

AN ORDINANCE 2019-03-21-0230

APPROVING A PARTNER DESIGN AND CONSTRUCTION AGREEMENT WITH THE NATIONAL PARK SERVICE TO ALLOW THE DESIGN AND CONSTRUCTION OF A PUBLIC ACCESS PEDESTRIAN FOOT BRIDGE AS PART OF THE STINSON HIKE AND BIKE PROJECT.

* * * * *

WHEREAS, over the last four years, the Aviation Department has worked with the Parks and Recreation Department and United States National Park Service to develop a hike and bike project on 63 acres that the Aviation Department owns at Stinson Municipal Airport, which is located between Mission Road and the San Antonio River; and

WHEREAS, the City wishes to connect the Stinson Hike and Bike Trail to the Mission Reach Project and provide access to the UNESCO World Heritage Missions; and

WHEREAS, this requires the construction of a pedestrian footbridge over the Acequia de Espada on land owned by the National Park Service (NPS); and

WHEREAS, the federal government requires an agreement between NPS and the City to outline the responsibilities of each party for the work related to the design, installation, construction, and transfer of ownership of the bridge; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

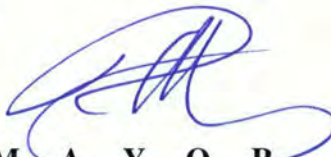
SECTION 1. The City Manager or designee is authorized to execute the Partner Design and Construction Agreement with the National Park Service to allow the design and construction of a public access pedestrian foot bridge as part of the Stinson Hike and Bike project, a copy of which is set out in **Exhibit 1**.

SECTION 2. Funding and payment authorization was previously approved and per originating department's RFCA details, there is no fiscal impact associated with this item; therefore, no fiscal ordinance language is required.

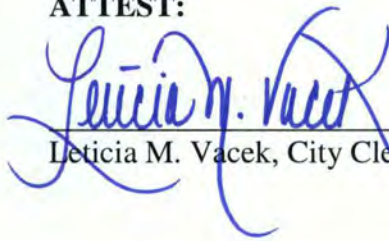
SECTION 3. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

MAT
03/21/19
Item No.25

PASSED and APPROVED this 21st day of March, 2019.


M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	25 (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12A, 12B, 12C, 14, 16, 17, 18, 19, 20, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37A, 37B, 38A, 38B, 38C, 39A, 39B, 39C, 39D)						
Date:	03/21/2019						
Time:	09:59:57 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance approving an agreement with the National Park Service for the design and construction of a public access pedestrian foot bridge as part of the Stinson Hike and Bike project that will cross the Acequia de Espada on land owned by the National Park Service. There is no cost associated with this agreement as the work was included in a prior City Council approved construction contract. [Carlos Contreras, Assistant City Manager; Russell Handy, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Art A. Hall	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				x
Clayton H. Perry	District 10		x				

MAT
03/21/19
Item No. 25

EXHIBIT 1

PARTNER DESIGN AND CONSTRUCTION AGREEMENT

Agreement Number G7600-19-001

PARTNER DESIGN & CONSTRUCTION AGREEMENT

Between the

**UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE**

and

CITY OF SAN ANTONIO

For

STINSON HIKE & BIKE TRAIL

This Partner Design & Construction Agreement (Agreement) is hereby entered into and between the National Park Service (NPS), an agency of the United States Department of the Interior, and City of San Antonio (Partner). The purpose of this Agreement is to set out the terms and conditions under which the Partner will design, construct, and donate to the United States, for the NPS's use, a public access pedestrian foot bridge that will cross the Acequia De Espada. A single span pre-fabricated steel bridge is proposed to achieve this crossing. Throughout this Agreement, the NPS and the Partner may be referred to jointly as "the parties."

In consideration of, and reliance on, the Partner's offer to complete and donate the Project to the United States, the NPS will not seek Federal appropriations for the Project but will use existing appropriated funds to work with the Partner to implement the Project. It is the intent of both parties to be legally bound by this Agreement.

ARTICLE I. BACKGROUND

This project will design and construct a hike and bike trail connecting the Mission Trail along the San Antonio River with Stinson Municipal Airport (Stinson Trail). The trail will allow walkers, cyclists and others utilizing the Mission Trail to access Stinson, visit the Texas Air Museum, and head down to Mission San Juan. It will also enable persons flying into Stinson to access the Mission Trail.

In order to create this connection, the Stinson Trail needs to cross the Acequia De Espada which is located on land owned by the National Park Service. An integral part of the trail will be a pedestrian foot bridge that will cross the Acequia De Espada. A single span pre-fabricated steel bridge is proposed to achieve this crossing.

This Agreement establishes the parties' understandings and obligations regarding the Partner's design, construction, and donation of the Project, such that the Partner may accomplish the Project within parameters acceptable to the NPS and in compliance with applicable laws, regulations, government policies, and Park management plans.

A detailed description of the Project is contained in Attachment A to this Agreement.

ARTICLE II. AUTHORITY

The NPS enters into this Agreement pursuant to 54 U.S.C. § 101101, which authorizes the NPS to accept donations for purposes of the National Park System; 43 U.S.C. § 1473a, which authorizes the Secretary of the Interior (Secretary) to accept and use contributions for cooperative projects with other Federal, State, or private agencies; 54 U.S.C §101701, which authorizes the Secretary to enter into agreements with individuals and entities to share costs and services in support of NPS projects; and 54 U.S.C. §§ 100101-100303 (the NPS Organic Act), which authorizes the NPS to take actions in furtherance of the NPS's mission.

ARTICLE III. DEFINITIONS

As used in this Agreement, the following terms have the following meanings, and are applicable to both the singular and plural forms of the term:

"Contractor" means any entity (including without limitation, general contractors and subcontractors, vendors, suppliers, architectural and engineering firms, landscape architecture firms, design firms, exhibit fabricators, or other professional service firms) retained by the Partner to provide any design, construction, fabrication, utility, architectural, engineering, project management, construction management, regulatory compliance, labor, materials, products, or services.

"Construction" means any fabrication, installation, improvements to, or modifications of NPS real property or personal property, including any ground or site disturbance.

"Construction documents" means the drawings and specifications that fully describe the construction work to be completed under this Agreement.

"Cost estimate" means a cost estimate appropriate for the level and complexity of design and construction of a project, as determined by the NPS, including NPS designated Class C estimates for Conceptual Design; Class B estimates for Design Development; and Class A estimates for Construction Documents.

"Design" defines the construction requirement (including the functional relationships and technical systems to be used, such as architectural, landscape architectural, environmental, and structural,) producing the technical specifications and drawings, and preparing the construction cost estimate. Design includes required NPS design-related reviews and approvals; and the preparation of construction documents.

“Project Development Plan” describes (1) project-specific design elements and NPS construction standards that must be addressed in Project designs, (2) the NPS’s Development Advisory Board reviews, and (3) Project deliverables and delivery dates as set out in Attachment C hereto.

“Third-Party Contract” means any contract between the Partner and any contractor furnishing design, construction, labor, supplies or services.

