



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4257

**Type:** Capital Improvements

**In control:** City Council A Session

**On agenda:** 6/10/2021

**Title:** Ordinance approving a Purchase and Sale Agreement for Mitigation Credits with Straus Medina Mitigation Bank in an amount not to exceed \$124,300.00 for the purchase of mitigation credits to comply with the Upper Leon Creek RSWF - Culebra Creek project's Clean Water Act Section 404 permit. Funds are available from 2007 General Obligation Bond and Storm Water Regional Facilities funds and included in the FY 2021 - FY 2026 Capital Improvement Program.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Map\_Upper Leon - Culebra Creek, 2. Map\_Culebra Creek Hike and Bike, 3. Ordinance A\_Final Amendment PSA Partially Executed, 4. Ordinance B\_Mitigation Agreement Final Partially Executed, 5. Ordinance C\_CIVCAST - Bid Summary, 6. Draft Ordinance - Part A, 7. Draft Ordinance - Part B, 8. Draft Ordinance - Part C, 9. Ordinance 2021-06-10-0430

Date	Ver.	Action By	Action	Result
6/10/2021	1	City Council A Session		

**DEPARTMENT:** Public Works

**DEPARTMENT HEAD:** Razi Hosseini, P.E., R.P.L.S.

**COUNCIL DISTRICTS IMPACTED:** Council District 6

### SUBJECT:

Contract Amendment, Mitigation Agreement & Contract Award: Upper Leon Creek Regional Storm Water Facility (RSWF) - Culebra Creek Project

### SUMMARY:

Consideration of the following items related to the Upper Leon Creek Regional Storm Water Facility (RSWF) - Culebra Creek project located in Council District 6:

- A. An ordinance approving the execution of an amendment in the increased amount not to exceed \$214,113.00 to the \$2,166,426.00 Professional Services Agreement with AECOM Technical Services, Inc. for construction and close-out services related to the Upper Leon Creek RSWF - Culebra Creek project including construction management services for the Culebra Creek Hike & Bike Trail located in Council

District 6. Funds are available from 2007 General Obligation Bond, Storm Water Regional Facilities and Proposition 2 Parks Development & Expansion Venue funds and included in the FY 2021 - FY 2026 Capital Improvement Program.

- B. An ordinance approving the execution of a Purchase and Sale Agreement for Mitigation Credits between the City of San Antonio and Straus Medina Mitigation Bank in an amount not to exceed \$124,300.00 for the purchase of mitigation credits to comply with the Upper Leon Creek RSWF - Culebra Creek project's federal 404 permit. Funds are available from 2007 General Obligation Bond and Storm Water Regional Facilities funds and included in the FY 2021 - FY 2026 Capital Improvement Program.
- C. An ordinance accepting the lowest responsive bid and awarding a construction contract to E-Z Bel Construction, LLC in the amount of \$6,766,235.62 of which \$296,860.00 will be reimbursed by CPS Energy for the Upper Leon Creek RSWF - Culebra Creek project located in Council District 6. Funds are available from 2007 General Obligation Bond, Storm Water Regional Facilities and Proposition 2 Parks Development & Expansion Venue funds and included in the FY 2021 - FY 2026 Capital Improvement Program.

## **BACKGROUND INFORMATION:**

### Project Background

As part of the 2007 Bond Program, funds in the amount of \$3,156,000.00 were approved for the Upper Leon Creek Regional Storm Water Facility (RSWF) project initially anticipated to be located within the Government Canyon State Natural Area. As part of this project, a Due Diligence and Feasibility Study for Government Canyon Creek RSWF was completed to analyze several potential detention sites within Government Canyon. Due to changes in baseline floodplain conditions from recent floodplain Letters of Map Revision (LOMR) and updated topographic data, it was determined neither size of detention site options were cost-effective solutions for the flood reduction risk associated with this project. As a result, three alternative projects within the Upper Leon Creek Watershed were studied and shown to be more cost-effective options, including the Helotes Creek RSWF, Culebra Creek Natural Waterway Conveyance (NWWC) and Leon Creek NWWC. Of these projects, Culebra Creek NWWC included the appropriate available funding for the City to execute.

The Upper Leon Creek RSWF - Culebra Creek NWWC project will improve water drainage conveyance and 100-year flood reduction benefits for several adjacent properties. Project improvements will include an earthen channel upstream and downstream of Culebra Road Bridge and Timber Path Bridge, the armoring of bridge columns for both Culebra Road and Timber Path Bridges and the installation of a concrete retaining wall with riprap to stabilize side slopes behind a commercial property. CPS gas line adjustments will also be included as part of the project.

Additionally, as part of the City's effort to improve the Upper Leon Creek Watershed, the Public Works Department in collaboration with the Parks and Recreation Department, will be incorporating the Culebra Creek Hike and Bike Trail (Cathedral Rock Park to Grissom Road) project with the construction contract for the Upper Leon RSWF - Culebra Creek project. Since these project locations overlap, the City coordinated the flood control and trail designs for both projects by joint bid utilizing the same contractor.

