

Funding Agreement for “Water Quality in the Leon Creek Watershed Recharge Zone as a Function of Urban Development, and Community Education of the Threats and Conservation of the Edward’s Aquifer” under the Proposition 1 Edwards Aquifer Protection Projects within Urbanized Areas of Bexar County’s Recharge and Contributing Zones Program

This Proposition 1 Edwards Aquifer Protection Projects within Urbanized Areas of Bexar County’s Recharge and Contributing Zones Funding Agreement (Funding Agreement) is between the City of San Antonio (City), the San Antonio River Authority (River Authority), and The University of Texas at San Antonio (Funding Recipient), collectively the “Parties.” The Parties understand and agree that this Funding Agreement documents the roles and responsibilities of each of the Parties in the City’s Proposition 1 Edwards Aquifer Protection Projects within Urbanized Areas of Bexar County’s Recharge and Contributing Zones Program (Program). The Parties agree to comply with the terms of this Funding Agreement (Agreement).

Background

Proposition 1, the Edwards Aquifer Protection Venue Project, authorizes the City to continue the voter-approved watershed and preservation project initiated in 2000 and continued in 2005, 2010, and 2015. A 1/8 cent sales tax is projected to collect \$100 million for this project. Of the \$100 million projected to be collected pursuant to the 2015 authorization, \$90 million will continue to be used toward the purchase of conservation easements and acquisition of real estate interests over the sensitive recharge and contributing zones of the aquifer. The remaining \$10 million is dedicated for Program-funded projects that will protect and improve Edwards Aquifer water quality. The Funding Recipient’s Water Quality in the Leon Creek Watershed Recharge Zone as a Function of Urban Development, and Community Education of the Threats and Conservation of the Edward’s Aquifer (Project) has received both Conservation Advisory Committee (CAB) and City of San Antonio City Council (Council) funding approval and is the subject of this Agreement. The project consists of three components: Water Quality as a Function of Land Cover, Efficacy of Low Impact Developments on Water Quality, and Community Outreach/Edwards Aquifer Recharge Living Laboratory. The primary project goal of each component is as follows:

- Water Quality as a Function of Land Cover: Provides much-needed water quality data in an area that is one of the fastest growing areas in Bexar County.
- Efficacy of Low Impact Developments (LID) on Water Quality: Leverages a UTSA-funded development project (new parking lot) which is incorporating LID best management practices (BMPs) to assess the effects of these BMPs on water quality.
- Community Outreach and the Development of the Edwards Aquifer Recharge Living Laboratory: Leverages UTSA’s existing outreach programs and formal partnerships to deliver a community curriculum centered upon Edwards Aquifer water quality and conservation and to construct a new facility on Main Campus 1) from which to host education sessions and 2) that is designed to showcase new construction with LID BMPs.

Funding

The City has authorized and will contribute \$2,671,236 for the Project. River Authority will reimburse the Funding Recipient in an amount not to exceed \$12,000, from its ILA with the City of San Antonio, for monitoring of Total Hardness, Diazinon (Spectracide) as a representative pesticide, 2,4 D herbicidal contaminants, and Total Petroleum Hydrocarbons.

All Parties acknowledge and agree that this is a cost reimbursable Funding Agreement and that \$2,683,236 is the full amount authorized by this Agreement, and no additional funds will be claimed by the Funding Recipient, unless this amount is modified through an amendment executed by all of the Parties. The funding amount is documented by the detailed information in Exhibit A.

Agreement Term

This Agreement shall be effective as of November 1, 2018 (the “Effective Date”) through and including October 31, 2021 (the “Term”). The Parties may extend this Agreement for a mutually agreeable period.

Limitations

A potential limiting factor for the Project would be the identification of karst features at the location where the Project’s Edwards Aquifer Recharge Living Laboratory (Living Lab) and its stormwater best management practices are to be installed. The Texas Commission on Environmental Quality (TCEQ) requires that construction activity cease in the event that karst features are identified at the Project location to allow TCEQ evaluation. In the event that TCEQ ceases this Project as proposed, the Parties will work together in good faith to revise the scope of the Project in such a way so as to achieve the Project objectives and will revise the budget accordingly. The revised scope and budget will require approval of all the Parties. If the revised scope and budget are not approved by all of the Parties, any of the Parties may elect to terminate this Agreement, and the Parties shall have no further obligations to each other, except for those rights and obligations accrued by the Parties prior to the termination

Another potential limiting factor would be drought conditions preventing collection of qualifying pre- or post-construction stormwater samples within the Project timeline. If such were to occur, the Parties will work together in good faith to revise the scope of the Project in such a way as to achieve Project objectives and, if there are budget implications, will revise the budget accordingly.

Other Limiting Factors identified by Funding Recipient:

Funding Recipient construction season is typically during summer when school is in low attendance. The more disruptive construction projects are reserved for the summer and holiday breaks. These can delay start of a project for a few weeks due to an overloaded schedule of projects. Additionally, this project will necessitate the establishment of construction related contracts and we will need to factor in possible delays with the procurement process. Funding Recipient will keep City and SARA informed of any potential delays with this process and coordinate to adjust the Project timeline as needed.

City of San Antonio Acknowledges and Agrees

1. Funding Recipient will be responsible for the work to be conducted under the Program.
2. River Authority will serve as project manager and administrator of the Program.
3. Funding Recipient will submit invoices for payment directly to City, with a copy sent concurrently to River Authority, to the following addresses:

City of San Antonio Phillip Covington Special Projects Manager Edwards Aquifer Protection Program Parks and Recreation Department PO Box 839966 San Antonio, TX 78283 (210) 207-3003 phillip.covington@sanantonio.gov	San Antonio River Authority Karen Bishop Senior Supervisor Environmental Sciences Department 100 East Guenther Street San Antonio, Texas 78204 (210) 302-3642 kbishop@sara-tx.org
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- Funding shall be paid directly to the Funding Recipient after River Authority verification of satisfactory performance of work in accordance with the invoicing cycle reflected on the attached Exhibit B—upon Funding Recipient’s submission of documentation of labor costs based on salary and associated benefits, equipment and supply purchases, and contractor invoicing to be reimbursed—and upon the completion of Funding Recipient’s project timeline, attached as Exhibit C.

Payment referencing Funding Recipient’s Principal Investigator, Dr. Janis Bush, will be made to the following address:

The University of Texas at San Antonio
Grants and Contracts Financial Services (GCFS)
One UTSA Circle, San Antonio, Texas 78249

- River Authority will reimburse the Funding Recipient in an amount not to exceed \$12,000, from its ILA with the City of San Antonio, for monitoring of Total Hardness, Diazinon (Spectracide) as a representative pesticide, 2,4 D herbicidal contaminants, and Total Petroleum Hydrocarbons.

River Authority Acknowledges and Agrees

- River Authority will serve as project manager and administrator of the Program.
- River Authority is responsible to the City to ensure quality and timely implementation of Project components and future monitoring of aquifer protection and improvement projects funded through the Program.
- Upon receipt of invoices and appropriate supporting documentation, River Authority will coordinate payment to the Funding Recipient in a timely manner per Exhibits A and B.
- River Authority is responsible for an amount not to exceed \$12,000 from its ILA with the City of San Antonio to reimburse UTSA for monitoring of Total Hardness, Diazinon (Spectracide) as a representative pesticide, 2,4 D herbicidal contaminants, and Total Petroleum Hydrocarbons.

Funding Recipient Acknowledges and Agrees

- Work to be conducted by Funding Recipient will be under the direct supervision of Principal Investigator, Dr. Janis Bush, an employee of the Funding Recipient.

