

AN ORDINANCE      2013 - 12 - 19 - 0903

**AUTHORIZING THE APPROVAL OF AN INTERLOCAL AGREEMENT WITH THE NORTH EAST INDEPENDENT SCHOOL DISTRICT TO PROVIDE A CONNECTION TO THE PROPOSED PANTHER SPRINGS PARK WALKING TRAIL FROM WILDERNESS OAK ELEMENTARY SCHOOL LOCATED AT 21019 WILDERNESS OAK.**

\*      \*      \*      \*      \*

**WHEREAS**, the City of San Antonio and the North East Independent School District (NEISD) have a mutual interest in providing a connection to the proposed Panther Springs Park walking trail from Wilderness Oak Elementary School located at 21019 Wilderness Oak; and

**WHEREAS**, this Ordinance will approve an Interlocal Agreement with NEISD for construction and installation of a four foot wide lockable gate, pedestrian crosswalk, Americans with Disabilities Act (ADA) parking modification and signage; and

**WHEREAS**, in return, the general public will be allowed use of the Wilderness Oak Elementary School parking lot for access to the walking trail during non-school hours, including weekends and holidays; and

**WHEREAS**, this agreement shall be for a term of 25 years with an option for renewal; **NOW THEREFORE:**

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

**SECTION 1.** The City Manager or her designee or the Director of the Capital Improvements Management Services Department or his designee, or the Director of the Parks and Recreation Department or his designee is authorized to execute an Interlocal Agreement with the North East Independent School District to provide a connection to the proposed Panther Springs Park walking trail from Wilderness Oak Elementary School located at 21019 Wilderness Oak. A copy of the interlocal agreement is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** 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.

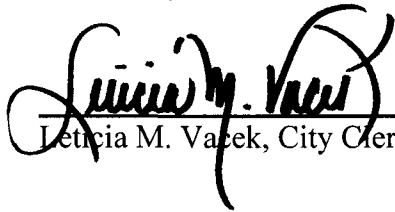
**SECTION 3.** This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 19th day of December, 2013.



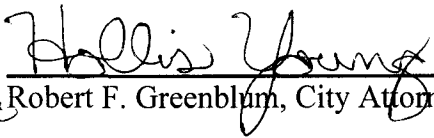
M A Y O R  
Julián Castro

**ATTEST:**



Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**



for Robert F. Greenblum, City Attorney

<b>Agenda Item:</b>	13B ( in consent vote: 6, 7, 8, 9, 10, 1010A, 1010B, 11, 13, 1313A, 1313B, 1313C, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 36, 37 )						
<b>Date:</b>	12/19/2013						
<b>Time:</b>	10:01:40 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing the approval of an Interlocal agreement with the North East Independent School District to provide a connection to the proposed Panther Springs Park walking trail from Wilderness Oak Elementary School located at 21019 Wilderness Oak Drive.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3	x					
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Carlton Soules	District 10		x				

**INTERLOCAL AGREEMENT BETWEEN THE NORTH EAST INDEPENDENT SCHOOL DISTRICT AND THE CITY OF SAN ANTONIO**

This Interlocal Agreement (**AGREEMENT**) is by and between the City of San Antonio, a Texas municipal corporation ("**CITY**"), acting by and through its City Manager or her designee, pursuant to Ordinance No. \_\_\_\_\_ passed and approved on \_\_\_\_\_, 201\_\_, and the North East Independent School District ("**NEISD**").

WHEREAS, the 2012 City of San Antonio Bond Program allocated \$2.5 million for development of a walking trail and other park improvements at Panther Springs Park located at 21456 Blanco Road in City Council District 9; and

WHEREAS, **CITY** and **NEISD** have a mutual interest in providing a connection to the future Panther Springs Park walking trail from Wilderness Oak Elementary School located at 21019 Wilderness Oak; and

WHEREAS, this connection will allow the public to utilize the Wilderness Oak Elementary School parking lot to access the walking trail during non-school hours including weekends and holidays; and

WHEREAS, **CITY** will construct improvements to **NEISD** property at the Wilderness Oak Elementary School parking lot to include construction and installation of a four (4) foot wide lockable gate, installation of a pedestrian crosswalk, ADA parking modifications and signage .

WHEREAS, **CITY** and **NEISD** agree that a campus-park entrance connection will benefit Wilderness Oak Elementary School and surrounding neighborhood areas;

NOW THEREFORE, **NEISD** and **CITY** ("**PARTIES**") hereby agree as follows:

**1. TERM**

- 1.1 For and in consideration of the observance of the terms and conditions set forth below, the term of this agreement shall be for twenty five (25) years beginning on \_\_\_\_\_, 2014 through \_\_\_\_\_, 2039, unless terminated at the option of **CITY** or **NEISD** pursuant to the terms herein.
- 1.2 **RENEWAL OPTION:** **CITY** has the right to extend this **AGREEMENT** under all the terms and conditions of this **AGREEMENT**. **CITY** shall notify **NEISD** in writing at least ninety (90) days before the date of expiration of the original term, hereof, of its intent to extend the term as herein provided. After agreement to the exercise of the option to extend, all references in this to the term hereof shall mean the term as extended.

