

**THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
(SOUTH KUEHLER WASTEWATER TREATMENT PLANT (WWTP))**

This **THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “Third Amendment”) is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipal owned utility (“NBU”), and **QUIDDITY ENGINEERING, LLC**, a Texas limited liability company **D/B/A JONES & CARTER, INC.** (the “Professional”) (collectively, the “Parties”).

RECITALS

WHEREAS, NBU and the Professional entered into a Professional Services Agreement dated December 16, 2020 (the “Original Agreement”), for preliminary design phase services, design phase services, bid phase services, and construction phase 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 Project (the “Project”) to be completed by May 31, 2023;

WHEREAS, NBU and the Professional entered into a First Amendment to the Agreement on October 1, 2021, 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; (iv) delete Supplemental Task 4 – Construction Staking; (v) add and define Task 6 - Subsurface Utility Engineering Services; (vi) modify the schedule and extend the completion time for the Services and Supplemental Services in the Agreement to August 1, 2025; and (vii) reallocate compensation related to the modified Supplemental Services (the “First Amendment”);

WHEREAS, NBU and the Professional entered into a Second Amendment to Professional Services Agreement on November 1, 2022, to (i) add additional design phase services, (ii) add and engage additional subsurface utility engineering supplemental services, (iii) authorize and allocate the related compensation for the new services and the new supplemental services, and (iv) define a time of completion for the new services and the new supplemental services in the Agreement (the “Second Amendment” and, together with the First Amendment and the Original Agreement, the “Agreement”);

WHEREAS, during the course of design, NBU and the Professional identified a need to (i) revise the design to extend the reuse and sewer mains further along the project limits adjacent to both McQueeney Road and FM 725, (ii) add a topographic survey of the project site adjacent to McQueeney Road, (iii) add permanent easements and temporary construction easements along the project route (collectively, the “New Services), and (iv) add additional QLA SUE investigations for identifying existing utility crossings near the newly extended reuse and sewer mains (the “New Supplemental Services”);

WHEREAS, the addition of New Services and New Supplemental Services requires an increase in the compensation to the Professional and an extension of the completion date;

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) add and engage the New Supplemental Services, (iii) authorize and allocate the related compensation for the New Services and the New Supplemental Services, and (iv) define a time of completion for the New Services and the New 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 Third Amendment as of the effective date of this Third 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 Third Amendment as of the effective date of this Third Amendment.

Section 3. Engaging Supplemental Services. NBU hereby engages the New Supplemental Services described in Exhibit A to this Third Amendment and authorizes payment of the related compensation as described in the Agreement and in the amounts specified in Exhibit B of this Third 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 Third 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 Third 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 Third 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 Third Amendment shall not be affected thereby, and this Third Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 8. Governing Law. This Third 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 Third 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:
QUIDDITY ENGINEERING, LLC,
a Texas limited liability company,
d/b/a Jones & Carter, Inc.


By: 
Name: JEFF MOELLER
Title: VICE PRESIDENT

Exhibit A

Scope of Services

NO CHANGE

SERVICES

Task 1. Preliminary Design Phase Services

NO CHANGE

Task 2. Design Phase Services

2.1. NO CHANGE

2.2. NO CHANGE

2.3. NO CHANGE

2.4. NO CHANGE

2.5. NO CHANGE

2.6. NO CHANGE

2.7. NO CHANGE

2.8. NO CHANGE

2.9. NO CHANGE

2.9.1. NO CHANGE

2.10. NO CHANGE

2.10.1. NO CHANGE

2.11. NO CHANGE

2.11.1. NO CHANGE

2.11.2. The Professional shall prepare 90% plans for the extension of the gravity sewer. This is approximately 50 linear feet west of proposed MH-A15 and for the revised location of the reuse main from station 71+50 to 78+00. This includes the additional topographic survey for the gravity sewer extension. The Professional shall incorporate the revised plans into the McQueeney 90% Design Documents.

2.12. NO CHANGE

2.12.1. NO CHANGE

2.12.2. The Professional shall prepare an Opinion of Probable Construction Cost (“OPCC”) for the plan revisions noted in 2.11.2 and shall incorporate them into the

McQueeney 90% Design Documents.