The Culebra Creek Hike and Bike Trail (Cathedral Rock Park to Grissom Road) project is part of a growing network of interconnected hike and bike trails on the Howard W. Peak Greenway Trails system, which has been funded through a portion of a 1/8-cent voter approved sales tax since its inception. The effort aims to acquire and preserve open space along San Antonio waterways and develop multi-use hike and bike trails, trailheads,

signage and associated amenities for San Antonio residents and visitors.

Construction of these improvements is anticipated to begin in October 2021 and is estimated to be completed by June 2022.

#### Amendment

A previously executed contract with Turner Collie and Braden (TCB), now doing business as AECOM Technical Services, Inc., in the amount of \$137,755.00 for the Upper Leon Creek RSWF project was approved by City Council on August 18, 2005 through Ordinance 101235. Previously approved amendments in the total amount of \$2,028,671.00 have increased the agreement amount to \$2,166,426.00. Previous amendments were for additional professional engineering services to include fatal flaw analysis of multiple sites, environment constraints analysis, soil borings, conceptual designs, configuration of the recommended flood control structures, surveys, and maps. This amendment will increase the agreement in an amount not to exceed \$214,113.00 to a revised amount of \$2,380,539.00.

The following table illustrates the previously authorized amendments since the execution of this contract:

Item	Amount
Original Contract Value	\$137,755.00
Previous Amendments	\$2,028,671.00
Proposed Amendment	\$214,113.00
Revised Contract Value	\$2,380,539.00

This amendment will compensate AECOM Technical Services, Inc. for construction and close-out phase services in relation to the Upper Leon Creek RSWF - Culebra Creek project and will also increase the scope of work for construction management services related to the Culebra Creek Hike and Bike Trail project.

#### Mitigation Agreement

On March 15, 2021, the US Army Corps of Engineers (USACE) reissued the Clean Water Act Section 404 Nationwide Permit 43 with a new mitigation threshold of 0.03 acres of permanent loss of jurisdictional waters. The advertised design plans for this project had 0.04 acres of permanent loss and since this amount is over the new threshold level, mitigation is required. Per the USACE, when mitigation is required and the project is within the service area of an operational mitigation bank, the bank's credits must be purchased. The Straus Medina Mitigation Bank was contacted for a cost estimate to purchase the mitigation credits in the total amount of \$124,300.00.

#### Procurement of Services

This project was advertised on March 3, 2021 for construction bids in the San Antonio Hart Beat, on the City's website, on the Texas Electronic State Business Daily, on TVSA and through the electronic bidding site CivCast. Bids were opened on April 13, 2021 and nine (9) bids were received. Of these, E-Z Bel Construction, LLC submitted the lowest responsive bid. A matrix of the bid outcome is included herein.

This contract will be awarded in compliance with the new Small Business Economic Development Advocacy (SBEDA) Program, which requires contracts to be reviewed by a Goal Setting Committee to establish a requirement and/or incentive unique to the particular contract to maximize the amount of small, minority and women-owned business participation on the contract. The Goal Setting Committee set a 22% Minority/Women Business Enterprise (M/WBE) subcontracting goal and a 2% African American Business Enterprise (AABE)

subcontracting goal. E-Z Bel Construction, LLC has committed to meeting the subcontractor participation goal.

This construction contract was developed utilizing the low bid process. Therefore, a Contracts Disclosure Form is not required.

## ISSUE:

Consideration of the following items related to the Upper Leon Creek Regional Storm Water Facility (RSWF) - Culebra Creek project located in Council District 6:

- A. This ordinance approves the execution of an amendment in the increased amount not to exceed \$214,113.00 to the \$2,166,426.00 Professional Services Agreement with AECOM Technical Services, Inc. for construction and close-out services related to the Upper Leon Creek RSWF - Culebra Creek project including construction management services for the Culebra Creek Hike & Bike Trail located in Council District 6.

This amendment will provide for additional engineering, design, bid, construction and close-out phase services necessary to complete the Upper Leon Creek RSWF - Culebra Creek project. The amendment will also provide for the increase in the scope of work for construction management services related to the Culebra Creek Hike and Bike Trail to include 4,000 linear feet of 10-foot, wide concrete trail, park trail head, associated appurtenances and all necessary permits required for construction.

- B. This ordinance approves the execution of a Purchase and Sale Agreement for Mitigation Credits between the City of San Antonio and Straus Medina Mitigation Bank in an amount not to exceed \$124,300.00 for the purchase of mitigation credits to comply with the Upper Leon Creek RSWF - Culebra Creek project's federal 404 permit.