2. Funding for construction/retrofit projects will cover only the cost of BMPs that go above minimum TCEQ permit requirements and the cost of any research/study components associated with the BMPs. Funding will not cover any base project costs or the cost of installing minimum BMPs. Exceptions may be made for projects that were grandfathered from meeting TCEQ Edwards Protection Standards (Standards) or were developed before the Standards were implemented and that will utilize funding to bring the development to current TCEQ permitting standards.

For the Community Outreach and Development of the Edwards Aquifer Recharge Living Laboratory component, City is allocating funding for construction of the Living Laboratory as the Laboratory itself will be utilized as an education BMP.

3. SWM data must be collected on the Project for a minimum of 5 events per sample location. If Funding Recipient selects different monitoring configuration or equipment at any point after monitoring has begun, then the 5 qualifying events must utilize the same monitoring configuration and equipment.
4. Funding Recipient shall submit to River Authority for review, input, and approval a Quality Assurance Project Plan (QAPP) in advance of the start of monitoring.
5. A BMP performance report incorporating pre- and post-construction BMP data must be provided to River Authority within three months following the end of the Project. Said report must assess BMP performance toward protecting and/or improving Edwards Aquifer water quality and must evaluate the effectiveness of BMP innovations in preventing pollution of groundwater.
6. Funding Recipient shall coordinate design and construction/retrofit of Project BMPs using licensed landscape and/or engineering professionals. It is preferred that the selected construction team have at least one member who has acquired the Bexar County/San Antonio River Authority LID Construction Inspection Registration.
7. Funding Recipient and its partners will conform to guidelines defined in the Edwards Aquifer Technical Guidance on Best Management Practices or the San Antonio River Basin: Low Impact Development Technical Guidance Manual. Any exceptions are noted in Exhibit D.
8. BMP construction details and BMP locations must be approved by the River Authority in writing prior to start of construction. BMPs will be sited outside the boundaries of existing easements and potentially conflicting property interests to the extent reasonably practicable.
9. All funded as-built alterations to BMP design and material substitutions must be approved by the River Authority in writing.
10. Any alterations to BMP design, location, or material substitutions not approved by the River Authority in writing may result in funding being delayed until corrected and approved in writing by the River Authority or being rescinded completely.
11. BMPs must comply with TCEQ guidelines or secure authorization from TCEQ prior to receiving funding from City.
12. The Project shall produce the following deliverables:
 - a. QAPP encompassing Water Quality as a Function of Land Cover, Efficacy of Low Impact Development on Water Quality, and Community Outreach/Living Laboratory project components.
 - b. Water Quality as a Function of Land Cover
 - i. Baseline data on water quality in the mostly undeveloped Leon Creek watershed.
 - ii. Installation of eight stormwater monitoring sites (four in non-developed areas and four in developed areas) within the Leon Creek Watershed based on watershed size, land use and presence of watersheds within the contributing or recharge zone of the Edwards Aquifer.

- iii. Collection and analysis of up to twelve and a minimum of five stormwater sampling events from January, 2019 – September, 2021 for each of the eight locations, for a potential eight-hundred-sixty-four samples collected and analyzed. Samples will be processed in accordance with the project approved Quality Assurance Project Plan(s).
- iv. Stormwater monitoring data: Sampled constituents include the following:
 - 1. Total Phosphorus
 - 2. Total Nitrogen
 - 3. Trace Metals (As, Ba, Cd, Cr, Cu, Pb, Zn)
 - 4. Total Suspended Solids
 - 5. pH
 - 6. Conductivity
 - 7. *E. coli*
 - 8. Turbidity
 - 9. Transparency
 - 10. Dissolved Oxygen
 - 11. Temperature
 - 12. Flow
 - 13. Total Hardness
 - 14. Diazinon (Spectracide) as a representative pesticide
 - 15. 2,4 D herbicidal contaminants
 - 16. Total Petroleum Hydrocarbons.

Items 13 - 16 shall be tested during the first qualifying event for a single site representative of the non-developed area and for all five qualifying events for a single site representative of the developed area. Rain gages shall be installed to characterize precipitation events over the study area, to assist in correlating types of contaminants with types of precipitation events, and to help in the identification of contaminant sources.

- v. Measurement of the physical stream habitat parameters at each of the eight locations, including standardized length of channel near each sampling site at 30 to 40 times channel width. The following minimum characteristics will be measured: riparian vegetation, canopy cover, bank morphology, stream morphology, and channel bed sediments and organic matter.
- vi. Report on the above findings.
- c. Efficacy of Low Impact Developments on Water Quality
 - i. Installation of six sampling sites strategically located to allow the comparison of water quality as related to the three BMPs associated with the new UTSA-funded parking lot: bioswales, vegetative filter strip, and sand filter.
 - ii. Collection and analysis of up to twelve and a minimum of five post- construction stormwater sampling events from January, 2019 – September, 2021 for each of the six sampling locations, including upon initial trigger, or first flush, and at subsequent times throughout each event, yielding a potential six-hundred-forty-eight samples collected and analyzed. Samples will be processed in accordance with the project approved Quality Assurance Project Plan(s).

- iii. Post-construction stormwater monitoring data (minimum of BMP inlet- and five BMP outlet and paired undeveloped land adjacent to the constructed parking lot- qualifying samples per monitoring location). Sampled constituents include the following:
 1. Total Phosphorus
 2. Total Nitrogen
 3. Trace Metals (As, Ba, Cd, Cr, Cu, Pb, Zn)
 4. Total Suspended Solids
 5. pH
 6. Conductivity
 7. *E. coli*
 8. Turbidity
 9. Transparency
 10. Dissolved Oxygen
 11. Temperature
 12. Flow
 13. Total Hardness
 14. Diazinon (Spectracide) as a representative pesticide
 15. 2,4 D herbicidal contaminants
 16. Total Petroleum Hydrocarbons

Items 13 – 16 shall be tested during all five qualifying events at a single representative inlet and outlet. Rain gages shall be installed to characterize precipitation events over the study area, to assist in correlating types of contaminants with types of precipitation events, and to help in the identification of contaminant sources. Samples will be processed in accordance with the project approved Quality Assurance Project Plan(s).
- iv. Report on the above findings.
- d. Community Outreach/Edwards Aquifer Recharge Living Laboratory (“Living Laboratory”)
 - i. Construction of a furnished 2,000 ft² structure within the 6.8 acres of undeveloped land on the edge of the UT San Antonio Facilities Compound and adjacent to the existing Environmental Science and Ecology Greenhouse. The structure will feature a wrap-around porch (Exhibit F) with the front facing west toward Maverick Creek and a vegetative screen wall blocking the structure from the Facilities compound to maximize the intimacy of the native site and student interaction with nature. Structure amenities will include:
 1. Open floorplan which will encourage group investigations
 2. Multiple roll-up doors to allow open flow to porch
 3. Small office space
 4. Storage closet
 5. Two multiple toilet restrooms
 6. Electricity and lighting fixtures
 7. Computer network drops
 8. Signage

The site, currently a mix of mature live oak, cedar elm, and Ashe juniper, will be left generally native to maintain as much canopy as possible.
 - ii. Restriping of an existing parking lot to add ADA spaces.

