

AN ORDINANCE 2008-01-17-0027

APPROVING AN AGREEMENT WITH THE MAIN PLAZA CONSERVANCY, A 501 (C)(3) NON-PROFIT CORPORATION, TO MANAGE MAIN PLAZA PROVIDING SPECIAL EVENTS PROGRAMMING, CONCESSIONS AND DAILY GROUNDS MAINTENANCE FOR A FIVE-YEAR TERM ENDING MARCH 30TH, 2013.

* * * * *

WHEREAS, Main Plaza is a historic public plaza and park dedicated with the founding of the City of San Antonio; and

WHEREAS, the City, in partnership with Bexar County, is currently undergoing redevelopment of Main Plaza through capital improvements which include improved drainage, pedestrian accessibility, Americans with Disability Act (ADA) accessibility and reinforcement of the historical nature of the Plaza; and

WHEREAS, the City desires to enhance the operations and maintenance of Main Plaza by entering into an agreement with a newly created 501(c)(3) non-profit corporation which will be responsible for daily grounds maintenance, the provision of concessions and the programming of special events; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, or the Director of the Downtown Operations or her designee is authorized to execute an agreement with the Main Plaza Conservancy, a 501(c)(3) non-profit corporation, to manage Main Plaza providing special events programming, concessions and daily grounds maintenance for a five-year term ending March 30th, 2013. A copy of the agreement is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. Funding for this ordinance is available in Fund 11001000 General Fund, Cost Center 1902010001 River Operations, General Ledger 5201040 Fees to Professional Contractors, as part of the FY08 Budget.

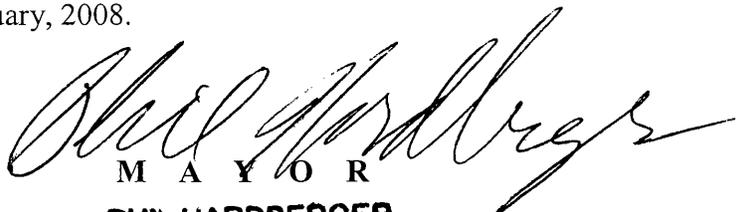
SECTION 3. Payment not to exceed \$583,189.00 is authorized to the Main Plaza Conservancy and should be encumbered with a purchase order.

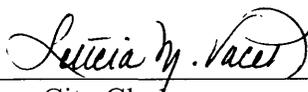
SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SW/mgc
01/17/08
Item #12

SECTION 5. This ordinance shall be effective on and after January 27, 2008.

PASSED AND APPROVED this 17th day of January, 2008.


M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

Agenda Item:	12						
Date:	01/17/2008						
Time:	12:00:02 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving an agreement with the Main Plaza Conservancy, a 501 (c)(3) non-profit corporation, to manage Main Plaza providing special events programming, concessions and daily grounds maintenance for a five-year term ending March 30th, 2013. [Penny Post oak Ferguson, Assistant City Manager; Paula X. Stallcup, Director, Downtown Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2		x				
District 3	District 3		x				
Philip A. Cortez	District 4		x			x	
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
District 9	District 9		x				
John G. Clamp	District 10		x				



CMS or Ordinance Number: CN4600006914

TSLGRS File Code:1000-25

Document Title:
CONT - 4600006914

Commencement Date:

1/31/2008

Expiration Date:

3/31/2013

MAIN PLAZA MANAGEMENT AGREEMENT

This Management Agreement (“Agreement”) is made and entered into by and between the **CITY OF SAN ANTONIO**, a Texas Municipal Corporation (herein referred to as "CITY"), acting herein through its City Manager, or her designated representative, and **MAIN PLAZA CONSERVANCY**, a Texas Non-Profit Corporation (herein referred to as “CONSERVANCY”).

1. WITNESSETH

- 1.1 WHEREAS, City owns that portion of Main Plaza that has not been deeded over to Bexar County; and
- 1.2 WHEREAS, Main Plaza is an historic public plaza and park dedicated with the founding of the City of San Antonio; and
- 1.3 WHEREAS, under this Agreement the City desires that CONSERVANCY manage Main Plaza and the public park currently known as the Portal San Fernando; and
- 1.4 WHEREAS, the City owned portion of Main Plaza and the Portal San Fernando shall herein be referred to as the “Licensed Premises” and are indicated on the attached Exhibit A; and
- 1.5 WHEREAS, CITY has entered into an Interlocal Agreement for the Redevelopment of Main Plaza with Bexar County, attached hereto as Exhibit B (“Bexar County Agreement”) regarding the operation of Main Plaza in order to coordinate the operation of the City owned portion of Main Plaza with that portion of Main Plaza which has been deeded to Bexar County (“Courthouse Tract”); CONSERVANCY understands and agrees that CITY and Bexar County intend to amend the Bexar County Agreement to take account of the changed conditions that have resulted from the creation of the Conservancy; and
- 1.6 WHEREAS, CONSERVANCY acknowledges and agrees that this Agreement is subject to the terms and conditions of the Bexar County Agreement, as amended from time to time; and
- 1.7 WHEREAS, City wishes to provide a quality and enjoyable experience at Main Plaza to residents and visitors; and
- 1.8 WHEREAS, the Main Plaza Advisory Board contracted with a consultant to assist with the Main Plaza Redevelopment Project and the consultant recommended that the City contract with a non-profit entity for the operation and management of Main Plaza; and
- 1.9 WHEREAS, CITY and CONSERVANCY desire to enter into an Agreement for the operation and management of Main Plaza, NOW THEREFORE CITY and CONSERVANCY agree as follows:

2. MAIN PLAZA CONSERVANCY MANAGEMENT STRUCTURE

- 2.1 CONSERVANCY has submitted an application to be treated as a section 501(c)3 organization under the Internal Revenue Code of 1986 and will notify the City upon approval. The CONSERVANCY hereby agrees that it shall not modify this status without the prior written authorization of CITY, through its City Manager or designee.
- 2.2 Articles of Incorporation of CONSERVANCY have been filed with the Texas Secretary of State and are attached as Exhibit B. CONSERVANCY hereby agrees that such Articles of Incorporation may not be modified without the prior written authorization of CITY, through its City Manager or designee.
- 2.3 CONSERVANCY's Board of Directors shall consist of no more than eleven (11) members and no less than three (3) members and one (1) City of San Antonio liaison and one (1) Bexar County liaison. The two Liaison members shall have full rights of access to all meetings and all records of the CONSERVANCY.

3. TERM

- 3.1 This agreement shall be effective immediately upon execution of the parties, provided however the Term of CONSERVANCY'S management and operation of the Premises shall commence on April 1, 2008, and terminate five (5) years thereafter, unless extended or terminated as herein provided ("Term").
- 3.2 Subject to the consent of the parties and approval by the City of San Antonio City Council through the passage of an ordinance, this Agreement may be extended for two additional five (5) year terms, to begin immediately following the initial five (5) year term.

4. ALLOWABLE USES AND SERVICES TO BE PROVIDED

- 4.1 Throughout the term of this Agreement, CONSERVANCY, or its contractors shall provide the services listed below under Section 4.1(A) at a standard and quality that is commensurate with the historic and cultural significance of Main Plaza and other similar historic public squares throughout the United States. Notwithstanding the preceding, CONSERVANCY acknowledges and agrees that Main Plaza is a public park, subject to state and federal law requirements regarding the operation of a municipal public park. CONSERVANCY covenants and agrees that it shall at all times comply with such public park law.

A. General/Operational Responsibilities:

CONSERVANCY shall:

- a. Hire and employ qualified and customer-service oriented staff or management entity.
- b. Develop and implement policies and procedures that ensure quality and consistent operational standards.

- c. Provide high quality amenities and high quality concessions that enhance the experience and enjoyment of Main Plaza.
- d. Select and contract with only high quality concession providers that are consistent with and will not detract from the historic character of Main Plaza.
- e. Promote, schedule, and manage events and activities in Main Plaza.
- f. Fundraise for donation and sponsorships for Main Plaza.
- g. In order to create a sense of comfort to Main Plaza, the CONSERVANCY will provide an ambassador style patrol staff to assist in the enforcement of rules, regulations and permitting of Main Plaza, not to include the provision of public safety. Notwithstanding the preceding, CONSERVANCY shall provide and pay for adequate security personnel for any public or private events held in Main Plaza according to security guidelines approved by CITY. CONSERVANCY shall not be required to provide and pay for adequate security personnel for any public or private events which are designated below as “City Days” or “County Days
- h. Provide daily grounds maintenance to the Premises to include picking up and removal of trash, cleaning and other daily maintenance of the fountains, daily cleaning and maintenance of the bathrooms, landscape maintenance, including the placement of annual bedding plants as needed, pruning and general care for shrubbery and trees and all potted plants. This grounds maintenance shall not include capital improvements, renovations or repairs.
- i. Have the right to use the alleyway located between the San Fernando Cathedral and the City of San Antonio’s Municipal Plaza building, known as Elizondo Plaza or Trevino Alley (“Elizondo Plaza”), but only with prior written approval of City.