On March 15, 2021, the US Army Corps of Engineers (USACE) reissued the Clean Water Act Section 404 Nationwide Permit 43 with a new mitigation threshold of 0.03 acres of permanent loss of jurisdictional waters. The advertised design plans for this project had 0.04 acres of permanent loss and since this amount is over the new threshold level, mitigation is required. Per the USACE, when mitigation is required and the project is within the service area of an operational mitigation bank, the bank's credits must be purchased. The Straus Medina Mitigation Bank was contacted for a cost estimate to purchase the mitigation credits in the total amount of \$124,300.00.

- C. This ordinance accepts the lowest responsive bid and awards a construction contract to E-Z Bel Construction, LLC in the amount of \$6,766,235.62 of which \$296,860.00 will be reimbursed by CPS Energy for the Upper Leon Creek RSWF - Culebra Creek project located in Council District 6.

The Upper Leon Creek RSWF - Culebra Creek project will improve water drainage conveyance and 100-year flood reduction benefits for several adjacent properties. Project improvements include an earthen trapezoidal channel 150-foot upstream of Culebra Road Bridge to 120-foot downstream Culebra Road Bridge and 150-foot upstream of Timber Path Bridge to 1,050-foot downstream of Timber Path Bridge, the armoring of bridge columns for Culebra Road and Timber Path Bridges and the installation of a concrete retaining wall with riprap to stabilize side slopes behind a commercial property. CPS gas line adjustments will also be included as part of the project.

Additionally, as part of the City's effort to improve the Upper Leon Creek Watershed, the Public Works

Department in collaboration with the Parks and Recreation Department, will be incorporating the Culebra Creek Hike and Bike Trail (Cathedral Rock Park to Grissom Road) project with the construction contract for the Upper Leon RSWF - Culebra Creek project. Since these project locations overlap, the City coordinated the flood control and trail designs for both projects by joint bid utilizing the same contractor.

The Culebra Creek Hike and Bike Trail (Cathedral Rock Park to Grissom Road) project is part of a growing network of interconnected hike and bike trails on the Howard W. Peak Greenway Trails system. This effort aims to acquire and preserve open space along San Antonio waterways and develop multi-use hike and bike trails, trailheads, signage and associated amenities for use by San Antonio residents and visitors.

Construction of these improvements is anticipated to begin in October 2021 and is estimated to be completed by June 2022.

### **ALTERNATIVES:**

- A. As an alternative, City Council could require the City to procure these services elsewhere. However, this will delay the timely completion of the project resulting in an extended project schedule.
- B. As an alternative, City Council could choose not to authorize the execution of the Purchase and Sale Agreement for Mitigation Credits with the Straus Medina Mitigation Bank. However, this would require re-design of the project to eliminate the loss of jurisdictional waters and could lead to further delays extending the timeline of project construction.
- C. As an alternative, City Council could require staff to re-advertise this project; however, the additional time required for another solicitation process would adversely affect the timely completion of the project.

### **FISCAL IMPACT:**

- A. This is a one-time capital improvement expenditure in the amount of \$214,113.00 payable to AECOM Technical Services, Inc. for construction and close-out services related to the Upper Leon Creek RSWF - Culebra Creek project including construction management services for the Culebra Creek Hike & Bike Trail. Funds are available from 2007 General Obligation Bond, Storm Water Regional Facilities and Proposition 2 Parks Development & Expansion Venue funds and included in the FY 2021 - FY 2026 Capital Improvement Program.
- B. This is a one-time capital improvement expenditure in an amount of \$124,300.00 payable to TCP III Straus Medina, LLC for the Purchase and Sale Agreement for Mitigation Credits with the Straus Medina Mitigation Bank. Funds are available from the 2007 General Obligation Bond and Storm Water Regional Facilities funds and included in the FY 2021 - FY 2026 Capital Improvement Program.
- C. This is a one-time capital improvement expenditure in an amount of \$6,766,235.62 payable to E-Z Bel Construction, LLC for the Upper Leon Creek RSWF - Culebra Creek project. Of this amount, \$296,860.00 will be reimbursed by CPS Energy. Funds are available from 2007 General Obligation Bond, Storm Water Regional Facilities and Proposition 2 Parks Development & Expansion Venue funds and included in the FY 2021 - FY 2026 Capital Improvement Program.

**RECOMMENDATION:**

- A. Staff recommends approval of the execution of an amendment to the Professional Services Agreement with AECOM Technical Services, Inc. in an increased amount not to exceed \$214,113.00 for construction and close-out services related to the Upper Leon Creek RSWF - Culebra Creek project including construction management services for the Culebra Creek Hike & Bike Trail.
- B. Staff recommends approval of the execution of the Purchase and Sale Agreement for Mitigation Credits with Straus Medina Mitigation Bank in an amount not to exceed \$124,300.00 for purchasing mitigation credits to comply with the Upper Leon Creek RSWF - Culebra Creek project's federal 404 permit.
- C. Staff recommends approval of this ordinance accepting the lowest responsive bid and awarding a construction contract to E-Z Bel Construction, LLC in an amount of \$6,766,235.62 of which \$296,860.00 will be reimbursed by CPS Energy for the Upper Leon Creek RSWF - Culebra Creek project.