- iii. All staffing, coordination of scheduled use, operation and maintenance of the Living Laboratory will be provided by Funding Recipient. Funding Recipient's Environmental Science and Ecology Department will have the main oversight of all educational and research activities and Funding Recipient's Facilities Office will have the main oversight of the operation and maintenance.
- iv. Incorporation of structural BMPs both for educational purposes and to manage stormwater runoff from the surrounding watershed and generated by the addition of impervious surfaces to the site, to include
 - 1. Bioswale
 - 2. Rain garden
 - 3. Rooftop rain collection and cistern (to meet TCEQ standards)
 - 4. Tree boxes attached to stormwater boxes
 - 5. Green roof.

The BMPs will be lined to meet current TCEQ requirements for stormwater treatment over the Edwards Aquifer and will treat previously untreated impervious cover from an approximately 5-acre delineated drainage area with approximately 70% impervious cover, all of which currently drains to Maverick Creek and pre-dates TCEQ aquifer protection rules and display education and instructive signage.

- v. Delineation of the watershed for appropriately sizing the BMPs.
- vi. Incorporation of walking trails, bird watching screens and an amphitheater which reuses native pink granite benches from the Institute of Texas Cultures (Exhibit G).
- vii. Assessment of and report on the implementation cost of a green roof, the required added structural elements, the long-term maintenance requirements, and the cost differential on the energy efficiency of a green roof.
- viii. Tracking of the number of visitors and students that participate in outreach activities throughout the duration of the project.
- ix. Surveying of school groups before and after participation in outreach activities to determine whether their level of understanding and interest in water quality issues increased following participation in the activities.
- x. At Funding Recipient's sole expense and without further commitment of City funding contributions under this Agreement, Funding Recipient intends to operate and maintain the Living Laboratory as an Edwards Aquifer education facility for a minimum of twenty-five (25) years from the initial date a Certificate of Occupancy is secured following completion of construction. The Parties understand and agree that operation and maintenance of the Living Laboratory by Funding Recipient is subject to availability of funding, appropriateness of the Living Laboratory's location and approval of the President of Funding Recipient at all relevant times. Funding Recipient will notify the City in writing of any proposed changes in use of the Living Laboratory prior to the end of the twenty-five year operation for consideration and input by City's Parks and Recreation Department Director, such input shall be diligently considered by Funding Recipient at its sole discretion. Funding Recipient intends to make the Living Laboratory available to public and private education-based entities for visitation and scheduled use through public coordination with Funding Recipient for a minimum of twenty (20) hours per week, depending on scheduled commitments. The requirements of this subsection 12.d.x. shall hold over and survive the term of this Funding Agreement.

- xi. Subject to appropriate internal approval process, Funding Recipient and City, through its Parks and Recreation Department Director, may mutually agree to a commitment regarding the naming of the Living Laboratory and name the funding entity on any signage installed at the facility.
- xii. Installation of sampling sites, one, at the main point of entry, before stormwater enters the site's BMPs, and one at the main point of exit, once stormwater has gone through and left the site's BMPs, to measure water quality for the term of three years from project start.
- xiii. Collection and analysis of post-construction stormwater monitoring data (five prior to entering the site and five after leaving the site -qualifying samples minimal per monitoring location). Sampled constituents include the following:
 - 1. Total Phosphorus
 - 2. Total Nitrogen
 - 3. Trace Metals (As, Ba, Cd, Cr, Cu, Pb, Zn)
 - 4. Total Suspended Solids
 - 5. pH
 - 6. Conductivity
 - 7. *E. coli*
 - 8. Turbidity
 - 9. Transparency
 - 10. Dissolved Oxygen
 - 11. Temperature
 - 12. Flow

Rain gages shall be installed to characterize precipitation events over the study area, to assist in correlating types of contaminants with types of precipitation events, and to help in the identification of contaminant sources. Samples will be processed in accordance with the project approved Quality Assurance Project Plan(s).

- xiv. Weekly, monthly, and annual inspections of the BMPs.
- xv. Report on above findings.

13. The Project shall answer the following questions and/or address the following local deficits:

- a. Water Quality as a Function of Land Cover: What are the effects of dominant vegetation on water quality within the Edwards Aquifer Recharge and Contributing Zones, and what effect does the replacement of this cover with urban cover have on water quality?
- b. Efficacy of LID on Water Quality: What are the effects of LID BMPs on stormwater runoff from new parking lots?
- c. Community Outreach/Living Laboratory: The San Antonio/Bexar County region currently lacks a permanent facility dedicated to Edwards Aquifer conservation and water quality issues.

14. The Project's major milestones include:

- a. Goal 1, Water Quality as a Function of Land Use:
 - i. Deploying water samplers
 - ii. Water collection and analysis
 - iii. Report on results of Goal 1.
- b. Goal 2, Efficacy of BMPs

- i. Deploying water samplers
 - ii. Water samples
 - iii. Post-construction water samples
 - iv. Report on results of Goal 2.
 - c. Goal 3, Community Outreach/Living Laboratory
 - i. Deploying water sampler
 - ii. Design meetings (structure and BMPs)
 - iii. Completion of construction documents (structure and BMPs)
 - iv. Structure construction start
 - v. Structure construction complete
 - vi. BMP construction start
 - vii. BMP construction complete
 - viii. Site post-construction water quality sampling
 - ix. Report on results of stormwater monitoring.
15. The City may rescind the funding in whole or in part if milestones are missed without providing City with appropriate notice and justification, and alternative plans and timeline or the project falls significantly behind schedule, except in cases of force majeure.
 16. Funding Recipient has a sixty calendar-day grace period from agreed Project end date to complete BMPs, subject to force majeure.
 17. Funding Recipient may request an extension in writing up to fifteen business days before the original project end date.
 18. Any decisions regarding the extension to the project end date shall be made by the River Authority in coordination with the City.
 19. During BMP construction, the Funding Recipient's contractor must protect soil from compaction and repair any damage done thereto to ensure proper BMP function.
 20. River Authority will inspect construction by Funding Recipient to verify it meets the requirements under this Agreement prior to final payment.
 21. Construction is planned to be completed within an estimated twenty-four months. Funding Recipient will communicate to SARA any anticipated delays in meeting the Project Timeline, Exhibit C.
 22. Funding Recipient shall provide an operations and maintenance manual for all BMPs covered by the Funding Agreement in accordance with TCEQ technical guidance manual and/or the San Antonio River Basin: LID Technical Guidance Manual.
 23. Funding Recipient shall perform all actions outlined in the operations and maintenance manual referenced in item 22 above at Funding Recipient's expense for a period of three years from project end date.
 24. It is preferred but not required that persons performing the operations and maintenance have obtained the Bexar County/River Authority LID Annual Inspection and Maintenance Certification.
 25. Funding Recipient is aware that presentations may be requested by the River Authority, the City, the CAB, San Antonio City Council, or other governing or advisory bodies associated with the Program.