CITY shall:

- a) Have the right to make use of the Premises a minimum of twelve times per calendar year (“City Days”) by scheduling such usage with CONSERVANCY. City shall not be required to pay any rental fees associated with such usage but shall be required to provide its own set up, break down and clean up for such usage. City shall not have the right to preempt previously scheduled events.

COUNTY shall:

- a) Have the right to make use of the Premises a minimum of three times per calendar year (“County Days”) by scheduling such usage with CONSERVANCY. County shall not be required to pay any rental fees associated with such usage but shall be required to provide its own set up, break down and clean up for such usage. County shall not have the right to preempt previously scheduled events.

- B. Prohibited Uses: In keeping with the open public character of this historic plaza, CONSERVANCY shall not:
- a) Charge for admittance to any events held in Main Plaza without the prior written approval of the City Manager or her designee.
 - b) License the majority of the Premises for a private event without the prior written approval of the City Manager or her designee. For purposes of this section, a private event shall be an event to which the general members of the public are excluded.
 - c) Allow any amplified music prior to 5:00 p.m. on weekdays without the prior written approval of the City Manager or her designee.
 - d) Allow any vending or concessions in any area other than designated vending areas identified on a Concession Plan developed by CONSERVANCY and approved by the City Manager or her designee.
 - e) Any permanent improvements or changes to the Premises without the prior written approval of the City Manager or her designee.

4.2 Fiscal Responsibilities:

- A. Develop and implement an annual budget.
- B. Collect all established fees and other revenue from the vending and concession programs as well as from the production of special events and use such funds for its activities under this Agreement.
- C. Pay all expenses associated with the operation and maintenance of Main Plaza, including, but not limited to, salaries and other personnel costs, maintenance, equipment, utilities, and all other operational costs.
- D. Establish and maintain complete and accurate financial records of all revenue and expenses, in accordance with generally accepted accounting principles.
- E. Establish and enforce inventory, cash handling, and other fiscal and material controls that ensure appropriate and safe handling of revenues, expenditures, and assets.
- F. Establish a segregated and dedicated banking account for Main Plaza.
- G. Operate Main Plaza in a fiscally responsible manner through effective and efficient management, growth of existing and new revenue opportunities, and appropriate expenditure levels.

5. BUDGET, FEES, AND REPORTING TO CITY

- 5.1 Upon approval of the Annual Budget for the City of San Antonio and written request by the CONSERVANCY Board of Directors, the CONSERVANCY will receive an annual allocation from City over five years. The allocation will consist of 2 components:

Operations/Maintenance, and Management (to include marketing and event programming).

- A. The Operations/Maintenance Allocation will be appropriated annually in the City budget. The first year's Operations/Maintenance Allocation shall be \$285,288.00 of which City shall make an initial payment of half of the annual allocation upon the execution of the agreement and 6 equal monthly payments by the 10th day of months 7 through 12. For years 2 through 5 of the Term, City shall make 12 equal payments by the 10th day of the month consisting of 1/12th of the Operations/Maintenance Allocations for those years. CONSERVANCY shall have authority to expend the above authorized City funds for any maintenance provided to the premises, including landscaping, cleaning, minor repairs, salaries of maintenance personnel. In the event CONSERVANCY shall, through efficiently providing and fulfilling all of its maintenance responsibilities hereunder, have leftover city funds not required for the provision of maintenance, CONSERVANCY shall be allowed to expend such funds on tangible items that will enhance its operations hereunder, including but not limited to risers, amplification systems, lighting or other similar items, provided that CONSERVANCY shall not make any such expenditures on tangible items until it receives prior written approval from the City Manager or her designee.
- B. The Management Allocation will be for a four year period of declining payments appropriated annually in the City Budget, with the contemplated allocations being \$298,901.00 for the first year, \$238,540.00 for the second year, \$159,027.00 for the third year, \$79,513.00 for the fourth year. City shall pay 50% of the Management Allocation by the 10th day of January of each year and the remaining 50% by the 10th day of July of each year for which a Management Allocation has been appropriated. It is the intent of the parties that the CONSERVANCY will not need an allocation for the year 2012 or any future years.
- C. Notwithstanding any other provisions of this Agreement, in the event that the City Council of the City of San Antonio shall fail to appropriate sums to pay any of CITY'S obligations under the terms of this Agreement and as a result CITY does in fact fail to meet its obligations under this Agreement, CONSERVANCY'S sole remedy shall be to terminate the Agreement and CITY shall have no further obligations hereunder.

5.2 By March 1, 2008, CONSERVANCY shall provide to CITY the following:

- A. Marketing Plan to detail CONSERVANCY's proposed plan to increase activity and pedestrian traffic in Main Plaza.
- B. Maintenance Plan that outlines the planned maintenance activity and standards for Main Plaza.
- C. Event Guidelines outlining the fee schedule, types of events, and management responsibilities for events and other activities to be held at Main Plaza.

5.3 On or before March 1 of each year, CONSERVANCY shall provide a report to CITY which shall include the following:

- A. Proposed operating budget for Main Plaza, including estimated revenue and expenses by categories for the upcoming Budget Year (October 1 through September 30.)
 - B. Proposed fee structure for the upcoming Budget Year.
 - C. Any proposed changes to the Marketing Plan, Maintenance Plan, Concession Plan, or Event Guidelines.
- 5.4 On or before the last day of the month succeeding each calendar quarter of the budget year (January 31th, April 30th, July 31th, October 31th) of each year, CONSERVANCY shall provide a Quarterly Gross Receipts and Special Events Report to CITY which shall include the following in form and content satisfactory to the City Manager or her designee:
- A. Total Gross Revenue from all sources including in-kind contributions and funds raised through donations.
 - B. A report on all Special Events produced by CONSERVANCY including associated revenues, expenses and attendance figures.
- 5.5 On or before February 1 of each year, CONSERVANCY shall provide to City an Annual Financial Report for the previous year ending September 30, reviewed by an Independent Certified Public Accountant in accordance with Generally Accepted Accounting Principles. In addition, CONSERVANCY shall provide an annual composite report of the Quarterly Gross Revenue Reports for the period, with adjustments made to account for any differences between the Gross Receipts reported in the Annual Financial Report from that reported in the Quarterly Gross Receipts Reports.
- 5.6 On or before March 1, 2008, CONSERVANCY shall produce and deliver to City a pro forma business plan for the term of the Agreement.

6. EMPLOYMENT, CONCESSION OPERATION, EVENT OPERATION, AND USE AGREEMENT

- 6.1 Except as herein provided, CONSERVANCY shall have the right to directly operate any or all concession operations. In addition, except as herein provided, CONSERVANCY shall have the right to enter into a contract with an individual or entity to operate any or all of the Concessions and operate and manage events at Main Plaza. In the event that CONSERVANCY contracts for these services, the terms and conditions of the contract(s) must be negotiated on terms favorable to the CONSERVANCY and shall be subject to the approval of CITY through its City Manager or designee. CONSERVANCY shall utilize CITY'S processes for selection of all contractors and vendors, including, as applicable, chapter 252 of the local government code or its express exceptions, the City's RFP or RFQ selection process for professionals including the requirements of the City's Small Business Economic Development Advocacy ordinance (SBEDA).

7. MAINTENANCE AND UTILITIES

- 7.1 CONSERVANCY, at its sole cost and expense, shall be responsible for maintaining Main Plaza and all existing facilities and improvements and any facilities and improvements added during the term of this Agreement: a) in accordance with the Minimum Maintenance Standards to be provided to CITY as outlined in Section 5.2 of this Agreement b) in good, safe, and clean operating condition, and c) reasonable wear and tear, acts of God, or an unavoidable accident and insured casualty loss, only excepted. If CONSERVANCY is in default of its maintenance obligations, then the CITY may, but is not obligated to, make or cause such repairs or maintenance to be made and shall not be responsible to CONSERVANCY for any loss or damage that may accrue to the CONSERVANCY's "business" revenue or operations by reason thereof. If City makes or causes such repairs or maintenance to be made, CONSERVANCY agrees that it will on demand, pay to CITY the reasonable and necessary cost thereof, and if CONSERVANCY shall default in such payment, CITY shall have the remedies provided elsewhere herein for default of indebtedness, costs, or charges due by the CONSERVANCY to CITY.
- 7.2 CONSERVANCY, at its sole cost and expense, shall provide and pay for all utilities serving Main Plaza. CONSERVANCY shall provide for and pay directly to the utility companies, all utility company connection charges, including, but not limited to, the cost of installing separate electric and water meters, telephone lines and connections and all charges incurred for heat, gas, electricity, water, sewer, garbage collection, telephone or any other utility services, used for Main Plaza. CONSERVANCY shall also furnish and install and maintain in good working order all electric light bulbs, tubes and ballasts. CITY shall not be liable to CONSERVANCY in damages or otherwise if said services are interrupted or terminated because of necessary repairs, installations, improvements or any cause beyond the control of CITY.
- 7.3 To the extent possible with existing irrigation systems or with systems installed during the term of this Agreement, CONSERVANCY agrees to provide adequate irrigation to maintain Main Plaza in good condition. Provided, however, during any time that the Edwards Aquifer Authority or San Antonio Water System (SAWS) has deemed that water restrictions, based on the Aquifer Management Plan, are required, CONSERVANCY agrees to follow and comply with the posted water restrictions, as may be modified from time to time.

