

**FIRST AMENDMENT TO THE COUNTY OF BEXAR, CITY OF SAN ANTONIO
AND
THE SAN ANTONIO RIVER AUTHORITY OPERATIONS AND MAINTENANCE
AGREEMENT FOR THE SAN PEDRO CREEK CULTURE PARK**

This First Amendment to the County Of Bexar, City of San Antonio and The San Antonio River Authority Operations And Maintenance Agreement For The San Pedro Creek Culture Park (the "First Amendment"), is made and entered into by and between Bexar County, ("COUNTY"), the City of San Antonio, ("CITY") and the San Antonio River Authority, an agency of the State of Texas and hereafter referred to as ("RIVER AUTHORITY"), herein referred to as PARTY or collectively as PARTIES.

WHEREAS, the CITY, COUNTY, and RIVER AUTHORITY entered into an agreement (the "Agreement") with an effective date of April 16, 2018 attached as Exhibit "A-1", to operate and maintain the San Pedro Creek Culture Park ("PROJECT"); and

WHEREAS, the COUNTY has contributed significant funding for the construction of the PROJECT and has contributed land towards the PROJECT; and

WHEREAS, the CITY owns the majority of the San Pedro Creek, has contributed land towards the PROJECT, and has contributed significant funding for the construction of the PROJECT; and

WHEREAS, the RIVER AUTHORITY has coordinated the design and construction of the PROJECT and has expertise in the operations and maintenance of linear trail projects as evidenced by the Museum Reach and Mission Reach of the San Antonio River segments of the San Antonio River Improvements Project (SARIP); and

WHEREAS, the PARTIES, in the interest of efficiency, public convenience and pursuant to the provisions of Chapter 791, Texas Government Code, have determined that the public interest would best be served by the RIVER AUTHORITY providing operation and maintenance of the PROJECT; and

WHEREAS, the execution of this AGREEMENT was authorized by the governing body of each PARTY; this AGREEMENT states the governmental services to be performed and the purposes for which the AGREEMENT was entered; the rights, obligations and mutual considerations of the PARTIES are expressed in this AGREEMENT; each PARTY is paying for the performance of any and all governmental services and functions from funds subject to appropriation through their respective governing bodies and in amounts that fairly compensate the performing PARTY; and the functions and services committed to by each PARTY are within their respective authority to perform;

WHEREAS, previously the RIVER AUTHORITY was responsible for the operation and maintenance for Phases 1 and 2, however, now the CITY, COUNTY and RIVER AUTHORITY desire to expand the project areas of responsibility in the AGREEMENT to include Phases 3 and 4;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the undersigned parties agree to amend the Agreement as set out below.

ARTICLE I AMENDMENT

- A. Section 1.2 COVERAGE & RESPONSIBILITIES is deleted in its entirety and replaced with the following:

The PROJECT is being constructed in Phases. Phases 1, 2, 3, and 4 of the PROJECT are described and/or graphically shown on the attached Exhibits A, B and C. The operations and maintenance roles and responsibilities of the PARTIES are set out in this AGREEMENT, as amended, for Phases 1, 2, 3, and 4 as well as any segments within the Phases of the PROJECT

- B. Section 1.2.1 is amended and restated in its entirety as follows:

The RIVER AUTHORITY shall:

1. Plan, execute and fund the normal and customary operations and maintenance set forth in the Standards and Schedules of Performance described in Section 2.4, and incorporated herein as Exhibit C-1, as well as the day-to-day management and administration of Phases 1, 2, 3 and 4 of the PROJECT. As of the date of this First Amendment, the RIVER AUTHORITY has approved and accepted Phase 1 and will not assume responsibility for the Phases listed herein, that have not been approved of and accepted by RIVER AUTHORITY. The responsibility for the operation and maintenance of any components added to the PROJECT that are installed without RIVER AUTHORITY approval will remain with the installing PARTY.
2. Plan, execute and fund the operation and maintenance of the Arsenal Pump Station. Flow rates and settings for the Arsenal Pump Station shall be coordinated between CITY and RIVER AUTHORITY.
3. Fund the cost of utilities for the electric service and lighting of the PROJECT, telecommunications for RIVER AUTHORITY facilities and water service for the restrooms and drinking fountains on the PROJECT.
4. Fund the cost of reuse water for irrigation needs of the PROJECT, but not for creek flow.
5. Be responsible for the operation and maintenance of the crest gates on the PROJECT.
6. Fund contract services as needed and as determined by the RIVER AUTHORITY.

7. Be responsible for facilitating the maintenance of public art installed within the PROJECT limits and for the curation, administration, and management of future public art within the PROJECT, in conformance with PROJECT's public art program guidelines and all related public art ordinances.

8. Operate, manage, and promote the venues, recurring events, and special events that occur on the PROJECT, in accordance with Article II of this AGREEMENT.

9. Be responsible for the approval and oversight of development or redevelopment of property adjacent to the PROJECT through coordination with CITY to ensure appropriate integration of adjacent properties with the PROJECT regarding water quality, landscaping, storm water management, trail connections, public access, construction, and operation and maintenance. CITY shall provide written notice to COUNTY and to RIVER AUTHORITY of a property owner's intention to development or redevelopment of property adjacent to the PROJECT when CITY receives notice of such matter.

10. With the understanding that CITY will provide archaeological and historic preservation inspections, RIVER AUTHORITY will be responsible to coordinate annual inspections of the PROJECT, including public art, with the CITY and COUNTY, and will provide the reporting required in Section 3.8.