ARTICLE IV. RESPONSIBILITIES OF THE PARTIES

A. The NPS agrees to:

1. In its sole discretion, review and provide timely written comments on any Third-Party construction Contract that the Partner proposes to enter into.
2. In a timely manner, review, provide written comments on, and approve or disapprove all design plans, construction drawings, engineering documents, environmental compliance documents, change orders, and cost estimates generated by the Partner or the Partner’s contractors. In its sole discretion, the NPS may identify in writing categories of *de minimus* activities, such as minor change orders, that do not require NPS approval.
3. In a timely manner, review and approve (with or without conditions) or disapprove applications for special use permits for access to the Park to accomplish the Project.
4. Monitor the general implementation of the Project, including periodic inspection and tests for compliance with the requirements of this Agreement, the Project Development Plan, project implementation plan or applicable special use permit, and relevant laws, regulations, and policies.
5. Inspect the Project and, if the NPS determines that it meets NPS standards and requirements and is complete, provide a written acceptance to the Partner. If the NPS cannot accept the Project as complete, then the NPS will identify in writing what additional work the Partner must accomplish in order to allow the NPS to accept the project as complete.
6. Notify the Partner of any change in NPS policy that may affect implementation of this Agreement.

B. The Partner agrees to:

1. Ensure that the Project meets NPS standards and requirements and donate the completed Project to the NPS. This donation is made by the Partner on its own volition and without compensation.

2. Contact the NPS in a timely manner with special use requests for access to the Park to accomplish the Project and ensure that its contractors and subcontractors do the same.
3. For any Third Party contract or agreement the Partner enters into for design or construction associated with the Project, Partner shall provide to the NPS:
 - a. A copy of the proposed Third-Party construction Contract and a copy of the final design and construction contracts upon execution;
 - b. Written confirmation that the third party:
 - i. Has all required licenses to do the work contemplated by the agreement in the state, territory, or district in which the work will be performed;
 - ii. Is not suspended or debarred from federal contracting; and
 - iii. Demonstrates relevant experience and competence to perform the work contemplated in the Third-Party Contract.
 - c. Written confirmation that the Partner:
 - i. Used competition in selecting the third-party to perform the work;
 - ii. Has taken measures to avoid or mitigate conflicts of interest;
 - iii. Has made the NPS a third-party beneficiary of all Third-Party construction Contracts.
 - d. The signed Contractor Certification Form, included as Attachment E to this Agreement.
4. Ensure that Third-Party Contracts do not contain a binding arbitration clause or other clause that may interfere with the NPS's ability to seek judicial review in its capacity as a third-party beneficiary to the Third-Party construction Contract.
5. Execute any Third-Party construction Contract only after receiving written notification from the NPS that it is declining to review the proposed contract.
6. Submit all plans, designs, and specifications for NPS review and approval or disapproval at key stages of the Project.
7. Ensure that the Project design complies with all applicable laws, regulations, legal requirements, building codes, and design requirements.
8. Before initiating construction of the Project, demonstrate to the NPS's satisfaction that all funds necessary to pay for the Project have been secured and will remain available to pay Partner's expenses associated with the Project.

9. Undertake construction only when all necessary written NPS approvals have been obtained.
10. Establish and maintain, or ensure that its construction contractor(s) establish and maintain, throughout the course of the Project: (i) security in the form of a performance bond of guaranteeing the contractor's performance of its contract with the Partner; and (ii) a payment bond assuring payment of all persons supplying labor and material in the execution of the work undertaken for the Project, with the following conditions:
 - a. All bonds must be in an amount equal to at least 100 percent of the total project cost, as approved by the NPS. ;
 - b. All bonds must be in the form of a firm commitment from a certified company licensed to do business in the State of Texas;
 - c. Bonds obtained pursuant to this Article must be consistent with the term of this Agreement; and
 - d. Should any bond issued pursuant to this section be canceled or withdrawn, the Partner must immediately notify NPS in writing.

[NOTE: BONDS ARE NOT REQUIRED FOR A&E DESIGN WORK. A&E CONTRACTORS ARE REQUIRED TO OBTAIN PROFESSIONAL ERROR AND OMISSION INSURANCE PURSUANT TO ARTICLE IX.A.4.C OF THIS AGREEMENT.]

11. Include the following requirements verbatim in any Third-Party construction Contract for the performance of any work or for fulfilling any obligation related to the Project:

"The Contractor agrees:

- a. That the National Park Service is a third-party beneficiary of this contract, with all legal rights associated with that status, including the right to enforce the contract.
- b. To comply with all applicable laws, regulations, rules, orders, and other legal requirements;
- c. To comply with the terms and conditions of the Project Development Plan relating to the Project;
- d. To follow any NPS order to suspend work and that at any time the NPS may monitor, inspect, or access the construction site and construction-related materials and documents;

- e. To obtain, and transfer to the NPS from subcontractors, manufacturers or suppliers for work performed and materials furnished all warranties that would be given in normal commercial practice:
 - i. For a period of not less than one year; and
 - ii. Executed, in writing, for the benefit of the Partner and the United States;
- f. To be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence because of, or in any way related to the Project;
- g. To waive any defense to any claim based on the Contractor's alleged reliance on the Partner's or the NPS's Project monitoring, inspections or tests. All monitoring, inspections or tests are for the benefit of the Partner or the NPS and do not relieve the Contractor of responsibility for (i) providing adequate quality control measures, or (ii) ensuring against damage or loss before Project acceptance. In addition, such monitoring, inspections or tests do not imply acceptance of the Contractor's work by either the Partner or the NPS, nor does it affect the continuing rights of the Partner or the NPS after acceptance of the Contractor's work.
- h. That neither the Partner's nor the NPS's review, approval, or acceptance of the Contractor's services nor the Partner's payment for those services will be construed to operate as a waiver of any rights of the Partner or the NPS, or of any cause of action that the Partner or the NPS may have, and the Contractor will be and remain liable to the Partner and the NPS in accordance with the terms of this Contract and applicable law for all damages for which the Contractor is legally responsible.
- i. That in the event of a conflict between the provisions of this Contract and the provisions of the Partner Design and Construction Agreement between the NPS and the City of San Antonio], dated [INSERT], recognize that the terms of the Partner Design and Construction Agreement control.
- j. To obtain and maintain insurance consistent with the requirements of Article VIII of the Partner Design and Construction Agreement;
- k. That the Contractor has no recourse against the United States with respect to any aspect of construction activities and will not lien any land, structures, fixtures, or improvements associated with this Contract; and

I. To be jointly and severally liable under this Contract if the Contractor consists of more than one legal entity.”

12. In addition to the provisions of Paragraph 11 (above), any Third-Party Contract for the provision of architectural or engineering services must contain verbatim the following provisions:

“The Contractor agrees:

All completed documents submitted by Contractor for final approval or issuance of a permit shall bear the seal with signature and date adjacent thereto of a Texas registered engineer licensed to practice in Texas; and Contractor shall make, without expense to Partner, such revisions to the drawings, reports or other documents as may be required to meet the needs of Partner and which are within the Project Development Plan. .”

13. At no cost to the NPS, promptly take steps necessary, including the suspension of work, to address any concerns raised by the NPS.
14. Comply with, and cause its construction contractors to comply with, the wage requirements of the Davis Bacon Act, 40 U.S.C. §§ 3142 *et seq.*, and the relevant Department of Labor regulations, 29 C.F.R. Part 5.
15. Before the NPS accepts the Project as complete, certify in writing that the Project is free and clear of all debts, liabilities, liens, or obligations.

