

AN ORDINANCE **2016-12-08-0976**

**AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE EDWARDS AQUIFER AUTHORITY FOR A FIVE (5) YEAR TERM ENDING DECEMBER 2021 IN AN AMOUNT NOT TO EXCEED \$175,000.00 ANNUALLY, FOR A TOTAL AMOUNT OF \$875,000.00 FROM THE 2015 PROPOSITION 1 PARKS DEVELOPMENT & EXPANSION FUND AVAILABLE IN THE EDWARDS AQUIFER PROTECTION PROGRAM PROJECT.**

\* \* \* \* \*

**WHEREAS**, the purpose of the Proposition 1 Edwards Aquifer Protection Program (EAPP) is to protect the quality and quantity of water recharging into the aquifer; and

**WHEREAS**, since 2000, the City has worked to secure property development rights over the sensitive recharge and contributing zones of the Edwards Aquifer; and

**WHEREAS**, in 2008, the City entered into an Interlocal Agreement (ILA) with the Edwards Aquifer Authority (EAA) to provide geologic assessments and monitoring assistance for all properties considered for and accepted into the EAPP; and

**WHEREAS**, historically, EAA provided these services free of charge to the City in the interest of protecting the Edwards Aquifer system for which it was created; and

**WHEREAS**, however, the size and scope of the program has grown from 6,500 acres of protected land in 2005 to over 142,000 protected acres today; and

**WHEREAS**, as acreage under EAPP has increased through four consecutive sales tax elections, so have the responsibilities of the City and the work load to the EAA to continue identifying and monitoring these lands, which currently sixty-eight (68) conservation easements exist under the program; and

**WHEREAS**, the proposed ILA will provide for approximately 48% of the cost for evaluation and monitoring services for all current and future aquifer protected properties, and allows for annual payments of \$175,000.00 over the next five (5) years for a total amount not to exceed \$875,000.00; and

**WHEREAS**, the services provided by EAA equate to over 7,000 staff hours for geologic evaluations and monitoring assistance under the City's aquifer program; and

**WHEREAS**, these services require the use of technical scientific software and equipment and general subject matter expertise to augment resources otherwise not present in EAPP; and

**WHEREAS**, the proposed agreement reflects just a portion of the total costs incurred by EAA for their assistance with the program, which they will also contribute \$186,503.00 annually over the

next five years as part of their share for the geological assessments and monitoring assistance under the Edwards Aquifer Protection Program; **NOW THEREFORE:**

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

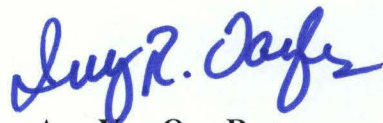
**SECTION 1.** The City Manager, or her designee, or the Director of the Parks and Recreation Department or his designee is hereby authorized to execute an Interlocal Agreement with the Edwards Aquifer Authority for a five (5) year term ending December 2021 in an amount not to exceed \$175,000.00 annually, for a total amount of \$875,000.00 from the 2015 Proposition 1 Parks Development & Expansion Fund available in the Edwards Aquifer Protection Program Project. A copy of the interlocal agreement in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I**.

**SECTION 2.** Payment in an amount not to exceed \$175,000.00 annually for the next five consecutive years ending in December 2021, in SAP Fund 40099000, Other Capital Projects, SAP Project Definition 26-00638, Edwards Aquifer Protection Program, is authorized to be encumbered and made payable Edwards Aquifer Authority, in execution of an Interlocal Agreement with the Edwards Aquifer Authority. Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.


