

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
(SOLMS WASTEWATER LIFT STATION IMPROVEMENT PROJECT)**

This **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “First Amendment”) is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipal owned utility (“NBU”), and **MERRICK & COMPANY**, a Colorado 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 November 5, 2019 (the “Agreement”), for management and administration, preliminary engineering, final design, bid phase, and construction phase services (the “Services”) for the Solms Wastewater Lift Station Improvement project (the “Project”);

WHEREAS, NBU and the Professional included supplemental services related to wet well rehabilitation of the lift station structure 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, NBU has determined that the Supplemental Services are no longer required in order to complete the Project;

WHEREAS, due to capital program budgeting changes, the Project has been delayed;

WHEREAS, as a result of the delay, NBU and the Professional desire to extend the completion date for the Services and reallocate the funds authorized for Supplemental Services to final design and construction phase 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) delete the Supplemental Services, (ii) extend the time of completion for the Services; and (iii) reallocate the Supplemental Services compensation to the Services compensation.

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 and replaced in its entirety 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 First 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:

MERRICK & COMPANY,
a Colorado corporation authorized to
transact business in the State of Texas

By: 
Name: Michael J. Martin
Title: Senior Vice President

Exhibit A

Services

NO CHANGE

TASK 1 MANAGEMENT AND ADMINISTRATION

NO CHANGE

TASK 2 PRELIMINARY ENGINEERING

NO CHANGE

TASK 3 Final Design (100% Design)

NO CHANGE

TASK 4 BID PHASE SERVICES

NO CHANGE

TASK 5 CONSTRUCTION PHASE SERVICES

NO CHANGE

TASK 6 SUBCONSULTANT SERVICES

NO CHANGE

SUPPLEMENTAL SERVICES

DELETED

SUPPLMENTAL TASK 1 WET WELL REHABILITATION

DELETED

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 schedule below.

Milestone/Deliverable	Start/Completion Date
Notice To Proceed	No Change
Preliminary Engineering (60% Design) Completion	No Change

Final Design (100% Design) Completion	No Change
Bid Phase Services Start	3/1/2023
Construction Phase Services (Notice to Proceed) Start	8/1/2023
Substantial Construction Completion Milestone	2/1/2024
Final Construction Services Completion	3/31/2024

Exhibit B

Compensation

Services:

NBU agrees to pay the Professional for the Services rendered under this Agreement in accordance with the table below and made a part of this Agreement. NBU shall pay the Professional for the Services performed throughout the term of this Agreement in an amount not to exceed \$379,699.60.

Project Phase	Original Contract Amount	First Amendment	Revised Contract Amount
Task 1: Management and Administration	\$20,571.60	\$0.00	\$20,571.60
Task 2: Preliminary Engineering (60% Design)	\$77,557.20	\$0.00	\$77,557.20
Task 3: Final Design (100% Design)	\$84,848.40	\$10,600	\$95,448.40
Task 4: Bid Phase Services	\$19,719.00	\$0.00	\$19,719.00
Task 5: Construction Phase Services	\$97,133.40	\$20,388	\$117,521.40
Task 6: Subconsultant Services	\$48,882.00	\$0.00	\$48,882.00
Totals	\$348,711.60	\$30,988	\$379,699.60