

AN ORDINANCE 2019-02-14-0115

APPROVING AN ADVANCED FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$300,000.00 PAYABLE TO THE TEXAS DEPARTMENT OF TRANSPORTATION FOR A COMPREHENSIVE DRAINAGE STUDY OF THE NORTH NEW BRAUNFELS CORRIDOR, A 2017-2022 GENERAL OBLIGATION BOND FUNDED PROJECT, LOCATED IN COUNCIL DISTRICT 10.

* * * * *

WHEREAS, on May 6, 2017, the City approved the 2017-2022 Bond Program authorizing \$300,000.00 for the North New Braunfels Comprehensive Drainage Study; and

WHEREAS, the North New Braunfels Drainage Study was part of a comprehensive Texas Department of Transportation project to study storm water impacts, develop recommendations and analyze drainage and infrastructure to identify potential solutions for future drainage improvements along the North New Braunfels Avenue corridor, which has historically incurred frequent flooding and which the study has resulted in a comprehensive report that provides recommendations and offers potential solutions to reduce flooding in the area during rain events; and

WHEREAS, this ordinance authorizes an Advanced Funding Agreement between the City of San Antonio and the Texas Department of Transportation authorizing payment in the amount not to exceed \$300,000.00 to the Texas Department of Transportation for a comprehensive drainage study of the North New Braunfels corridor, a 2017-2022 General Obligation Bond funded Project, located in Council District 10; and

WHEREAS, this is a one-time capital improvement expenditure in the amount of \$300,000.00 payable to Texas Department of Transportation as part of the Advanced Funding Agreement for the North New Braunfels Avenue Drainage Study, available from the 2017-2022 General Obligation Bond Program and included in the FY 2019-2024 Capital Improvement Program Budget; **NOW THEREFORE**,

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

SECTION 1. The City Manager, or her designee, is authorized to execute an Advanced Funding Agreement with the Texas Department of Transportation for a comprehensive drainage study of the North New Braunfels Corridor. A copy of the Advanced Funding Agreement in substantially final form is attached hereto and incorporated herein as **ATTACHMENT I**.

SECTION 2. Payment in the amount of \$300,000.00 in SAP Fund 45099000, General Obligation Capital Project, SAP Project Definition 23-01630, North New Braunfels (Complete Drain Study), is authorized to be encumbered and made payable to Texas Department of Transportation, for construction services. Payments for services are contingent upon the availability of funds and the sale of future City of San Antonio, General Obligation Bonds in

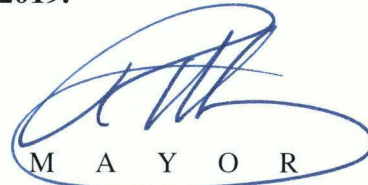
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02/14/2019
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accordance with the adopted capital budget. Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer, City of San Antonio. The Chief Financial Officer may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation 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.

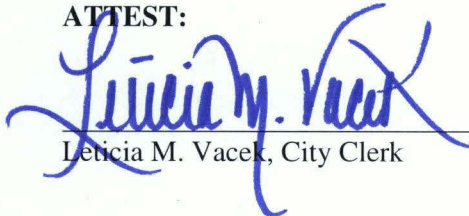
SECTION 4. This Ordinance shall become effective immediately upon its passage by eight (8) affirmative votes of the City Council. If less than eight (8) affirmative votes are received, then this Ordinance shall be effective ten (10) days after passage.

PASSED AND APPROVED this 14th day of February, 2019.



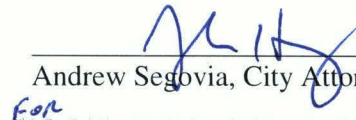
M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney
for

| | |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agenda Item: | 8 (in consent vote: 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22) |
| Date: | 02/14/2019 |
| Time: | 09:24:36 AM |
| Vote Type: | Motion to Approve |
| Description: | Ordinance approving an Advanced Funding Agreement with the Texas Department of Transportation in the amount of \$300,000.00 payable to the Texas Department of Transportation for a comprehensive drainage study of the North New Braunfels corridor, a 2017-2022 General Obligation Bond funded Project, located in Council District 10. [Peter Zaroni, Deputy City Manager; Razi Hosseini, Interim Director, Transportation & Capital Improvements] |
| Result: | Passed |

| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
|--------------------|-------------|-------------|-----|-----|---------|--------|--------|
| Ron Nirenberg | Mayor | | x | | | | |
| Roberto C. Treviño | District 1 | | x | | | x | |
| Art A. Hall | District 2 | | x | | | | x |
| Rebecca Viagran | District 3 | | x | | | | |
| Rey Saldaña | District 4 | | x | | | | |
| Shirley Gonzales | District 5 | x | | | | | |
| Greg Brockhouse | District 6 | | x | | | | |
| Ana E. Sandoval | District 7 | | x | | | | |
| Manny Pelaez | District 8 | | x | | | | |
| John Courage | District 9 | | x | | | | |
| Clayton H. Perry | District 10 | | x | | | | |