C. The parties further agree as follows:

1. The Project’s overall cost is estimated to be approximately Two Hundred Thousand U.S. Dollars (\$200,000.00.) The Partner’s and the NPS’s financial contributions are detailed in Attachment B.
2. Other Contracts: [STATE THE RELATIONSHIP BETWEEN THIS AGREEMENT AND OTHER AGREEMENTS OR CONTRACTS, IF ANY.] There are no other agreements or contracts pending between the parties.
3. The NPS’s review or approval of documents under Article IV.A of this Agreement will not be construed to operate either as a waiver of any rights of the NPS or as a waiver of any cause of action that the NPS may have under this Agreement or any Third-Party Contract.
4. Upon completion of the Project, City will assign all right, title, and interest in or to the completed Project to the United States, including all fixtures and other property described in Attachment A, and the Partner hereby waives all claims of right, title, or interest in or to the completed Project. At the NPS’s request the Partner will execute

any documents necessary to confirm the United States' title. A sample quitclaim deed is provided in **Attachment F**.

ARTICLE V. ATTACHMENTS

Attachments include: A—Project Description, B—Financial Contributions of the Partner and the NPS, C—Project Development Plan, D—Site Plan, and E—Contractor Certification Form. Attachments A-E are hereby incorporated into this Agreement.

ARTICLE VI. KEY OFFICIALS

For City of San Antonio:

Title: Loyce Clark, Chief Asset & Planning Officer
Aviation Department
Address: 457 Sandau Road
San Antonio, TX 78216
Phone: 210-207-3839
Fax: 210-207-3500
E-Mail: Loyce.Clark@sanantonio.gov

For the National Park Service:

Title: James B. Oliver, Landscape Architect
Address: 2202 Roosevelt Ave
San Antonio, TX 78210
Phone: (210) 843-9016
Fax:
E-Mail:

ARTICLE VII. TERM OF AGREEMENT

This Agreement will be effective on the date of final signature and, unless modified or terminated by the parties in accordance with Article VIII below, will continue in force and effect for a period of Twenty years thereafter.

ARTICLE VIII. MODIFICATION, DISPUTE RESOLUTION, AND TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the parties' authorized representatives.
- B. The parties agree that in the event of a dispute between them, they will promptly use their best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to the parties.
- C. If either party reasonably believes that the other party has breached its obligations under this Agreement, the alleging party must provide the other party a written Default Notice (Notice) of such alleged breach. The party receiving the Notice will have 30 days (the Cure Period) after receipt of the Notice to cure such alleged breach. The Cure Period may be extended by mutual agreement of the parties.
- D. If the alleged breach is not cured within the Cure Period the alleging party may, without first obtaining a judgment or declaration of breach by any court, board, arbitrator or any other adjudicator, exercise its rights to proceed against the bonds required in Article

IV.B.10.a-d of this Agreement, or seek any alternative or additional remedies available to it, including termination of this Agreement.

ARTICLE IX. INSURANCE AND LIABILITY

A. Insurance

1. The Partner is self-insured and will arrange by insurance or otherwise for the full protection of itself from and against all liability to third parties arising out of, or related to, its performance of this Agreement. Neither Party assumes any liability under this Agreement for any losses arising out of any action or inaction by the other party, its employees, or contractors, or any third party acting on its behalf.
2. The contractors must comply with all insurance-related provisions of this Article. The Partner and its contractors are responsible for ensuring that these insurance requirements are included, as appropriate, in their respective contracts with subcontractors.
3. Insurance must be acquired before the initiation of any in-park activities and must be maintained until the Project is accepted as complete by the NPS.
3. Insurance coverage must be commensurate with foreseeable risk, and coverage limits may ultimately be greater than the minimum limitations required below. The NPS will not be responsible for any omissions or inadequacies of any insurance coverage or amounts in the event that insurance purchased by the Partner or a contractor proves to be inadequate or insufficient for any reason.
4. The Partner and all contractors must procure and maintain the following insurance and comply with the following associated requirements:
 - a. The Partner and all contractors must have appropriate insurance including coverage for commercial general liability, contractual liability, automobile, valuable papers, umbrella coverage, and workers' compensation, from a responsible company or companies. Unless higher limits are required by the NPS in writing, commercial general liability insurance and automobile insurance must each have a minimum limitation of One Million Dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of Two Million Dollars (\$2,000,000) for any number of claims arising from any one incident.
 - b. The Partner's prime contractor or general construction contractor must have Builder's Risk Insurance sufficient to cover the replacement cost of the Project.
 - c. The contractors, as appropriate, must have appropriate insurance coverage when warranty work is conducted. This provision will survive termination or expiration

of this Agreement. Warranty work requires the NPS Superintendent's prior approval.

- d. Contractors providing architectural or engineering service must have Professional Error and Omissions Insurance coverage that, at a minimum, conforms to the requirements of applicable state, territorial, or district law.
5. All insurance policies required by this Agreement must be payable to the Partner, and the Partner will use insurance proceeds to correct the damage, harm, or deficiency that is the basis of the insurance claim. Partner expenditure of insurance proceeds will be in conformance with law, NPS policies, and NPS approvals. Insurance proceeds that are paid to the Partner, but that are not needed or cannot be used to correct the harm or deficiency at issue, must, if allowed under the insurance policy, be used to further Park projects and programs as agreed to by the parties.
 - All construction contractor insurance policies required by this Agreement must name the United States as an additional insured and must specify that the insurer must specify that the insurer has no right of subrogation vis-à-vis the United States with respect to claims against other parties. If in the NPS's judgment the Partner is unable to meet its obligation to correct the damage, harm, or deficiencies at issue, then the NPS may file insurance claims and use insurance proceeds consistent with law and NPS policies.
 7. Before beginning the work authorized herein, the Partner must provide the NPS with copies of Certificates of Insurance demonstrating that the contractors have acquired all insurance required by this Article. The Partner and contractors must immediately notify the NPS if an insurance policy is canceled or terminates for any reason.
8. Insurance Carrier Requirements:
- a. Each issuer of the insurance required by this Article must be rated no lower than A- by the most recent edition of the A.M. Best's Key Rating Guide (Property-Casualty Edition).
 - b. All insurers for all coverage must have a Best's Financial Size Category of at least VII according to the most recent edition of A.M. Best's Key Rating Guide (Property-Casualty Edition).
 - c. All insurers must be admitted, licensed, and approved to operate in the state, territory, or district in which the Project will occur.

B. Liability

1. To the extent permitted by law, each Party expressly agrees that it shall be solely and exclusively responsible for its own agents, servants, and/or employees and that

neither party looks to the other to save or hold harmless for the consequences of one of its own agents, servants and/or employees. To the extent authorized by applicable federal law, including the Federal Tort Claims Act, codified as amended primarily at 28 U.S.C. §§ 2671-80 (2014), the NPS will be liable for the negligent or other wrongful acts of omissions of its officers or employees while acting with the scope of their office or employment. Neither party assumes any liability for any losses arising out of any action or inaction by the other party, its employees, or contractors, or any third party acting on its behalf. In no event will the either party be liable to the other for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages. Neither party is hereby waiving any rights or protection it presently enjoys by reason of any applicable state or federal law.

4. The Partner must cooperate with the NPS in the investigation and defense of any claims that may be filed with or against the NPS arising out of the activities of the Partner, or the Partner's employees, agents, representatives, or contractors (including a contractor's subcontractor).

ARTICLE X. CONFIDENTIAL AND PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY

- A. With respect to confidential and proprietary information and intellectual property created in association with this Agreement the Partner agrees that:

1. Rights to Works Produced in the Performance Contract

The Partner is bound by the following provisions. Additionally, the Partner will ensure that provisions a through c below are incorporated into all contracts and subcontracts with Contractors that are executed in furtherance of this Agreement. These provisions should be modified by including the Partner's name and the Contractor's name when such provisions are inserted into any contract.