8. FINANCIAL RECORDS AND REPORTING

- 8.1 Throughout the term of this Agreement and any extensions hereof, CONSERVANCY and its contractors shall maintain complete and accurate permanent financial records of all income, expenditures, assets and liabilities. Such records shall be maintained on a comprehensive basis, in accordance with generally accepted accounting principles. Such financial records and supporting documentation shall be preserved in Bexar County, Texas, for at least five (5) years and shall be open to CITY inspection, review, and audit following reasonable notification of intent to inspect.

- 8.2 CITY reserves the right to conduct, or cause to be conducted, a review and/or audit of CONSERVANCY's records, and the records of any of CONSERVANCY's contractors, at any and all times deemed necessary by CITY provided, however, an audit will be conducted no more often than once every two years. CITY staff, a Certified Public Accountant (CPA), or other auditors as designated by CITY, may perform such audits and/or reviews. CITY shall provide thirty (30) days written notice of its intent to perform such audits and/or reviews. CITY reserves the right to determine the scope of every audit and/or review. In accordance herewith, CONSERVANCY agrees to make available to CITY all accounting records. If an audit determines that CONSERVANCY has underpaid CITY, or that any of CONSERVANCY's contractors have underpaid CONSERVANCY, all underpaid amounts shall be due and payable within thirty (30) days of the date of notice of such underpayment.
- 8.3 CONSERVANCY and its contractors shall utilize and maintain in good working order "point of sale" (POS) software accounting system, or a comparable system approved by CITY to handle all transactions authorized under this Agreement. Any costs incurred by CITY to repair or support the operation of this POS system will be reimbursed, upon request, by CONSERVANCY. In the event that CONSERVANCY contracts with others, CONSERVANCY will require that each contractor utilize the existing or an alternate POS system that accurately tracks all transactions and information regarding all transactions is available to CONSERVANCY and CITY from such POS system.
- 8.4 CONSERVANCY and its contractors shall not obligate CITY for any debt related to Main Plaza without the prior written consent of CITY.

9. ASSIGNMENT AND SUBLETTING

- 9.1 CONSERVANCY shall not assign this Agreement, or allow same to be assigned by operation of law or otherwise, or sublet/subcontract Main Plaza or any part thereof without the prior written consent of CITY which may be given only by or pursuant to an ordinance enacted by the City Council of San Antonio, Texas. Any assignment or subletting by CONSERVANCY without such permission shall constitute grounds for termination of this Agreement by the CITY, provided, however, that this Section shall have no effect on CONSERVANCY's right to hire or contract for concession services, as outlined above.

10. LIENS PROHIBITED

- 10.1 CONSERVANCY shall not suffer or permit any mechanics liens or other liens to be filed against the fee title of Main Plaza or any buildings or improvements on Main Plaza by reason of any work, labor, services, or materials supplied or claimed to have been supplied to CONSERVANCY or to anyone holding Main Plaza or any part thereof through or under CONSERVANCY.
- 10.2 If any mechanics' liens or materialmen's liens shall be recorded against Main Plaza, or any improvements thereon, CONSERVANCY shall cause the same to be removed within thirty (30) days after such liens are recorded, or, in the alternative, if CONSERVANCY

in good faith desires to contest the same, CONSERVANCY shall be privileged to do so, but in such case, CONSERVANCY hereby agrees to indemnify and save the CITY harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and removed prior to the execution of such judgment, such damages to include all costs of court and attorneys' fees.

11. INDEMNIFICATION

- 11.1 CONSERVANCY covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONSERVANCY's activities under this AGREEMENT, including any acts or omissions of CONSERVANCY, any agent, officer, director, representative, employee, consultant or subcontractor of CONSERVANCY, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law.
- 11.2 IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSERVANCY shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSERVANCY known to CONSERVANCY related to or arising out of CONSERVANCY's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONSERVANCY's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSERVANCY of any of its obligations under this paragraph.
- 11.3 It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by CONSERVANCY to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury,

death, or damage. CONSERVANCY further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

12. INSURANCE REQUIREMENTS

- 12.1 Prior to the commencement of any work under this Agreement, CONSERVANCY shall furnish an original completed Certificate(s) of Insurance, including endorsements, to the City of San Antonio and shall be clearly labeled "Main Plaza Agreement", which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s), and endorsements, or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The CITY shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to CITY, and no officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.
- 12.2 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance shall CITY allow modification whereupon CITY may incur increased risk.
- 12.3 CONSERVANCY's financial integrity is of interest to the CITY; therefore, subject to CONSERVANCY's right to maintain reasonable deductibles in such amounts as are approved by the CITY, CONSERVANCY shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at CONSERVANCY's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the CITY, in the following types and amounts:

TYPE	AMOUNTS
1. Workers' Compensation ** Employers' Liability **	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Commercial General (public) Liability Insurance to include coverage for the following: a. Main Plaza operations b. Independent contractors c. Products/completed operations	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

d. Personal Injury e. Contractual Liability f. Broad form property damage to include fire legal liability g. Liquor Liability	
3. Crime coverage	\$200,000 per occurrence
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>C</u> ombined <u>S</u> ingle <u>L</u> imit for <u>B</u> odily <u>I</u> njury and <u>P</u> roperty <u>D</u> amage of \$1,000,000 per occurrence
** Alternate Plans Must Be Approved by Risk Management	

- 12.4 The CITY shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the CITY, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). CONSERVANCY shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided in Section 10.6 herein within 10 days of the requested change. CONSERVANCY shall pay any costs incurred resulting from said changes.
- 12.5 CONSERVANCY agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance shall contain the following required provisions:
- Name the CITY and its officers, employees, volunteers, and elected representatives as additional insureds, by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under AGREEMENT with the CITY, with the exception of the workers' compensation and professional liability policies;
 - Provide for an endorsement that the insurance is primary and non-contributory;
 - Workers' compensation and employers' liability policies shall provide a waiver of subrogation in favor of the CITY.
- 12.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by CITY, CONSERVANCY shall notify the CITY of such and shall give such notices not less than thirty (30) days prior to the change, if CONSERVANCY knows of said change in advance, or ten (10) days notice after the change, if the CONSERVANCY did not know of the change in advance. Such notice

must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the CITY at the following address:

**City of San Antonio
City Manager's Office
P.O. Box 839966
San Antonio, Texas 78283-3966**

- 12.7 If CONSERVANCY fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the CITY may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; however, procuring of said insurance by the CITY is an alternative to other remedies the CITY may have, and is not the exclusive remedy for failure of CONSERVANCY to maintain said insurance or secure such endorsement. In addition to any other remedies the CITY may have upon CONSERVANCY's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order CONSERVANCY to stop work hereunder, and/or withhold any payment(s) which become due to CONSERVANCY hereunder until CONSERVANCY demonstrates compliance with the requirements hereof.
- 12.8 Nothing herein contained shall be construed as limiting in any way the extent to which CONSERVANCY may be held responsible for payments of damages to persons or property resulting from CONSERVANCY's or its subcontractors' performance of the work covered under this Agreement.
- 12.9 It is agreed that CONSERVANCY's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

13. FIRE OR OTHER CASUALTY

- 13.1 **Partial Destruction:** In the event that any part of the improvements on Main Plaza should be damaged by fire or other casualty and such casualty does not render Main Plaza inoperable or reconstruction and/or repair of the damaged improvements is economically practical, as determined by CONSERVANCY in its reasonable judgment, then, in such event or events, the damaged or destroyed improvements shall be rebuilt and/or repaired to the extent of the insurance proceeds received by CONSERVANCY and insurance proceeds provided by for such rebuilding and/or repairing. Any rebuilding or reconstruction work shall be performed in a good and workmanlike manner by CONSERVANCY personnel or by one or more independent contractors selected by CONSERVANCY, provided; however, that the extent of such reconstruction or repair shall be limited to restoring the damaged improvements to substantially their condition immediately prior to the casualty unless approval for a design difference from the

original design has been obtained from CITY. The approvals required pursuant to Section 11 above shall be required for these renovations.