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ATTACHMENT I

STATE OF TEXAS §
COUNTY OF TRAVIS §

**LOCAL PROJECT ADVANCE FUNDING AGREEMENT FOR
VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS
TO TRANSPORTATION IMPROVEMENT
PROJECTS WITH NO REQUIRED MATCH**

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State", and City of San Antonio, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, Texas Transportation Code, Chapter 201 and 222 authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Texas Government Code Chapter 791 and Texas Transportation Code §201.209 and Chapter 221, authorizes the State to contract with municipalities and political subdivisions; and,

WHEREAS, Texas Transportation Commission Minute Order Number 115291 authorizes the State to undertake and complete a highway improvement generally described as roadway rehabilitation and complete streets improvements on LP 368 from New Braunfels St. to Burr Rd. ; and,

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as Hydrologic/Hydraulic analysis/design study of North New Braunfels that is part of the preliminary engineering for LP 368 project, called the "Project"; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

AGREEMENT

1. Time Period Covered

The period of this Local Project Advance Funding Agreement (LPAFA) is as stated in the Master Agreement Governing Local Transportation Project Advance Funding Agreements (MAFA), without exception. The State and Local Government will consider this LPAFA to be in full force and effect until all funds contributed by the Local Government have been expended on the Project.

2. Project Funding and Work Responsibilities

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment

Provision and Work Responsibilities which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

3. Payment of Funds

Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation." The check or warrant shall be deposited by the State and managed by the State. The funds may only be applied by the State to the Project. If after final Project accounting excess funds remain, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.

4. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

5. Adjustments Outside the Project Site

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

6. Responsibilities of the Parties

Responsibilities of the Parties will be under the conditions as provided for in the MAFA, without exception.

7. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local entity creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Standard Specifications for

Construction and Maintenance of Highways, Streets, and Bridges adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

9. Increased Cost

State will be responsible for any funds necessary to cover additional costs.

10. Maintenance

Project maintenance will be under the conditions as provided for in the MAFA, without exception.

11. Termination

Termination of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

12. Notices

Notices of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

| Local Government: | State: |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City of San Antonio ATTN: City Manager PO Box 839966 San Antonio, TX 78283 | Legal Documents: Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, Texas 78701 Billing Inquiries: Texas Department of Transportation ATTN: Director of Transportation and Planning Development 4615 NW Loop 410 San Antonio, Texas 78229-5126 |

13. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

14. Amendments

Amendments to this LPAFA shall be made as described in the MAFA, without exception.

15. Incorporation of Master Agreement Provisions

This LPAFA incorporates all relevant provisions of the MAFA in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted in this agreement. Any conflict between the terms of the MAFA and this LPAFA shall be governed and controlled by this LPAFA.

16. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

17. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

18. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

Mario Jorge, P.E.
District Engineer

Date

Attachment A
PAYMENT PROVISION AND WORK RESPONSIBILITIES

The Local Government shall pay \$300,000 to the State on or before 60 days following the execution of this document towards the LP368 project. These funds will be applied towards the Hydrologic/Hydraulic analysis/design study of North New Braunfels that is part of the preliminary engineering for the Project.

The State will perform the on-system work.

WORK RESPONSIBILITIES:

1. PS&E Responsibilities

The State will be responsible for the PS&E.

2. Construction Responsibilities

The State will be responsible for the construction.

3. Right of Way and Real Property

The State will be responsible for the acquisition of Right of Way and Real Property.

4. Utilities

The State will be responsible for the adjustment, removal, or relocation of utility facilities.

5. Architectural and Engineering Services

The State will be responsible for the performance of architectural and engineering services.

6. Environmental Assessment and Mitigation

The State will be responsible for the Environmental Assessment and Mitigation