<p>a. "The NPS will own any and all rights, titles, and interests, including design and construction documents and any and all patents, copyrights, trademarks, trade secrets, inventions, products or other intellectual property rights created as a result of, arising from, or relating to this Agreement, including without limitation intellectual property utilized in bid proposals and any pre-existing intellectual property belonging to the Partner and/or Contractor that is provided in association with the Project, provided, however, that the Partner may request from the NPS a non-exclusive license to use any intellectual property for purposes related to the Partner's fundraising and promotional activities associated with the Project. The NPS will consider the request for such non-exclusive license on a case-by-case basis. This provision will survive expiration or termination of this Agreement.</p>
--

b. The Partner and the Contractor will fully cooperate with the NPS in the protection and enforcement of any intellectual property rights resulting from activities and services performed in connection with this Agreement. This obligation includes timely execution, acknowledgment, and delivery to the NPS of all documents and papers that may be necessary to enable the NPS to utilize in any manner any copyrights, patents, trademarks, trade secrets, and other intellectual property and proprietary rights.

c. If any invention or material created in the course of performing tasks under this Agreement or any associated agreement is patentable intellectual property, the Contractor will report the invention or patentable intellectual property to the Partner within thirty days of its creation and the Partner will immediately report the invention or intellectual property to the NPS.”

2. **NPS Review of Bid Proposals**

- a. The Partner will receive all bid proposals, associated documents, and other communications from bidders and provide copies of them to the NPS Key Official identified in this Agreement so that they may be distributed to appropriate NPS personnel for review. Any information delivered in writing or by other tangible form from the Partner to the NPS, or from the NPS to the Partner, that is to be considered Confidential Information must be conspicuously labeled on every page as “Confidential and Proprietary” at the time of delivery. If proprietary information is delivered orally by either the Partner (including information provided by the bidder) or the NPS, the Partner or the NPS (as the case may be) must identify such information at the time of disclosure, subsequently reduce it to writing, label it “Confidential and Proprietary,” and provide this writing to the appropriate Key Official. Each Party will implement reasonable internal controls to protect confidential information in its possession. NPS retention, release, and destruction of information that is labeled “Confidential Information” are governed by applicable federal law.
- b. In all bid solicitations, the Partner will notify bidders of all provisions in this Article that affect their interests, and will provide that all such provisions will be binding on all bidders including the winning Contractor.
- c. Section A.2 of this Article will survive termination or expiration of this Agreement.

ARTICLE XII. ACCOUNTING AND REPORTS

The Partner and its contractors and subcontractors must maintain accounting books and records under a system of accounts and financial controls meeting Generally Accepted Accounting Principles and must permit the Department of the Interior or its designee, including the NPS

Comptroller and the Department's Office of the Inspector General, to verify and audit financial documents from the books, correspondence, memoranda and other records of the Partner relating to this Agreement, during the period of this Agreement, and for such time thereafter as may be necessary to accomplish such verification.

ARTICLE XIII. STANDARD CLAUSES

- A. **Non-Discrimination:** All activities pursuant to or in association with this Agreement will be conducted without discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex, as well as in compliance with the requirements of any applicable federal laws, regulations, or policies prohibiting such discrimination.
- B. **NPS Appropriations:** Pursuant to 31 U.S.C. § 1341, nothing contained in this Agreement will be construed to obligate the government to any current or future expenditure of funds in excess or advance of the availability of appropriations from Congress, nor does this Agreement obligate the government to spend funds on any particular project or purpose, even if funds are available.
- C. **Limitations on Lobbying:** To the extent that the Partner commits in this Agreement or any related agreement to raise funds from non-federal sources for the Project, the Partner further agrees that it will not lobby for or otherwise seek the appropriation of funds from Congress to meet that commitment. The Partner may not use any appropriated funds (including property, utilities, or services acquired with or supported by appropriated funds) to lobby or attempt to influence Congress or any official of any government.
- D. **Compliance with Applicable Law:** This Agreement and performance hereunder is subject to all applicable laws, regulations, and government policies whether now in force or hereafter enacted or promulgated. Nothing in this Agreement will be construed as in any way limiting the general powers of the NPS for supervision, regulation, and control of its property under such applicable laws, regulations, and management policies.
- E. **Release of Information:** The Partner will obtain prior written approval through the NPS Key Official for any public information releases which refer to this Agreement or Project. The specific text, layout, photographs, etc., of the proposed release will be submitted with
- F. **Assignment:** No part of this Agreement may be assigned to any other party without prior written approval of the NPS.
- G. **Agency:** The Partner is not an agent or representative of the United States, the Department of the Interior, or the NPS, or the Park, nor will the Partner represent its self as such to third parties. NPS employees are not agents of the Partner and will not act on behalf of the Partner.

ATTACHMENT A – PROJECT DESCRIPTION

This project will design and construct a hike and bike trail connecting the Mission Trail along the San Antonio River with Stinson Municipal Airport (Stinson Trail). The trail will allow walkers, cyclists and others utilizing the Mission Trail to access Stinson, visit the Texas Air Museum, and head down to Mission San Juan. It will also enable persons flying into Stinson to access the Mission Trail.

In order to create this connection, the Stinson Trail needs to cross the Acequia De Espada which is located on and owned by the National Park Services. An integral part of the trail will be a pedestrian foot bridge that will cross the Acequia De Espada.

A single span pre-fabricated steel bridge is proposed to achieve this crossing. To preserve the integrity of the acequia, a zone of non-disturbance extending a minimum of 10 feet from each top of bank shall be implemented. Two concrete bridge abutments shall be constructed beyond the zone of non-disturbance to support the steel pedestrian bridge structure. The abutments will be constructed on concrete drilled shafts drilled to predetermined depths based on results from engineering geotechnical testing and report. The proposed elevation of the bridge will provide a minimum 1-foot vertical clearance from the acequia top of banks. The proposed pre-fabricated bridge will be hoisted onto the concrete abutments without encroaching into the zone of non-disturbance. Once the bridge structure is in place, a concrete deck will be poured to complete the bridge.

ATTACHMENT B – FINANCIAL CONTRIBUTIONS

ATTACHMENT C – PROJECT DEVELOPMENT PLAN

1-1 Design Timeline Considerations – Best Practices

The following are design schedule estimates for consideration in order to appropriately account for necessary design milestones and meet project requirements:

- Three to eight month construction procurement lead time to meet (ToT) for construction
- Level of current requirement definition
- Investigations:
 - Geotechnical
 - Existing condition assessment
 - Hazardous material assessment
- Government review times
- Milestone deliverable need dates
- Customer availability / events
- Construction start and finish need dates

1-2 Design

All contracts that include engineering design in their scope require contractors to deliver a DQC Plan outlining how the contractor will ensure quality of their contract deliverables. The DESIGN CONTRACTOR can utilize templates and references for technical guidance.

The following additional requirements apply to the DQC plan:

Provide and maintain a DQC Plan as an effective quality control (QC) program that will assure that all services required by this contract are performed and provided in a manner that meets professional quality standards

• Include the design schedule in the project schedule, showing the sequence of events involved in carrying out the project design tasks within the specific contract period

Implement the DQC Plan by a representative who has the responsibility of being cognizant of and assuring that all documents on the project have been coordinated

1-2.1 Design Quality Assurance

Designers, and design teams are accountable for ensuring that plans and specifications, in a manner that does not improperly increase or decrease authorized scope, meaning the function, size, or quantity of any distinct facility or item of infrastructure or exceed approved construction and design cost thresholds.

