

STATE OF TEXAS

COUNTY OF BEXAR

§ INTERLOCAL AGREEMENT
§ FOR FENCING OLD SPANISH
§ WALKING TRAILS AND SPORTS
§ FIELDS COSA PARK

THIS INTERLOCAL AGREEMENT (hereafter referred to as “the Agreement” or “this Agreement”) is effective as of the 9 day of August, 2022 (hereafter referred to as “Effective Date”), by and between the **City of San Antonio, Texas**, a Texas Home Rule Municipality (hereafter referred to as “**CITY**”) and the **County of Bexar**, a political subdivision of the State of Texas (hereafter referred to as “**COUNTY**”), acting by and through its officers, hereto duly authorized. CITY and COUNTY singularly or collectively shall be referred to herein as “Party” or “the Parties.” This Agreement is entered into by CITY and COUNTY pursuant to the authority granted by the provisions of the Interlocal Cooperation Act, Texas Government Code, Chapter 791. This Agreement is intended to further the purpose of the Interlocal Cooperation Act by increasing the efficiency and effectiveness of local governments.

WHEREAS, the COUNTY has completed construction of the Laddie Place III Regional Storm Water Facility located at 3600 Fredericksburg Road in San Antonio, Texas to alleviate the flooding that occurs in the vicinity, and which includes a recreational park area for public use and enjoyment operated by the City of San Antonio, named the Old Spanish Walking Trails and Sports Fields (“Park”);

WHEREAS, the CITY proposes to build public improvements that are located on the Park;

WHEREAS, the CITY is installing a portion of new fence and reinforcing sections of an existing fence around the perimeter of the soccer fields at the Park (“Project”), facilitates youth sports activities at the location, as depicted in “Exhibit A” attached hereto, and promotes outdoor recreation, tourism, and wellness within the community;

WHEREAS, the COUNTY, pursuant to Texas Local Government Code Sec. 331.001(a) may improve land for park purposes, including the authority to construct buildings, lay out and pave driveways and walks, construct ditches or lakes, and set out trees and shrubs;

WHEREAS, Bexar County Commissioners Court has determined that funding the requested Project is an appropriate expenditure of the COUNTY’S general funds. The County desires to provide a sum not to exceed **ONE HUNDRED SEVENTY- THOUSAND DOLLARS AND NO CENTS (\$170,000.00)** as set out in “Exhibit B” attached hereto for the construction of the Project.

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
PURPOSE

- 1.01 The purpose of this Agreement is to establish the terms and conditions for:
- a. development of the Project;
 - b. reimbursing the costs for the Project; and
 - c. maintaining the Project upon completion.

ARTICLE II
TERM

- 2.01 Except as otherwise provided herein, this Agreement shall commence upon the execution date of the last signatory party to the Agreement and shall end upon completion of the Project.
- 2.02 CITY has the duty to maintain the Project and to enforce warranties associated therewith. These duties shall survive the termination of this Agreement.

ARTICLE III
COUNTY'S FINANCIAL COMMITMENT

- 3.01 COUNTY shall provide funds to CITY not to exceed **ONE HUNDRED SEVENTY-THOUSAND DOLLARS AND NO CENTS (\$170,000.00)** (hereafter referred to as "COUNTY's Contribution", as described in the Construction Cost Proposal of Exhibit "B") and is the total maximum COUNTY commitment to CITY for the Project.
- 3.02 The Parties acknowledge that the financial commitments stated in this Agreement are independent of the necessary operating and maintenance expenses that are and shall remain CITY's responsibilities during and after the Project.
- 3.03 The COUNTY Contribution shall be used for improvements related to security fencing for the Park as described in the Site Diagram of Exhibit "A".. No other funds shall be available from COUNTY to CITY for the Project.

ARTICLE IV
OBLIGATIONS OF CITY

- 4.01 Pursuant to this Agreement, CITY shall perform and provide the following:
- a. CITY shall be responsible for paying all fees and expenses incurred in the construction of the Project.
 - b. Final construction documents for the Project shall be provided to COUNTY for review and approval. If the COUNTY does not approve the final construction documents of the Project, CITY shall refund all unused portions of COUNTY's funding.
 - c. CITY shall maintain the property included in the Project and CITY shall be responsible for the maintenance and operating expenses for such property upon completion of the Project.
 - d. CITY shall obtain warranties from third parties and enforce the warranties on behalf of the Parties, if necessary.