14. CONDEMNATION

- 14.1 It is agreed and understood that in the event Main Plaza are taken, in whole or in part, by any governmental authority other than CITY, this Agreement and all rights or permissions to use hereunder shall, at the option of the CITY, cease on the date that title to such land so taken or transferred vests in the condemning authority. CONSERVANCY hereby waives all rights to any proceeds of such condemnation of the real property owned by the CITY, but specifically reserves its rights with respect to loss of business and personal property to seek proceeds from condemnation proceeding of the property and any other proceeds that may become available to the CONSERVANCY under such proceedings.

15. DEFAULT AND REMEDIES

- 15.1 The following events shall be deemed to be events of default by CONSERVANCY under this Agreement:
- A. CONSERVANCY, or its assigns, sublessees, or successors in interest, shall cease to be a non-profit corporation;
 - B. CONSERVANCY shall fail to pay to the CITY any money due and owing as provided for in this Agreement and such failure shall continue for a period of ten (10) days.
 - C. CONSERVANCY shall fail to comply with any term, provision or covenant of this Agreement, other than the payment of money, and shall not cure such failure within thirty (30) days after written notice thereof to CONSERVANCY, unless CONSERVANCY has undertaken to affect such cure within such thirty (30) day period and is diligently prosecuting the same to completion.
 - D. CONSERVANCY initiates any construction or improvement(s) without prior written approval of CITY; and
- 15.2 Upon the occurrence of an event of default as heretofore provided and after compliance with the procedures set forth herein, the CITY may declare this Agreement and all rights and interests created by it to be terminated, may seek any and all damages occasioned by the CONSERVANCY's default hereunder, or may seek any other remedies available at law or in equity.
- 15.3 Upon the CITY's election to terminate this Agreement, the CITY, its agent or attorney, may take possession of Main Plaza and CONSERVANCY shall make good any deficiency. Any termination of this Agreement as herein provided shall not relieve the CONSERVANCY from the payment of any sum or sums that shall then be due and payable to the CITY hereunder, or any claim for damages then or theretofore accruing against the CONSERVANCY hereunder, and any such termination shall not prevent the CITY from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from the CONSERVANCY or

any default hereunder. All rights, options and remedies of the CITY contained in this Agreement shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and the CITY shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or at equity, whether or not stated in this Agreement. No waiver by the CITY of a breach of any of the covenants, conditions, or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction herein contained.

- 15.4 CONSERVANCY shall have the right, within thirty (30) days after the termination of this Agreement, whether such termination be by the expiration of the term or an earlier termination under any provision of this Agreement, to remove from Main Plaza all of its furniture, fixtures, equipment and furnishings and other property which are not the property of the CITY and have not become the property of the CITY as herein provided or by attachment to Main Plaza, and with respect to any damage caused thereby, it shall have the obligation to restore Main Plaza to its condition prior to such removal, and provided that, if any of CONSERVANCY's property remains in or on Main Plaza after ninety (90) days following termination of this Agreement and no renewal agreement has been executed, such property as remains thereon shall be deemed to have become the property of the CITY and may be disposed of as the CITY sees fit, without liability to account to CONSERVANCY for the proceeds of any sale thereof.
- 15.5 Either party shall have authority to terminate this agreement by providing six (6) months written notice to the other party.

16. MISCELLANEOUS PROVISIONS

- 16.1 CONSERVANCY shall observe and comply with all Federal, State and local laws, regulations, ordinances, and codes pertaining to its activities under this Agreement. In the event that following the date of this Agreement the CITY should modify its laws and/or ordinances, and (i) the operations of the CONSERVANCY otherwise carried out in conformance with the terms of this Agreement are found to be in violation of the terms of this Agreement due to the change in the CITY laws and/or ordinances, (ii) the CITY elects to enforce the terms of this Agreement to remedy such default, and (iii) the remedy exercised by CITY will impair the ability of the CONSERVANCY to continue to operate in the manner it has in the past under this Agreement, CONSERVANCY may elect to terminate this Agreement by providing written notice to CITY of the time (not to exceed twenty-four (24) months) it will take to vacate Main Plaza.
- 16.2 CONSERVANCY covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group based on race, color, sex, age, religion, disability, political affiliation, belief, or national origin, directly or indirectly, in employment practices or in admission to Main Plaza, which said discrimination CONSERVANCY acknowledges is strictly prohibited.

17. SEPARABILITY

- 17.1 If any clause or provision of this Agreement is illegal, invalid or unenforceable under provision of this Agreement that is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

18. NOTICES

- 18.1 Notices to **CITY** required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered or mailed, Registered or Certified mail, Postage Prepaid, addressed to:

City of San Antonio
City Manager's Office
P.O. Box 839966
San Antonio, Texas 78283-3966

City of San Antonio
City Clerk's Office
City Hall-Second Floor
P.O. Box 839966
San Antonio, Texas 78283-3966

or to such other address as may have been designated in writing by CITY from time to time.

Notices to **CONSERVANCY** shall be deemed sufficient if in writing and hand delivered or mailed, Registered or Certified mail, Postage Prepaid, addressed to **CONSERVANCY** at:

Main Plaza Conservancy
Attn: Bill Scanlan
112 E. Pecan, Suite 3000
San Antonio, Texas 78205

Or at such other address on file with the City Clerk as **CONSERVANCY** may provide from time to time in writing to CITY.

19. ENTIRE AGREEMENT/AMENDMENT

- 19.1 This Agreement, together with its attachments and the authorizing ordinance or ordinances, in writing, constitutes the entire agreement between the parties, any other written or parole agreement with CITY being expressly waived by **CONSERVANCY**.

- 19.2 No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.
- 19.3 It is understood that the Charter of the CITY requires that all contracts with the CITY be in writing and adopted by ordinance. All amendments also need approval evidenced by an ordinance.

20. TEXAS LAW TO APPLY

- 20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

21. GENDER

- 21.1 Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

22. PARTIES BOUND

- 22.1 If there shall be more than one party designated as CONSERVANCY in this Agreement, they shall each be bound jointly and severally hereunder.
- 22.2 The covenants and agreements herein contained shall insure to the benefit of and be binding upon the parties hereto; their respective heirs, legal representatives, successors, and such assigns as have been approved by CITY.

23. CAPTIONS

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

24. CONFLICT OF INTEREST

- 24.1 CONSERVANCY acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are defined therein, from having a financial interest in any contract with the CITY or any CITY agency such as CITY-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the CITY or in the sale to the CITY of land, material, supplies, or services, if any of the following individual(s) or entities is a party to the contract or sale: a CITY officer or employee, or his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or

more of the fair market values of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.

- 24.2 CONSERVANCY warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY or any of its agencies such as CITY owned utilities.

25. AUTHORITY

- 25.1 The signer of this Agreement for CONSERVANCY hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of CONSERVANCY.
- 25.2 The City Manager, or designee, shall be CITY'S principle agent for monitoring the CONSERVANCY's compliance with this Agreement and shall be CITY'S representative responsible for CITY'S administration of this Agreement.

Unless written notification by CONSERVANCY to the contrary is received and approved by CITY, the Executive Director shall be CONSERVANCY's designated representative responsible for the management of all contractual matters pertaining to this Agreement.

26. RESERVATIONS: CITY

- 26.1 CONSERVANCY shall permit CITY'S agents, representatives, or employees to enter upon Main Plaza at all reasonable times for the purpose of audit or inspection, in order to determine whether the CONSERVANCY is in compliance with the terms hereof.
- 26.2 CITY park police and other safety personnel shall have the right of entry on and into Main Plaza as needed to investigate any circumstances, conditions, or person(s) that may appear to be suspicious. CONSERVANCY shall cooperate with all reasonable requests by such personnel to facilitate public safety and orderly conduct by persons. CONSERVANCY expressly understands and agrees that CITY has not agreed to act and does not act as an insurer of CONSERVANCY's property and does not guarantee security against theft, vandalism, or injury of whatever nature and kind to persons or property.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original this the 25th day of Jan., 2008.

