

DELEGATE AGENCY AGREEMENT

THE STATE OF TEXAS ',
 ', KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF KENDALL '

This Agreement made effective the 1st day of October, 2019 by and between the CITY OF BOERNE, TEXAS, a home-rule municipal corporation located in Kendall County, Texas, hereinafter called CITY and FRIENDS OF THE CIBOLO WILDERNESS, INC., hereinafter called CIBOLO NATURE CENTER, each acting herein by and through its duly authorized officers.

WHEREAS, the City by authority of its general governmental powers reserved to it under the Texas Constitution, has provided certain public funds for the accomplishment of a public purpose; and

WHEREAS, the City has adopted a budget for the expenditure of such funds, and included therein is an allocation of funds for programs to promote conservation of natural resources through education; and

WHEREAS, the Cibolo Nature Center performs the necessary and critical function of gathering and disseminating information on the flora, fauna and wildlife in the Cibolo Wilderness Area, which serves to improve and maintain a high quality of life for the citizens of City of Boerne; and

WHEREAS, the Cibolo Nature Center's mission is to promote conservation of natural resources to serve the greater community of the City of Boerne; and

WHEREAS, the City Council has found and determined that the above programs, services, mission and functions of the Friends of the Cibolo Wilderness, Inc. accomplish a valuable and important public purpose for the citizens of Boerne.

NOW THEREFORE:

The parties hereto agree as follows:

1. The Cibolo Nature Center will provide, oversee, administer, and carry out all programs and services described above in a manner satisfactory to the City.
2. The Cibolo Nature Center agrees that any funds paid to it by the City shall be used only in the performance of programs and services described above.
3. The City of Boerne hereby agrees to pay to the Cibolo Nature Center FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00). Payment shall be made in quarterly payments of \$3,750.00 beginning October, 2019 and ending September, 2020.
4. It is expressly understood and agreed by and between the parties that the Cibolo Nature Center is hired and engaged as an independent contractor and is not an officer, agent or employee of the City.
5. It is understood and agreed by and between the parties that a fiduciary duty is created in the Cibolo Nature Center with respect to expenditure of revenue provided in accordance with the approved proposal.

Therefore:

- A. The Cibolo Nature Center shall provide to the City Manager periodic reports within thirty (30) days after the end of each three (3) month period beginning with the period ending December 31, 2019 on the activities that are conducted to benefit the City, and expenditures made hereunder, as well as an annual financial statement listing the expenditures made from the funds paid hereunder.
- B. The Cibolo Nature Center shall maintain complete and accurate financial records of each expenditure of funds paid hereunder and, upon request of the City Council or City Manager shall make the records available for inspection and review.
- C. Further, the Cibolo Nature Center shall obtain and supply to the City on or before January 31, 2020, an accounting by numbers, samples, registrations or other method acceptable to the City Manager detailing the persons served by The Cibolo

Nature Center' programs and functions described herein.

6. This Agreement shall begin on the execution date hereof and shall continue in force until September 30, 2020. This Agreement may be terminated by the City upon thirty (30) days' notice for noncompliance with the terms of the Agreement.

7. Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States mail, either certified or registered mail, postage prepaid and addressed to the City Manager of the City of Boerne, City Hall, 402 East Blanco, Boerne, Texas 78006 or to the FRIENDS OF THE CIBOLO WILDERNESS, INC., Post Office Box 9, Boerne, Texas 78006.

8. No part of this Agreement may be assigned or delegated, and any attempted assignment of benefits or rights of delegation of duties or obligations shall be a breach of this Agreement.

9. This Agreement shall be subject to the laws and statutes of the State of Texas.

10. **INDEMNITY CLAUSE.** The Cibolo Nature Center agrees to and shall indemnify and hold harmless and defend the City, its officers, agents, and employees from any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of The Cibolo Nature Center, its officers, agents and employees carried out in furtherance of this Agreement. It is the expressed intention of the parties hereto, both The Cibolo Nature Center and the City, that the indemnity provided for in this paragraph is also Indemnity by The Cibolo Nature Center to indemnify and protect the City from the consequences of the negligence of either party hereto with regard to any and all claims based upon joint venture liability.

11. It is expressly agreed that by executing this Agreement with The Cibolo Nature Center, the City does not bind itself in the future as to any action of the City Council in connection with the alteration or repeal or amendment of the City of Boerne, Texas budget, fund allocation, or

appropriation of funds, and in the event, for any reason, that the funds are not available, the City shall not be obligated under this Agreement to pay any funds of the City to The Cibolo Nature Center. It is also understood between the parties to the Agreement that in the event that no funds are available from the City of Boerne, Texas budget for any reason, this Agreement shall terminate, any provisions contained herein notwithstanding, and that The Cibolo Nature Center shall have no right or demand upon the City for funds payable under this Agreement if such funds are not available, for any reason.

12. Each party warrants and represents that it has approved this Agreement by motion duly adopted at a meeting of its governing body by a majority of those present and voting and that the chief executive officer of each party is duly authorized to enter into this Agreement on behalf of such party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CITY OF BOERNE, TEXAS

BY: _____
RONALD C. BOWMAN
City Manager

ATTEST:

Lori Carroll
City Secretary

**FRIENDS OF THE
CIBOLO WILDERNESS, INC.**

BY: _____
TITLE: _____

ATTEST:

BY: _____
PRINT NAME: _____
OFFICE HELD: _____