

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipal owned utility (“NBU”), and **FREESE AND NICHOLS, INC.**, a Texas corporation (the “Professional”) (collectively, “the Parties”).

RECITALS

WHEREAS, the Parties entered into a Professional Services Agreement dated August 30, 2019 (the “Original Agreement”), for construction management services (the “Services”) for the construction of the North Kuehler 42” Interceptor Project (the “Project”) with a completion date of July 31, 2020;

WHEREAS, project delays require construction management services from the Professional for a longer period of time than included in the Original Agreement;

WHEREAS, NBU requires additional construction management services due to NBU expanding the Project scope;

WHEREAS, NBU staff separated the construction management services to ensure quality control over scheduling, cost predictability, project delivery, and inspection service;

WHEREAS, NBU desires to provide a specific duration of the Services for the consultant;

WHEREAS, the Original Agreement requires the Parties to agree in writing to amend or modify the Original Agreement; and

WHEREAS, the Parties desire to amend the Original Agreement to (i) define the duration of construction management services, more specifically described in the attached Exhibit A; (ii) extend the time of completion for the Services; and (iv) increase the not to exceed amount of compensation for the Services by \$114,158 (“First Amendment” and, together with the Original Agreement, the “Agreement”).

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 Original 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 _____, 20____.

NBU:

NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: Ian Taylor
Title: CEO

THE PROFESSIONAL:

FREESE AND NICHOLS, INC.,
a Texas corporation


By: 
Name: Drew Hardin
Title: Vice President

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES - NO CHANGE

DESIGN PHASE: NO CHANGE

BID PHASE: NO CHANGE

CONSTRUCTION PHASE:

The Professional shall complete the following tasks throughout the duration of the Project and construction phase.

- COMMUNICATION PROCESS – NO CHANGE
- QUALITY ASSURANCE
 - NO CHANGE
 - NO CHANGE
 - NO CHANGE
 - NO CHANGE
 - NO CHANGE
 - The Professional shall provide full-time on-site representation by a resident inspector averaging 40 hours per week.
 - The Professional shall provide a construction manager that visits the Project site once per week, and average four (4) hours per visit.
 - The Professional shall provide a construction manager responsible for overall project management of the Project, averaging four (4) hours per week.
- DOCUMENT MANAGEMENT – NO CHANGE
- SCHEDULE MANAGEMENT – NO CHANGE
- COST MANAGEMENT – NO CHANGE

- ISSUES MANAGEMENT – NO CHANGE
- CHANGE MANAGEMENT – NO CHANGE
- PROJECT COMPLETION – NO CHANGE
- MATERIAL TRANSFER – NO CHANGE
- RECORD DRAWINGS – NO CHANGE

TIME OF COMPLETION: The Professional is authorized to commence work on the Project upon execution of this Agreement. The Professional shall complete the services by February 25, 2022.

EXHIBIT B
COMPENSATION

NBU shall pay the Professional for the Services performed pursuant to the Agreement in an amount not to exceed \$344,769, as more fully described below in the Services Cost Breakdown table.

| Services Cost Breakdown | | | |
|--|---------------------------|------------------------|--------------|
| Task | Fee | | |
| | Original Agreement | First Amendment | Total |
| Construction Management and Inspection | \$230,611 | \$114,158 | \$344,769 |