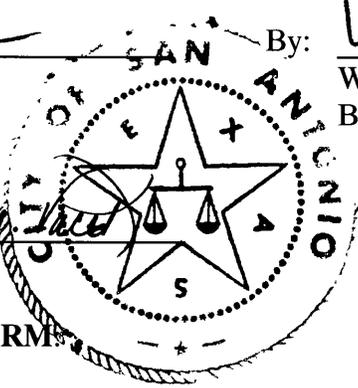
CITY OF SAN ANTONIO

MAIN PLAZA CONSERVANCY

By: [Signature]
PKS Sheryl Sculley
City Manager

By: [Signature]
William Scanlan, Jr.
Board President

ATTEST: [Signature]
CITY CLERK



APPROVED AS TO FORM

[Signature]
CITY ATTORNEY

EXHIBIT B

ORIGINAL *file*

STATE OF TEXAS

COUNTY OF BEXAR

§ INTERLOCAL AGREEMENT FOR THE
§ REDEVELOPMENT OF MAIN PLAZA
§

THIS INTERLOCAL AGREEMENT FOR THE REDEVELOPMENT OF MAIN PLAZA ("Agreement") is effective as of the 20th day of FEBRUARY, 2007 ("Effective Date"), by and between the **CITY OF SAN ANTONIO, TEXAS**, a Texas Home Rule Municipality ("CITY"), and **COUNTY OF BEXAR**, a political subdivision of the State of Texas ("COUNTY"). CITY and COUNTY shall collectively be referred to herein as "the Parties."

WITNESSETH

WHEREAS, CITY is in the process of redeveloping Main Plaza and the Plaza de las Islas, the historical center of downtown San Antonio, in order to restore the historical nature of the Plaza and to create a pedestrian plaza; and

WHEREAS, the Main Plaza Redevelopment Project ("Project") will include both architectural and infrastructure improvements to include drainage upgrades to help alleviate flooding and standing water that accumulates in the area during rain events; and

WHEREAS, COUNTY desires to participate with CITY in the redevelopment of Main Plaza, through: (1) renovating the tract of land lying adjacent to the north end of the Bexar County Courthouse ("Courthouse Tract"); (2) working with the CITY to remedy the drainage problems that have caused flooding within the Bexar County Courthouse for many years; (3) waterproofing portions of the Bexar County Courthouse foundation; and (4) maintaining the monuments in the Courthouse Tract and Bexar County Purple Heart Monument at the Cadena-Reeves Justice Center; and

WHEREAS, the Project includes the conveyance by CITY to COUNTY of the Courthouse Tract so that COUNTY will be responsible for operation and maintenance of this portion of Main Plaza following completion of the Project, as defined in this Agreement; and,

WHEREAS, COUNTY supports CITY's Project and desires to enter into this Agreement with CITY in order to establish the rights and obligations of the Parties with regard to the redevelopment design, construction, operations and maintenance of the Project and to establish the procedures for funding the construction.

NOW, THEREFORE, in consideration of the mutual covenants and agreement stated herein, the Parties agree as follows:

ARTICLE I
PURPOSE

1.01 The purpose of this Agreement is to establish the terms and conditions for: (1) managing the design and construction associated with the Project including construction disruption; (2) funding the construction; and (3) operating and maintaining Main Plaza upon completion of the Project construction.

ARTICLE II
TERM

- 2.01 Except as otherwise provided herein, this Agreement shall commence upon the execution date of the last signatory party to the Agreement. The Agreement performance period consists of sixty (60) months for completion of construction of the Project which is divided into two phases ("Construction Phase I and Construction Phase 2"). Following completion of Construction Phases 1 and 2, the time during which CITY and COUNTY continue to operate and maintain Main Plaza in accordance with their respective obligations under this Agreement will be the management phase ("Management Phase").

ARTICLE III
CITY'S AND COUNTY'S FINANCIAL COMMITMENT

- 3.01 CITY shall pay SEVEN MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$7,850,000.00) towards the total price of designing and constructing the Project ("CITY's Contribution").
- 3.02 COUNTY shall pay for its participation in the Project TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) ("COUNTY's Contribution"). The Parties acknowledge that COUNTY's Contribution shall constitute COUNTY's total financial commitment through final completion of the Project for all consulting fees, design and construction documents, architectural and engineering fees, permitting, construction, program and construction management, infrastructure upgrades, environment remediation, utility fees (water, sewer, gas, and electric), landscaping and irrigation, survey, emergency power source, and contingency funds which are in conformance with the program design elements agreed to by the Parties (the "COUNTY Cap"). COUNTY shall have no obligation to financially contribute towards any additional costs or expenses incurred by CITY through final completion of the Project.
- 3.03 CITY shall submit to COUNTY three (3) invoices: (1) the first invoice shall be submitted upon award of the construction contract for Construction Phase 1 in the amount of ONE MILLION DOLLARS (\$1,000,000.00); (2) the second invoice shall be submitted upon award of the construction contract for Construction Phase 2 in the amount of ONE MILLION DOLLARS (\$1,000,000.00); and (3) the third invoice shall be submitted upon substantial completion of Construction Phase 1 and Construction Phase 2 in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000). The COUNTY's full consideration for the Project is TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00). COUNTY must receive the invoice at least thirty (30) days prior to the date payment is due from COUNTY.
- 3.04 CITY agrees to invoice COUNTY within ninety (90) days of execution of the construction contract for each phase of the project. COUNTY agrees to make payment to CITY within thirty (30) days of receipt of each invoice.
- 3.05 The Parties acknowledge that the financial commitments in Sections 3.01 and 3.02 of this Agreement are independent of the necessary operations and maintenance expenses.
- 3.06 COUNTY shall not be bound to any extended contracts between CITY and third parties.

3.07 The proposed funding sources for the Project are attached as Exhibit "A" hereto and incorporated herein.

ARTICLE IV
OBLIGATIONS OF CITY

4.01 CITY's Responsibilities. Pursuant to this Agreement, CITY shall perform and/or provide the following:

- a. Within ninety (90) days of completion of Construction Phase I and Construction Phase 2 of Project, as defined in Section 2.01 of this Agreement, CITY shall deed the Courthouse Tract to COUNTY. A legal description of the Courthouse Tract is attached as Exhibit "B" hereto and incorporated herein.
- b. CITY shall include in the Project plans, as a part of CITY's Contribution, drainage upgrades to accommodate a 100-year flood in order to alleviate the flooding occurring at Bexar County Courthouse. CITY shall consult with COUNTY Project Manager on the drainage plans CITY intends to implement and coordinate with COUNTY on the timing and scheduling for initiation of the work.
- c. CITY shall not jeopardize site utilities and underground electrical vaults in conducting its infrastructure work on the Project. CITY shall provide COUNTY written notice five (5) business days prior to conducting any infrastructure work that will affect COUNTY property or utilities.
- d. CITY shall coordinate with COUNTY the staging of construction and street closures during construction to minimize disruptions at the Bexar County Courthouse and Cadena-Reeves Justice Center.
- e. CITY shall maintain CITY property included in the Project at the standard of care to be established by the Parties and shall be responsible for the maintenance and operating expenses for such property during the Project.
- f. It is COUNTY's intention that the Courthouse Tract not be included in events and activities scheduled for Main Plaza. Therefore, CITY shall not include the Courthouse Tract in any activity or event without obtaining the prior written consent of COUNTY's designated representative. CITY shall submit a written request to COUNTY describing the event and the date and time the Courthouse Tract will be utilized as well as the security CITY will have located on the Tract. A written request from CITY shall be sent to COUNTY's Designated Representative a minimum of thirty (30) business days prior to an event. A copy shall be sent to the Director of Courthouse Security for the Sheriff's Office for the purpose of coordinating security for the Courthouse Tract with the CITY. For all events in which COUNTY is not participating and the Courthouse Tract is being utilized, CITY, at its sole expense, will be responsible for the cleanup of the Courthouse Tract following the event.
- g. With regard to insurance coverage, CITY shall provide COUNTY's Risk Manager with written notice of the types of policies and coverage limits CITY is requiring the

consultant(s), contractor(s), subcontractor(s) and supplier(s) to maintain on its behalf, and COUNTY's behalf, during Construction Phases 1 and 2 of the Project, as defined in Section 2.01 of this Agreement. This notification shall be provided on or before execution of this Agreement by the last signatory thereto. Should CITY determine that it will waive the insurance requirements for any service, labor, or materials provider on the Project, CITY shall notify COUNTY in writing at least five (5) business days prior to its notification to the provider as COUNTY will not waive such coverage and will require the provider to produce Certificates of Insurance naming COUNTY as an additional insured, or, in the case of professional liability insurance, as the insured party. The notification required by this provision shall be addressed to Bexar County Risk Manager, at 212 Stumberg, Suite 100, San Antonio, Texas 78204.