It is the CITY OF SAN ANTONIO's role to ensure that designers solve problems and that they are not shifting accountability for the final design solution. The CITY OF SAN ANTONIO must validate contractor compliance with all applicable design criteria or fully coordinate any required exemptions as appropriate and in the best interest of the CITY OF SAN ANTONIO. It is the CITY OF SAN ANTONIO representative's responsibility to confirm the contractor is performing due diligence in validating existing conditions and other furnished information. They must thoroughly maintain e-files throughout the life of including retaining copies of all contract deliverables.

1-2.1.1 Manage and document design decisions

The contract outlines the required deliverables and identifies associated contract line items. The CITY OF SAN ANTONIO manages the review process verifying timeliness, technical accuracy, and contract compliance. The CITY OF SAN ANTONIO is responsible for coordinating a prompt review and providing a recommendation for approval / disapproval / comments to the contractor.

In accordance with the contract, the CITY OF SAN ANTONIO must ensure the contractor prepares and distributes meeting minutes for all design reviews and technical interchanges during design development. The CITY OF SAN ANTONIO Project Manager is the design manager, leading confirmation that all design reviewers back check design review meeting minutes and track resolution is appropriate and, if necessary, follow-up to resolve disputes. The CITY OF SAN ANTONIO should verify that the contractor responds to all comments prior to submission of the next design deliverable with sufficient details to indicate compliance actions to be taken. In addition, it is critical to ensure each design stage documents any comments the contractor views as a change / conflict in scope, impact to cost, or impact to schedule. The CITY OF SAN ANTONIO must then confirm that after design acceptance, any subsequent design changes are fully coordinated and annotated sufficiently.

1-2.1.2 Design Stages

Design(s) should be developed in accordance with applicable technical requirements. The CITY OF SAN ANTONIO should ensure the Design(s) clearly defines project requirements, performance attributes, and performance factors. The extent of the project criteria in the Request for Proposal (RFP) can range from nominal to full project definition. The CITY OF SAN ANTONIO must establish the appropriate project criteria for inclusion in the Design(s), meets the CITY OF SAN ANTONIO's design intent, and identifies the desired quality for the end-product. Nominal criteria represent performance specification and provide purpose, functions, and characteristics of elements in sufficient detail to delineate and characterize features. Partial criteria generally include concept plans. Full criteria represent a more prescriptive approach and are generally applied for critical project elements.

In managing the design efforts under the contract, the CITY OF SAN ANTONIO should ensure responsibilities and risk are managed appropriately. While the CITY OF SAN ANTONIO should ensure contractors interact thoroughly with Government stakeholders to validate and understand requirements, it is important to note that concept design identifies the requirements for bidding purposes only—not the final engineered solution. Early design comments are not necessarily change orders. At each stage, the design contractor should affirm that design submittals are achieving construction project cost objectives. It is the CITY OF SAN ANTONIO's responsibility to ensure construction is not authorized to proceed until final, engineered certified plans (signed, sealed, dated) are accepted for any phase of work. This requires demonstration of fully coordinated designs if the project team has authorized fast-track submissions as a benefit to the Government.

In managing the design efforts under contract, the CITY OF SAN ANTONIO should ensure all contract requirements and deliverables are complete and accurate. The preliminary design deliverable is approximately 35% complete level of design definition. The deliverable should provide sufficient detail to demonstrate compliance with all applicable criteria, codes, and standards. Generally, the design analysis will address all design disciplines, document design parameters and basis for design, provide applicable design calculations, demonstrate that sufficient due diligence has been performed to validate the existing conditions, and identify required permits, approvals, and coordination. The contractor will provide an

outline of specifications at this preliminary stage and design calculations. The contractor should provide a cost estimate based on preliminary plans. The contractor should affirm cost objectives are being achieved.

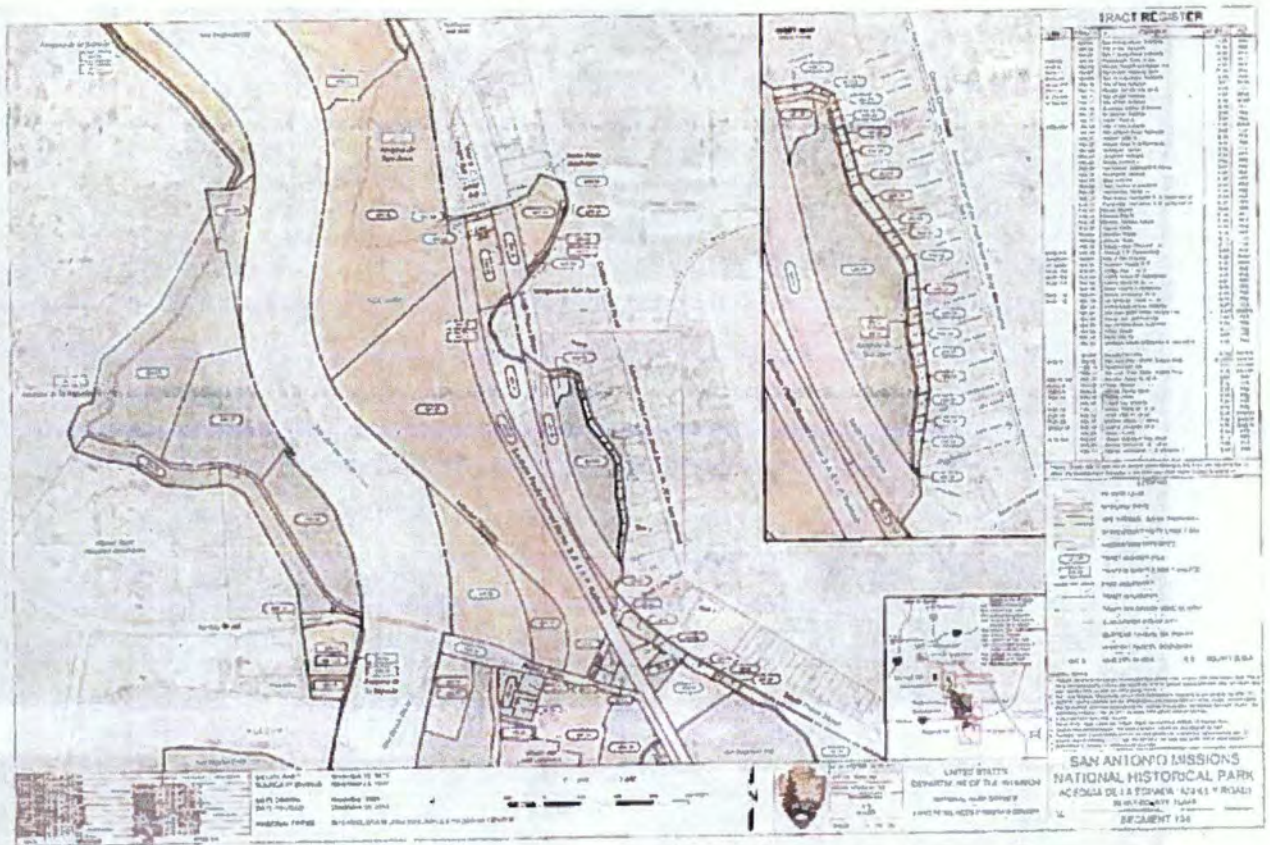
The review for the intermediate design deliverable checks progress and identifies any risks to the timely completion of design. Drawings, specifications, and design analysis are updated based on comment resolution and engineering advancement. Substantial coordination is required so that full construction document development achieves the 65% level of effort at this submittal and minimal changes impacting all disciplines will occur later. Intermediate design deliverables generally consist of drawings, red-lined plans; designer prepared project specification drafts, and updated design analysis. The design contractor should provide a cost estimate based on updated plans, and the contractor should affirm cost objectives are being achieved.

