

SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This **SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “Second Amendment”) 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, NBU and the Professional entered into a Professional Services Agreement dated May 26, 2021 (the “Original Agreement”), for project management, design, bid, and construction phase services (collectively, the “Original Services”) for the Landa Pump Station Expansion Project (the “Project”) to be completed by August 6, 2023;

Whereas, NBU and the Professional entered into a Supplemental Services Authorization on December 14, 2021, (i) engaging the Supplemental Services, (ii) authorizing the related compensation, and (iii) defining a time of completion for the Supplemental Services (the “Authorization”);

WHEREAS, NBU and the Professional entered into a First Amendment to the Agreement dated March 31, 2021 to (i) add additional final design phase services, additional field services for an additional permanent easement, and additional field services for subsurface utility exploration; (ii) include additional compensation; and (iii) extend the completion time for the Services to December 1, 2023 (the “First Amendment” and, together with the Original Agreement and Authorization, the “Agreement”);

WHEREAS, during the course of construction, NBU and the Professional identified a need to add additional construction phase services to include (i) welding inspection for the existing Landa Ground Storage Tank, (ii) pump station start-up services, and (iii) additional general and resident Project representative services due to an extended project construction duration (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 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 agree to amend the Agreement to (i) add the New Services, (ii) authorize the related compensation for the New Services, and (iii) extend the completion time for the New Services to August 1, 2024.

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 Second Amendment as of the effective date of this Second 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 Second Amendment as of the effective date of this Second 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 Second 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 Second 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 Second 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 Second Amendment shall not be affected thereby, and this Second Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 7. Governing Law. This Second 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 Second Amendment on this the ____ day of _____, 2023.

NBU:

NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: Ian Taylor
Title: CEO

THE PROFESSIONAL:

FREESE AND NICHOLS, INC.,
a Texas corporation

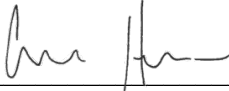
By:  _____
Name: Anne Hoskins
Title: Prinicpal

Exhibit A

Services

NO CHANGE

Water Pump Station

NO CHANGE

Water Pipeline

NO CHANGE

Ground Storage Tank

NO CHANGE

SERVICES

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

Task 1. Project Management

NO CHANGE

Task 2. Preliminary Engineering Phase

NO CHANGE

Task 3. Final Design Phase

NO CHANGE

Task 4. Field Services

NO CHANGE

Task 5. Permitting & Stakeholders

NO CHANGE

Task 6. Bid Phase Services

NO CHANGE

Task 7. Construction Phase Services

7. Upon completion of the bid phase services, the Professional shall proceed and provide construction phase administration services as described herein.

7.1 NO CHANGE

7.2. MEETINGS AND SITE VISITS

NO CHANGE

7.2.1. NO CHANGE

7.2.2. NO CHANGE

7.2.3. The Professional shall attend up to a total of fifty-six (56) bi-weekly construction progress meetings.

7.2.4 The Professional shall attend up to a total of twenty-eight (28) monthly site visits during construction of the Project to observe the progress and the quality of work and to determine if the work is proceeding in accordance with the contract documents.

7.2.5. NO CHANGE

7.2.6. NO CHANGE

7.2.7. NO CHANGE

7.3 NO CHANGE

7.4 NO CHANGE

7.5 NO CHANGE

7.6 NO CHANGE

7.7 NO CHANGE

7.8. RESIDENT REPRESENTATION. The Professional shall have a part-time (20 hours per week) resident project representative (“RPR”) on the Project Site for one-hundred and twelve (112)

weeks and provide an average of five (5) hours per week of construction management time for one-hundred and twenty (120) weeks. The duties, responsibilities, and the limitations of authority of the RPR, and designated assistants, shall be performed as described herein.