## 2. USE

- 2.1 **CITY** shall be allowed to use the Wilderness Oak Elementary School parking area identified as Exhibit A (**PARKING AREA**) to provide public access to the walking trail at Panther Springs Park. **NEISD** will allow public access and the non-exclusive use of the **PARKING AREA** from 4:00 p.m. until sunset on school days and from sunrise to sunset during non-school days, including weekends, holidays, summers and teacher in-service days, unless a special event held at the school may require **NEISD** use of the **PARKING AREA** during the non-school hours referenced above. **NEISD** will provide **CITY** advance notification of any special event at the school which will require **NEISD** use of the **PARKING AREA** during non-school hours. Public will be able to resume use of the **PARKING AREA** at the conclusion of the special event as outlined in this section.

## 3. IMPROVEMENTS

- 3.1 **CITY** at its sole expense will:
- A.) Construct and install a four (4) foot wide lockable gate to match the existing chain link fence at Wilderness Oak Elementary School adjacent to the **PARKING AREA**.
  - B.) Provide a walkway trail connection from **PARKING AREA** to Panther Springs Park to include crosswalk striping, saw cut and remove portion of existing concrete curb to allow ADA access from **PARKING AREA** to trail, install truncated domes at entry and exit of walkway and install pedestrian crosswalk signage.
  - C.) Provide one (1) ADA parking space including an aisle and signage.
- 3.2 **CITY**, at its sole expense, shall have the right to provide and install signage at entrance of Wilderness Oak Elementary School to direct public to **PARKING AREA**. Location of signage is subject to **NEISD** approval.

## 4. MAINTENANCE AND RESPONSIBILITIES

- 4.1 **CITY** will maintain all improvements it constructs or installs on **NEISD** property.
- 4.2 **NEISD** will maintain **PARKING AREA** in a manner consistent with other Parks and Recreation facility parking lots with the exception of any improvements made to the **PARKING AREA** by the **CITY** as part of the Panther Springs Park Bond Project.

- 4.3 **NEISD** will be responsible for locking and unlocking the gate. During school days, **NEISD** will unlock the gate each afternoon at 4:00 p.m. and lock the gate each evening at sunset. During non-school days, including instances cited in section 2.1, **NEISD** will unlock the gate each morning at sunrise and lock the gate each evening at sunset, in accordance with Panther Springs Park hours of operation.

## 5. TERMINATION

- 5.1 Any breach or violation by either party to this **AGREEMENT** of the provisions herein contained shall give rise immediately to the right of the non-violating party, at its option, upon thirty (30) days written notice to the violating party, unless such breach or violation is cured prior to the expiration of the notice period, to cancel this **AGREEMENT** or to seek any remedy which now is or may be provided by law, whether or not stated herein. No waiver by either party of a breach or violation shall be construed or held to be a waiver of any succeeding or preceding breach or violation of the same or any other provision herein contained.

## 6. THIRD PARTY CLAIMS

- 6.1 **CITY** and **NEISD** acknowledge they are political subdivisions of the State of Texas and are subject to and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, Section 101.001 et. seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

## 7. INSURANCE REQUIREMENTS

- 7.1 **CITY**, at its own expense, shall provide and maintain, during the term of this **AGREEMENT**, either insurance, with or without retention, or a self-insurance program, allowed and provided by law, to Texas municipalities. This insurance or self-insurance shall cover liability for property damage and personal injury of **CITY'S** use of the premises during only those periods it is entitled to use the premises pursuant to the provisions hereof.
- 7.2 **NEISD**, at its own expense, shall provide and maintain, during the term of this **AGREEMENT**, either insurance, with or without retention, or a self-insurance program, allowed and provided by law, to Texas Independent School Districts. This insurance or self-insurance shall cover liability for property damage and personal injury of **NEISD's** use and ownership of the premises during only those periods it is entitled to use the premises pursuant to the provisions hereof.

- 7.3 **CITY'S** or **NEISD's** obligations to share in costs of operation, maintenance and repairs as set out in this **AGREEMENT** or in a future Articulation Agreement, do not create any additional duties, express or implied, not otherwise specifically set out within this Agreement. **NEISD** shall be liable for its own acts of negligence, to the extent provided in law. **CITY** shall be liable for its own acts of negligence, to the extent provided in law.