26. Funding Recipient agrees to be available for presentations to the best of its ability. Funding Recipient will reasonably cooperate to prepare and/or provide materials for the purpose of such presentations to be given by the Funding Recipient, the City, or the River Authority.
27. Funding Recipient shall acknowledge the City's support in any signage placed at project site, or in any news releases or other publications relating to the work performed under this Funding Agreement. News releases or other publications must be sent to the River Authority for review before they are sent to any outside party. Failure to send any news or publication release to the River Authority for review shall not result in a breach of this Funding Agreement.
28. Funding Recipient is aware that media interviews may be requested and/or coordinated by the City or the River Authority as a result of this project. Funding Recipient will reasonably cooperate to respond to these media requests.
29. Funding Recipient agrees to be available for interviews to the best of its ability. Funding Recipient will reasonably cooperate to prepare for and/or provide media interviews.
30. Funding Recipient grants the City and the River Authority, their representatives and employees the right to take photographs, videos, and other forms of media of the awarded Project.
31. Funding Recipient authorizes the City and the River Authority, their assigns and transferees to copyright, use and publish photographs, videos, and other forms of media in print and/or electronically that are produced by the City and/or the River Authority for this Project.
32. If any of the BMP features compliant with the TCEQ technical guidance manual and/or the San Antonio River Basin: Low Impact Development Technical Guidance Manual fails to perform as designed during the three-year operation and maintenance period, the Funding Recipient shall either repair the BMP to functional status to meet the requirements of applicable state regulations or may refund the City the amount funded for that BMP.
33. Funding in the amount of \$2,671,236 shall be paid by the City to the Funding Recipient after the River Authority verification of satisfactory performance of work, as reflected in supporting document provided with invoices, to include labor costs based on salary and associated benefits, and contractor invoicing, that is in accordance with the terms of this Agreement, the funding schedule attached as Exhibit B and the completion of the Funding Recipient's project timeline, attached as Exhibit C.
34. Funding Recipient will submit invoices directly to the River Authority only, to the River Authority address above, not to exceed \$12,000 to the River Authority to reimburse Funding Recipient for monitoring of Total Hardness, Diazinon (Spectracide) as a representative pesticide, 2,4 D herbicidal contaminants, and Total Petroleum Hydrocarbons. Funding shall be paid directly to the Funding Recipient after River Authority verification of satisfactory performance of work in accordance with the invoicing cycle reflected on the attached Exhibit B—upon Funding Recipient's submission of documentation of labor costs based on salary and associated benefits, equipment and supply purchases, and contractor invoicing to be reimbursed—and upon the completion of Funding Recipient's project timeline, attached as Exhibit C.
35. Funding Recipient represents that it will comply with all Federal, State and Local laws and regulations applicable to Funding Recipient's use of City Funds for this project. To the extent applicable, Funding Recipient agrees to abide by the following laws in its expenditures of City Funds:
 - a. Chapter 252 of the Texas Local Government Code, or other competitive contracting processes allowed for as express exceptions to Chapter 252.
 - b. Government Code chapter 2258 and Ordinance No. 71312 regarding Prevailing Wage Rate regulations required for certain contracts, including ensuring that its construction contractor shall

collect and monitor weekly certified payrolls and perform site visits to ensure the prevailing wage is being paid to all workmen. City has the right to audit certified payroll records as necessary in accordance with this Agreement. Upon audit of the records and certified payrolls under this section, should the City or its auditors find any violations, Funding Recipient shall cause its contractor to forfeit as a penalty to the City \$60.00 for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by the contractor or any subcontractor. The establishment of prevailing wage rates in accordance with Chapter 2258, Texas Government Code shall not be construed to relieve Funding Recipient from its obligation under any federal or state law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed under this Agreement.

36. For the term of this Agreement, at any time during normal business hours and as often as City may deem reasonably necessary, upon three-days written notice, Funding Recipient shall make all of its records pertaining to this Agreement available to City or any of its authorized representatives, and shall permit City or any of its authorized representatives to audit, examine, and make excerpts and/or copies of same.
37. Funding Recipient agrees and represents that it will cooperate with City and River Authority, at no charge to the City or River Authority, to satisfy, to the extent required by law, any and all requests for information received by City or River Authority under the Texas Public Information Act or related laws pertaining to this Agreement.
38. Funding Recipient shall not transfer, pledge or otherwise assign this Agreement, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of City. Any attempt at transfer, pledge or other assignment shall be void ab initio and shall confer no rights upon any third person.
39. Beginning the month after the project's commencement, Funding Recipient shall provide status reports to the City through the River Authority on the first Friday monthly. Said status report shall include project activity toward milestones in the prior month and shall note any changes to the schedule of deliverables, if any, including any delays in meeting the project timeline.
40. The Funding Recipient will make a good faith effort to follow the guidelines under Exhibit E, SBEDA Ordinance Compliance Provisions. The Funding Recipient will seek subcontractors that are small businesses, are located within the San Antonio Metropolitan Statistical Area ("SAMSA"), and are certified as a bona-fide small, minority-, women-owned, or emerging small business enterprise through the South Central Texas Regional Certification Agency.

No Third Party Rights

- A. This Agreement is not intended, nor shall it be construed, to create any third party beneficiary rights in any person who is not a party hereto, unless otherwise expressly herein provided.
- B. Nothing in this Agreement shall be deemed or construed by the Parties hereto, or any third party, to create the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the 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 independent contracting entities.

Publication and Academic Rights

Funding Recipient's Principal Investigator has the right to publish or otherwise publicly disclose information gained in the course of the project under this Agreement. Funding Recipient will, however, submit any prepublication material to City for review and comment at least sixty (60) days prior to planned submission for publication. City will notify Funding Recipient of any objections within thirty (30) days of receipt. Funding Recipient shall have final authority to determine the scope and content of any publications, subject to any objections for the protection of confidential information. Funding Recipient shall acknowledge the City's contribution and describe in any publications, the scope and nature of City's contribution accurately and appropriately.

Ownership of Materials and Documents

Any and all drawings, documents or information in whatsoever form and character produced by Funding Recipient pursuant to the provisions of this Agreement is the joint property of Funding Recipient and City and either Party shall be allowed to make use of such material without requiring the approval of the other Party. Funding Recipient understands and acknowledges that as the joint owner of any and all writings, documents and information, City has the right to use all such writings, documents and information as the City desires, without restriction.

Equipment

Funding Recipient shall retain title to all equipment and structures purchased and/or fabricated by it with funds provided under this Agreement.

Liability

As government entities, the River Authority, the City and The University of Texas at San Antonio hereby expressly acknowledge that they are governed by the Texas Tort Claims Act, which is located in Chapter 101 of the Texas Civil Practice and Remedies Code, and nothing in this Agreement shall be construed as a waiver by any of the Parties of any of the immunities and protections from liability included therein.

Insurance

To the extent authorized by the Texas Constitution and laws of the State of Texas, Funding Recipient, 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. This insurance or self-insurance shall cover liability for property damage and personal injury associated with Funding Recipient's performance of work under this Agreement.

Notices

Any notice required by this Agreement shall be given by prepaid, first class, certified mail, return receipt requested, or by a recognized overnight courier, address as follows:

<u>In the case of City:</u>	<u>In the case of River Authority:</u>	<u>In the case of Funding Recipient:</u>
Phillip Covington Special Project Manager Edwards Aquifer Protection Program Parks and Recreation Department PO Box 839966 San Antonio, Texas 78283 (210) 207-3003 phillip.covington@sanantonio.gov	Karen Bishop Senior Supervisor Environmental Sciences Department 100 East Guenther Street San Antonio, Texas 78204 (210) 302-3642 kbishop@sara-tx.org	Amy Ossola-Phillips, RSC Director The University of Texas at San Antonio, Office of Sponsored Project Administration One UTSA Circle San Antonio, Texas 78249 (210) 458-6472 Amy.Ossola-Phillips@utsa.edu

COMPLIANCE WITH SMALL, MINORITY AND WOMAN-OWNED BUSINESS ENTERPRISES POLICY, NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY POLICY

Funding Recipient is hereby advised that it is the policy of the City of San Antonio that Small, Minority or Woman-owned Business Enterprises (SMWBE) shall have the maximum practical opportunity to participate in the performance of public contracts. In all events, Funding Recipient shall comply with the CITY's Small Business Economic Development Advocacy Program, contained in San Antonio Ordinance No. 2007-04-12-0396, and the amendments thereto in connection with the award of the construction contract(s). Said ordinances are incorporated herein for all purposes, as if fully set forth herein. Funding Recipient further agrees that Funding Recipient will abide by all applicable terms and provisions of CITY's Non-Discrimination Policy, CITY's Small, Business Economic Development Advocacy (SBEDA) Policy and CITY's Equal Opportunity Affirmative Action Policy, these policies being available in CITY's Department of Economic Development, Division of Internal Review and the City Clerk's Office in connection with the Parking Facility.

