

PEDESTRIAN BRIDGE CONSTRUCTION, MAINTENANCE, OPERATION
AND FUNDING COMMITMENT

This PEDESTRIAN BRIDGE CONSTRUCTION, MAINTENANCE, OPERATION AND FUNDING COMMITMENT (this "Agreement") is made effective as of July ____, 2018, by and between **GEORGE KAISER FAMILY FOUNDATION**, an Oklahoma not-for-profit corporation ("GKFF"), and **RIVER PARKS AUTHORITY**, an Oklahoma public trust ("Authority"). Each of the foregoing parties is referred to herein as a "Party" and together as the "Parties".

RECITALS

A. The Authority has entered into (or will enter into) that certain Capital Projects Agreement with the City of Tulsa (the "Bridge Contract") in connection with the Project (as defined in the Bridge Contract), memorializing their agreements respecting (i) the demolition of an existing pedestrian bridge presently spanning the Arkansas River in Tulsa, Oklahoma, and (ii) the construction, maintenance and operation of a new pedestrian bridge that, upon completion, will span the Arkansas River in Tulsa, Oklahoma (collectively, the "Project").

B. As contemplated in, and in accordance with, the Bridge Contract, the Authority has entered into (or will enter into) that certain Assignment of Capital Projects Agreement with Tulsa's Gathering Place, LLC, an Oklahoma limited liability company ("TGP"), which is a wholly-owned subsidiary of the Authority, pursuant to which the Authority has assigned (or will assign) to TGP, and TGP has assumed (or will assume) from the Authority, all of the Authority's construction, maintenance and repair obligations for the Project as set forth in the Bridge Contract, whether such obligations are performed directly by TGP itself, or through its delegation of same to TGP's affiliates, nominees and/or agents, including (i) GKFF Construction, LLC (the "Developer"), which is a wholly-owned subsidiary of GKFF, and (ii) Crossland Construction Company, Inc. (the "Contractor").

C. GKFF has contracted (the "Architect's Contract") with Michael Van Valkenburgh and Associates, Inc. (the "Architect") for, and has received from the Architect, preliminary construction plans and drawings for the design of the Project (the "Construction Drawings").

D. GKFF has assigned, or will assign, the Architect's Contract to either TGP or the Developer.

E. TGP, or the Developer, has contracted, or will contract (the "Construction Contract"), with Contractor, to cause and facilitate the construction of the Project in accordance with the final, approved Construction Drawings and the Bridge Contract, respectively.

F. Authority has, pursuant to the Bridge Contract, agreed to incur certain costs in connection with the Project (as more particularly set forth therein), including (i) certain costs for the construction of the Project, including the Matching Funds (as defined in the Bridge Contract), and (ii) certain post-completion maintenance, operational and repair costs for the Project; all subject to the applicable terms, conditions and limitations as set forth in the Bridge Contract (all

such costs properly imposed upon and incurred by Authority pursuant to the Bridge Contract for the construction, maintenance, operation and repair of the Project are herein referred to, collectively, as the “Operational Funding”).