ARTICLE V
OBLIGATIONS OF COUNTY

- 5.01 COUNTY's Responsibilities. Pursuant to this Agreement, COUNTY shall perform and/or provide the following:
- a. COUNTY will install the Lady Justice Fountain on the Courthouse Tract which will be restored by COUNTY to the 1926 period from which the fountain was originally installed. CITY shall provide conduit for control and electrical power. COUNTY will provide electrical power, control, and water service.
 - b. COUNTY shall maintain COUNTY's property, including the Courthouse Tract when conveyed, at the standard of care to be established by the Parties and shall be responsible for the maintenance and operating expenses for such property during Management Phase of the Project, excluding LED lighting in the Courthouse Tract. COUNTY property includes all areas to existing curblines included in the entire Project
 - c. CITY shall require its contractor to coordinate with COUNTY's contractor the specialty work planned by COUNTY including: (1) COUNTY's waterproofing of the Bexar County Courthouse at the northwest end of the building; (2) installation of connections for roof drains and sump pumps at the stub-outs to be provided by the CITY in the new storm sewer system; and (3) possible structural stabilization or foundation repairs to the Courthouse. COUNTY is responsible for all costs outside of CITY contract for this work.

ARTICLE VI
JOINT OBLIGATIONS OF THE PARTIES

- 6.01 The Parties have agreed upon the design and construction of the architectural improvements to be integrated into the Project, as reflected in the schematic plan of the Project, attached as Exhibit "C" hereto and incorporated herein, as well as the final construction documents, and any amendments thereto, which are incorporated herein by reference.
- 6.02 The Parties shall consult with one another concerning major design and construction changes in order to obtain input from the other party regarding those changes.
-
- 6.03 CITY shall coordinate with COUNTY the staging of construction and street and sidewalk closures

during construction to minimize disruptions at the Bexar County Courthouse and Cadena-Reeves Justice Center.

- 6.04 CITY has worked with VIA to develop a plan for the relocation of VIA bus stops from Main, Dwyer and Soledad Streets and the creation of additional VIA bus stops on Flores Street. VIA has committed to both a higher level of maintenance and security for the bus stop located on S. Flores and Dolorosa Streets on the west side of the Cadena-Reeves Justice Center.

ARTICLE VII
DESIGNATION OF REPRESENTATIVES

- 7.01 CITY hereby appoints the City of San Antonio Public Works Director, or his designee, ("CITY Project Manager"), as its designated representative under this Agreement. CITY's Project Manager shall be the primary point of contact for COUNTY.
- 7.02 COUNTY hereby appoints the Executive Director of the Bexar County Infrastructure Services Department, or his designee, ("COUNTY Project Manager"), as its designated representative under this Agreement. COUNTY's Project Manager shall be the primary point of contact for CITY.

ARTICLE VIII
COUNTY'S RIGHTS UNDER THIRD PARTY CONTRACTS

- 8.01 CITY shall provide COUNTY with copies of the requests for proposals ("RFPs"), requests for qualifications ("RFQs"), and invitations for bids ("IFBs") that occur during the term of this Agreement at a minimum of ten (10) business days prior to the issuance of same in order that COUNTY may have the opportunity to modify the terms, or incorporate additional terms, which directly pertain to COUNTY's property in the Project. COUNTY shall submit its modifications to those documents at a minimum of five (5) business days prior to issuance of same by CITY. All RFPs, RFQs, and IFBs shall reflect that CITY and COUNTY are jointly participating in the Project. CITY shall provide COUNTY, within ten (10) days of issuance, with copies of all RFPs, RFQs, and IFBs issued by CITY for services necessary for the design and construction of the Project. Copies of all proposals and bids shall be furnished by CITY to COUNTY within a timely manner following CITY's receipt of all proposals and bids in order that COUNTY may have adequate time to review same.
- 8.02 COUNTY agrees that CITY shall have the authority to contract on behalf of the Parties for all services necessary for the design and construction of the Project. If COUNTY desires to participate with CITY in the initiation of a contract, COUNTY must notify CITY Project Manager in writing of its desire to participate not less than fourteen (14) days prior to the time the bids/proposals are due to CITY. CITY agrees to use reasonable efforts to incorporate COUNTY's comments and recommendations in those contracts that COUNTY participates in initiating.
- 8.03 CITY shall provide COUNTY with a fully executed copy of each contract entered into by CITY on the Project.
- 8.04 In all contracts entered into by CITY on this Project for which COUNTY has a financial obligation, CITY shall include provisions reflecting:

- a. With regard to insurance coverage, CITY shall require all consultants, contractors, subcontractors and suppliers to maintain the insurance coverage limits set out in the written notice to COUNTY's Risk Manager which CITY represents is sufficient to compensate CITY and COUNTY for their respective interests in the Project with regard to any liability a third party may have due to the services, equipment, or materials provided for construction of the Project. COUNTY shall be named as an additional insured on all policies naming CITY as an additional insured and shall be entitled to make claims, to the extent of COUNTY's interest in the Project under all insurance coverage. Prior to the commencement of any work by any service provider, vendor or contractor under this Agreement, CITY shall provide COUNTY Risk Manager with copies of the completed Certificates of Insurance which Certificates shall be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon. COUNTY shall have no duty to pay for any services or work performed under this Agreement until the Certificates of Insurance relating to the services or work for which payment is being requested have been delivered to COUNTY Risk Manager. COUNTY reserves the right to review the insurance requirements during the effective period of this Agreement, and any extension or renewal hereof, and to modify insurance coverage and their limits when deemed necessary and prudent by COUNTY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. CITY will not allow any modifications whereupon COUNTY may incur increased risks.
- b. CITY shall require all contractors and service providers to maintain statutory worker's compensation insurance for all of their employees with a waiver of subrogation in favor of CITY and COUNTY.
- c. CITY shall require in its contracts for services, construction, and materials that the contracting party indemnify, and its subcontractors be required to indemnify, CITY and COUNTY, their officials, employees, and agents for claims by third parties, as allowed by law.
- d. CITY will require the consultants, contractors, and any subcontractors to provide all statutorily required payment and performance bonds at no additional cost to the Parties. On services for which performance bonds are not statutorily required, CITY shall determine whether to require performance bonds.

ARTICLE IX

PROJECT MANAGEMENT DURING DESIGN AND CONSTRUCTION

- 9.01 CITY and COUNTY shall jointly work with the design team to develop the design program elements of the Project. CITY shall provide COUNTY with written eg: letter, e-mail or fax notice, at least twenty-four (24) hours in advance, of the location, date, and time of all meetings with the design team members in order that COUNTY representatives may participate in the meetings.
- 9.02 CITY will manage, oversee, administer and carry out all of the activities and services required for construction of the Project to insure that the Main Plaza is constructed, equipped, furnished, and completed with new materials in a good and workmanlike manner and in accordance with the terms of this Agreement and the design and construction documents.

- 9.03 CITY shall enforce substantial compliance with the terms of the agreements with the design consultants, architects, engineers, contractors, and subcontractors and require that work be continuously and diligently performed to achieve substantial completion on or before the scheduled completion date set out in the project schedule.
- 9.04 CITY agrees that during the design and construction phases of the Project, COUNTY Project Manager shall be given written notice of all CITY staff meetings in which decisions affecting COUNTY's property, its drainage systems, and the Courthouse Tract are to be discussed in order that COUNTY may participate in those decisions. CITY also agrees that COUNTY Project Manager and COUNTY staff working on the Project shall be given access at all times to the Project site.
- 9.05 CITY's consultants shall perform all necessary structural and environmental assessments and an archeological evaluation, and any and all necessary tests, reports and other pre-construction steps prior to the start of construction on the Project.
- 9.06 Upon approval of this Agreement by the governing bodies of the Parties, the Parties' Project Directors shall schedule a meeting to finalize the team structure and to develop the procedures and processes necessary to accomplish coordination of design and construction in accordance with the standard business practices of those disciplines.
- 9.07 CITY Project Manager shall provide written notice to COUNTY Project Manager a minimum of ten (10) business days prior to the start of construction on the Project. CITY Project Manager shall provide COUNTY with written notice a minimum of five (5) business days prior to any street or sidewalk closures.
- 9.08 CITY shall promptly furnish COUNTY's Project Manager with copies of all legal notices received by CITY affecting the Project, including, without limitation, notices from governmental authorities, notices from any party claiming default in any payment obligation, and any other notice not of a routine nature. CITY shall promptly notify COUNTY Project Manager in writing of any suit, proceeding or action that is initiated or threatened in connection with the construction of the Project or against CITY and/or COUNTY in connection with construction of the Project.
- 9.09 If any lien, or claim of lien, is filed against the interests of COUNTY in the redevelopment of Main Plaza by reason of any work, labor, services, or materials supplied, or claimed to have been supplied, to the Project, other than those portions of the Project for which COUNTY has sole financial responsibility, CITY shall have the responsibility to cause same to be satisfied or discharged of record or effectively prevent the enforcement or foreclosure of the lien or claim.
- 9.10 For any environmental event that is caused by either CITY or COUNTY employees, or at their direction, at the Project site, the party hiring the employee(s) shall be fully liable to the extent allowed by law. An environmental event shall mean spills, discharge, leakage, pumpage, drainage, pourage, emission, emptying, injecting, dumping, disposing or other release of a hazardous material which may cause a threat or actual injury to human health or the environment.
- 9.11 Within thirty (30) business days following substantial completion of construction of the Project, CITY shall:

