

**THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
(DOWNTOWN SURFACE WATER TREATMENT PLANT AT
2356 GRUENE ROAD AND THE FM 306 PUMP STATION)**

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 **ALAN PLUMMER AND ASSOCIATES, INC.**, a Texas corporation (the “Professional”) (collectively, the “Parties”).

RECITALS

WHEREAS, NBU and the Professional entered into a Professional Services Agreement dated November 5, 2019 (the “Original Agreement”), for project management, preliminary engineering phase, final design phase, permitting, bid phase, and construction phase services for the Downtown Surface Water Treatment Plant Discharge Water Line Project (the “Project”);

WHEREAS, NBU and the Professional entered into a First Amendment to Professional Services Agreement on December 16, 2020, amending the Original Agreement to (i) include additional services in the Final Design Phase Services as described therein; (ii) increase the related compensation for the additional services; (iii) extend the completion time for the Services and certain Construction Phase Services deliverables in the Original Agreement; (iv) define the professional supplemental services described in the Supplemental Services; and (v) modify the easement survey services described in the Supplemental Services (the “First Amendment”);

WHEREAS, NBU and the Professional entered into a Second Amendment to Professional Services Agreement on October 1, 2021, amending the Original Agreement and the First Amendment to (i) include additional services in the Final Design Phase Services as described therein; (ii) increase the related compensation for the additional services; and (iii) extend the completion time for Project (the “Second Amendment” and, together with the First Amendment and the Original Agreement, the “Agreement”);

WHEREAS, during design and evaluation of the Project, NBU determined that a curved micro-tunnel would be the best construction method to use under the Guadalupe River;

WHEREAS, NBU now requires additional final design and construction phase services related to the curved micro-tunnel method (“New Services”);

WHEREAS, the addition of New Services requires an increase in the compensation to the Professional;

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 and (ii) include additional compensation for the New 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. 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 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 5. Binding Effect. This Third 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 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 7. Governing Law. This Third Amendment shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the Parties hereto, upon lawful approval and authority, have executed this Third Amendment on this the ____ day of _____, 2022.

NBU:
NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

By: _____
Name: Ian Taylor
Title: CEO

THE PROFESSIONAL:
ALAN PLUMMER AND ASSOCIATES, INC.,
a Texas corporation

By: Mary Portillo
Name: Mary Portillo
Title: Principal, South Texas Area Leader

Exhibit A
Scope of Services

NO CHANGE

TASK 1: PROJECT MANAGEMENT

NO CHANGE

TASK 2: PRELIMINARY ENGINEERING PHASE/PRELIMINARY DESIGN PHASE

NO CHANGE

TASK 3: FINAL DESIGN PHASE

The Professional shall perform the final design phase services as described herein.

1. NO CHANGE
2. NO CHANGE
3. NO CHANGE
4. NO CHANGE
5. NO CHANGE
6. NO CHANGE
7. NO CHANGE
8. NO CHANGE
9. NO CHANGE
10. The Professional shall perform additional design services to finalize the plans and specifications specifically related to the curved micro-tunnel design under the Guadalupe River.

TASK 4: PERMITTING SERVICES

NO CHANGE

TASK 5: BID PHASE SERVICES

NO CHANGE

TASK 6: CONSTRUCTION PHASE SERVICES

The Professional shall perform construction phase Services as described herein.

1. Meetings and site visits.
 - a. NO CHANGE

- b. NO CHANGE
- c. NO CHANGE
- d. NO CHANGE
- e. NO CHANGE
- f. NO CHANGE
- g. The Professional shall be on-site for up to one (1) week to observe the installation and progress of the curved micro-tunnel under the Guadalupe River and provide reporting of the quality of work and to determine if the work is proceeding in accordance with the construction contract documents. The Professional shall prepare and provide NBU with observation reports for the site visit and notify NBU of any non-conforming work performed by the contractor.

2. Construction Administration.

- a. NO CHANGE
- b. NO CHANGE
- c. NO CHANGE
- d. NO CHANGE
- e. NO CHANGE
- f. NO CHANGE
- g. The Professional shall provide additional construction administration services related to the curved micro-tunnel installation to include: (i) submittal review, (ii) field/change order review, and (iii) interpretation of drawings and specifications for NBU and the contractor.

3. Deliverables.

NO CHANGE

Supplemental Services

NO CHANGE

Time of Completion

NO CHANGE

Exhibit B

Compensation

Fee and Expenses

NBU shall 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 the Services rendered during the term of this Agreement in an amount not to exceed \$771,996, in accordance with the table below and made a part of this Agreement.

Services Cost Breakdown					
Task	Original Agreement	First Amendment	Second Amendment	Third Amendment	Total
Task 1- Project Management	\$68,155	\$0	\$0	\$0	\$68,155
Task 2- Preliminary Engineering/Design Phase	\$321,503	\$0	\$0	\$0	\$321,503
Task 3 - Final Design Phase	\$80,070	\$20,000	\$67,714	\$6,555	\$174,339
Task 4 - Permitting	\$12,000	\$0	\$0	\$0	\$12,000
Task 5 - Bid Phase	\$27,981	\$0	\$0	\$0	\$27,981
Task 6 - Construction Phase	\$148,180	\$0	\$0	\$19,838	\$168,018
Total	\$657,889	\$20,000	\$67,714	\$26,393	\$771,996

Supplemental Services

NBU shall pay the Professional for the Supplemental Services performed throughout the term of this Agreement during the term of this Agreement in an amount not to exceed \$116,000.

Supplemental Services Cost Breakdown					
Supplemental Task	Original Agreement	First Amendment	Second Amendment	Third Amendment	Total
Task 1 - Professional Supplemental Services	\$28,000	\$31,500	\$0	\$0	\$59,500
Task 2 – Easement Survey Services	\$30,972	(\$16,972)	\$0	\$0	\$14,000
Task 3 – Subsurface Utility Engineering Services	\$57,028	(\$14,528)	\$0	\$0	\$42,500
Total	\$116,000	\$0	\$0	\$0	\$116,000