ARTICLE V
OBLIGATIONS OF COUNTY

- 5.01 Pursuant to this Agreement, COUNTY shall perform and/or provide the following:
- a. Upon receipt of a CITY invoice as provided by Exhibit "D" attached hereto, COUNTY is responsible to provide the County Contribution for this Project in accordance with the Prompt Payment Act to reimburse City for the costs incurred.

- b. COUNTY shall have no responsibility to maintain the Project.

ARTICLE VI
JOINT OBLIGATIONS OF THE PARTIES

- 6.02 The Parties have agreed upon the construction of the improvements to be integrated into the Project as provided in Exhibit "A".
- 6.03 If substantial changes are requested, CITY shall obtain COUNTY's approval.

ARTICLE VII
DESIGNATION OF REPRESENTATIVES

- 7.01 CITY hereby appoints the City of San Antonio Public Works Director or his/her designee, (hereafter referred to as "CITY Project Manager"), as its designated representative under this Agreement. CITY Project Manager shall be the primary point of contact for CITY.
- 7.02 COUNTY hereby appoints the County Manager, or his/her designee, (hereafter referred to as "COUNTY Project Manager"), as its designated representative under this Agreement. COUNTY Project Manager shall be the primary point of contact for COUNTY.

ARTICLE VIII
COUNTY'S RIGHTS UNDER THIRD PARTY CONTRACTS

- 8.01 COUNTY agrees CITY shall have the authority to contract, on behalf of the Parties, for all services necessary for the completion of the Project.
- 8.02 CITY shall provide COUNTY, upon COUNTY's request, a fully executed copy of each contract entered into by CITY for the Project.
- 8.03 In all Project contracts entered into by CITY, CITY shall include provisions reflecting:
- a. COUNTY shall be named as an additional insured on all policies naming CITY as an additional insured and shall be entitled to make claims, to the extent of COUNTY's interest in the Project, under all insurance coverage. Prior to the commencement of any work by any service provider, vendor, consultant, contractor, sub-consultant or subcontractor under this Agreement, CITY shall provide COUNTY's Risk Management office with copies of completed Certificates of Insurance and endorsements or policy materials necessary to document compliance with these requirements. Certificates shall be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon. COUNTY reserves the right to review the insurance requirements during the effective period of this Agreement, any extension or renewal hereof, and to modify insurance coverage and minimum limits when deemed necessary and prudent by COUNTY, based upon changes in statutory law, court decisions or circumstances surrounding this Agreement. CITY shall not allow any modifications whereupon COUNTY may incur increased risks.
- b. CITY shall require all contractors, consultants and service providers, including, but not limited to, all sub-consultants and subcontractors, to maintain statutory worker's compensation insurance for all of their employees with a waiver of subrogation in favor of CITY and COUNTY.

- c. CITY shall require in its contracts for services, construction and materials that the contracting parties, along with all sub-consultants and subcontractors, be required to indemnify COUNTY and CITY, their officials, employees and agents, for claims by third parties, as allowed by law.
- d. CITY shall require all consultants, sub-consultants, contractors, and subcontractors to provide all statutorily required payment and performance bonds at no additional cost to the Parties. On services for which performance bonds are not statutorily required, CITY shall determine whether to require performance bonds.
- e. CITY shall state in all agreements with third-parties that COUNTY is a third-party beneficiary to those agreements.

ARTICLE IX
PROJECT MANAGEMENT DURING DESIGN AND CONSTRUCTION

- 9.01 CITY shall manage, oversee, administer and carry out all of the activities and services required for the design and construction monitoring of the Project, to ensure that this Project is designed, constructed and completed with new materials in a good and workmanlike manner and in accordance with the terms of this Agreement.
- 9.02 CITY shall enforce substantial compliance, pursuant to the terms of the agreement with the Contractor and require that work continuously and diligently be performed to achieve substantial completion on or before the scheduled completion date set out in the Project Schedule
- 9.03 In addition to the requirements of **ARTICLE XVIII** herein, CITY promptly shall furnish COUNTY's Project Manager with copies of all legal notices received by CITY affecting the Project including, without limitation, notices from governmental authorities and notices from any party claiming default in any payment obligation and any other notice not of a routine nature. CITY promptly shall give notice under **ARTICLE XVIII** herein of any suit, proceeding or action that is initiated or threatened in connection with the construction of the Project or against CITY and/or COUNTY in connection with construction of the Project.
- 9.04 For any environmental event that is caused by or at the direction of either CITY or COUNTY employees at the Project site, the Party hiring the event-causing employee(s) shall be liable. An environmental event shall mean spills, discharge, leakage, pumpage, drainage, pourage, emission, emptying, injecting, dumping, disposing or other release of a hazardous material which may cause a threat or actual injury to human health or the environment.
- 9.05 Within thirty (30) business days following substantial completion of the Project, CITY shall:
 - a. notify COUNTY in writing upon the substantial completion of construction, whereupon COUNTY may inspect the completed work to determine if construction has been completed in a satisfactory and workmanlike manner and substantially completed in accordance with the plans and specifications for such work.
 - b. submit all permits and inspection reports and, if applicable, obtain a Final Acceptance Letter and submit a copy of each of these documents to the COUNTY.
 - c. submit "record" drawings to COUNTY, along with copies of all warranties and operations documents.