G. Authority has requested, and GKFF has agreed, that GKFF undertake all of the Operational Funding for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. Funding Pledge. Subject to Section 2 hereof, GKFF hereby promises to provide the Operational Funding for the Project, on and subject to the following terms and conditions:
 - a. GKFF shall be obligated to pay the Operational Funding only from and after the approval and execution of the Bridge Contract by Authority and the City of Tulsa,
 - b. GKFF shall be obligated to pay Operational Funding only to the extent of Authority’s obligation to pay such Operational Funding in accordance with the Bridge Contract.
 - c. GKFF shall, from time to time, either pay the Operational Funding to Authority, or pay same directly to such applicable third party payees and recipients as GKFF shall deem appropriate, as necessary to timely make (or to enable and cause Authority to timely make) all payment obligations properly attributable to the Authority pursuant to the Bridge Contract for the construction, maintenance, operation, and repair of the Project.
 - d. GKFF shall be obligated to pay Operational Funding for only so long as Authority owns and operates TGP, for the benefit of the citizens of the City and County of Tulsa.
2. Construction of Project and Conditions Precedent. TGP shall cause Contractor to construct the Project in complete conformity with the final, approved Construction Drawings, and in accordance with the Bridge Contract and the Construction Contract, without alterations, changes, modifications, variations, adjustments, replacements, conversions or other amendments other than customary change orders approved by GKFF which approval GKFF shall not unreasonably withhold, condition or delay. Without limitation of anything set forth in Section 1 above: (i) the commencement of construction of the Project by TGP, as required pursuant to the final, approved Construction Drawings, the Bridge Contract and the Construction Contract, and the City of Tulsa’s compliance with its obligations to disburse all of the Tier I Funds (as defined in the Bridge Contract) to Authority in accordance with the Bridge Contract (which Tier I Funds the Authority hereby covenants to immediately assign and/or otherwise transfer over to TGP for use as contemplated under the Bridge Contract) shall be a condition precedent to the commencement of GKFF’s Operational Funding obligations under this Agreement respecting the construction of the Project; and (ii) the completion of construction of the Project by TGP, as required pursuant

to the final, approved Construction Drawings, the Bridge Contract and the Construction Contract, and the City of Tulsa's continued compliance, both during construction and after completion thereof, with all of its definitive funding obligations to Authority in accordance with the Bridge Contract (all of which funding the Authority hereby covenants to immediately assign and/or otherwise transfer over to TGP for use as contemplated under the Bridge Contract) shall be a condition precedent to the continuation of GKFF's Operational Funding obligations under this Agreement respecting the post-completion maintenance, operation and repair of the Project. In no event shall GKFF's Operational Funding obligations under this Agreement respecting the Project exceed the aggregate amount of the Authority's monetary obligations under the Bridge Contract respecting the Project.

3. Notices. All notices or advices required or permitted to be given by or pursuant to this Agreement, shall be given in writing in the English language. All such notices and advices shall be (i) delivered personally, (ii) by email to the appropriate email address set forth below with a follow-up copy by overnight courier service the next business day at the location of the addressee, (iii) delivered by facsimile, (iv) delivered by U.S. Registered or Certified Mail, Return Receipt Requested mail, or (v) delivered for overnight delivery by a nationally recognized overnight courier service. Such notices and advices shall be deemed to have been given (x) the first business day following the date of delivery if delivered personally, by facsimile, or by email, (y) on the third business day following the date of mailing if mailed by U.S. Registered or Certified Mail, Return Receipt Requested, or (z) on the date of receipt if delivered for overnight delivery by a nationally recognized overnight courier service. All such notices and advices and all other communications related to this Agreement shall be given as follows:

If to Authority: River Parks Authority
2424 E. 21st Street, Suite 300
Tulsa, OK 74114
Attention: Matt Meyer
(918) 596-2006 – Telephone
(918) _____ – Facsimile
Email: mattmeyer@riverparks.org

If to GKFF: George Kaiser Family Foundation
7030 South Yale Avenue, Suite 600
Tulsa, Oklahoma 74136
Attention: Jeff Stava
(918) 392-1612 – Telephone
(918) 494-9826 – Facsimile
Email: jstava@tulsacf.org

With Copy to: Frederic Dorwart Lawyers, PLLC
Old City Hall
124 East Fourth Street
Tulsa, OK 74103
Attention: Frederic Dorwart
(918) 583-9945 - Telephone
(918) 583-8251 – Facsimile
Email: fdorwart@fdlaw.com

or to such other address as the Party may have furnished to the other Parties in accordance herewith, except that notice of change of addresses shall be effective only upon receipt.

