

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This **FIRST 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 **JONES AND CARTER, INC.**, a Texas corporation (the “Professional”) (collectively, “the Parties”).

RECITALS

WHEREAS, NBU and the Professional entered into a Professional Services Agreement dated December 16, 2020 (the “Agreement”), for preliminary design phase services, design phase services, bid phase services, and construction phase services (collectively the “Services”) for the 33-inch and 36-inch gravity sanitary sewer interceptors and 12-inch reclaimed water pipeline to the South Kuehler Wastewater Treatment Plant (“WWTP”) Project (the “Project”) to be completed by May 31, 2023;

WHEREAS, NBU and the Professional included and detailed Supplemental Task 1 - Phase 1 Environmental Site Assessment; Supplemental Task 2 - Boundary Survey, Metes and Bounds, and Exhibits for Easements; Supplemental Task 3 – Additional Geotechnical Investigation; Supplemental Task 4 – Construction Staking; and Supplemental Task 5 – Contractor Claim Assistance 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, during the course of design, it was determined that (i) Supplemental Task 1 - Phase 1 Environmental Site Assessment; Supplemental Task 3 – Additional Geotechnical Investigation; and Supplemental Task 4 – Construction Staking will not be needed; (ii) Supplemental Task 2 – Boundary Survey, Metes & Bounds, & Exhibits for Easements requires modification; (iii) Supplemental Task 6 - Subsurface Utility Engineering will be required to be added to the contract to accomplish the design of the Project; and (iv) reallocation of the Supplemental funds is needed to accomplish the remaining Supplemental tasks;

WHEREAS, due to capital program budgeting changes, the construction schedule for the Project was revised, which requires the completion time for the Services and Supplemental Services to be revised;

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

WHEREAS, NBU and the Professional desire to amend the Supplemental Services to (i) delete Supplemental Task 1 - Phase 1 Environmental Site Assessment; (ii) modify Task 2 – Boundary Survey, Metes & Bounds, & Exhibits for Easements; (iii) delete Supplemental Task 3 – Additional Geotechnical Investigation; (iii) delete Supplemental Task 4 – Construction Staking; (iv) add and define Task 6 - Subsurface Utility Engineering Services; (v) modify the schedule and

extend the completion time for the Services and Supplemental Services in the Agreement; and (vi) reallocate compensation related to the modified 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 deleted in its entirety and 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 the Supplemental Services described in Exhibit A of the Agreement, as amended by this Amendment, and authorize payment of the related compensation as described in 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.

(The remainder of this page is intentionally left blank.)

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: Ian Taylor
Title: CEO

THE PROFESSIONAL:

JONES AND CARTER, INC.
a Texas corporation

By: _____
Name: _____
Title: _____

Exhibit A

Scope of Services

NO CHANGE

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

SERVICES

Task 1. Preliminary Design Phase Services

NO CHANGE

Task 2. Design Phase Services

NO CHANGE

Task 3. Bid Phase Services

NO CHANGE

Task 4. Construction Phase Services

NO CHANGE

SUPPLEMENTAL SERVICES

NO CHANGE

Supplemental Task 1 — Phase 1 Environmental Site Assessment

DELETED

Supplemental Task 2 — Boundary Survey, Metes & Bounds, & Exhibits for Easements

2. The Professional shall perform an on-the-ground boundary verification of up to one (1) permanent easement and thirteen (13) temporary easements along the Project route. The sanitary sewer shall be constructed within easements acquired by NBU. For these easement acquisitions, the Professional will prepare the necessary parcel maps and metes and bounds descriptions for NBU. These documents will be used as attachments to the appropriate legal documents prepared by NBU for the granting and recordation of said easements.

2.1 DELIVERABLES: The Professional shall provide one (1) digital (PDF) copy of each of the following deliverables to NBU for review and comment:

- 2.1.1 Boundary Survey;
- 2.1.2 Metes and Bounds; and
- 2.1.3 Exhibits for Easements.

Supplemental Task 3 — Additional Geotechnical Investigation

DELETED

Supplemental Task 4 — Construction Staking

DELETED

Supplemental Task 5 — Contractor Claim Assistance

NO CHANGE

Supplemental Task 6 — Subsurface Utility Engineering

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

1. Quality Level A

The Professional shall perform up to eight (8) test hole locates with vacuum excavation equipment.

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

Milestone/Deliverable	Completion Date
Notice to Proceed	November 2, 2020
Preliminary Design Memo	February 4, 2021
60% Design Submittal	January 15, 2022
90% Design Submittal	April 15, 2022
Submit to TCEQ, City, TxDOT, and Private Pipeline Companies	May 1, 2022
100% Design Submittal	August 1, 2022
Submit for Agency Approvals	September 1, 2022
Anticipated Advertise & Bid Start	April 1, 2024

Anticipated NBU Board of Approval of Construction Contracts	June 27, 2024
Anticipated Construction Notice to Proceed	August 1, 2024
Anticipated Construction Completion	August 1, 2025

Exhibit B
Compensation

NBU shall pay the Professional for the Services rendered under this Agreement in accordance with the table below. NBU shall pay the Professional for the Services performed throughout the term of this Agreement not to exceed \$585,000

Services:

Services Cost Breakdown	
Task 1 - Preliminary Design Phase Services	\$90,000
Task 2 - Design Phase Services	\$345,000
Task 3 - Bid Phase Services	\$25,000
Task 4 - Construction Phase Services	\$125,000
Total	\$585,000

Supplemental Services:

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement not to exceed \$45,000; provided, however, that NBU shall provide written approval in the form of a supplemental agreement or contract amendment, as appropriate, prior to the Professional performing the Supplemental Services.

Supplemental Services Cost Breakdown	Original Contract	First Amendment	Revised Contract Amount
Supplemental Task 1- Phase 1 ESA	\$5,000	(\$5,000)	\$0
Supplemental Task 2- Boundary Survey, Metes & Bounds, & Exhibits for Easements	\$15,000	\$10,000	\$25,000
Supplemental Task 3- Additional Geotechnical Investigation	\$5,000	(\$5,000)	\$0
Supplemental Task 4 - Construction Staking	\$10,000	(\$10,000)	\$0
Supplemental Task 5 - Contractor Claim Assistance	\$10,000	(\$5,000)	\$5,000
Supplemental Task 6 – Subsurface Utility Engineering	\$0	\$15,000	\$15,000
Total	\$45,000	\$0	\$45,000