- a. Notify COUNTY in writing upon the substantial completion of construction whereupon COUNTY may inspect the completed work to determine if construction has been completed in a satisfactory and workmanlike manner and substantially completed in accordance with the plans and specifications for such work.
 - b. Submit all permits and inspection reports and, if applicable, obtain a Certificate of Occupancy and submit a copy of each of these documents to the COUNTY.
 - c. Submit "record" drawings to COUNTY and copies of all warranties and operations documents.
- 9.12 Both CITY and COUNTY shall participate in the "walk through" at the point of substantial completion of the Project to identify the "punch list" items. CITY shall supervise and coordinate the completion of punch list items and warranty work. Both Parties shall participate in the "final walk through" to determine whether all punch list items have been resolved.
- 9.13 For information purposes, CITY shall provide COUNTY Project Manager, as and when available, the schedule for permitting, design and construction of the Project (such schedule, as revised from time to time, with COUNTY being furnished informational copies of the revisions). The schedule shall establish a date for substantial completion of each phase in sufficient detail to allow COUNTY to monitor the progress of the construction of the Project.
- 9.14 Within one hundred-eight (180) days after final completion of the Project, CITY shall deliver to COUNTY's Project Manager a final construction report which shall set out the total costs incurred in connection with those portions of the Project for which both CITY and COUNTY made financial contributions.
- 9.15 CITY shall maintain the books, records, and documents pertaining to those portions of the Project for which CITY and COUNTY have joint participation. COUNTY representatives shall have access to, and the right to examine, same upon reasonable notice to CITY Project Manager. CITY's books, records, and documents relating to the Project must be maintained separately from other CITY projects so that an examination by COUNTY representatives will be limited to the documents for this Project.

ARTICLE X
MANAGEMENT COMMITTEE

- 10.01 The Management Phase described in Section 2.01 of this Agreement begins upon completion of Construction Phase I and Construction Phase 2 of the Project. Within sixty (60) days of commencement of the Management Phase, a management committee comprised of CITY and COUNTY members will be appointed and shall be responsible for operating and maintaining the lands located within the Main Plaza Redevelopment Project and the scheduling of events and activities on the Project lands ("Management Committee"). The Management Committee shall be comprised of five (5) voting members with the City of San Antonio Director of Downtown Services appointing three (3) members and Executive Director of the Bexar County Infrastructure Services Department appointing two (2) members. The Director of the Management Committee shall be the City of San Antonio Director of Downtown Services ("Director"). The Director of the

Management Committee shall be responsible for full-time management of the Project and shall act as contract administrator for all contracts affecting the Project.

- 10.02 The Management Committee may recommend to CITY and COUNTY that a private firm be hired to handle management of the Project following its completion. Any firm which is recommended to manage the Project by the Management Committee must be selected by a unanimous vote of the Management Committee following the issuance of the appropriate procurement document and evaluation of the proposals/bids. The duties the firm will assume, as manager of the Project, shall be determined by the Management Committee and set out in the procurement document.
- 10.03 The Management Committee shall work with representatives of San Fernando Cathedral to develop a parking plan for events and activities conducted during normal workday business hours at the Cathedral, such as weddings and funerals. The parking plan will address the scheduling of activities at the Cathedral as well as determining alternate locations for parking vehicles during the events and activities to eliminate vehicular lineups along Dolorosa Street and Main Avenue during normal workday business hours.

ARTICLE XI **DEFAULT**

- 11.01 In the event of a material breach of this Agreement, the non-breaching party shall give the breaching party written notice of such breach which shall detail the nature of the breach. The party receiving the notice of breach shall be given thirty (30) days to cure the breach. If the breach is not corrected to the satisfaction of the non-breaching party by the end of the thirty (30) day period, the non-breaching party may give written notice of termination to the breaching party and seek to recover damages not to exceed the amount paid by the non-breaching party toward construction of the Project.

ARTICLE XII **TERMINATION FOR CONVENIENCE**

- 12.01 Whenever either party, in its discretion, deems it to be in that party's best interest, it may terminate this Agreement for convenience. Such termination shall be effective thirty (30) days after the terminating party delivers written notice of termination of convenience to the other party. If the Agreement is terminated by a party prior to completion of Construction Phase 1 of the Project, the terminating party shall pay the other party its pro-rata share of each deliverable completed, delivered, and accepted by the Parties prior to the effective date of the termination. If the Agreement is terminated for convenience during Construction Phase 2, the terminating party shall pay the other party its pro-rata share of any joint obligations that are unpaid. The Parties shall have no additional liability to one another for termination under Article XII.

ARTICLE XIII **PRIOR AGREEMENTS SUPERSEDED**

- 13.01 This Agreement, including the exhibits, constitute the entire Agreement of the Parties regarding the subject matter of this Agreement and supersede all previous agreements and understandings, whether written or oral, relating to such subject matter.

ARTICLE XIV
ASSIGNMENT OR TRANSFER OF INTEREST

- 14.01 Neither Party may assign its rights, privileges and obligations under this Agreement in whole, or in part, without the prior written consent of the other party. Any attempt to assign without such approval shall be void.

ARTICLE XV
LEGAL CONSTRUCTION

- 15.01 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE XVI
COMPLIANCE WITH LAWS AND ORDINANCES

- 16.01 Both Parties shall comply with all federal, state, and local laws and ordinances in connection with the work and services performed under this Agreement.

ARTICLE XVII
TEXAS LAW TO APPLY

- 17.01 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas

ARTICLE XVIII
AMENDMENT

- 18.01 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and be duly executed by the Parties hereto.

ARTICLE XIX
NOTICES

- 19.01 All notices provided to be given under this Agreement shall be in writing and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith, unless a provision of this Agreement designates another party and provides an address. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to COUNTY: Bexar County Judge
 Bexar County Commissioners Court
 100 Dolorosa, Suite 1.20
 San Antonio, Texas 78205

With a copy to: Bexar County Infrastructure Services Department-Executive Director
233 N. Pecos, Suite 420
San Antonio, Texas 78207
e-mail jaceves@bexar.org
fax: 210-335-6713

If to CITY: City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

With a copy to: Director
Public Works Department
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
e-mail Tom.Wendorf@sanantonio.gov
fax: 210-207-4406

With a copy to: Director
Downtown Operations Department
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
e-mail Tom.Wendorf@sanantonio.gov
fax: 210-207-4406

ARTICLE XX
FORCE MAJEURE

20.01 Neither Party shall be responsible for delays or lack of performance by such entity or its officials, agents or employees which result from acts beyond that entity's reasonable control including acts of God, strikes or other labor disturbances, or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses. In the event of any delay or failure excused by this Section, the time of delivery or of performance shall be extended for a reasonable time period to compensate for delay.

ARTICLE XXI
MULTIPLE COUNTERPARTS

21.01 This Agreement may be executed in separate identical counterparts by the Parties hereto and each counterpart, when so executed and delivered, will constitute an original instrument, and all such separate identical counterparts will constitute but one and the same instrument.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL, ON THIS THE 20th DAY OF FEBRUARY 2007.