## **8. ASSIGNMENT/SUBLETTING**

- 8.1 This **AGREEMENT** is not assignable.

## **9. DEDICATION**

- 9.1 Nothing contained herein shall be deemed to have dedicated the **PARKING AREA** to use as a public park or to have created any obligations or burdens on the use of the **PARKING AREA** beyond the termination date of this **AGREEMENT**. Further, **CITY** shall not acquire any right, title or interest in the **PARKING AREA** extending beyond such termination date.

## **10. CONDEMNATION**

- 10.1 It is understood and agreed that in the event that the **NEISD's** property is taken, in whole or in part, by any governmental authority other than **NEISD** or **CITY**, this **AGREEMENT** and all rights or permission to use hereunder shall, at the option of **NEISD** cease on the date title to such land is so taken or transferred vests in the condemning authority. **NEISD** shall give **CITY** written notice as soon as **NEISD** receives notice from any condemning entity that it intends to condemn **NEISD's** property. **CITY** hereby waives all rights to any proceeds of such condemnation, but **CITY** shall have the right to seek a separate condemnation award.

## **11. ATTORNEY'S FEES**

- 11.1 In the event any action is brought under this **AGREEMENT**, the prevailing party shall be entitled to recover from the other Party its reasonable costs and attorney's fees.

## **12. SEVERABILITY**

- 12.1 The **PARTIES** hereto agree that if any clause or provision of this **AGREEMENT** is determined to be illegal, invalid or unenforceable, under any present or future federal or state laws, effective during the term of this **AGREEMENT**, then and in that event, it is the intention of the **PARTIES** hereto that the remainder of this

**AGREEMENT** shall not be affected thereby, and it is also the intention of the parties to this **AGREEMENT** that in lieu of each clause or provision of this **AGREEMENT** that is held to be illegal, invalid or unenforceable, there be added as a part of this **AGREEMENT** a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

### 13. AMENDMENT

- 13.1 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 duly executed and agreed to by both of the **PARTIES** hereto.

### 14. NOTICES

- 14.1 Notices to **CITY** required or appropriate under this **AGREEMENT** shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to:

City of San Antonio  
Parks and Recreation Department  
Contract Services Division  
P.O. Box 839966  
San Antonio, Texas 78283-3966

or to such other address as may have been designated in writing by the **CITY** from time to time. Notices to **NEISD** shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to **NEISD** at:

North East Independent School District  
Brian G. Gottardy, Ed.D.  
8961 Tesoro Drive, Suite 600  
San Antonio, Texas 78217

or at such other address on file with the **CITY** as **NEISD** may provide from time to time in writing to **CITY**.

### 15. APPROVAL OF THE CITY

- 15.1 Whenever this **AGREEMENT** calls for approval **CITY**, unless otherwise explained herein, such approval shall be evidenced by the written approval of the Director, Department of Parks and Recreation of the **CITY OF SAN ANTONIO** or his designee, unless City Council approval is required.



## 16. RELATIONSHIP OF PARTIES

- 16.1 Nothing contained herein shall be deemed or construed by the **PARTIES** hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures or any other similar such relationship between **PARTIES** hereto. It is understood and agreed that no provision contained herein nor any acts of the parties hereto creates a relationship other than the relationship of licensor and licensee.

## 17. TEXAS LAW TO APPLY

- 17.1 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 Bexar County, Texas.

## 18. GENDER

- 18.1 Words of any gender that are used in this **AGREEMENT** shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context requires otherwise.

## 19. CAPTIONS

- 19.1 The captions contained in this **AGREEMENT** are for convenience of reference only, and in no way limit or enlarge the terms and conditions of this **AGREEMENT**.

## 20. COVENANTS

- 20.1 Covenants and obligations of **CITY** and **NEISD** contain herein shall be covenants running with the land, binding upon their respective legal representatives, and permitted successors and assigns.

## 21. ENTIRE AGREEMENT

- 21.1 This **AGREEMENT**, together with its attached exhibits and the authorizing ordinance, in writing, constitutes the entire agreement between **PARTIES**, any other written or parol agreement with **CITY** being expressly waived by **NEISD**.
- 21.2 This **AGREEMENT** contains the final and entire agreement between the **PARTIES** hereto and contains all of the terms and conditions agreed upon to

date, and no other agreements of prior date, oral or otherwise, regarding the subject matter of this **AGREEMENT** shall be deemed to exist or to bind the **PARTIES** hereto. It is the intent of the **PARTIES** that neither Party shall be bound by any term, condition, requirement, nor representation not herein written or otherwise referred to.

- 21.3 It is understood that the Charter of the **CITY** requires that all contracts with the **CITY** be in writing and adopted by ordinance. All amendments also need approval evidenced by an ordinance.