**SECTION 3.** 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 4.** This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

**PASSED AND APPROVED** this 8th day of December, 2016.

  
M A Y O R  
Ivy R. Taylor

ATTEST:

  
Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

  
City Attorney



<b>Agenda Item:</b>	<b>24 ( in consent vote: 4, 5, 6, 7, 9, 10, 11A, 11B, 13, 14, 15, 17, 19, 20, 22, 23, 24, 25, 26, 27, 28 )</b>						
<b>Date:</b>	12/08/2016						
<b>Time:</b>	09:19:00 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an Interlocal Agreement with the Edwards Aquifer Authority for a five year term ending December 2021 in an amount not to exceed \$175,000.00 annually, for a total amount of \$875,000.00 from the 2015 Proposition 1 Parks Development & Expansion Fund available in the Edwards Aquifer Protection Program Project. [Maria Villagómez, Assistant City Manager; Xavier D. Urrutia, Director, Parks and Recreation]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		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				
Michael Gallagher	District 10		x				

**Conservation Easement Proposition 1 Edwards Aquifer Protection Program  
Interlocal Cooperation Contract**

This Interlocal Cooperation Contract (Contract) is between the Edwards Aquifer Authority (EAA) and the City of San Antonio (City) as of the date of the last of the signatures on this Contract.

*Predicate Facts*

The EAA is a conservation and reclamation district created under Article XVI, Section 59, Texas Constitution, pursuant to the Edwards Aquifer Authority Act (Act), Act of May 30, 1993, 74th Leg. R.S., Ch. 626, §§ 1.02(a) and 1.06(b), 1993 Tex. Sess. Laws 2350, as amended;

Under Sections 1.08(a) and 1.14(a)(1) of the Act, the EAA is charged with protecting the quality of the groundwater within the Edwards Aquifer (Aquifer);

Among the strategies to protect the quality of the Aquifer is to acquire lands on the recharge and contributing zones of the Aquifer that have not yet been developed in order to (1) protect sensitive recharge features from removal, damage, or degradation, (2) protect the quality of the surface water originating on the lands; and (3) improve the opportunity for the surface water to enter the Aquifer through recharge features in the highest water quality practicable;

Under Section 1.11(d)(2) of the Act, and other applicable law, the EAA is authorized to enter into contracts;

The City is a home-rule municipality;

The City operates and implements an Edwards Aquifer Protection Program (EAPP);

From time to time under the EAPP, the City acquires conservation easements and fee interests on lands located on the recharge or contributing zones with the primary purpose of protecting the quantity and quality of recharge into the Aquifer.

The City desires to delegate to the EAA certain responsibilities of the EAPP;

Both the EAA and the City are "local governments" as defined in the Interlocal Cooperation Act, Section 791.003(4), TEXAS GOVT CODE;

The activities sought to be transferred are "governmental functions and services" as defined in the Interlocal Cooperation Act, Section 791.003(4) TEXAS GOVT CODE, and each party to this Contract has the legal authority to perform these functions individually;

The EAA and City have the right to enter into this Contract pursuant to the Interlocal Cooperation Act, Ch. 791, TEXAS GOV'T CODE; and

The EAA and the City represent to each other that the respective government bodies of each entity have duly authorized it to enter into this Contract.



Both parties intend for this agreement to substitute in all things the previous agreement adopted by City Council on March 6, 2008.

### *Rights and Obligations'*

Now, therefore, in consideration of the above and the mutual covenants, terms, and conditions contained herein, and pursuant to the authority given to the parties under the Interlocal Cooperation Act, Ch. 791, TEXAS GOVT CODE, the parties agree as follows:

### **1.0 PURPOSE.**

This Contract sets out the terms and conditions delegating to the EAA certain functions which would otherwise be performed by the City under the EAPP.

### **2.0 TERM; TERMINATION.**

This Contract begins October 1, 2016, and terminates on September 30, 2021. Either party may terminate this Contract for any reason at any time by giving 90-days' prior written notice to the other party.

### **3.0 DUTIES OF THE EAA; EAPP PROPERTIES.**

- 3.1. The EAA agrees to assist the City in implementing the EAPP by performing the functions set out in Exhibit A, and all other functions reasonably incident thereto, except as expressly reserved by the City.
- 3.2. The EAPP properties the City has at the inception of this Contract are identified in Exhibit B. EAPP properties acquired after the inception of this Contract are nevertheless subject to this Contract to the same extent as they would be if listed on Exhibit B.

### **4.0 RIGHTS AND DUTIES OF THE CITY.**

4.1. City reserves the following rights:

- a) To have all proposed EAPP acquisitions reviewed by its Conservation Advisory Board for a recommendation whether to proceed.
- b) To have City Council make a final determination whether to obtain a proposed acquisition.
- c) To coordinate with the EAA and review EAPP operations.
- d) To designate legal counsel who will assist the Land Acquisition Team in the negotiation, due diligence, and document preparation for proposed acquisitions, to the extent the legal counsel are paid from EAPP funds.