Funding Recipient agrees to comply with all SBEDA goals assigned to this Agreement as outlined in Exhibit E.

Funding Recipient agrees that if material deficiencies in any aspect of its SMWBE utilization plan as set out in its project are found or if Funding Recipient does not meet the SMWBE goals as specified by the CITY's Department of Economic Development, whichever is less, as a result of a review or investigation conducted by CITY's Department of Economic Development, Funding Recipient will be required to submit a written report to CITY's Department of Economic Development. Funding Recipient will also be required to submit a supplemental Good Faith Effort Plan (GFEP) indicating efforts to resolve any deficiencies.

Termination

The Parties, with or without cause, may elect to terminate this Agreement by providing sixty (60) days written notice to the other Parties. Termination of this Agreement shall not affect the rights and obligations of the Parties accrued prior to the termination. Upon termination, City shall pay Funding Recipient for all reasonable expenses incurred or committed to be expended as of the effective termination date. Any provisions of this Agreement which by their nature extend beyond termination shall survive such termination.

Amendment

This Funding Agreement supersedes all prior agreements and understandings between the Parties regarding the Program and may only be changed by written amendment signed by all three of the Parties.

This Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of Texas.

[Remainder of Page Intentionally Left Blank. Signatures on Following Page.]

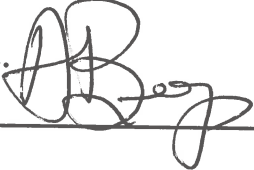

<p>The University of Texas at San Antonio</p> <p>Date: <u>8/22/18</u></p> <p>Signed by: </p>	<p>City of San Antonio</p> <p>Date: _____</p> <p>Signed by: _____</p>
<p>Bernard Arulanandam</p> <p>Interim Vice President for Research, Economic Development and Knowledge Enterprise</p> <p>Date: <u>8/22/18</u></p> <p>Signed by: </p> <p>Kathryn Funk-Baxter Vice President for Business Affairs</p>	<p>Xavier D. Urrutia Director, Parks & Recreation, City of San Antonio</p> <p>Attest: _____</p> <p>City Clerk</p> <p>Approved as to form: _____</p> <p>City Attorney</p>
<p>San Antonio River Authority</p> <p>Date: _____</p> <p>Signed by: _____</p> <p>Suzanne Scott General Manager, San Antonio River Authority</p> <p>Approved as to form: _____</p> <p>Director of Legal Services</p>	

EXHIBIT A

The University of Texas at San Antonio
Proposal Budget Template



Sponsor:	City of San Antonio	Summary Page
PI/PD:	Bush, Janis	
Title:	Spatial Patterning of Water Quality in the Leon Creed Watershed Recharge Zone as a Function of Urban Development	

		Period 1	Period 2	Period 3	Period 4	Period 5	All
	Start	4/1/2018	4/1/2019	4/1/2020			4/1/2018
	End	3/31/2019	3/31/2020	3/31/2021			3/31/2021
Personnel	Subtotal	\$ 137,912	\$ 141,209	\$ 144,605	\$ -	\$ -	\$ 423,726
G4010 G5010 Salaries		\$ 93,117	\$ 95,911	\$ 98,789	\$ -	\$ -	\$ 287,817
G4020 G5030 Fringe Benefits		\$ 44,795	\$ 45,298	\$ 45,816	\$ -	\$ -	\$ 135,909
Travel	Subtotal	\$ 500	\$ 500	\$ 500	\$ -	\$ -	\$ 1,500
G4110 G5130 Travel - Domestic		\$ 500	\$ 500	\$ 500	\$ -	\$ -	\$ 1,500
G4120 G5140 Travel - Foreign		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Expense	Subtotal	\$ 827,335	\$ -	\$ -	\$ -	\$ -	\$ 827,335
G4030 G5040 Construction		\$ 551,681	\$ -	\$ -	\$ -	\$ -	\$ 551,681
G4040 G5050 Equipment Fabrication		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4050 G5060 Equipment Capital		\$ 275,654	\$ -	\$ -	\$ -	\$ -	\$ 275,654
Other Direct	Subtotal	\$ 948,319	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ 998,319
X G5070 Curation (L5 Only)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4070 G5080 Consultants		\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ 50,000
X G5090 Office Services (L5 Only)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4090 G5110 Materials and Supplies		\$ 50,000	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ 100,000
G4090 G5110 Publication Costs		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4090 G5110 Computer Services		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4090 G5110 User Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
? ? Other (F&A Included)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
? ? Other (F&A Excluded)		\$ 848,319	\$ -	\$ -	\$ -	\$ -	\$ 848,319
G4090 G5116 Workshop-Seminar Costs		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
X G5115 Mileage Expense (L5 Only)		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4100 G5120 Rentals & Leases		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4105 G5125 Rental Equipment		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4150 G5170 NSF G.6.Other Tuition & Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Student and Participant Support	Subtotal	\$ 50,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ 150,000
G4130 G5150 Participant Expenses		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4130 G5155 Participant Travel		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G4140 G5160 Scholarships & Fellowships		\$ 50,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ 150,000
G4150 G5170 Tuition & Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subawards	Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Sponsor Costs		\$ 2,076,120	\$ 295,062	\$ 300,054	\$ -	\$ -	\$ 2,671,236

San Antonio River Authority

Janis Bush

Personnel. Headers in [] indicate for hourly personnel										Total Personnel Costs		
Name	Role on Project	Employee Type*	Premium Sharing	Individual Base Salary (Hourly Rate)	# of Months (Weeks)	Percent of Effort (Hrs/wk)	Person Months	% Fringe	G4010/G5010 Salary	G4020/G5020 Fringe Benefits	Total Salary and Fringe	
Bush, Janis	PI	Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
		Select	Select One					-	\$ -	\$ -	\$ -	
Travel											Total	\$ -
G4110/G5130 Domestic												\$ -
G4120/G5140 Foreign												\$ -
Other Costs (F&A Included)											Total	\$ 12,000
G4090/G5110 Materials & Supplies												\$ 12,000
G4090/G5110 Publication Costs												\$ -
G4070/G5080 Consultant Services												\$ -
G4090/G5110 Computer Services												\$ -
G4105/G5125 Equipment Rental												\$ -
G4090/G5110 User Fees												\$ -
G4090/G5116 Workshop-Seminar												\$ -
G5070 Curation (Center for Archaeological Research Only)												\$ -
G5115 Mileage Expense (Center for Archaeological Research Only)												\$ -
Other. Please Specify:												\$ -

G4050/G5060 Equipment Capital: Note: Minimum \$5,000 per item.											Total	\$ -
1. Equipment Item 1												\$ -
2. Equipment Item 2												\$ -
3. Equipment Item 3												\$ -
Student and Participant Support											Total	\$ -
G4140/G5160 Scholarships and Fellowships												\$ -
G4150/G5170 Tuition & Fees												\$ -
G4130/G5150 Participant Expenses												\$ -
G4130/G5155 Participant Travel												\$ -
Other Costs (F&A Excluded)											Total	\$ -
G4150/G5170 Tuition & Fees for Salaried NSF Student Employee												\$ -
G4030/G5040 Alterations and Renovations												\$ -
G4100/G5120 Rentals and Off Site Leases												\$ -
G4040/G5050 Equipment Fabrication												\$ -
G5090 Office Services (Center for Archaeological Research Only)												\$ -
Other. Please Specify:												\$ -

