

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
(CONSTRUCTION MANAGEMENT AND INSPECTIONS FOR MULTIPLE PROJECTS)**

This **FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT** (the “First Amendment”) is made and entered into by and between **NEW BRAUNFELS UTILITIES**, a Texas municipally 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 August 31, 2022 (the “Agreement”), for construction management services, including project management and construction phase services, in connection with select fiscal year 2023 NBU water and wastewater capital improvement projects, including the Gruene Apartment Collector Project, Klein Road Reconstruction Phase II Project, Gruene Spoils & Materials Yard Project, and the Schmidt I-35 North Sewer Main Replacement Project (collectively, the “Original Services”);

WHEREAS, NBU and the Professional have identified a need to add additional quality assurance/quality control (“QA/QC”) services for the FM 306 Pump Station and Discharge Line Project (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 desire to amend the Agreement to (i) add the New Services, (ii) include additional compensation for the New Services, and (iii) extend the completion time for the Services to August 31, 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 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 in its entirety and replaced 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 _____, 20__.

NBU:

NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: Ryan Kelso
Title: Chief Executive Officer

THE PROFESSIONAL:

FREESE AND NICHOLS, INC.,
a Texas corporation

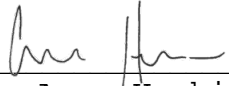
By:  _____
Name: Anne Hoskins
Title: Principal

EXHIBIT A
SERVICES

The Professional shall provide all labor, materials, and equipment necessary to provide construction management services including project management and construction phase services as further defined herein (collectively, the “Services”). The Professional shall perform the Services for the construction management and inspection of select fiscal year 2023 NBU water and wastewater capital improvement projects, as well as additional specific assignments relating to the following projects listed below (all collectively referenced herein as the “Project”):

- Gruene Apartment Collector (“Gruene Apartment Collector”) Project;
- Klein Road Reconstruction Phase II (“Klein Rd Reconstruction Ph2”) Project;
- Gruene Spoils & Materials Yard (“Gruene Spoils Yard”) Project;
- Schmidt I-35 North Sewer Main Replacement (“Schmidt Sewer Main”) Project;
- general construction management tasks (“General CM Tasks”); and
- FM 306 Pump Station and Discharge Line (“FM 306 PS & DL”) Project.

SERVICES

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

Task 1. Project Management – NO CHANGE

Task 2. Construction Phase Services

2. Upon completion of the bid phase, the Professional shall proceed with the construction phase services described herein.

2.1. COMMUNICATION – NO CHANGE

2.2. QA/QC

2.2.1. NO CHANGE

2.2.2. NO CHANGE

2.2.3. NO CHANGE

2.2.4. NO CHANGE

2.2.5. The Professional shall provide an on-site representative that shall be at the following sites for the durations shown below beginning from the NTP:

- Gruene Apartment Collector – NO CHANGE;
- Klein Rd Reconstruction Ph2 – NO CHANGE;
- Gruene Spoils Yard – NO CHANGE;
- Schmidt Sewer Main – NO CHANGE; and
- FM 306 PS & DL - 20 hours a week.

2.2.6. The Professional shall provide a construction manager that shall be responsible for the overall management of the Project. The Professional’s construction manager shall visit the following Project sites a minimum of once per week for the durations shown below beginning from the NTP:

- Gruene Apartment Collector – NO CHANGE;
- Klein Rd Reconstruction Ph2 – NO CHANGE;
- Gruene Spoils Yard – NO CHANGE;
- Schmidt Sewer Main – NO CHANGE; and
- FM 306 PS & DL – 5 hours a week.