4. Situs. This Agreement is made and executed in Tulsa County, Oklahoma.
5. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by and construed in accordance with the laws (excluding conflict of laws provisions) of the State of Oklahoma.
6. Entire Agreement. This Agreement is the entire Agreement of the Parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.
7. Drafting. This Agreement, and all the provisions of this Agreement, shall be deemed drafted by all of the Parties hereto.
8. Fair Meaning. This Agreement shall not be interpreted strictly for or against any Party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Agreement.
9. Parol Evidence. No course of prior dealings involving any of the Parties hereto and no usage of trade shall be relevant or advisable to interpret, supplement, explain or vary any of the terms of this Agreement, except as expressly provided herein.
10. Investigation. Each Party hereto has entered into this Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon her, his or its own knowledge and investigation. No Party has relied upon any representation or warranty of any other Party hereto except any such representations or warranties as are expressly set forth herein.
11. Burdens and Benefits. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and assigns of the respective Parties hereto.
12. Headings. All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

13. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.
14. Severability of Provisions. Each provision of this Agreement shall be considered to be severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.
15. No Continuing Waiver. The waiver by either Party of any breach of the terms of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.
16. Independent Contractor. GKFF represents and warrants to Authority that it is an independent contractor within the meaning of the Internal Revenue Code and the laws of the State of Oklahoma for all purposes, including the withholding of taxes, employee benefits and claims against Authority. Nothing in this Agreement shall be construed to create a partnership or joint venture, nor to authorize any Party hereto to act as agent for or representative of any other Party hereto.
17. Fiduciary Duty. The rights, obligations, duties and covenants contained in this Agreement do not create a fiduciary duty. The Parties hereby expressly disclaim any fiduciary obligation, whether express or implied, arising out of, without limitation, the negotiation, execution, delivery, performance, non-performance, and/or breach of the obligations imposed by this Agreement.
18. Amendment. This Agreement may be amended or modified only in writing which has been signed by the Parties hereto and which specifically references this Agreement.
19. Assignment. This Agreement may not be assigned by any Party hereto.
20. Third Parties. This is not a third party beneficiary contract. No person or entity other than a Party signing this Agreement shall have any rights under this Agreement.
21. Costs. In any action brought by a Party hereto to enforce the obligations of any other Party hereto, the prevailing Party shall be entitled to collect from the opposing Party to such action such Party's reasonable litigation costs and attorneys' fees and expenses (including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation).
22. Breach. Should the transactions contemplated herein not be consummated because of a Party's breach of this Agreement, in addition to such damages as may be recoverable at law or equity, the other Party shall be entitled to recover from the breaching Party upon demand, itemization, and documentation, its reasonable outside legal, accounting, consulting and other out-of-pocket expenses.

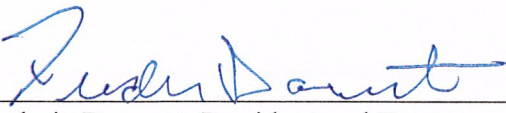
23. Venue. Any cause of action for a breach or enforcement of, or a declaratory judgment respecting, this Agreement shall be commenced and maintained only in the United States District Court for the Northern District of Oklahoma or the applicable Oklahoma state trial court sitting in Tulsa, Oklahoma and having subject matter jurisdiction.
24. Authority. Each of the persons signing below on behalf of a Party hereto represents and warrants that he or she has full requisite power and authority to execute and deliver this Agreement on behalf of the Party for whom he or she is signing and to bind such Party to the terms and conditions of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed effective of the date first written above.

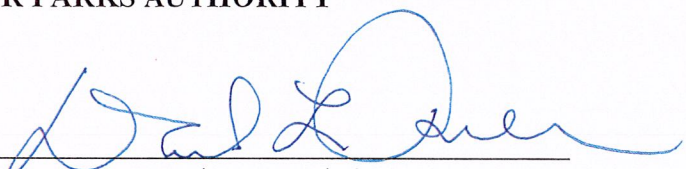
GKFF:

GEORGE KAISER FAMILY FOUNDATION,

By: 
Frederic Dorwart, President and Trustee

AUTHORITY:

RIVER PARKS AUTHORITY

By: 
~~James D. Marchesano, Chairman~~
DAVID L. Phillips Vice Chairman