Subawards/Subcontracts - Indirect Costs are only charged on the first \$25,000 of a subaward										Total	\$ -
Name of Subrecipient	Subrecipient Direct Costs	Subrecipient Indirect Costs	Subrecipient Total Costs	G4160/G5180 Sub < \$25k	G4170/G5180 Sub > \$25k	G4180/G5200 Sub F&A	Subrecipient Project Total				
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
Consortium Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				

Indirect Rate	UTSA Federally Negotiated F&A (Indirect Cost)		Total Direct Costs - Consortium F&A				\$ 12,000
	On Campus		Total Consortium F&A				\$ -
	Organized Research (FY 9/1/17-8/31/18)	47%	F&A Base				\$ 12,000
	Organized Research (FY 9/1/18-8/31/19)	49%	F&A Rate 1 0.0%				\$ 12,000
	Organized Research (FY 9/1/19-8/31/20)	49.5%	F&A Rate 2 0.0%				\$ -
	Organized Research (FY 9/1/20-8/31/21)	50%	Indirect Cost 1				\$ -
	Instruction (FY 9/1/17-8/31/21)	50%	Indirect Cost 2				\$ -
Other Sponsored Activities (FY 9/1/17-8/31-36%			If F&A Rate is different than negotiated rate, please enter justification:				
Off Campus							
All programs (FY 9/1/17-8/31/21)			26%				

Cost Share	Cost Shared Amount (Enter from the Cost Share Request form, only if applicable)	\$ -
	Cost Shared Percentage of Total Budget	0%

Totals	Period 1	UTSA Direct Costs	\$ 12,000
		UTSA Indirect Costs	\$ -
		Sponsor Costs	\$ 12,000
		Award Costs	\$ 12,000

EXHIBIT B

Funding Schedule

Invoices to be submitted on a quarterly basis, with a final invoice due 60 days after agreement end date subject to verification of satisfactory completion as discussed under Item 20 above.

General:

City of San Antonio

1-Nov-18	Amount
Personnel	\$180,157
Travel	\$735
Materials and supplies	\$73,500
Equipment	\$275,654
Consultants	\$44,100
Civil & Construction	\$551,681
Outdoor Lab Research Study	\$848,319
Graduate student support	\$50,000
Total	\$2,024,146
1-Jun-19	Amount
Personnel	\$22,573
Total	\$22,573
1-Nov-19	Amount
Personnel	\$184,384
Travel	\$735
Materials and supplies	\$36,750
Consultants	\$29,400
Graduate student support	\$50,000
Total	\$301,269
1-Jun-20	Amount
Personnel	\$23,194
Total	\$23,194
1-Nov-20	Amount
Personnel	\$188,735
Travel	\$735
Materials and supplies	\$36,750
Graduate student support	\$50,000

Total	\$276,220
1-Jun-21	Amount
Personnel	\$23,834
Total	\$23,834
Grand Total	\$2,671,236

San Antonio River Authority

1-Jan-19	Amount
Materials and Supplies	\$12,000
Total	\$12,000
Grand Total	\$12,000

*Specific Categories Defined
City of San Antonio:*

CATEGORY	ITEMIZED	DIRECT	INDIRECT	TOTAL
PERSONNEL:				
Bush, JK	June 1, 2019 = \$4,409; June 1, 2020 = \$4,536; June 1, 2021 = \$4,667	\$13,612	\$6,398	\$20,010
Laub, B	June 1, 2019 = \$10,947; June 1, 2020 = \$11,242; June 1, 2021 = \$11,547	\$33,736	\$15,856	\$49,592
Project Manager	November 1, 2018 = \$72,370; November 1, 2019 = \$74,140; November 1, 2020 = \$75,963	\$222,473	\$104,562	\$327,035
Laboratory Assistant	November 1, 2018 = \$50,186; November 1, 2019 = \$51,291; November 1, 2020 = \$52,428	\$153,905	\$72,335	\$226,240
TOTAL		\$423,726	\$199,151	\$622,877
TRAVEL:				
Domestic Travel	1-Nov-18	\$500	\$235	\$735
	1-Nov-19	\$500	\$235	\$735
	1-Nov-20	\$500	\$235	\$735
TOTAL		\$1,500	\$705	\$2,205
MATERIALS AND SUPPLIES:				
General laboratory supplies	1-Nov-18	50,000	\$23,500	\$73,500
	1-Nov-19	25,000	\$11,750	\$36,750
	1-Nov-20	25,000	\$11,750	\$36,750
TOTAL		\$100,000	\$47,000	\$147,000
EQUIPMENT:				
ISCO Flow Bubbler Flow Meters and Water Samplers	1-Nov-18	\$150,000	\$0	\$150,000
Biomate 3S UV-VIS spectrophotometer		\$6,000	\$0	\$6,000
IDEXX (for E. coli)		\$6,214	\$0	\$6,214
ICP-OES		\$72,000	\$0	\$72,000
Total Carbon Analyzer		\$14,000	\$0	\$14,000
Microwave Digester		\$27,440	\$0	\$27,440
Total		\$275,654	\$0	\$275,654
CONSULTANTS:				
General consultation on water analyses	1-Nov-18	\$30,000	\$14,100	\$44,100
	1-Nov-19	\$20,000	\$9,400	\$29,400
Total		\$50,000	\$23,500	\$73,500
CIVIL AND CONSTRUCTION				
Construction	1-Nov-18	551,681	0	551,681
Total		551,681	0	551,681
OTHER PROJECT COSTS				
Outdoor Lab Research Study	1-Nov-18	848,319	0	848,319
Total		848,319	0	848,319
GRADUATE STUDENTS:				
	November 1, 2018 = \$50,000; November 1, 2019 = \$50,000; November 1, 2020 = \$50,000	\$150,000	\$0	\$150,000
Total		\$150,000	\$0	\$150,000
Grand Total		\$2,400,880	\$270,356	\$2,671,236

San Antonio River Authority

CATEGORY	ITEMIZED	DIRECT	INDIRECT	TOTAL
MATERIALS AND SUPPLIES:				
	1-Jan-19	12,000	\$0	\$12,000
TOTAL		\$12,000	\$0	\$12,000

Exhibit C

Project Timeline

Activity/Task	Year 1				Year 2				Year 3				Estimated Start Date	Estimated Completion Date
	18-Oct	19-Jan	19-Apr	19-Jul	19-Oct	20-Jan	20-Apr	20-Jul	20-Oct	21-Jan	21-Apr	21-Jul		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
Administrative Tasks														
Procurement of Equipment (Contracts)													Nov-18	28-Feb
Goal One - Water Quality as a Function of Land Use														
Deploying Water Samplers													1-Jan-19	28-Feb-19
Water Collection and Analysis													28-Feb-19	30-Sep-21
Goal Two - Efficacy of BMPs														
Deploying Water Samplers													1-Jan-19	28-Feb-19
Paired Site Sampling													28-Feb-19	30-Sep-21
Water Collection and Analysis													28-Feb-19	30-Sep-21
Goal Three - Community Outreach/Living Laboratory														
Design Meetings													1-Jan-19	30-Sep-19
Construction Documents													1-Oct-19	30-Jun-19
Construction													1-Apr-20	30-Sep-20
BMP Construction													1-Apr-20	31-Oct-20
Deploy Water Sampler													1-Nov-20	30-Nov-20
Site-Post Water Quality Sampling													1-Oct-20	30-Sep-21

