

**FIRST AMENDMENT TO FUNDING AGREEMENT**

**BETWEEN THE CITY OF SAN ANTONIO AND CPS ENERGY  
AND PORT AUTHORITY OF SAN ANTONIO**

STATE OF TEXAS                   §  
   §  
COUNTY OF BEXAR               §

This FIRST AMENDMENT TO THE FUNDING AGREEMENT (“this **First Amendment**”) is hereby made and entered into by and between the City of San Antonio, a Texas Municipal Corporation (“**City**”), CPS Energy, a Texas electric and gas utility owned by the City (“**CPS**”), and Port Authority of San Antonio, a Texas Defense-Base Development Authority (“**Port SA**”). City, CPS, and Port SA are referred to herein as “Parties” collectively and as a “Party” individually.

**RECITALS**

On June 18, 2020, the Funding Agreement between the Parties (the “**Agreement**”) was passed and approved by the San Antonio City Council through Ordinance No. 2020-06-18-0418 (the “**Ordinance**”). Subsequent to the passing of the Ordinance and execution of the Agreement, it has become necessary to enter into this First Amendment to the Agreement to include additional funds to be paid by City to Port SA and extend the date for completion of the Project by Port SA.

**AMENDMENT**

NOW THEREFORE, the Parties hereby agree and amend the Agreement as follows:

1. REVISIONS TO THE AGREEMENT.

(a) The sixth recital is hereby revised to read as follows:

**WHEREAS**, subject to the terms of this Agreement, Port SA shall complete the Project by September 1, 2021; and

(b) The seventh recital is hereby revised to read as follows:

**WHEREAS**, the total cost of the Project is estimated at **THREE MILLION ONE HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS AND NO/100 (\$3,176,834.00)**, which includes an interest payment of **TEN DOLLARS AND NO/100 (\$10.00)**; and

(c) The eighth recital is hereby revised to read as follows:

**WHEREAS**, City has agreed to contribute funds toward the completion of the Project in the amount of **ONE MILLION SIX HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS AND NO/100 (\$1,676,834.00)**; and

- (d) The tenth recital is hereby revised to read as follows:

**WHEREAS**, the Parties desire to enter into this Agreement, through which City will provide the total combined funding of **THREE MILLION ONE HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS AND NO/100 (\$3,176,834.00)** to Port SA to oversee and administer the Project; and

- (e) Section 2.01 is hereby revised to read as follows:

2.01 City shall contribute ONE MILLION SIX HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS AND NO/100 (\$1,676,834.00) (“City Funds”) towards the Project.

- (f) Section 2.03 is hereby revised to read as follows:

2.03 City Funds and CPS Funds shall be paid by City to Port SA for the Project in an amount not to exceed THREE MILLION ONE HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED THIRTY-FOUR DOLLARS AND NO/100 (\$3,176,834.00) (“Project Funding”). Project Funding will be paid as follows:

- (A) \$2,676,824.00 by City to Port SA within thirty (30) calendar days of the Commencement Date (as defined in the Primary Lease) of the Primary Lease; and
- (B) \$500,010.00 by City to Port SA no later than December 31, 2021, which includes an interest payment of \$10.00.

- (g) Section 3.01 is hereby revised to read as follows:

3.01 Subject to the appropriation of the Project Funding by City as set out in Section 2.04 above, and subject to the terms and conditions of this Agreement, Port SA hereby accepts full responsibility for the performance of all services and activities required to design, build out, and complete the Project by September 1, 2021.

2. CAPITALIZED TERMS. Unless otherwise defined in this First Amendment, capitalized terms and phrases used in this First Amendment shall have the meaning stated in the Agreement.

3. PROVISIONS REMAIN IN EFFECT. All other terms, conditions, covenants, and provisions of the Agreement not specifically amended by this First Amendment remain in full force and effect and unmodified.

4. ENTIRE AGREEMENT. The Agreement, as amended by this First Amendment, and all agreements entered into pursuant to the Agreement, including without limitation, the Lease

Agreement between Port Authority of San Antonio and the City of San Antonio dated June 29, 2020, constitute the final and entire agreement between the Parties hereto relating to the Project. No other agreements, oral or otherwise, regarding the Project shall be deemed to exist or to bind the Parties.

5. COUNTERPARTS. This First Amendment may be executed in multiple counterparts, each of which shall be fully executed as an original and all of which together shall constitute one and the same instrument.

*[Signatures on Next Page]*

**EXECUTED and AGREED as of the dates indicated below.**

**CITY OF SAN ANTONIO**

By: \_\_\_\_\_

Craig Hopkins

Printed Name

Chief Information Officer

Title

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

**CPS ENERGY**

By: Fred W. Bonewell

Fred Bonewell

Printed Name

Chief Security, Safety & Gas Solution Officer

Title

Date: February 3, 2021

**PORT AUTHORITY OF SAN ANTONIO**

By: *James E Perschbach*  
James E Perschbach (Jan 26, 2021 18:52 CST)

James E. Perschbach

Printed Name

President & CEO

Title

Date: Jan 26, 2021






# Final ARSOC Funding\_Agreement

Final Audit Report

2021-01-27

Created:	2021-01-27
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## "Final ARSOC Funding\_Agreement" History

-  Document created by Curtis Casey (Curtis.Casey@portsanantonio.us)  
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