dwg”); and

6.8.3. asset information memorandum - one (1) PDF electronic copy.

**SUPPLEMENTAL SERVICES – NO CHANGE**

**TIME OF COMPLETION**

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

**Table 1**

<b>Project Milestones</b>	<b>Start Date</b>	<b>End Date</b>
Notice to Proceed	NO CHANGE	
90% Final Design	NO CHANGE	06/20/2025
100% Final Design	06/23/2025	09/26/2025
Permitting	09/29/2025	11/28/2025
Bid Phase	11/03/2025	04/30/2026
Construction Phase	05/01/2026	06/30/2027

**Table 2**

<b>Project Milestones</b>	<b>Start Date</b>	<b>End Date</b>
Notice to Proceed	12/16/2024	
90% Final Design	12/16/2024	02/14/2025
100% Final Design	02/17/2025	03/21/2025
Permitting	03/24/2025	05/23/2025
Bid Phase	04/28/2025	08/28/2025
Construction Phase	09/02/2025	01/20/2026

Exhibit B

Compensation

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

**Services**

NBU shall pay the Professional for the Services performed under this Agreement in an amount not to exceed \$818,567.

<b>Services Cost Breakdown</b>			
<b>Task</b>	<b>Original Agreement</b>	<b>Amendment No. 1</b>	<b>Total</b>
<b>Task 1: Project Management</b>	\$54,035	\$29,605	\$83,640
<b>Task 2: Final Design Phase</b>	\$163,415	\$109,330	\$272,745
<b>Task 3: Field Services</b>	\$12,000	\$171,127	\$183,127
<b>Task 4: Permitting &amp; Stakeholders</b>	\$53,985	\$20,395	\$74,380
<b>Task 5: Bid Phase</b>	\$10,775	\$14,710	\$25,485
<b>Task 6: Construction Phase</b>	\$116,930	\$62,260	\$179,190
<b>Total</b>	\$411,140	\$407,427	\$818,567

**Supplemental Services**

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement in an amount not to exceed \$50,000; 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.