Exhibit D

Exceptions to San Antonio River Basin LID Technical Guidance Manual Usage:

None anticipated

Exhibit E

SBEDA Ordinance Compliance Provisions

A. SBEDA Program

City has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2016-05-19-0367 and as amended, also referred to as “SBEDA” or “the SBEDA Program”), which is posted on City’s Economic Development (hereafter referred to as “EDD”) website page and also is available in hard copy form upon request to City. The SBEDA Ordinance Compliance Provisions contained in this Exhibit 1 are governed by the terms of said Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by City, pursuant to said Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual in effect as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this Exhibit 1 shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

B. SBEDA Program Compliance – Affirmative Procurement Initiatives

City has applied the following contract-specific Affirmative Procurement Initiatives to this Agreement, which apply solely to the City funds appropriated towards the construction portion of this project’s scope of work. Grantee hereby acknowledges and agrees the selected API requirement also shall be extended to any change order or subsequent contract modification and, absent SBO’s granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

M/WBE Subcontracting Program. In accordance with SBEDA Ordinance Section III. D. 2. (d), this contract is being awarded pursuant to the M/WBE Subcontracting Program. CONTRACTOR agrees to subcontract at least **twenty-nine percent (29%)** of its prime contract value to certified M/WBE firms headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area (SAMSA).

The Subcontractor / Supplier Utilization Plan that Grantee submitted to CITY for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified M/WBE Subcontractors to be used by Grantee on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each M/WBE Subcontractor, and documentation including a description of each M/WBE Subcontractor’s scope of work and confirmation of each M/WBE Subcontractor’s commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of Grantee to attain this subcontracting goal for M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the CITY, and may result in debarment from performing future CITY contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon M/WBE subcontracting

goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

C. Contract Requirements and Commitment

Grantee understands and agrees the following provisions shall be requirements of this Funding Agreement and Grantee, in acknowledging these requirements, commits to comply with these provisions.

Waiver Request - Grantee may request, for good cause, a full or partial Waiver of **specified subcontracting goal(s)** by submitting the *Respondent/ Vendor Subcontracting Waiver Request* form (available at <http://www.sanantonio.gov/SBO/Forms.aspx>). Grantee's Waiver request fully must document Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier unavailability despite Grantee's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Grantee including, but not limited to, which Consultants, Sub-Consultants, Contractors, Subcontractors and/or Suppliers were contacted (with phone numbers, e-mail addresses and mailing addresses, as applicable) and the method of contact.

D. SBEDA Program Compliance – General Provisions

Grantee acknowledges and accepts the terms of City's SBEDA Ordinance, as amended, together with all requirements, guidelines and procedures set forth in City's SBEDA Policy & Procedure Manual, are in furtherance of City's efforts at economic inclusion and, moreover, such terms are part of Grantee's Scope of Work, as referenced in City's Funding Agreement, forming the basis for a Funding Agreement award and subsequent execution of this Agreement. These SBEDA Ordinance requirements, guidelines and procedures hereby are incorporated by reference into this Agreement and are considered by the Parties hereto to be material terms. Grantee's agreement fully to comply with these SBEDA program terms is a material condition for being awarded this Funding Agreement by City. Without limitation, Grantee further agrees to the following terms as part of its contract compliance responsibilities under City's SBEDA Program:

1. CONTRACTOR shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding CONTRACTOR's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its subcontractors with this term;

2. CONTRACTOR shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of CONTRACTOR or its subcontractors or suppliers;
3. CONTRACTOR shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
4. CONTRACTOR shall notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to CONTRACTOR's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by CONTRACTOR to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by CONTRACTOR of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.
5. CONTRACTOR shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure.
6. CONTRACTOR shall retain all records of its Subcontractor payments for this contract for a minimum of four years or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later.
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a CONTRACTOR's Subcontractor / Supplier Utilization Plan, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE or HUBZone Subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.
8. CONTRACTOR acknowledges that the CITY will not execute a contract or issue a Notice to proceed for this project until the CONTRACTOR for this project have registered and/or maintained active status in the CITY's Centralized Vendor Registration System (CVR), and CONTRACTOR has represented to CITY which primary commodity codes each Subcontractor will be performing under for this contract. CITY recommends all Subcontractors to be registered in the CVR.

For more information please see link: <http://www.sanantonio.gov/SBO/Compliance>

E. Violations, Sanctions and Penalties

In addition to the above terms, Grantee acknowledges and agrees it is a violation of the SBEDA Ordinance and shall be deemed to have committed a material breach of this Agreement if Grantee:

1. fraudulently obtains, retains, attempt to obtain, or aids another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
2. willfully falsifies, conceals or covers up by a trick, scheme or device, a material fact or makes any false, fictitious or fraudulent statements or representations, or makes use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statements or entries pursuant to the terms of the SBEDA Ordinance;
3. willfully obstructs, impedes or attempts to obstruct or impede any authorized official or employee investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. fraudulently obtains, attempts to obtain or aids another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. makes false statements to any entity that any other entity is or is not certified as an S/M/WBE for purposes of the SBEDA Ordinance.

Any person or entity violating the provisions of this **clause** shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

1. Suspension of contract
2. Withholding of funds
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance
4. Refusal to accept a response or proposal
5. Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this Agreement, Grantee represents and warrants it has complied with, throughout the course of this solicitation and contract award process and will continue to comply with, City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, Grantee shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers vendors or commercial customers, nor shall Grantee retaliate against any person for reporting instances of such discrimination. Grantee shall provide equal opportunity for Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers and vendors to participate in all of Grantee's public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this **clause** shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. Grantee understands and agrees a material violation of this **clause** shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Grantee from participating in City contracts or other sanctions. This **clause** is not enforceable by or for the benefit of, and creates no obligation to, any third party. Grantee's certification of its compliance with this Commercial Nondiscrimination Policy, as submitted to City pursuant to the solicitation for this Agreement, hereby is incorporated into the material terms of this Agreement. Grantee shall incorporate this Commercial Nondiscrimination Policy clause into each of its Consultant(s), Sub-Consultant(s), Contractor(s) Subcontractor(s) and Supplier agreements entered into pursuant to City contracts.

G. Prompt Payment

Upon execution of this Agreement, Grantee shall be required to submit to City accurate progress payment information with each invoice, with regard to each of its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers, including HUBZone Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers, to ensure Grantee's reported subcontract participation is accurate. Grantee shall pay its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers in compliance with Chapter 2251, Texas Government Code (known as the "Prompt Payment Act") within ten (10) days of receipt of payment from City. In the event of Grantee's noncompliance with these prompt payment provisions, no new City contracts shall be issued to Grantee until City's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the Agreement.

H. Definitions

Affirmative Procurement Initiatives (hereafter referred to as "API") – refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise (hereafter referred to as "S/M/WBE") Program tools and Solicitation Incentives that are used to encourage greater prime contract and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full

descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance).

Centralized Vendor Registration System (hereafter referred to as “CVR”) – refers to a mandatory electronic system wherein City requires all prospective Consultants, Sub-Consultants, Contractors and Subcontractors ready, willing and able to sell goods or services to City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices and for receiving payments from City. The CVR-assigned identifiers also are used by City’s Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE (as defined herein) firms by Industry or commodity codes and for establishing annual aspirational Goals and contract-by-contract Subcontracting Goals.

