

AMENDMENT TO:

MEMORANDUM OF AGREEMENT

AMONG

**THE UNITED STATES ARMY, CORPS OF ENGINEERS, FORT WORTH DISTRICT,
THE TEXAS STATE HISTORIC PRESERVATION OFFICER,
AND NEW BRAUNFELS UTILITIES,**

FOR THE COMAL SPRINGS CONSERVATION CENTER, COMAL COUNTY, TEXAS

Permit Number: SWF-2014-00047

WHEREAS, the United States Army Corps of Engineers (USACE), the Texas State Historic Preservation Officer (SHPO), and New Braunfels Utilities (NBU) executed a Memorandum of Agreement (MOA) on April 10, 2016 for the resolution of adverse effects related to NBU's application for USACE permits and the impacts of the proposed Comal Springs Conservation Center (now Headwaters at the Comal) on historical properties; and

WHEREAS, since the execution of the MOA and because of additional adverse effects to cultural resources discovered during the restoration of phase I of the master plan for the Headwaters at the Comal project, a mitigation plan, outlined in the "Proposed Research Design for Data Recovery Excavations at 41CM204 in Comal County, Texas" by AmaTerra Environmental, Inc. dated August 15, 2018, was approved by USACE, and the SHPO; and

WHEREAS, the NBU requires additional time to complete the mitigation for resolution of adverse effects to site 41CM204 as detailed in the "*Proposed Research Design for Data Recovery Excavations at 41CM204 in Comal County, Texas*" (Report); and

WHEREAS, Stipulation V, Amendments, of the MOA states that the MOA may be amended when such an amendment is agreed to in writing by all signatories; and

WHEREAS, the NBU proposes future phases of redevelopment for the Headwaters at the Comal directly related to the activities permitted by USACE, as detailed on the attached map; and

WHEREAS, any additional workspace, new or modification of existing roads, construction activity, vegetation clearing, facilities, mitigation areas, utility relocation, or additional APE directly associated and integrally related to the Headwaters at the Comal located in Comal County, Texas, will be covered under the terms and conditions of this MOA; and

NOW, THEREFORE; the USACE, the SHPO, and the NBU agree to amend the MOA to include the additional time to complete the Report but shall not exceed 5 years from the date this Amendment was executed. Any addition of workspace or APE directly associated and integrally related to SWF-2014-00047 will be covered under the terms of the MOA. All other terms of the MOA shall remain as stated.

STIPULATIONS

The USACE will ensure that the following stipulations are carried out by NBU to identify historic properties and address adverse effects to such properties that will result from construction of Headwaters at the Comal.

I. RESOLUTION OF ADVERSE EFFECT

The approved mitigation plan for the resolution of adverse effects to site 41CM204 titled "*Proposed Research Design for Data Recovery Excavations at 41CM204 in Comal County, Texas*" by AmaTerra Environmental, Inc. dated August 15, 2018, shall be completely satisfied with reports submitted to the USACE, SHPO, and consulting parties for review and approval for treatment of adverse effects to site 41CM204.

II. DURATION

The Amendment to this MOA will expire if its terms are not carried out within 5 years from the date of its execution by all parties.

III. REPORTING

Each year following the execution of the Amendment for the MOA until it expires or it is terminated, NBU shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NBU's efforts to carry out the terms of the MOA.

IV. AMENDMENT

The Amendments outlined under Stipulations are the only changes to the original Memorandum of Agreement and all other provisions of the original MOA and Exhibit not in conflict with this Amendment shall remain in full force.

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SIGNATORY:

United States Army, Corps of Engineers, Fort Worth District

Brandon W. Mobley, Chief, Regulatory Division

Date _____

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SIGNATORY:

Texas State Historic Preservation Officer

Mark Wolfe, State Historic Preservation Officer

Date _____

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SIGNATORY:

New Braunfels Utilities

Melissa C. Krause
Chief Communications and Strategy Officer

Date _____

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CONSULTING PARTY CONCURRING IN MOA:

City of New Braunfels

_____ Date _____
Caleb Gasparek, New Braunfels Historic Preservation Officer

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CONSULTING PARTY CONCURRING IN MOA:

Comal County Historical Commission

Cindy Coers, Chair and Historic Preservation Officer

Date _____