9.06 CITY shall maintain the books, records and documents pertaining to those portions of the Project for which COUNTY and CITY have joint participation. COUNTY representatives shall have access to and the right to examine same, upon reasonable notice to CITY's Project Manager. CITY's books, records and documents relating to the Project must be maintained separately from other CITY projects so that an examination by COUNTY representatives shall be limited to the documents for this Project.

ARTICLE X
DEFAULT

In the event of a material breach of this Agreement, the non-breaching party shall give the breaching party written notice of such breach which shall detail the nature of the breach. The party receiving the notice of breach shall be given thirty (30) days to cure the breach. If the breach is not corrected to the reasonable satisfaction of the non-breaching party by the end of the thirty (30) day period, the non-breaching party may give written notice of termination of this Agreement to the breaching party and seek to recover damages not to exceed the amount paid by the non-breaching party for the Project.

ARTICLE XI
TERMINATION FOR CONVENIENCE

Whenever either party, in its sole discretion, deems it to be in that Party's best interest, the Party may terminate this Agreement for convenience. Such termination shall be effective thirty (30) days after the terminating party delivers written notice of termination of convenience to the other party. If the Agreement is terminated by the CITY prior to completion of the construction of the Project, COUNTY shall be refunded an amount in proportion to the work completed and the total costs. For example, if 80% of the work is completed, COUNTY should be refunded 20% of COUNTY's Contribution. The Parties shall have no additional liability to one another for termination under this **ARTICLE XI**.

ARTICLE XII
PRIOR AGREEMENTS SUPERSEDED

This Agreement, including the exhibits, constitute the entire Agreement of the Parties regarding the subject matter of this Agreement and supersede all previous agreements and understandings, whether written or oral, relating to such subject matter.

ARTICLE XIII
ASSIGNMENT OR TRANSFER OF INTEREST

Neither Party may assign its rights, privileges and obligations under this Agreement, in whole or in part, without the prior written consent of the other Party. Any attempt to assign without such approval shall be void.

ARTICLE XIV
LEGAL CONSTRUCTION

In case one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE XV
COMPLIANCE WITH LAWS AND ORDINANCES

Both Parties shall comply with all federal, state and local laws and ordinances, in connection with the work and services performed under this Agreement.

ARTICLE XVI
TEXAS LAW TO APPLY

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the Parties created hereunder are performable in San Antonio, Bexar County, Texas.

ARTICLE XVII
AMENDMENT

No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and be duly executed by the Parties hereto.

ARTICLE XVIII
NOTICES

All notices required to be given under this Agreement shall be in writing and either shall be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith, unless a provision of this Agreement designates another party and provides a different address. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to COUNTY: County Judge
101 West Nueva, Suite 1019
San Antonio, Texas 78205-3482

With a copy to: Office of the County Manager
101 West Nueva, Suite 1019
San Antonio, Texas 78205-3482

If to CITY: City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

With a copy to: Public Works Department Director/City Engineer
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

ARTICLE XIX
FORCE MAJEURE

Neither Party shall be responsible for delays or lack of performance by such entity or its officials, agents or employees which result from acts beyond that entity's reasonable control, including acts of God, strikes or other labor disturbances or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses. In the event of any delay or failure excused by this Article, the time of delivery or of performance shall be extended for a reasonable time period to compensate for delay.

ARTICLE XX
MULTIPLE COUNTERPARTS

This Agreement may be executed in separate identical counterparts by the Parties hereto and each counterpart, when so executed and delivered, shall constitute an original instrument and all such separate identical counterparts shall constitute but one and the same instrument.

ARTICLE XXI
COMMISSIONERS COURT AUTHORIZATION

This Agreement was approved by Order of the Commissioners Court dated August 9, 2022 authorizing the County Judge to execute this Agreement on behalf of COUNTY.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original, on this 9 day of August, 2022.