Certification or “Certified” – refers to the process by which City’s Small Business Office (hereafter referred to as “SBO”) staff determines a firm to be a bona-fide small, minority-, women-owned or emerging small business enterprise. Emerging Small Business Enterprises (hereafter referred to as “ESBEs”) automatically are eligible for Certification as SBEs. Any firm may apply for multiple Certifications covering each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, City accepts any firm that is certified by local government entities and/or other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

Commercially Useful Function – means a S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm also must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it actually is performing, the S/M/WBE credit claimed for its performance of the work and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation when, in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by Grantee to perform such “pass-through” or “conduit” functions that are not commercially

useful shall be viewed by City as fraudulent, if Grantee attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, Grantee shall not be given credit for the participation of its S/M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers or joint venture partner towards attainment of S/M/WBE utilization goals, and Grantee and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

Good Faith Efforts – means the documentation of Grantee’s intent to comply with S/M/WBE Program Goals and procedures including, but are not limited to, the following:

(1) documentation reflecting Grantee’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or

(2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes, to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Consultant’s posting of a bond covering the work of SBE or M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by Grantee and the solicitation; and documentation of consultations with trade associations and Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers representing the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers). The appropriate form and content of Grantee’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

HUBZone Firm – means a business certified by the U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet all of the following criteria:

1. The business is owned and Controlled by U.S. citizens;
2. At least thirty five percent (35%) of the business's employees must reside in a HUBZone;
and
3. The business's Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

Independently Owned and Operated – means the ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

Individual – means an adult person that is of legal majority age.

Industry Categories – means procurement groupings for City inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services and Goods and Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term sometimes may be referred to as “business categories.”

Minority/Women Business Enterprise (hereafter referred to as “M/WBE”) – refers to a firm certified as a Small Business Enterprise and also is certified as either a Minority Business Enterprise or as a Women Business Enterprise, is at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members and/or women and is ready, willing and able to sell goods or services to be purchased by City.

M/WBE Directory – refers to a listing of minority- and women-owned businesses certified for participation in City's M/WBE Program APIs.

Minority Business Enterprise (hereafter referred to as “MBE”) – means any legal entity, except a joint venture, organized to engage in for-profit transactions, certified a Small Business Enterprise and is at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, as defined below, and is ready, willing and able to sell goods or services

to be purchased by City. To qualify as a MBE, the enterprise shall meet the Significant Business Presence requirement defined herein. Unless otherwise stated, the term MBE, as used in City's Ordinance, is not inclusive of women-owned business enterprises.

Minority Group Members – refers to African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in or that are citizens of the United States or its territories, as defined below:

African-Americans: Persons with origins in any of the black racial groups of Africa.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Originating Department – refers to a City department or authorized representative of City managing the contract.

Payment – refers to the dollars actually paid to Grantee and/or Grantee's Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s), Suppliers and/or vendors for City-contracted goods and/or services.

Prime Consultant – refers to a Consultant, under contract to City, to whom a purchase order or contract is issued by City for the purposes of providing goods or services to City. For purposes of this Agreement, this term refers to Grantee.

Relevant Marketplace – means the geographic market area affecting the S/M/WBE Program, as determined for purposes of collecting data for NERA Economic Consulting and for determining eligibility for participation under various programs established by City's SBEDA Ordinance, defined as the San Antonio Metropolitan Statistical Area (as defined herein), which currently includes the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

Respondent – refers to an entity submitting a bid, Statement of Qualifications or Proposal in response to a solicitation issued by City. For purposes of this agreement, Grantee is Respondent.

Responsible – means a firm capable in all respects fully to perform the contractual requirements outlined in City’s solicitation and has the integrity and reliability to assure good faith performance of all project specifications.

San Antonio Metropolitan Statistical Area (hereafter referred to as “SAMSA”) – also known as the Relevant Marketplace, referring to the geographic market area from which City’s NERA Economic Consulting analyzed contract utilization and availability data for disparity. City’s SAMSA currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

SBE Directory – refers to a listing of small businesses certified for participation in City's SBE Program APIs.

Significant Business Presence – defined as an established place of business in one or more of the eight (8) counties making up the SAMSA, from which twenty percent (20%) of the entity’s full-time, part-time and contract employees regularly are based, and from which a substantial role in the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence. To qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one (1) year within the Relevant Marketplace

Small Business Enterprise (hereafter referred to as “SBE”) – means a corporation, partnership, sole proprietorship or other recognized legal entity existing for the purpose of making a profit, is independently owned and operated by Individuals legally residing in or are citizens of the United States or its territories, meets the U.S. Small Business Administration (hereafter referred to as “SBA”) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements, as defined herein.

Small Business Office (hereafter referred to as “SBO”) – means the office within City’s EDD Department primarily responsible for general oversight and administration of the S/M/WBE Program.

Small Business Office Manager (hereafter referred to as “SBO Manager” – refers to the Assistant Director of EDD responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager also is responsible for enforcement of Grantee, Consultant and vendor compliance with contract participation requirements and ensuring that overall SBEDA Program goals and objectives are met.

Small Minority Women Business Enterprise Program (hereafter referred to as “S/M/WBE Program”) – refers to the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

Sub-Consultant – means any vendor of Grantee providing goods or services to Grantee in furtherance of Grantee’s performance under an agreement, contract or purchase order with City. A copy of each binding agreement between Grantee and its Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and Suppliers shall be submitted to City in writing prior to execution of this Agreement and any modification to this Agreement.

Suspension – means the temporary stoppage of a SBE or M/WBE firm’s beneficial participation in City’s S/M/WBE Program for a finite period of time, due to the cumulative contract payments the S/M/WBE firm received during a fiscal year exceeding a certain dollar threshold, as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance; or the temporary stoppage of Grantee’s and/or S/M/WBE firm’s performance and payment under City contracts due to City’s imposition of Penalties and Sanctions, as set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

Sub-Consultant/Supplier Utilization Plan – refers to the binding part of this Agreement stating Grantee’s commitment for the use of Joint Venture Partners and/or Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers in the performance of this Agreement, stating the name, scope of work and dollar value of work to be performed by each of Grantee’s Joint Venture partners and/or Consultant(s), Sub-Consultant(s), Contractor(s), Subcontractor(s) and/or Suppliers in the course of the performance of this Agreement, specifying the S/M/WBE Certification category for each Joint Venture partner and/or Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or and Consultant, Sub-Consultant, Contractor, Subcontractor and/or Supplier names, scopes of work or dollar values of work to be performed requires an amendment to this Agreement approved by the EDD Manager or his/her designee.

Women Business Enterprises (hereafter referred to as “WBEs”) – refers to any legal entity, except a Joint Venture, organized to engage in for-profit transactions, certified, for purposes of the SBEDA Ordinance, as being a Small Business Enterprise, is at least fifty-one percent (51%) owned, managed and controlled by one or more non-minority women Individuals lawfully residing in or are citizens of the United States or its territories, is ready, willing and able to sell goods or services to be purchased by City and meets the Significant Business Presence requirements, as defined herein. Unless otherwise stated, WBE, as used in this Agreement, is not inclusive of MBEs.

Exhibit F

Mock-up of Proposed Edwards Aquifer Recharge Living Laboratory (excluding the planned BMPs)



EXHIBIT G

Mock-up of Proposed Outdoor Amphitheater