7.8.1. NO CHANGE

7.8.2. NO CHANGE

7.8.3. NO CHANGE

7.8.4. NO CHANGE

7.8.5. NO CHANGE

7.8.6. NO CHANGE

7.8.7. NO CHANGE

7.8.8. PROJECT COMPLETION

7.8.8.1. The Professional shall coordinate the start-up and commissioning of the facility and all the process systems with the engineer of record (“EOR”), the contractor, and NBU. Start-up services will include the submittal of a pump station startup checklist, uncoupled testing, coupled testing start up meeting and testing, and supervisory control and data acquisition (“SCADA”) support. Start-up services are described in more detail below:

7.8.8.1.1. Start-up Checklist – Engineer will develop a detailed project specific, start-up checklist(s) for the Contractor to follow during testing. Checklist(s) will include items necessary to prove the proper installation and function of pumping equipment and will be a supplement to the start-up plan that is being provided by the Contractor.

7.8.8.1.2. Uncoupled Testing – Attend uncoupled testing. Includes services of Electrical Controls Engineers (3 days).

7.8.8.1.3. Coupled Testing – Attend coupled testing. Includes services of a Civil/Process Engineer (7 days) and Electrical Controls Engineer (7 days).

7.8.8.1.4. Start-up Coordination Meeting with Contractor – Attend up to 1 video-conference or similar meeting to coordinate the start-up plan with the Contractor.

7.8.8.1.5. On-Site Performance Testing – Attend on-site performance testing of equipment and system start-up and commissioning activities for the pump station. Includes services of a Civil/Process Engineer (4 days), Electrical Controls Engineer (6 days), and Treatment Engineer (1 day).

7.8.8.1.6. SCADA Support Services – Includes review of SCADA Factory Acceptance Testing (FAT) plan, SCADA FAT (2 days) and review of SCADA screens.

7.8.8.2. NO CHANGE

7.8.8.3. NO CHANGE

7.8.8.4. NO CHANGE

7.8.9. NO CHANGE

7.8.10. NO CHANGE

7.8.11. NO CHANGE

7.9. TANK COATING AND WELDING INSPECTION

NO CHANGE

7.9.1. NO CHANGE

7.9.2. The Professional shall visit the Project Site up to twelve (12) additional times for steel erection and welding inspection, as necessary due to the condition of the existing tank.

7.9.3. NO CHANGE

7.9.4. NO CHANGE

7.10. DELIVERABLES

NO CHANGE

SUPPLEMENTAL SERVICES

NO CHANGE

TIME OF COMPLETION

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

Project Milestone	Start Date	End Date
Notice to Proceed	NO CHANGE	
30% Preliminary Design	NO CHANGE	NO CHANGE
60% Final Design	NO CHANGE	NO CHANGE
90% Final Design	NO CHANGE	NO CHANGE

100% Final Design	NO CHANGE	NO CHANGE
Permitting	NO CHANGE	NO CHANGE
Bid Phase	NO CHANGE	NO CHANGE
Construction Phase (Substantial Completion)	03/23/2024	04/23/2024
Construction Phase (Final Completion)	04/30/2024	08/01/2024

Exhibit B

Compensation

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

Services

NBU shall pay the Professional for Services during the term of the Agreement in an amount not to exceed \$1,828,746.

Task	Cost	First Amendment	Second Amendment	Total Cost
Task 1: Project Management	\$96,469	\$0	\$0	\$96,469
Task 2: Preliminary Design Phase	\$197,973	\$0	\$0	\$197,973
Task 3: Final Design Phase	\$614,913	\$30,324	\$0	\$645,237
Task 4: Field Services	\$38,329	\$8,112	\$0	\$46,441
Task 5: Permitting & Stakeholders	\$11,639	\$0	\$0	\$11,639
Task 6: Bid Phase	\$24,159	\$0	\$0	\$24,159
Task 7: Construction Phase	\$431,660	\$0	\$0	\$431,660
General Representation			\$31,290	\$31,290
Resident Representation			\$234,001	\$234,001
Pump Station Start-Up			\$101,011	\$101,011
Welding Inspection			\$8,866	\$8,866
Total	\$1,415,142	\$38,436	\$375,168	\$1,828,746

Supplemental Services

NBU shall pay the Professional for the Supplemental Services in an amount not to exceed \$30,000 as set forth in the Supplemental Services Authorization.

Task	Cost	Supplemental Services Authorization - Funds Allocated	Total Remaining Funds to Allocate
Supplemental Services	\$30,000	(\$30,000)	\$0
Total	\$30,000	(\$30,000)	\$0