COUNTY OF BEXAR

CITY OF SAN ANTONIO


By: 
NELSON W. WOLFF,
County Judge

By: _____
ERIK WALSH,
City Manager

Date: _____


APPROVED AS TO LEGAL FORM:

Criminal District Attorney
County of Bexar, Texas

By: 
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

7. Attached hereto as Rider 1 are previously executed Affidavits and Partial Waivers of Lien executed by those consultants or contractors who could otherwise be entitled to a lien against the Project, if applicable.

8. Attached hereto as Rider 2 are AIA Forms G702 and G703.

9. The schedules and attachments to this Payment Request are true and correct to the best of the undersigned's knowledge.

APPROVED:
CITY OF SAN ANTONIO, TEXAS
By: Office of the City Manager

By: _____
Name: _____
Title: _____
Date: _____

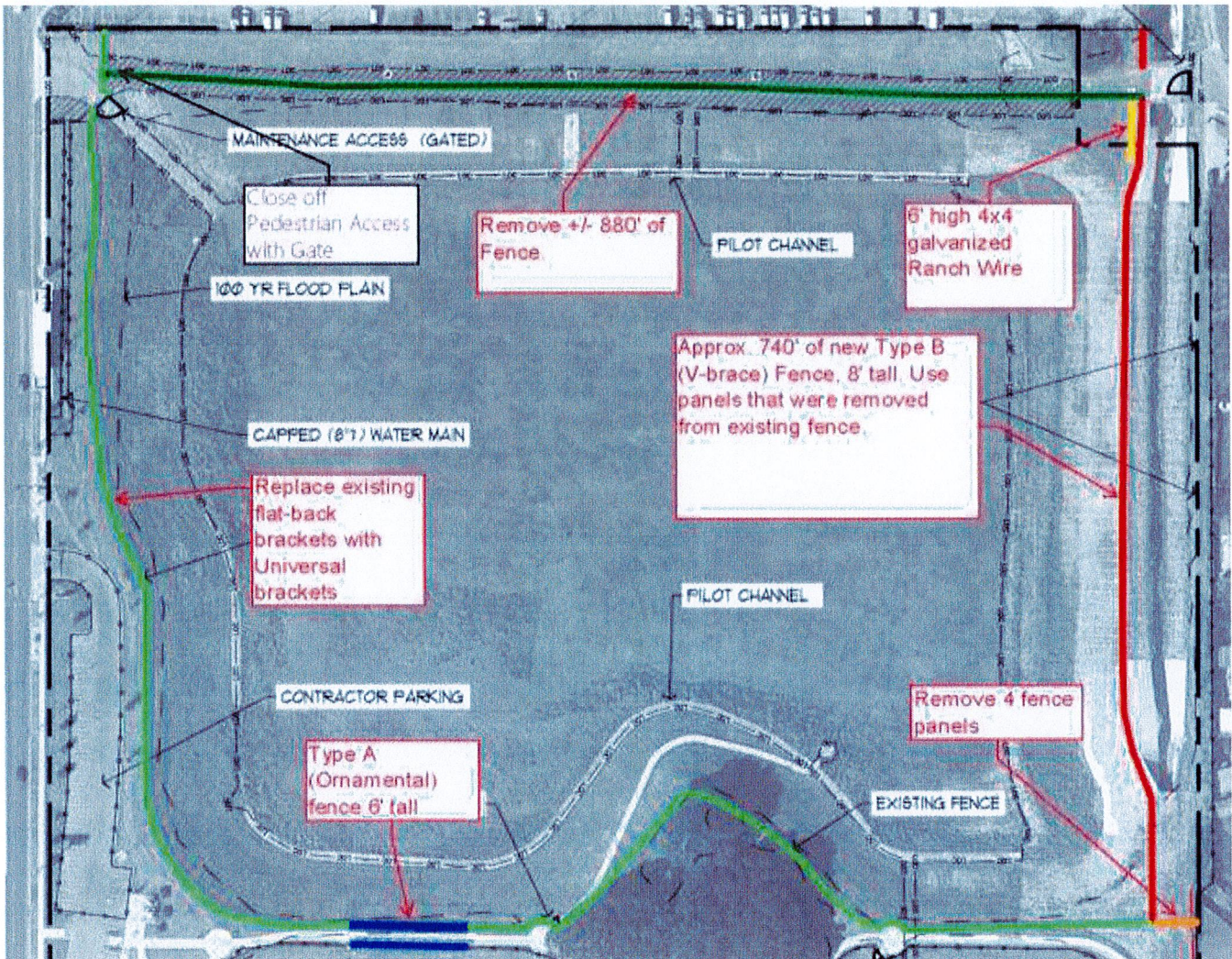
APPROVED:
BEXAR COUNTY, TEXAS
By: Office of the Bexar County Manager

