

ORDINANCE 2019-09-12-0710

AUTHORIZING AN AMENDMENT TO A FUNDING AGREEMENT WITH BROOKS DEVELOPMENT AUTHORITY (BROOKS) IN AN AMOUNT NOT TO EXCEED \$352,000.00, AND THE ACCEPTANCE OF FUNDS FROM BROOKS FOR CONSTRUCTION OF THE BROOKS CITY BASE SOUTH NEW BRAUNFELS AVENUE PROJECT, A 2017 BOND FUNDED PROJECT.

* * * * *

WHEREAS, in May 2017 the voters approved the 2017-2022 Bond Program, which authorized \$23,400,000.00 for improvements within the Brooks City Base for three street improvement projects: Brooks City Base South New Braunfels Avenue (Lyster Road to Aviation Landing); Brooks City Base Stinson Corridor (Research Plaza to South Presa Street); and, Brooks City Base Inner Circle Road (Louis Bauer Drive to Research Plaza); and

WHEREAS, the \$23,400,000.00 for improvements within Brooks City Base included \$2,664,948.31 for reimbursing Brooks for design, engineering, planning, environmental studies and any necessary right-of-way acquisition for those street improvement; and

WHEREAS, the City would retain the remaining \$20,735,051.69 for the construction of the three street improvement projects; and

WHEREAS, in November 2018 City Council approved a Funding Agreement between the City of San Antonio and the Brooks Development Authority in the amount not to exceed \$2,664,948.31; and

WHEREAS, based on the high bid prices received for construction of Brooks City Base South New Braunfels Avenue (Lyster Road to Aviation Landing) Project, funds are needed to ensure construction of this project is fully funded; and

WHEREAS, Brooks is contributing \$352,000.00 for that construction which shall be paid pursuant to the Funding Agreement; and

WHEREAS, this amendment will authorize the acceptance of funds in the additional amount of \$352,000.00 from the Brooks Development Authority for the construction of this Project; and

WHEREAS, it is necessary to amend the Funding Agreement accordingly and authorize (1) the execution of such amendment increasing the agreement by \$352,000.00, and (2) the acceptance of funds in the same amount by City for the three street improvement projects; **NOW THEREFORE:**

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

SECTION 1. The City Manager, or designee, is authorized to execute an amendment with the Brooks Development Authority in the increased amount not to exceed \$352,000.00 and accept \$35,000.00 from Brooks Development Authority as a part of the Brooks City Base South New Braunfels Avenue Project. A copy of the amendment in substantially final form is attached as **Exhibit I**.

SECTION 2. The amount of \$352,000.00 is appropriated in Fund 45099000, Project 23-01563, per the table below:

WBS	GL	AMOUNT
23-01563-90-10-01	4502280	-352,000.00
23-01563-05-02-08	5201245	352,000.00

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Fund Numbers, Project Definitions, WBS Elements, Internal Orders, Fund Centers, Cost Centers, Functional Areas, Funds Reservation Document Numbers, and GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance shall be effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 12th day of September, 2019.


M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:


for Leticia M. Vacek, City Clerk


Andrew Segovia, City Attorney

Agenda Item:	19A (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19A, 19B, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40)
Date:	09/12/2019
Time:	10:04:32 AM
Vote Type:	Motion to Approve
Description:	Ordinance amending the Funding Agreement with Brooks Development Authority in an increased amount not to exceed \$352,000.00 for additional funds from the Brooks Development Authority for construction of the Brooks City Base South New Braunfels Avenue (Lyster Road to Aviation Landing) Project, a 2017 Bond funded project.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Jada Andrews-Sullivan	District 2		x				
Rebecca Viagran	District 3		x				
Adriana Rocha Garcia	District 4		x				
Shirley Gonzales	District 5		x				
Melissa Cabello Havrda	District 6		x				
John Courage	District 9		x				x
Clayton H. Perry	District 10		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				

KRH
09/12/19
Item No. 19A

EXHIBIT I

**FIRST AMENDMENT TO BROOKS (SOUTH NEW BRAUNFELS,
RESEARCH PLAZA, AND INNER CIRCLE ROAD) PROJECT**

STATE OF TEXAS §

COUNTY OF BEXAR §

This first amendment to the Funding Agreement between the City of San Antonio, Texas, and Brooks Development Authority for the Brooks (South New Braunfels, Research Plaza, and Inner Circle Road) Project (Project), authorized by Ordinance No. 2018-11-15-0906, is entered into by and between the **City of San Antonio** ("City"), a home rule municipal corporation, and **Brooks Development Authority**, a Texas Defense Base Authority and Political Subdivision of the State of Texas as authorized by 397B of the Texas Local Government Code (hereinafter referred to as "Grantee"), acting by and through its officers, referred to collectively herein as the "Parties".

WHEREAS, on November 15, 2018, through Ordinance 2018-11-15-0906, the City and Brooks Development Authority entered into an Funding Agreement for the Project; and

WHEREAS, in the original Agreement the City committed to reimburse Brooks Development Authority up to \$2,664,948.31; and

WHEREAS, Brooks Development Authority has agreed to fund two additive alternates for the South New Braunfels Project; consisting of concrete pavement and an underground telecommunications and electric duct bank.; and

WHEREAS, the amount that Brooks Development Authority is contributing to this Project is \$352,000;

NOW THEREFORE, in consideration of the terms, covenants, agreements and demises herein contained each to the other given, the sufficiency and receipt of which are hereby acknowledged, the Original Agreement is amended as follows:

1. Section 5.02 of the agreement is deleted in its entirety and replaced with the following:

The current budget estimate for the entire Project, to include design, engineering, planning, environmental studies, environmental remediation, archeological studies and construction, is \$23,400,000. Upon City's approval, Grantee shall receive up to \$2,664,948.31 for the design, engineering, acquisition, planning and environmental studies for Project. Grantee is solely responsible for and shall provide all necessary funding for the design, engineering, planning and environmental studies in excess of the City's commitment of \$2,664,948.31. City is not responsible for any costs over the budgeted amount of \$2,664,948.31 for the design, engineering, planning and environmental studies, and necessary right-of-

way acquisitions for the Project. Brooks Development Authority shall contribute \$352,000 for construction on the South New Braunfels Project. The remaining \$20,735,051.69 will be retained by the City to complete the Project. In the event that the scope of the project is adjusted downward, the City shall have the option of adjusting its commitment downward accordingly.

2. Section 5.03 of the agreement is deleted in its entirety and replaced with the following:

Grantee will provide to City their plans and specifications for the Project, as well as all environmental studies and permits and such plans and environmental studies shall be subject to the review and approval by City. Grantee will be responsible for any remediation costs and environmental oversight services associated with the improvements of the project. Grantee will also be responsible for complying with the Capital Project Soil Relocation Policy for any excess soil that cannot be reused on the project. Costs associated with both remediation services and Soil Relocation Policy will be part of the remaining budget of \$20,735,051.69. Any costs overruns associated with Soil Relocation Policy will be the responsibility of the Grantee to cover those expenses.

3. Except as specifically modified by this First Amendment, all other terms, conditions, and provisions of the Funding Agreement for the Project shall remain in full force and effect.

Signature Page to Follow

EXECUTED and **AGREED** to as of the dates indicated below.

City Of San Antonio

Brooks Development Authority

(Signature)



(Signature)

Printed Name: _____
Title: _____
Date: _____

Printed Name: **Leo Gomez**
Title: **President & CEO**
Date: **7-25-19**

Approved as to Form:

Assistant City Attorney

EXHIBIT C