2.2.7. NO CHANGE

2.3. DOCUMENT MANAGEMENT – NO CHANGE

2.4. SCHEDULE MANAGEMENT – NO CHANGE

2.5. COST MANAGEMENT – NO CHANGE

2.6. ISSUES MANAGEMENT – NO CHANGE

2.7. CHANGE MANAGEMENT – NO CHANGE

2.8. PROJECT COMPLETION – NO CHANGE

2.9. MATERIAL TRANSFER – NO CHANGE

2.10. RECORD DRAWINGS – NO CHANGE

2.11. LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE – NO CHANGE

TIME OF COMPLETION

The Professional is authorized to commence work on the Project after an NTP is issued for each individual project. The Professional shall complete the Services by August 31, 2024. The anticipated schedule for each project is listed below.

Project Name	Start Date	End Date
T1: Project Management	No Change	No Change
T2: Gruene Apartment Collector	No Change	No Change
T2: Klein Rd Reconstruction Ph2	No Change	No Change
T2: Gruene Spoils Yard	No Change	No Change
T2: Schmidt Sewer main	No Change	No Change
T2: General Construction Management Tasks	No Change	No Change
T2: FM 306 PS & DL	4/1/2024	8/31/2024

Exhibit B

Compensation

NBU shall pay the Professional to perform the Services described in this Agreement in an amount not to exceed \$937,580 in accordance with the schedule of charges and table below and made a part hereof.

Project	Cost	First Amendment	Total Contract
T1: Project Management	\$54,545	\$0	\$54,545
T2: Gruene Apartment Collector	\$65,025	\$0	\$65,025
T2: Klein Rd Reconstruction Ph2	\$114,819	\$0	\$114,819
T2: Gruene Spoils Yard	\$46,014	\$0	\$46,014
T2: Schmidt Sewer Main	\$87,069	\$0	\$87,069
T2: General CM Tasks	\$431,538	\$0	\$431,538
T2: FM 306 PS & DL	\$0	\$138,570	\$138,570
Total	\$799,010	\$138,570	\$937,580

Schedule of Charges

The schedule of charges is included for information purposes only. All costs and expenses described herein shall be included in (and not in addition to) the not to exceed amounts described in Exhibit B.

<u>Position</u>	<u>Hourly Rate</u>	
	<u>Min</u>	<u>Max</u>
Professional 1	75	139
Professional 2	94	148
Professional 3	115	214
Professional 4	143	230
Professional 5	174	300
Professional 6	185	300
Construction Manager 1	83	166
Construction Manager 2	102	148
Construction Manager 3	125	179
Construction Manager 4	150	218
Construction Manager 5	185	250
Construction Manager 6	200	279
Construction Representative 1	87	118
Construction Representative 2	97	139
Construction Representative 3	120	148
Construction Representative 4	130	179
CAD Technician/Designer 1	67	138
CAD Technician/Designer 2	98	149
CAD Technician/Designer 3	128	196
Corporate Project Support 1	49	118
Corporate Project Support 2	69	165
Corporate Project Support 3	99	250
Intern / Coop	40	101
Senior Advisor	175	175

<u>Rates for In-House Services and Equipment</u>					
<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>	<u>B&W</u>	<u>Color</u>	<u>Equipment</u>	
Standard IRS Rates		\$0.10	\$0.25	Valve Crew Vehicle (hour)	\$75
	Small Format (per copy)			Pressure Data Logger (each)	\$200
<u>Technology Charge</u>	Large Format (per sq. ft.)			Water Quality Meter (per day)	\$100
\$8.50 per hour	Bond	\$0.25	\$0.75	Microscope (each)	\$150
	Glossy / Mylar	\$0.75	\$1.25	Pressure Recorder (per day)	\$100
	Vinyl / Adhesive	\$1.50	\$2.00	Ultrasonic Thickness Gauge (per day)	\$275
	Mounting (per sq. ft.)	\$2.00		Coating Inspection Kit (per day)	\$275
	Binding (per binding)	\$0.25		Flushing / Cfactor (each)	\$500
				Backpack Electrofisher (each)	\$1,000
					<u>Survey Grade</u> <u>Standard</u>
				Drone (per day)	\$200 \$100
				GPS (per day)	\$150 \$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.10. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.