



# City of San Antonio

## Agenda Memorandum

**File Number:**19-4267

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**Agenda Item Number:** 19.

**Agenda Date:** 6/13/2019

**In Control:** City Council A Session

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**DEPARTMENT:** Transportation & Capital Improvements

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

**COUNCIL DISTRICTS IMPACTED:** 1 & 2

### **SUBJECT:**

Programmatic Agreement between the United States Army Corps of Engineers (USACE) Fort Worth District, the Texas Historical Commission (THC) and the City of San Antonio (COSA) for addressing cultural resource activities associated with Clean Water Act Section 404 permitted activities within Brackenridge Park located in City Council Districts 1 and 2.

### **SUMMARY:**

An ordinance authorizing the execution of a Programmatic Agreement (PA) between the United States Army Corps of Engineers (USACE) Fort Worth District, the Texas Historical Commission (THC) for compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended) for addressing cultural resources activities for infrastructure maintenance repairs, improvement and stabilization projects in Brackenridge Park under Section 404 of the Clean Water Act.

### **BACKGROUND INFORMATION:**

#### Project Background

The Clean Water Act is the primary federal law in the United States governing water pollution. Any discharge of dredged or fill materials into “waters of the United States” (WOUS), including wetlands is illegal unless authorized by a permit issued by the USACE pursuant to Section 404. The potential impacts rendered to cultural resources by project activities are evaluated as part of the Clean Water Act Section 404 permitting process. Under the National Historic Preservation Act of 1966 (as amended), Section 106 directs the review of possible effects of proposed projects on listed and eligible historic resources. When project activities occur within a historic district, or to listed or eligible historic resources, the coordination with the USACE for a

Section 404 permit is mandated.

Brackenridge Park is listed as a State Antiquities Landmark (SAL) and is in the National Register of Historic Places (NRHP) as a Historic District. Within Brackenridge Park, the San Antonio River (a WOUS) is a centerpiece of user activities and contributes to the unique character of the Park. Any proposed project occurring at or below the water level of the San Antonio River will trigger review under Section 404 and Section 106 requirements.

## **ISSUE:**

This ordinance authorizes the execution of a Programmatic Agreement (PA) between the United States Army Corps of Engineers (USACE) Fort Worth District, the Texas Historical Commission (THC) for compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended) for addressing cultural resources activities for infrastructure maintenance repairs, improvement and stabilization projects in Brackenridge Park under Section 404 of the Clean Water Act.

The PA will standardize the federal permit review process, streamline the environmental process, and reduce the impact to the overall project budget and schedule by providing procedures that take into account the effects of Brackenridge Park maintenance, repairs and stabilization projects on historic properties. The execution of the agreement will enable regulatory agencies to streamline cultural resource studies and expedite the permitting process to allow future Brackenridge Park projects to be constructed in a timely manner.

The agreement will be used on any maintenance or improvement projects within the jurisdictional waters of the San Antonio River at Brackenridge Park. When such a project is initiated along the San Antonio River, COSA will notify the USACE of the proposed activities and how historic resources within the project area will be addressed during construction (e.g., a treatment plan) per the stipulations of the PA. The USACE will present this information to the THC for review. If all Section 106 compliance requirements have been completed through previous work, a summary of the work will be provided to the USACE and THC in lieu of a treatment plan.

A review of the potential historic resources which could be encountered during project construction must be conducted before any activities can begin to include both desktop and field investigations. The report will be submitted to the USACE for comment and distribution to the THC for their 30-day review.

Should new historic resources be discovered, the USACE will determine if it is eligible for listing on the NRHP. For any resource determined as contributing to the NRHP District and SAL or individually eligible for inclusion in the NRHP, the USACE will assess whether or not adverse effects will occur to the resource as a result of the Brackenridge Park maintenance or improvement project. Unusual or complex projects exceeding stipulations of the PA will require a separate Memorandum of Agreement.

## **ALTERNATIVES:**

City Council could choose not to approve the PA; however, without the PA in place, routine maintenance and improvement projects within Brackenridge Park that touch the OHWM of the San Antonio River would require separate coordination with the USACE, THC, and stakeholders for each related improvement or maintenance activity. This will result in additional time and costs and could possibly compromise the delivery schedule of projects pending consent of stakeholders and issuance of the Clean Water Act Section 404 permits.

**FISCAL IMPACT:**

No funds are appropriated by this action. Expenditures to satisfy the requirements set forth in the PA are authorized by individual project capital budgets at the time work is requested or with project funds appropriated through ordinance.

**RECOMMENDATION:**

Staff recommends authorizing the execution of a PA between COSA, USACE Fort Worth District, and the THC for compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended) for addressing cultural resources for infrastructure maintenance repairs and improvements and stabilization projects in Brackenridge Park under Section 404 of the Clean Water Act.