

**DONATION AGREEMENT AND
TEMPORARY RIGHT OF ENTRY FOR CONSTRUCTION**

Effective Date: _____

Authorizing Ordinance No. _____

City: City of San Antonio

City's Mailing Address: P.O. Box 839966
San Antonio, Texas 78283

Rio Perla: Rio Perla Properties, L.P.

Rio Perla's Mailing Address: 200 E Grayson, Suite 203
San Antonio, Texas 78215

Oxbow: Oxbow Real Estate, LLC

Oxbow Mailing Address: 1803 Broadway, Suite 511
San Antonio, Texas 78215

Licensed Area: The cross-hatched area depicted and labeled as the "Project Limits Within City Property" on the attached Exhibit A.

Background: Oxbow and Rio Perla own land adjacent to the San Antonio River Walk. Oxbow has proposed installing a bridge ("**Bridge**") across the San Antonio River (the "**Bridge Project**"). The Historic and Design Review Commission of the City of San Antonio has approved the placement and the design of the Bridge as an enhancement of the River Walk in case 2024-121. This Agreement (1) grants Oxbow authority, subject to certain conditions, to enter the Licensed Area for the completion of the Bridge Project and to maintain the Bridge as constructed, (2) grants City the right to allow the public to access the Bridge subject to the terms, conditions and provisions set forth below, and (3) transfers ownership of the Bridge to City upon completion of construction.

Consideration: Oxbow, Rio Perla, and the City's mutual desire for the completion of the Bridge Project to provide enhanced public access across the San Antonio River in the vicinity of the Bridge and Oxbow's commitment to install and maintain the Bridge as set forth below.

Pedestrian Access: Oxbow and Rio Perla shall leave open pedestrian access to the River Walk sidewalk on both sides of the San Antonio River through the term of this Agreement subject to temporary closures as necessary to install and maintain the Bridge. Any temporary closures lasting longer than 24 hours shall require prior written approval of City acting by and through the City's Director of Downtown Operations. During any temporary closure, Oxbow shall place appropriate

directional signage to indicate closure and identify the nearest alternate route. Oxbow shall revise signage if requested to do so by City.

Pedestrian Access to Bridge:

1. Oxbow and Rio Perla hereby grant to the City (1) the right for the Bridge to remain in its installed location and (2) the right of pedestrian access, allowing all members of the public access to the Bridge provided, however, that such right of access shall not commence until such time as Oxbow has completed its planned development on the west side of the San Antonio River and the Bridge is opened to the public.
2. Notwithstanding anything herein to the contrary, Oxbow and Rio Perla shall be permitted to provide pedestrian access to the Bridge through any route they determine, provided the access is reasonable and continuous (but subject to temporary closures otherwise permitted by this Agreement). In no event shall the rights granted by this Agreement constitute a dedication to the public.

Right of Entry: City, subject to the terms and conditions contained herein, hereby grants to Oxbow the right to enter into and occupy the Licensed Area for the purpose of (1) completion of the Bridge Project, and (2) for the continued maintenance of the Bridge.

Bridge Maintenance: Following completion of the Bridge, Oxbow shall maintain the Bridge (the “*Public Improvements*”) in good repair until such time as Oxbow elects to turnover maintenance of the Public Improvements to the City pursuant to the provisions hereof. As such time as Oxbow may elect to turnover maintenance of the Public Improvements to the City, Oxbow shall give notice to the City of its election (the “*Turnover Notice*”); provided, however, that in no event shall the Turnover Notice be given prior to the date that is twenty (20) years following the Effective Date hereof. Upon receipt of the Turnover Notice, the City shall have sixty (60) days to inspect the Public Improvements and give notice to Oxbow of any repairs required for purposes of placing the Public Improvements in good repair prior to the City assuming maintenance of the Public Improvements (the “*Repair Notice*”). Oxbow shall then complete the repairs identified in the Repair Notice to the City’s reasonable satisfaction whereupon the City shall assume all obligations to maintain the Public Improvements.

Bridge Completion: Oxbow shall complete construction of the Bridge Project within eighteen months from the Effective Date of this Agreement, subject to force majeure events.

Term of the Agreement: Oxbow’s commitment to maintain the Public Improvements and Oxbow’s right of entry shall continue until such maintenance obligations are transferred to the City (as set forth above) and the provision of public access shall continue for so long as the Bridge remains open to the public in its installed location.