CITY OF SAN ANTONIO

By: [Signature]
SHERYL SCULLEY T.W. 2/20/07
City Manager for
Date: 2-20-07

ATTEST:

[Signature]
LETICIA VACEK
City Clerk



APPROVED AS TO FORM:

[Signature]
MICHAEL BERNARD
City Attorney

COUNTY OF BEXAR

By: [Signature]
NELSON W. WOLFF
County Judge
Date: 1-23-07

ATTEST:

[Signature]
GERRY RICKHOFF
County Clerk

APPROVED AS TO LEGAL FORM:

SUSAN D. REED
Criminal District Attorney
Bexar County, Texas

By: [Signature]
PATRICIA G. PROWSE
Assistant Criminal District Attorney-Civil
Section

APPROVED AS TO FINANCIAL CONTENT:

[Signature]
TOMMY TOMPKINS
County Auditor

[Signature]
DAVID SMITH
Executive Director/Budget Officer
Planning & Resource Management Department

**Exhibit A
Funding Sources**

Total Budget

City Funds

Certificates of Obligation	4,850,000
<i>JK</i> CIED (Additional CPS Transfer)	2,150,000
Revitalization Fund	500,000
General Fund	350,000
Subtotal City	7,850,000

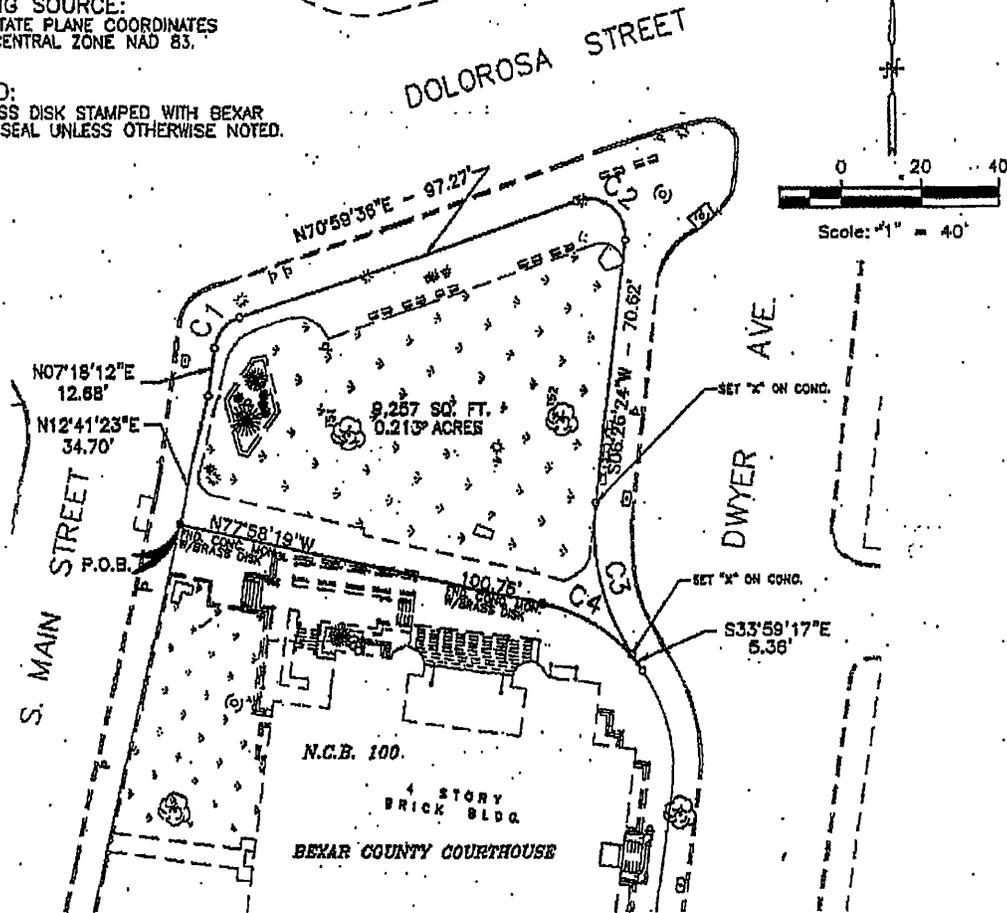
County Funds 2,500,000

Total Budget **10,350,000**

EXHIBIT "B"
BEXAR COUNTY COURTHOUSE TRACT

BEARING SOURCE:
TEXAS STATE PLANE COORDINATES
SOUTH CENTRAL ZONE NAD 83.

- LEGEND:
○ SET BRASS DISK STAMPED WITH BEXAR COUNTY SEAL UNLESS OTHERWISE NOTED.



CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD	CHORD DIRECTION
C1	10.00	11.18	63°41'24"	10.55	N39°08'54"E
C2	10.00	20.15	115°26'48"	16.91	S51°17'00"E
C3	60.00	42.34	40°25'41"	41.46	S13°46'27"E
C4	45.00	33.72	42°55'45"	32.93	N56°30'27"W

SURVEY PLAT SHOWING:
A 0.213 ACRE (8,257 SQ. FT.) TRACT OF LAND BEING A PORTION OF DOLOROSA STREET ADJACENT TO NCB 100, SAN ANTONIO, BEXAR COUNTY, TEXAS.

A METES AND BOUNDS DESCRIPTION OF EVEN DATE HEREWITH ACCOMPANIES THIS SURVEY PLAT.

STATE OF TEXAS
COUNTY
THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, AND THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE PROFESSIONAL AND TECHNICAL STANDARDS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS.

BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
1026 Central Parkway South
San Antonio, Texas 78232
210/494-7828

DATE: 10-03-2001
DRAWN BY: RAR

THIS DRAWING IS THE PROPERTY OF BAIN MEDINA BAIN, INC. AND SHALL NOT BE USED FOR ANY PURPOSE WITHOUT THE WRITTEN CONSENT OF AN AUTHORIZED AGENT OF BAIN MEDINA BAIN, INC. BAIN-MEDINA-BAIN-INC. ACCEPTS NO RESPONSIBILITY FOR THE USE OF THIS DRAWING FOR ANY PURPOSE AFTER SIX MONTHS FROM THE DATE INDICATED ON THIS DRAWING. ALL RIGHTS RESERVED. COPYRIGHT 2001, BAIN MEDINA BAIN, INC.



THIS 3RD DAY OF OCTOBER, 20 01 A.D.
[Signature]
REGISTERED PROFESSIONAL LAND SURVEYOR

JOB NO.: S-4531

A metes and bounds description for 0.213 acres (9,257 sq. ft.) of land being a portion of Dolorosa Street adjacent to NCB 100, San Antonio, Bexar County, Texas, and being more particularly described as follows:

- BEGINNING:** At a found concrete monument with brass disk stamped with the Bexar County Seal, said point being the point of intersection of the east right-of-way line of South Main Street and the south right-of-way line of Dolorosa Street, said point being the northwest corner of NCB 100, San Antonio, Bexar County, Texas;
- THENCE:** Leaving the south right-of-way line of Dolorosa Street, N12°41'23"E, a distance of 34.70 feet to a set brass disk stamped with the Bexar County Seal for a corner;
- THENCE:** N07°18'12"E, a distance of 12.68 feet to a set brass disk stamped with the Bexar County Seal and a point of curvature;
- THENCE:** 11.12 feet along the arc of a curve to the right having a radius of 10.00 feet, a central angle of 63°41'24", a chord distance of 10.55 feet which bears N39°08'54"E to a set brass disk stamped with the Bexar County Seal and a point of tangency;
- THENCE:** N70°59'36"E, a distance of 97.27 feet to a set brass disk stamped with the Bexar County Seal and a point of curvature;
- THENCE:** 20.15 feet along the arc of a curve to the right having a radius of 10.00 feet, a central angle of 115°26'48", a chord distance of 16.91 feet which bears S51°17'00"E to a set brass disk stamped with the Bexar County Seal and a point of tangency;
- THENCE:** S06°26'24"W, a distance of 70.62 feet to a set "X" on concrete and a point of curvature;
- THENCE:** 42.34 feet along the arc of a curve to the left having a radius of 60.00 feet, a central angle of 40°25'41", a chord distance of 41.46 feet which bears S13°46'27"E to a set "X" on concrete and a point of tangency;
- THENCE:** S33°59'17"E, a distance of 5.36 feet to a set brass disk stamped with the Bexar County Seal and a point on a curve, said point being on the southwest right-of-way line of Dolorosa Street and being the southeast corner of the herein described tract;

THENCE: 33.72 feet along the arc of a curve to the left, and the southwest right-of-way line of Dolorosa Street, having a radius of 45.00 feet, a central angle of $42^{\circ}55'45''$, a chord distance of 32.93 feet which bears $N56^{\circ}30'27''W$ to a point of tangency, said point being a found concrete monument with brass disk stamped with the Bexar County Seal, and being on the south right-of-way line of Dolorosa Street;

THENCE: $N77^{\circ}58'19''W$, a distance of 100.75 feet along the south right-of-way line of Dolorosa Street and the north line of NCB 100, San Antonio, Bexar County, Texas, to the POINT OF BEGINNING and containing 0.213 acres (9,257 sq. ft.) of land.

A Survey Plat of even date herewith accompanies this Metes and Bounds.

Prepared By: Bain Medina Bain, Inc.
Engineers and Surveyors
Date: October 3, 2001
BMB Job #: S-4531





CMS or Ordinance Number: OR00000200801170027

TSLGRS File Code: 1000-05

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ORD - 00000200801170027

Ordinance Date:
1/17/2008