By: _____
Name: _____
Title: _____
Date: _____

APPROVED:
BEXAR COUNTY, TEXAS AUDITOR'S
OFFICE

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"
SITE DIAGRAM



1. Add six (6) foot height ornamental steel fence below the bridge (blue line)
2. Add strength to the existing six (6) foot height ornamental fence by adding brackets that wrap the posts and attach to the panels. Replace existing flat-back brackets with universal brackets (light green line)
3. Remove four (4) fence panels (orange line)
4. Remove posts and remove panels (dark green line) for relocation/ reuse along eastern fence line (red line) Eight (8) foot high fence panels. Add six (6) foot height galvanized ranch wire fence at north end of eastern fence line (yellow line)

EXHIBIT "B"

CONSTRUCTION COST PROPOSAL

Cost Proposal from Alpha Building Corporation, a Job Order Contractor (JOCC) (per Exhibit "C")	\$170,000.00
TOTAL COSTS	\$170,000.00

EXHIBIT "C"
COST PROPOSAL



Date: 04/25/2022

Cost Proposal – OST Park Fencing

Desiree Salmon
Sr. Landscape Architect
Transportation & Capital Improvements

Re: *OST Park - Fencing*

Owner:	City of San Antonio
Owner's Representative:	Desiree Salmon
Contractor:	Alpha Building Corporation
Project Manager:	Alan Norwood
RFP No.:	

Subject:

This "Budget" Proposal is offered as set forth in the terms and conditions of the San Antonio Job Order Contract and statement of work as amended by a more detailed statement of work attached.

1. The scope of this work shall be performed as described at OST Park site visit with COSA.
2. As a Joint Scope in accordance with current industry standards, OSHA safety compliance, and all governing code requirements.
3. No other work requirements are acknowledged except as clarified herein.

Assumptions and Clarifications:

1. Alpha and its subcontractors will have full access to the work space areas.
2. A construction plan will be reviewed and approved by the owner.
3. Escort requirements are not in effect.
4. No additional work or repairs are included.
5. Work to be performed during normal work hours.
6. No liquidated damages.
7. Warranty of this scope will be limited to one year.
8. Sales Tax is Excluded.
9. Bleacher enclosure not included
10. Rock excavation not included
11. Use line brackets in lieu of universal brackets to secure existing ornamental fence
12. No reset nor replace existing posts
13. Does not include any temporary fencing

Total Base Bid Estimate: \$170,000.00

Sincerely,

Alan Norwood
JOC Project Manager/Estimator
Alpha Building Corporation

EXHIBIT "D"

PROJECT SCHEDULE

Construction Phase: October 2022 to February 2023

EXHIBIT "D"

FORM OF DEVELOPMENT COST PAYMENT/REIMBURSEMENT REQUEST

Requisition No. _____

REQUISITION FOR DISBURSEMENT OF DEVELOPMENT COSTS

1. All terms capitalized herein shall have the same meaning as in that certain Interlocal Agreement (the "Agreement") dated as of _____, 2022, between the City of San Antonio ("CITY") and Bexar County, Texas ("COUNTY"). The sums requisitioned hereunder are for the payment of Development Costs of the Project. The expenditures for which money is requested hereby have been, or will be, made and properly recorded on the undersigned's books. The CITY shall keep its books and records relating to amounts for which it seeks reimbursement or payment at its regular business office, which the COUNTY may examine and/or audit (at the COUNTY'S expense) at all reasonable times during normal business hours upon reasonable prior written notice to the CITY.

2. The CITY submits the following information for the following sums which are requisitioned for payment:

Item No.	Budgetary Category	Contract Amount	Payee's Invoice No.	Name, Address of Payee	Purpose	Invoice Total	% Comp

[ADD ADDITIONAL SHEETS AS NEEDED]

3. This Requisition is for Development Costs which have not been the basis of a prior or contemporaneous Requisition, or if previously requested, were not paid by the COUNTY.

4. The Work, material, and equipment or other property covered by this Requisition have been performed for, or delivered to, the Project.

5. Attached are original invoices for which reimbursement or payment is sought together with proof of payment therefore, if applicable.

6. The undersigned certifies that, with respect to all items covered by this Requisition, it has complied with the provisions of the Agreement. Submitted herewith are certificates or documents, if any, required to be submitted pursuant to the Agreement.