2.13. The Professional shall prepare 100% plans and technical specifications (“100% Design Documents”) for the plan revisions noted in 2.11.2 based on comments provided by NBU in the 90% review meetings and shall submit it to the NBU Project Manager for review and approval.

2.14. NO CHANGE

2.15. NO CHANGE

2.16. NO CHANGE

2.17. NO CHANGE

2.17.1. NO CHANGE

2.17.2. NO CHANGE

2.17.3. NO CHANGE

2.17.4. NO CHANGE

2.17.5. NO CHANGE

2.17.6. NO CHANGE

2.17.7. NO CHANGE

2.17.8. NO CHANGE

2.17.9. NO CHANGE

2.17.10. NO CHANGE

2.17.11. NO CHANGE

Task 3. Bid Phase Services

NO CHANGE

Task 4. Construction Phase Services

NO CHANGE

SUPPLEMENTAL SERVICES

Supplemental Task 1 — Phase 1 Environmental Site Assessment

DELETED – NO CHANGE

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

2. The Professional shall perform an on-the-ground boundary verification of eight (8) permanent easements and eight (8) temporary construction 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 NO CHANGE

Supplemental Task 3 — Additional Geotechnical Investigation

DELETED – NO CHANGE

Supplemental Task 4 — Construction Staking

DELETED - NO CHANGE

Supplemental Task 5 — Contractor Claim Assistance

NO CHANGE

Supplemental Task 6 — Subsurface Utility Engineering

1. NO CHANGE
2. Quality Level A SUE Investigations
 The Professional shall perform eighteen (18) new QLA SUE investigations for identifying existing utilities crossing the new sewer main and reuse water main.
3. NO CHANGE

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	NO CHANGE
Preliminary Design Memo	NO CHANGE
60% Design Submittal	NO CHANGE
90% Design Submittal	NO CHANGE
McQueeney 60% Design Submittal	NO CHANGE
McQueeney 90% Design Submittal	January 19, 2024
Submit to TCEQ, City, TxDOT, and Private Pipeline Co.	January 19, 2024

Combined 100% Design Submittal	March 15, 2024
Submit for Agency Approvals	April 12, 2024
Anticipated Advertise & Bid Start	June 17, 2024
Anticipated NBU Board of Approval of Construction Contracts	October 31, 2024
Anticipated Construction Notice to Proceed	December 2, 2024
Anticipated Construction Completion	December 1, 2025

Exhibit B

Compensation

Services:

NBU shall pay the Professional for all 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 in an amount not to exceed \$669,470.

Services Cost Breakdown					
Tasks	Original Contract	First Amendment	Second Amendment	Third Amendment	Revised Contract Amount
Task 1 - Preliminary Design Phase Services	\$90,000	\$0	\$0	\$0	\$90,000
Task 2 - Design Phase Services	\$345,000	\$0	\$66,670	\$17,800	\$429,470
Task 3 - Bid Phase Services	\$25,000	\$0	\$0	\$0	\$25,000
Task 4 - Construction Phase Services	\$125,000	\$0	\$0	\$0	\$125,000
Total	\$585,000	\$0	\$66,670	\$17,800	\$669,470

Supplemental Services:

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement not to exceed \$101,980; 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					
Supplemental Tasks	Original Contract	First Amendment	Second Amendment	Third Amendment	Revised Contract Amount
Suppl. Task 1 – Phase 1 ESA	\$5,000	(\$5,000)	\$0	\$0	\$0
Suppl. Task 2 - Boundary Survey, Metes & Bounds, & Exhibits for Easements	\$15,000	\$10,000	\$0	\$12,100	\$37,100
Suppl. Task 3 – Additional Geotechnical Investigation	\$5,000	(\$5,000)	\$0	\$0	\$0
Suppl. Task 4 – Construction Staking	\$10,000	(\$10,000)	\$0	\$0	\$0
Suppl. Task 5 – Contractor Claim Assistance	\$10,000	(\$5,000)	\$0	\$0	\$5,000
Suppl. Task 6 – Subsurface Utility Engineering	\$0	\$15,000	\$22,000	\$22,880	\$59,880
Total	\$45,000	\$0	\$22,000	\$34,980	\$101,980