Permits and Inspections: Oxbow shall obtain all necessary governmental permits and inspections required for the Project, including without limitation from the Department of Development Services of the City of San Antonio.

Compliance with laws: Oxbow shall comply with all applicable federal, state and local laws.

Condition of Licensed Area: Oxbow shall repair any damage to the Licensed Area caused by Oxbow actions performing the Bridge Project or while performing its ongoing maintenance obligations as required by this Agreement. Such repairs shall include replacement of damaged landscaping and shall be done to the reasonable satisfaction of City.

Indemnity: Oxbow and Rio Perla covenant and agree to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to Oxbow's and Rio Perla's activities under this Agreement, including any acts or omissions of Oxbow and Rio Perla, any agent, officer, director, representative, employee, Oxbow and Rio Perla or subcontractor of Oxbow and Rio Perla, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT OXBOW AND RIO PERLA AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Oxbow and Rio Perla shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or Oxbow and Rio Perla known to Oxbow and Rio Perla related to or arising out of Oxbow's and Rio Perla's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Oxbow's and Rio Perla's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving Oxbow and Rio Perla of any of its obligations under this paragraph.

Insurance: Oxbow and Rio Perla and their contractors shall carry adequate levels of insurance for Oxbow's and Rio Perla's and their contractor's activities on the Licensed Area. Oxbow and Rio Perla shall have its insurance agents, or its contractor's insurance agents, issue certificates of insurance listing City as an additional insured under such policies and shall have any changes made to such policies as may be reasonably requested by City's Risk Manager. City shall have full authority to restrict Oxbow's and Rio Perla's access to the Licensed Area until such insurance certificates have been delivered, reviewed and approved by City.

Certifications and Warranties: Upon completion of the Bridge, Oxbow shall assign to City all warranties and certifications obtained by Oxbow from any and all contractors, subcontractors, engineers or other design consultants involved in the Bridge Project; provided, however, Oxbow shall retain the right to use, and the City shall make available to Oxbow, the warranties for the purposes of Oxbow's maintenance and repair obligations herein.

Ownership of the Bridge: Upon completion of the Bridge Project including final governmental inspections, and final acceptance of the Bridge Project by City, City shall become the owner of the Bridge.

Conduit Crossing: Oxbow and Rio Perla shall be permitted to install and maintain, at their sole expense, conduit under the Bridge for the purpose of connecting a fiber network.

Assignment of Rights: Upon completion of the Bridge Project including final governmental inspections, and final acceptance of the Bridge Project by City, Oxbow and/or Rio Perla shall have the right to assign their rights hereinunder to a property owners association. Oxbow and/or Rio Perla shall provide a copy of such assignment to the City.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, this agreement is executed to be effective the ____ day of _____ 2024.

City of San Antonio

By:
Title:

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on the ____ day of _____, 2024, by _____, _____ of THE CITY OF SAN ANTONIO, a Texas municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, this agreement is executed to be effective the 7th day of June 2024.

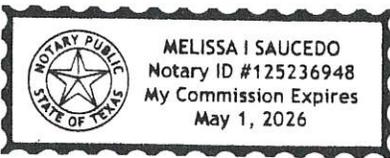
Rio Perla Properties, L.P.,
a Texas limited partnership

By: Rio Perla Management, L.L.C.,
a Texas limited liability company,
its general partner

By: *Mesha Millsap*
Name: Mesha Millsap
Title: President

STATE OF TEXAS
COUNTY OF BEXAR

This instrument was acknowledged before me on the 7th day of June, 2024, by Mesha Millsap, the President Rio Perla Management, L.L.C., a Texas limited liability company, the general partner of RIO PERLA PROPERTIES, L.P., a Texas limited partnership, on behalf of said limited liability company as general partner of said limited partnership.



Melissa I Saucedo
Notary Public, State of Texas

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, this agreement is executed to be effective the 7th day of June 2024.

Oxbow Real Estate, LLC,
a Texas limited liability company

By: Shawn Hatter *WS*
Name: Shawn Hatter
Title: Vice President

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on the 7th day of June, 2024, by Shawn Hatter, Vice President of Oxbow Real Estate, LLC, a Texas limited liability company, on behalf of said limited liability company.



Patricia Muth
Notary Public, State of Texas

[SIGNATURES CONTINUE ON NEXT PAGE]

Exhibit A Licensed Area