## 22. AUTHORITY

- 22.1 Each of the signers of this **AGREEMENT** hereby represents and warrants that they have authority to execute this **AGREEMENT** on behalf of each of their governing entities. This **AGREEMENT** shall be signed in duplicate originals so that each Party shall have an original.

EXECUTED as of the \_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF SAN ANTONIO,  
A Texas Municipal Corporation

NORTH EAST INDEPENDENT  
SCHOOL DISTRICT

By: \_\_\_\_\_  
Sheryl Sculley  
City Manager

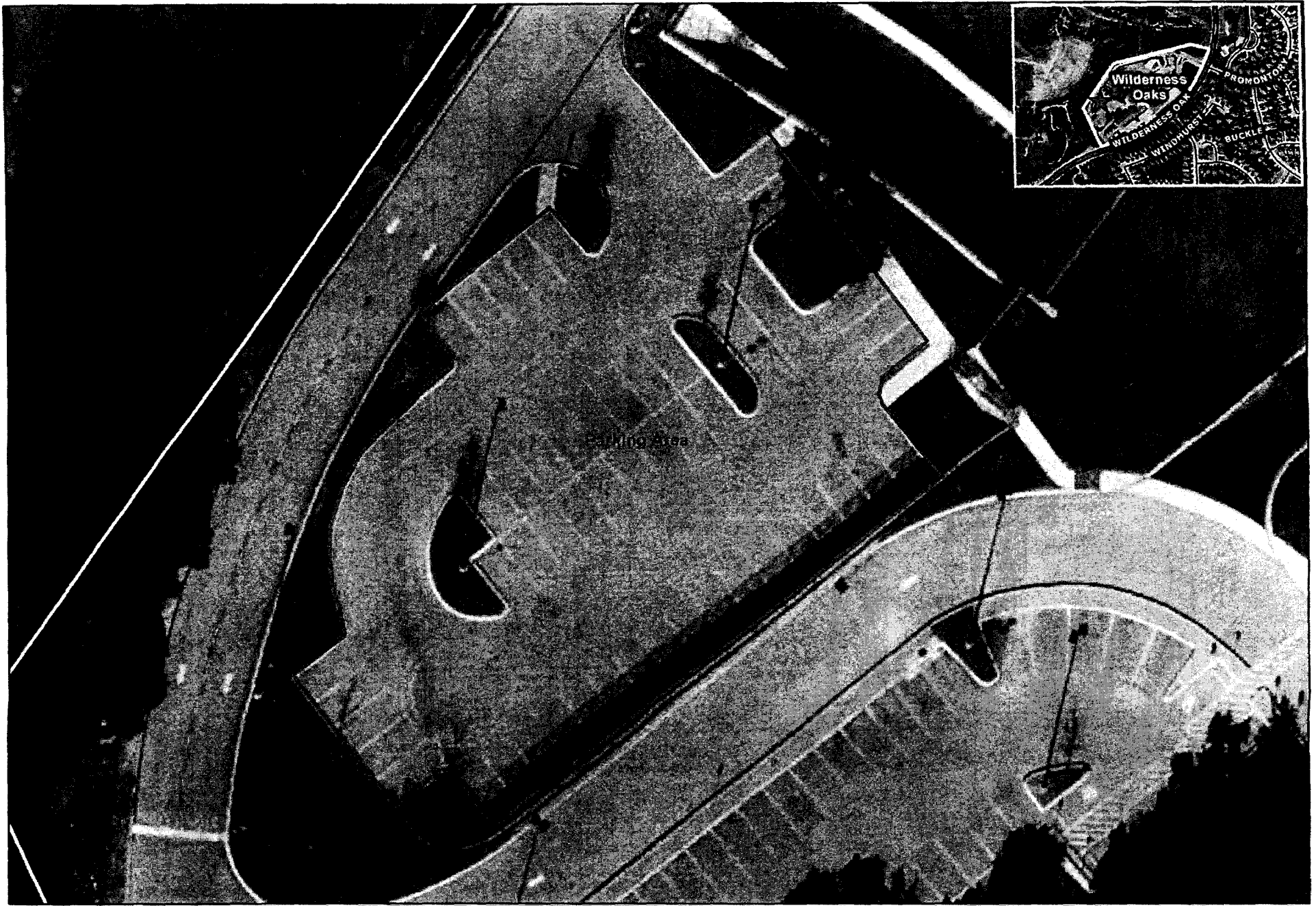
By: \_\_\_\_\_  
Brian G. Gottardy, Ed. D.  
Superintendent

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

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



**Exhibit A - Parking Area**

Wilderness Oaks Elementary School 21019 Wilderness Oak Dr  
City of San Antonio Parks and Recreation

City of San Antonio Parks and Recreation  
2019

