

## **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

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 **DANNENBAUM ENGINEERING COMPANY – AUSTIN, LLC**, a Texas limited liability company (the “Professional”) (collectively, the “Parties”).

### **RECITALS**

WHEREAS, NBU and the Professional entered into a Professional Services Agreement dated March 27, 2020 (the “Agreement”), for project management, final design phase, bid phase, and construction phase services (the “Existing Services”) for the Saengerhalle lift station expansion and force main project (the “Project”);

WHEREAS, the Agreement was approved by the NBU Board of Trustees on March 26, 2020;

WHEREAS, due to a delay in construction of the Project that is outside of the control of the Parties, additional construction phase services, which include an increase in the number of progress meetings and an increase in the number of shop drawings reviewed (the “New Services” and, together with the Existing Services, the “Services”), have become necessary;

WHEREAS, the New Services will require additional compensation;

WHEREAS, the Services will require an extension of the completion date;

WHEREAS, the Agreement requires the Parties 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) modify and extend the time of completion for the Services; and (iii) authorize the related 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.

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

**IN WITNESS WHEREOF**, the Parties hereto, upon lawful approval and authority, have executed this First Amendment on this the \_\_\_\_ day of \_\_\_\_\_, 2022.

**NBU:**

**NEW BRAUNFELS UTILITIES,**  
a Texas municipal owned utility

By: \_\_\_\_\_

Name: Ian Taylor

Title: CEO

**THE PROFESSIONAL:**

**DANNENBAUM ENGINEERING COMPANY – AUSTIN, LLC,**  
a Texas limited liability company

By:  \_\_\_\_\_

Name: Thomas C. Arndt

Title: Vice President

Exhibit A  
Services

NO CHANGE

**Task 1 – Project Management**

NO CHANGE

**Task 2 – Final Design Phase**

NO CHANGE

**Task 3 – Bid Phase**

NO CHANGE

**Task 4 – Construction Phase Services**

The Professional shall provide general construction administration services as described herein.

Meetings and Site Visits

- 1) NO CHANGE
- 2) Bi-weekly Construction Progress Meetings: The Professional shall attend up to a total of 20 monthly construction progress meetings during the construction phase. The Professional shall prepare agenda and record and distribute meeting minutes within one (1) week of respective meetings to be delivered to the NBU Project Manager.
- 3) NO CHANGE
- 4) NO CHANGE
- 5) NO CHANGE

Construction Management

- 1) NO CHANGE
- 2) The Professional shall review contractor submittals, produce monthly reports to be provided electronically to the NBU Project Manager indicating the status of submittals in the review process, and review the following contractor submittals for compliance with the design concepts:
  - a) shop drawings (up to a quantity of 60);
  - b) NO CHANGE
  - c) NO CHANGE
  - d) NO CHANGE
  - e) NO CHANGE
  - f) NO CHANGE
  - g) NO CHANGE
- 3) NO CHANGE

- 4) NO CHANGE
- 5) NO CHANGE
- 6) NO CHANGE
- 7) NO CHANGE

**TIME OF COMPLETION**

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 schedule described herein.

<b>Milestone/Deliverable</b>	<b>Completion Date</b>
Notice to Proceed	NO CHANGE
60% Design	NO CHANGE
90% Design	NO CHANGE
100% Submittal	NO CHANGE
Advertise	NO CHANGE
NBU Board Approval of Construction Contracts	NO CHANGE
Construction Notice to Proceed	February 15, 2021
Construction Completion	December 31, 2022

Exhibit B

Compensation

NBU agrees to pay the Professional for the Services rendered under this Agreement in an amount not to exceed \$489,929.77.

<b>Cost Breakdown</b>	<b>Original Contract Amount</b>	<b>First Amendment</b>	<b>Total Fee</b>
Task 1: Project Management	\$14,800.00	-	\$14,800.00
Task 2: Final Design Phase	\$381,258.13	-	\$381,258.13
Task 3: Bid Phase	\$15,984.78	-	\$15,984.78
Task 4: Construction Phase Services	\$69,978.08	\$7,908.78	\$77,886.86
<b>Total</b>	<b>\$482,020.99</b>	<b>\$7,908.78</b>	<b>\$489,929.77</b>