The review of the pre-final design deliverable CITY OF SAN ANTONIO checks that the drawings are sufficiently complete to demonstrate the entire design and coordination of all disciplines. With the exception of completing minor details, this submittal should be developed to a level for use to obtain fair and competitive bids from contractors and used for construction.

The final design deliverable will contain sufficient details to demonstrate prudent engineering technical quality and completeness. The designer should provide a complete design analysis supporting all project requirements. Final drawings and specifications should be complete, thoroughly checked with all comments from previous reviews appropriately addressed. The design contractor should provide a cost estimate based on finalized plans. A revised final deliverable is generally required to assure all comments have been resolved and the design is Ready to Advertise (RTA) or ready to proceed with construction. Contract designers must sign and stamp or seal design documents.

ATTACHMENT D – SITE PLAN







ATTACHMENT E – CONTRACTOR CERTIFICATION FORM

[INSERT CONTRACTOR'S NAME] (Contractor) agrees and certifies that any contract between the Contractor and the CITY OF SAN ANTONIO, or any subcontract between the Contractor and a subcontractor, including any associated addendum, attachment, exhibit, modification, or change order thereto, whether executed in writing or not, must be consistent with the terms of the Partner Design and Construction Agreement (PDC Agreement) between the CITY OF SAN ANTONIO and the National Park Service, dated _____

The Contractor agrees and certifies that in the event of a conflict between the PDC Agreement, as it may be amended from time-to-time, and any contract or subcontract relating to the PDC Agreement to which the Contractor is a party, the terms of the PDC Agreement will control.

Nothing herein is intended to prohibit the Contractor from seeking payment from the CITY OF SAN ANTONIO in association with potential modifications to the PDC Agreement, consistent with law and the payment terms of its contract with [INSERT PARTNERS NAME]. CITY OF SAN ANTONIO will promptly provide the Contractor with copies of any modifications to the PDC Agreement.

The Contractor agrees and certifies that it has received a copy of the PDC Agreement, dated _____ and that it has reviewed that PDC Agreement. The Contractor will provide certification of receipt of any modifications to the PDC Agreement provided by the CITY OF SAN ANTONIO upon request of the [INSERT PARTNER'S NAME].

Name, Title
[CITY OF SAN ANTONIO Name]

Date

Name, Title
[Contractor Name]

Date

ATTACHMENT F – QUITCLAIM DEED

Prepared By

Name: _____

Address: _____

State: _____ Zip Code: _____

After Recording Return To

Name: _____

Address: _____

State: _____ Zip Code: _____

Space Above This Line for Recorder's Use

TEXAS QUIT CLAIM DEED

STATE OF TEXAS

COUNTY OF BEXAR

This quit claim deed is made between **The City of San Antonio**, a Texas Home Rule Municipality, **Grantor**, whose Mailing Address is P.O. Box 839966, San Antonio, TX 78283—3966;

AND

The National Parks Service (NPS), a subdivision of the United States of America,
Grantee, whose Mailing Address is 2202 Roosevelt Ave., San Antonio, TX 78210.

KNOW ALL MEN BY THESE PRESENTS, WITNESS: That the Grantor(s), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, has QUITCLAIMED and does QUITCLAIM to Grantee(s), all of Grantor's right, title, and interest in and to the real property in Bexar County, Texas, fully described in **Exhibit A**, and all improvements located on it, together with all of Grantor's right, title, and interest in and to (a) any and all rights, titles, powers, privileges, easements, licenses, rights-of-way, and interests appurtenant to the real property and any improvements on the real property, and (b) any and all rights, titles, powers, privileges, easements, licenses, rights-of-way, and interests of Grantor, either at law or in equity, in possession or in expectancy, in and to any real estate lying in the streets, highways, roads, alleys, rights-of-way, or sidewalks, open or proposed, in front of, above, over, under, through, or adjoining the real property, and in and to any strips or gores of real estate adjoining the real property (collectively, "Property"). TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances to it in any way belonging, to Grantee, its successors, and its assigns forever, WITHOUT ANY WARRANTIES OR REPRESENTATIONS BY GRANTOR, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR USE, OR WITH RESPECT TO THE VALUE, PROFITABILITY, OR MARKETABILITY OF THE PROPERTY; so that neither Grantor nor Grantor's heirs, administrators, executors, successors, or assigns will have, claim, or demand any right or title to the Property or any part of it.

Grantor:

City of San Antonio
A Texas Home Rule Municipality
Acting By and Through its City Manager:

Grantor's Signature

Grantor's Name

Address: P.O. Box 839966
San Antonio, TX 78283-3966

In Witness Whereof,

Witness's Signature

Witness's Signature

Witness's Name

Witness's Name

Address

Address

City, State & Zip

City, State & Zip

STATE OF TEXAS)

COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that _____ whose names are signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, executed the same voluntarily on the day the same bears date.

Given under my hand this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

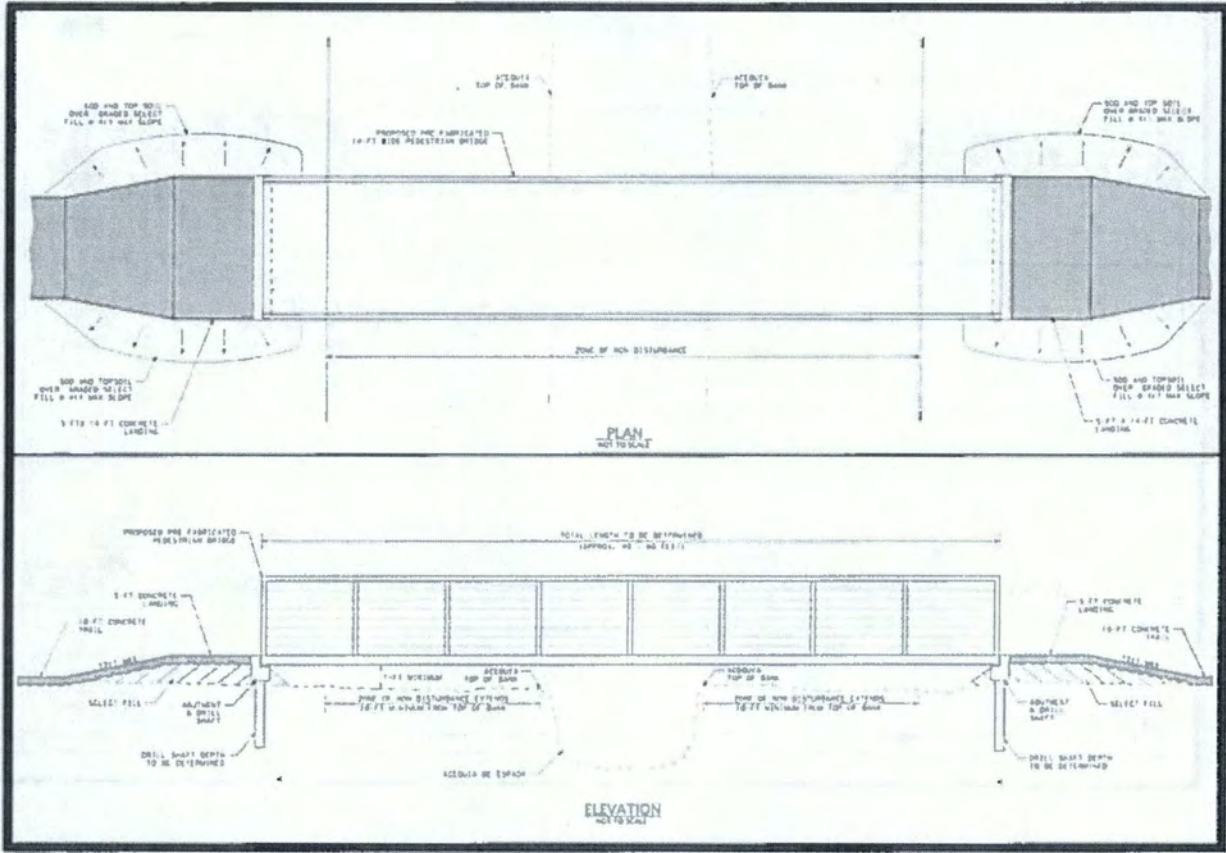
The Property to be conveyed consists of a foot-bridge connecting the Stinson Airport Hike and Bike Trail with National Park Service Mission Reach Trail System.