- e) To exercise all monitoring rights granted to the City under an easement.
  - f) To grant or withhold any consents of City required under an easement.
  - g) To establish enforcement protocol on all conservation easements.
- 4.2. The City will execute appropriate documents and take other steps to enable EAA to enter EAPP properties at all times necessary for the EAA to perform its functions under this Agreement, as may be allowed by the conservation easements.
- 4.3. The City will supply the EAA with all maps, documents, records, or other information in the City's possession that, in the EAA's judgment, is necessary for it to perform its functions under this Contract.
- 4.4. The City will advise the EAA in writing of any known hazardous or dangerous conditions on any of the EAPP properties prior to the EAA's first entry on any of the properties, other than hazards and conditions ordinarily expected in property of a similar nature in the general area.

## **5.0 ASSIGNMENT; SUBCONTRACTING.**

Without the prior written consent of the City, the EAA may not assign or otherwise subcontract to a third-party the functions transferred to it under this Contract.

## **6.0 COST SHARING**

- 6.1. The total annual costs of the tasks covered by this Contract are estimated to be \$361,503.16.
- 6.2. Geologic Evaluation. The EAA will bear all costs associated with geologic evaluation of prospective EAPP properties.
- 6.3. Conservation Easement Monitoring. The City agrees to pay the EAA \$175,000, each year for the duration of this Contract for conservation easement monitoring services.
- 6.4. The following table summarizes the shared and total costs for the EAA's geologic evaluation and easement monitoring of EAPP properties.

	City Share	EAA Share	Total
Geologic Evaluation	\$0.00	\$64,470.00	\$64,470.00
Easement Evaluation	\$175,000.00	\$122,033.16	\$297,033.16
<b>Total Expenses</b>	<b>\$175,000.00</b>	<b>\$186,503.16</b>	<b>\$361,503.16</b>



The EAA will provide the City with annual invoices for the City's portion of the EAPP. The terms of each invoice shall be net thirty (30) days upon the City's receipt and approval. Beginning in 2016, payment will be due not later than December 31 of each year.

#### **7.0 ENTIRE AGREEMENT; AMENDMENT.**

This Contract is the entire agreement between the parties. No amendment of this Contract shall be binding on the parties unless it is in writing, duly approved by the respective governing bodies, and executed. All exhibits are incorporated into this Contract for all purposes as if fully set forth.

#### **8.0 CONTRACT REPRESENTATIVES; NOTICES**

Addresses for notice are as follows:

General Manager Edwards Aquifer Authority 900 E. Quincy San Antonio, Texas 78215 (210) 222-2204	Director, Parks and Recreation Department City of San Antonio P.O. Box 839966 San Antonio, Texas 78283-3966 (210) 207-7080
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Notices under this Contract must be in writing and delivered to the addresses above. Notice for address may be changed by delivering notice.

In witness whereof, the parties have caused their representatives to set their hands:

**EDWARDS AQUIFER AUTHORITY**

\_\_\_\_\_  
Roland Ruiz  
General Manager

Attest:

\_\_\_\_\_  
Jenifer Wong-Esparza  
Assistant to the Secretary

**CITY OF SAN ANTONIO**

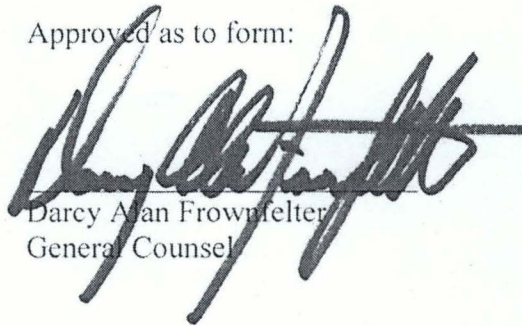
\_\_\_\_\_  
Xavier D. Urrutia  
Director, Parks and Recreation Department

Attest:

\_\_\_\_\_  
Leticia M. Vacek  
City Clerk

\_\_\_\_\_  
Date

Approved as to form:

  
Darcy Alan Frownfelter  
General Counsel

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Martha G. Sepeda  
City Attorney



Handwritten signature or scribble.