11. Fund Capital Repairs and Capital Art Repairs needed on the PROJECT, as defined in Section 2.1.

12. RIVER AUTHORITY shall purchase at its expense all extended construction warranties deemed necessary by RIVER AUTHORITY from the contractor, subcontractors and suppliers for all installed systems, materials, fixtures, landscaping components, and architectural treatments to support the operation and maintenance of PROJECT all being components being cared for by RIVER AUTHORITY as further provided in Section 1.2.1. The PARTIES will purchase all warranties included in the construction specifications and will assign these warranties to the RIVER AUTHORITY. The PARTIES anticipate most systems and components will have a standard warranty so the RIVER AUTHORITY will be purchasing extended warranties as it deems necessary.

13. RIVER AUTHORITY is responsible for operations and maintenance of the public restrooms on the PROJECT. RIVER AUTHORITY is approved to contract with any outside entity to fulfill this responsibility.

14. RIVER AUTHORITY will perform ordinary and customary maintenance of the historic St. James A.M.E. Church site and surrounding area in accordance with the Historic Properties Management Plan developed for the Klemcke-Menger/A.M.E.Church site (Site 41BX2359) as attached and incorporated herein as Exhibit "B-1".

C. Section 1.2.2 shall be amended to include the following paragraph:

12. CITY will conduct and cover the full cost of an in-depth annual inspection of Site 41BX2359 by CITY staff or contractor who is experienced in historic feature preservation and conservation as well as additional inspections if needed to address incidents of damage to the historic walls or stones. If the Site 41BX2359's historic wall or stones of the St. James A.M.E. Church are damaged or deemed to need repair or restoration following an inspection, CITY will also fund, assess and write a plan to repair and restore Site 41BX2359 in accordance with the Historic Properties Management Plan for the Klemcke-Menger/A.M.E.Church site (Site 41BX2359) attached as Exhibit "B-1".

D. Section 2.1 shall be amended to include the following paragraph:

6. If the historic walls, stones or other historic elements of Site 41BX2359 are damaged or deemed to need repair or additional preservation following an inspection by CITY and after receiving the inspection report and plan for a Capital Repair from the CITY, RIVER AUTHORITY will then facilitate and/or engage a contractor or consultant for the Capital Repair of the Site 41BX2359. The final scope of the Capital Repair for the Site 41BX2359 will be dependent on the available funding from the PARTIES. Any Capital Repairs to Site 41BX2359 required for historic preservation and conservation purposes or to repair damage noted in an inspection should be split equally between the RIVER AUTHORITY, CITY and COUNTY.

E. Section 2.6 is amended and restated in its entirety as follows:

SECTION 2.6- SPECIAL EVENTS

The RIVER AUTHORITY shall regulate special events at the PROJECT and coordinate the special event's activities, location, security, garbage disposal and hours of operation with the CITY to ensure that the special event does not have an adverse impact on the CITY's operation and maintenance obligations for the surrounding area. RIVER AUTHORITY has full authority to manage and operate the public spaces of the PROJECT.

ARTICLE II **CHANGES TO EXHIBITS**

1. Exhibit D of the Agreement is deleted in its entirety and replaced by Exhibit C-1", Operations and Maintenance Plan for San Pedro Creek Culture Park dated September 10, 2022, a copy of which is attached to this Amendment and made a part of the Agreement, as amended, for all purposes.

Except as modified by this Amendment, the terms and conditions of the AGREEMENT are hereby ratified by the Parties and will continue in full force and effect as originally agreed upon.

EXECUTED IN MULTIPLE ORIGINALS, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL, ON THIS _____ DAY OF _____, 2023.

SAN ANTONIO RIVER AUTHORITY

CITY OF SAN ANTONIO



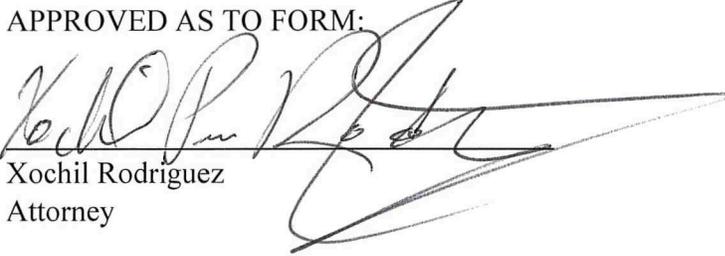
Derek E. Boese, JD, PMP
General Manager

Date: 7/17/23

Erik Walsh
City Manager

Date: _____

APPROVED AS TO FORM:

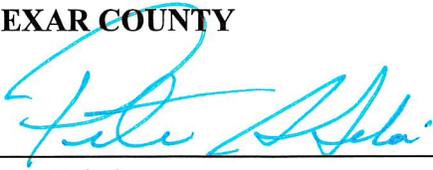


Xochil Rodriguez
Attorney

APPROVED AS TO FORM:

Andrew Segovia
City Attorney

BEXAR COUNTY



Peter Sakai

County Judge

Date: 8/8/2023

APPROVED AS TO LEGAL FORM:

Digitally signed by Calderon, Gerard A.
DN: cn=Calderon, Gerard A., email=gcalderon@bexar.org
Date: 2023.06.26 16:03:24 -05'00'

Gerard A. Calderon

Assistant Criminal District Attorney

Civil Section

APPROVED AS TO FINANCIAL CONTENT:



Leo S. Caldera, CIA, CGAP

County Auditor



David Smith

County Manager