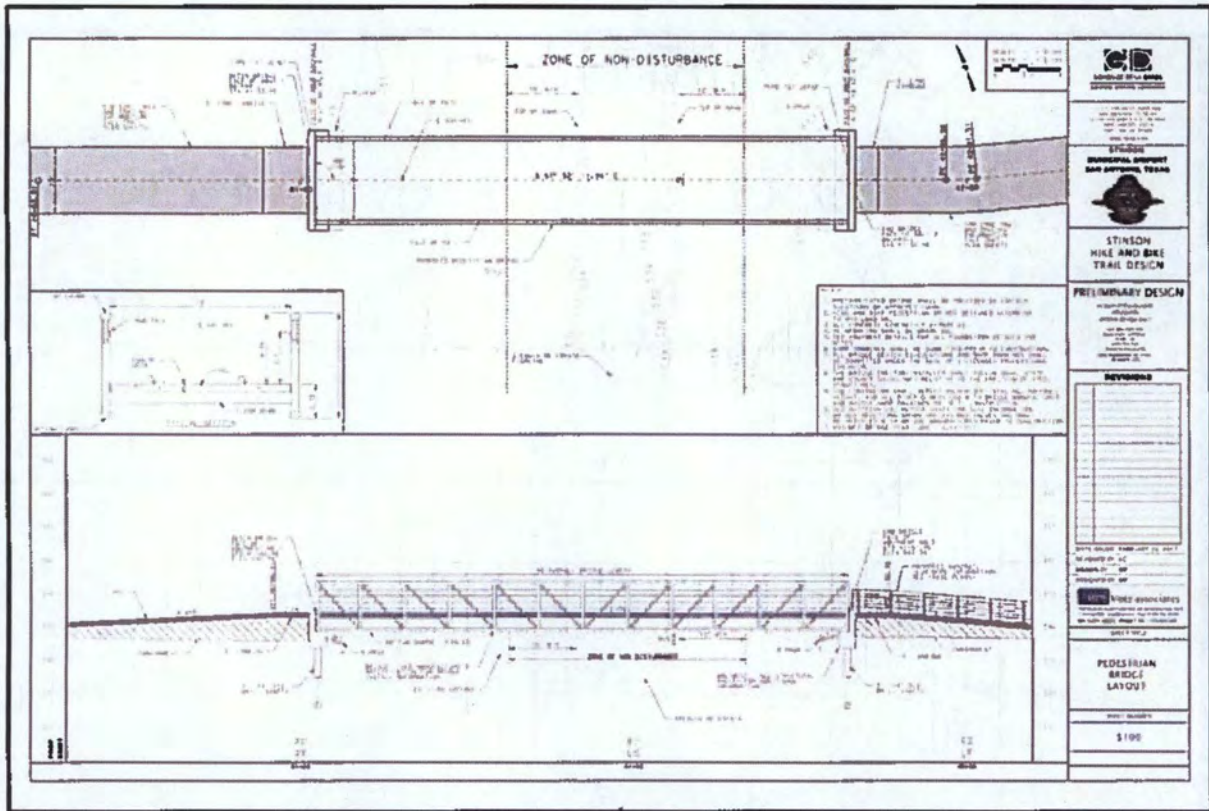
This project will design and construct a hike and bike trail connecting the Mission Trail along the San Antonio River with Stinson Municipal Airport (Stinson Trail). The trail will allow walkers, cyclists and others utilizing the Mission Trail to access Stinson, visit the Texas Air Museum, and head down to Mission San Juan. It will also enable persons flying into Stinson to access the Mission Trail.

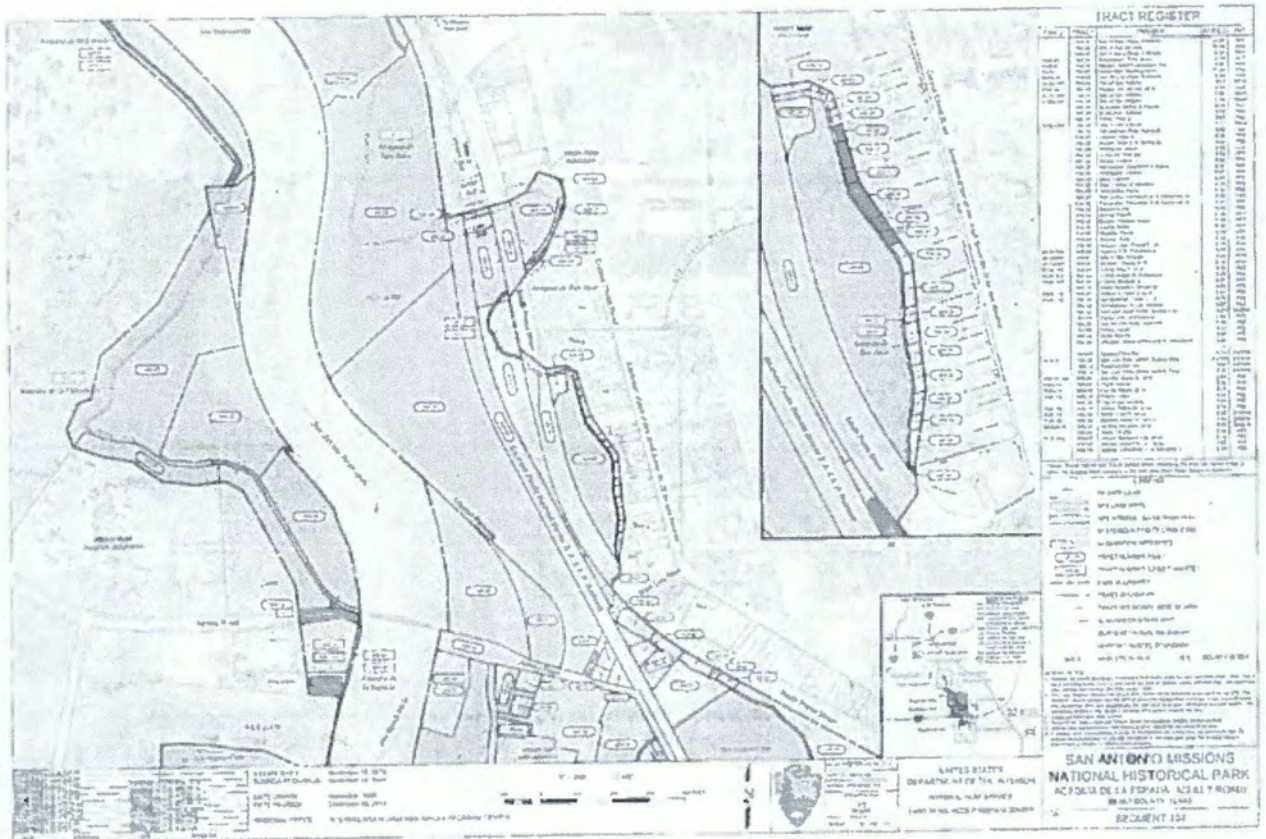
In order to create this connection, the Stinson Trail needs to cross the Acequia De Espada which is located on and owned by the National Park Services. An integral part of the trail will be a pedestrian foot bridge that will cross the Acequia De Espada.