**EXHIBIT A**  
**Functions Transferred to EAA**

1. EAA shall review and evaluate the recharge and water quality value of any land or easement acquisitions proposed by the City's Land Acquisition Team before proposed acquisition is presented to the Conservation Advisory Board. EAA shall present the results of the EAA's evaluation, along with any recommendations to the appropriate subunits of the City, which may include the Conservation Advisory Board, Planning Commission, City Council, Quality of Life Council, or other subunit, as may be appropriate.
2. EAA must prepare a Conservation Easement Management and Monitoring Plan (CE Plan) for each EAPP property for review and approval by the City. The CE Plan must provide for regular on-site inspections, identify compliance criteria with emphasis on prohibited land uses, and other provisions designed to ensure compliance with the terms and conditions of the conservation easement applicable to each EAPP property. The City may approve plan updates without council action.
3. EAA must put into effect and follow the approved CE Plans.
4. Within 30 calendar days after EAA becomes aware of a violation or potential violation of a conservation easement, it must notify City and recommend suggested action to enforce the terms or conditions of the conservation easement.
5. Annually, EAA must report to the City on the status of approved CE Plans. City may request more frequent reports.
6. As EAA learns of pertinent information, EAA must notify City of (a) proposed sales of conservation easement property, and (b) changes in building envelopes on conservation easement property.



**EXHIBIT B**  
**Current Properties (as of July 15, 2016)**

Arabia Ranch  
Barden Ranch  
Blanco Creek - Marneldo Ranch  
Blanco Creek - Spring Bluff Ranch  
Blanco Creek - Story Division 1  
Blanco Creek - Story Division 2  
Blanco Creek - Story Division 3  
Blanco Creek - Story Division 4  
Blanco Creek - Story Division 5  
Blanco Creek - Story Division 6  
Blanco Creek - Tull - Concert Brass Farm  
Blanco Creek - Chernosky Ranch  
Blanco Springs Ranch - Horton  
Bourquin Ranch  
Morrow Ranch  
Briscoe - Frio Ranch  
Brucks Ranch  
Burell Ranch  
Concan/Ewing Ranch  
Crescent Hills-Dierks Ranch  
Cypress Roots Ranch  
Dehnisch Ranch  
Domino Ranch  
ESS Ranch  
Evans Ranch  
Finger Ranch  
Friday Ranch  
Gilleland Ranch  
Goodhorse Ranch  
H.B. Martin Ranch  
Hammond Ranch  
Heep Ranch  
Hilsher Darnell Ranch  
Hixon (Estrella) Ranch  
Horton Ranch  
Hutzler (Denada) Ranch

J Bar M Ranch  
Jordan Ranch  
Knowlton Ranch  
Koch Ranch  
Lee Ranch  
Long Hollow Ranch  
Mabe Canyon  
Madla Park  
Martin Ranch II  
Martin Ranch I  
McNair Ranch  
McNeel Ranch  
Oefinger Ranch  
Prop. 3 Gov. Canyon - Dreis  
Prop. 3 Gov. Canyon - Gallagher  
Prop. 3 Gov. Canyon - Hampton  
Prop. 3 Gov. Canyon - Iron Horse  
Prop. 3 Gov. Canyon - Laredo Culebra  
Prop. 3 Gov. Canyon - Laredo Culebra II  
Prop. 3 Gov. Canyon - Mayberry  
Prop. 3 Gov. Canyon - Schuchart  
Prop. 3 Gov. Canyon - Windgate  
Ridgeback Ranch  
Saathoff Ranch  
Schreiber Ranch  
Schuehle Ranch  
South Hills Ranch - Watson Ranch  
Story/Hadley Ranch  
TMR Ranch  
Twin Hollow Ranch  
Urso Ranch  
W.O. Rothe Ranch  
WMJ Ranch  
Wylesta Ranch  
Young Ranch  
Zuberbueler Ranch