A single span pre-fabricated steel bridge is proposed to achieve this crossing. To preserve the integrity of the acequia, a zone of non-disturbance extending a minimum of 10 feet from each top of bank shall be implemented. Two concrete bridge abutments shall be constructed beyond the zone of non-disturbance to support the steel pedestrian bridge structure. The abutments will be constructed on concrete drilled shafts drilled to predetermined depths based on results from engineering geotechnical testing and report. The proposed elevation of the bridge will provide a minimum 1-foot vertical clearance from the acequia top of banks. The proposed pre-fabricated bridge will be hoisted onto the concrete abutments without encroaching into the zone of non-disturbance. Once the bridge structure is in place, a concrete deck will be poured to complete the bridge.









TRACT REGISTER

TRACT NO.	ACRES	OWNER
1	1.00	...
2	1.00	...
3	1.00	...
4	1.00	...
5	1.00	...
6	1.00	...
7	1.00	...
8	1.00	...
9	1.00	...
10	1.00	...
11	1.00	...
12	1.00	...
13	1.00	...
14	1.00	...
15	1.00	...
16	1.00	...
17	1.00	...
18	1.00	...
19	1.00	...
20	1.00	...
21	1.00	...
22	1.00	...
23	1.00	...
24	1.00	...
25	1.00	...
26	1.00	...
27	1.00	...
28	1.00	...
29	1.00	...
30	1.00	...
31	1.00	...
32	1.00	...
33	1.00	...
34	1.00	...
35	1.00	...
36	1.00	...
37	1.00	...
38	1.00	...
39	1.00	...
40	1.00	...
41	1.00	...
42	1.00	...
43	1.00	...
44	1.00	...
45	1.00	...
46	1.00	...
47	1.00	...
48	1.00	...
49	1.00	...
50	1.00	...

This map was prepared by the Surveying and Mapping Division of the Department of the Interior, Bureau of Land Management, San Antonio, Texas, under the authority of the Secretary of the Interior. It is based on the original survey of the San Antonio Missions National Historical Park, and is subject to the same conditions and limitations as the original survey. The map is not to be used for any purpose other than that for which it was prepared.

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK
 ACQUEDA DE LA ESPAÑA, A.S.I. Y ROMANA
 BUREAU OF LAND MANAGEMENT
 DEPARTMENT OF THE INTERIOR
 WASHINGTON, D. C. 20500
 PRELIMINARY 1962

ORDINANCE

**AUTHORIZING A CONTRACT FOR ELECTION SERVICES FOR THE
MAY 4, 2010 JOINT GENERAL ELECTION WITH THE BEXAR
COUNTY ELECTIONS ADMINISTRATOR IN AN AMOUNT NOT TO
EXCEED \$739,732.44.**

* * * * *

WHEREAS, on January 10, 2019, by Ordinance No. 2019-01-10-0011, the City of San Antonio ordered an election for Saturday, May 4, 2019, for the purpose of electing the Mayor and City Council members; and

WHEREAS, the City of San Antonio has historically contracted with the Bexar County Elections Administrator to conduct its municipal elections jointly with other political subdivisions within the county and provide services including, but not limited to:

- a) Procuring and distributing election supplies, to include the printing and distribution of ballots for mail balloting;
- b) Copying the ordinances ordering the sales and use tax and Charter amendment elections, and providing copies in English and Spanish at all early voting and election day polling places;
- c) Hiring, training, and paying Election Judges, Clerks, and other election personnel;
- d) Securing early voting and election day polling sites;
- e) Programming Election equipment to be utilized during early voting and election day;
- f) Transporting Election equipment to each polling site;
- g) Conducting early voting, in person, and by mail;
- h) Conducting election day voting; and
- i) Tabulating election returns; and

WHEREAS, participation in a Joint Election with other political subdivisions, authorized by Section 271.002(a) of the Texas Election Code, allows the entities to share common expenses for voting machines, election facilities, and poll workers, reducing the cost of the election for each political subdivision, and provides greater convenience to voters to participate in the elections of multiple political subdivisions at one polling place on one single ballot; and

WHEREAS, it is now necessary to authorize a contract in accordance with Section 31.092 of the Texas Election Code, whereby the Bexar County Elections Administrator will provide election services to the City in connection with the Saturday, May 4, 2019 General Election;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or designee is authorized to execute a contract with Bexar County through the Bexar County Elections Administrator for conducting the Saturday, May 4, 2019 General Election authorized by Sections 31.092 and 271.002(a) of the Texas Election Code. A copy of the contract for election services, is attached and incorporated as **Attachment 1**. The Joint Election Agreement is attached as **Attachment 2**. The list of early voting polling places is attached as **Attachment 3**. The list of election day precincts and polling places will be attached as **Attachment 4**, upon receipt.

SECTION 2. Funding in the amount of \$739,732.44 for this ordinance is available in Fund 11001000, Cost Center 2701010001 and General Ledger 5201030, as part of the Fiscal Year 2019 Budget. See table below:

Amount	General Ledger	Cost Center	Fund
\$679,171.92	5201030	2701010001	11001000
\$38,672.00	5203040	2701010001	11001000
\$11,456.00	5203060	2701010001	11001000
\$10,432.52	5205010	2701010001	11001000
TOTAL \$739,732.44			

SECTION 3. Payment not to exceed the budgeted amount is authorized to Bexar County Elections Office for election services in connection with the Saturday, May 4, 2019 General Election, and should be encumbered with a purchase order. Bexar County shall refund to the City any and all City of San Antonio funds remaining after the payment of all election costs.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. The Bexar County Elections Administrator shall provide copies of the ordinances ordering the bond election and the Charter amendment election at each early voting and election day voting site.

SECTION 6. The Bexar County Elections Administrator is authorized to appoint election officials to serve as judges and clerks for early voting and election day, members of the Early Voting Ballot Board, Signature Verification Committee and Central Counting Station, in connection with the election.

SECTION 7. The City of San Antonio will canvass the City's election returns on Wednesday, May 15, 2019.

CWK
03/21/19
Item No. 26

SECTION 8. This ordinance is effective immediately, upon passage by eight affirmative votes; otherwise, the effective date is ten days from the date of passage.

***PASSED AND APPROVED** this 21st day of March, 2019.*

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney