

AN ORDINANCE 2017-06-22-0494

AUTHORIZING A DONATION AGREEMENT BETWEEN THE CITY OF SAN ANTONIO, THE TRICENTENNIAL CELEBRATION COMMISSION AND MR. CHARLES C. BUTT FOR ACCEPTANCE OF \$1,000,000.00 TOWARDS IMPROVEMENTS TO LINCOLN PARK, A 2017-2022 BOND PROJECT, LOCATED IN COUNCIL DISTRICT 2.

* * * * *

WHEREAS, on May 6, 2017 San Antonio voters approved the 2017-2022 Bond Program, consisting of six propositions totaling \$850 million, which included \$1,000,000.00 for included improvements at Lincoln Park; and

WHEREAS, in an effort to leverage funds approved by the voters, Mr. Charles C. Butt has agreed to donate \$1,000,000.00 to the City for planned improvements to Lincoln Park for a total construction budget of \$2,000,000.00; and

WHEREAS, the \$1,000,000.00 will help complete a splash pad in the park for the City's Tricentennial celebration in May 2018; **NOW THEREFORE**:

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

SECTION 1. The terms of a donation Agreement setting out the conditions under which Mr. Charles C. Butt will donate \$1,000,000.00 to supplement \$1,000,000.00 in 2012-2022 Bond funds for improvements to Lincoln Park, are hereby approved. The City Manager or her designee is authorized to execute this Agreement, a copy of which, in substantial final form is set out in **Exhibit A**.

SECTION 2. Funds are authorized to be received from Charles C. Butt through the Tricentennial Commission to SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 23-01675, Lincoln Park 2017, and the budget shall be revised by increasing WBS element 23-01675-90-10-01, Charles C. Butt Contribution and SAP General Ledger 4502280, Contribution from Other Agencies, in the amount of \$1,000,000.00.

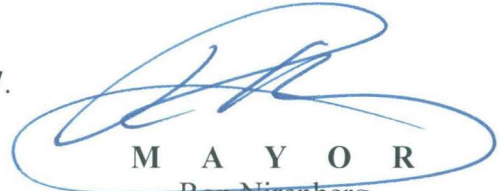
SECTION 3. The amount up to \$1,000,000.00 is appropriated in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 23-01675, Lincoln Park 2017, SAP WBS Element 23-01675-05-02-01, entitled Construction-City, SAP GL Account 5201140.

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.

VZ
06/22/17
Item No. 11


SECTION 5. This Ordinance shall be effective immediately upon receipt of at least eight affirmative votes, or upon receiving fewer, on the tenth day after passage.

PASSED AND APPROVED this 22nd day of June, 2017.



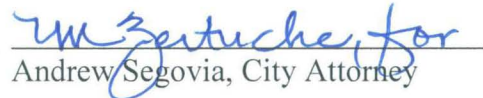
M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

| | | | | | | | |
|---------------------|--|--------------------|------------|------------|----------------|---------------|---------------|
| Agenda Item: | 11 (in consent vote: 4, 5, 6, 7, 8, 9A, 9B, 10, 11, 12, 13, 15, 16, 17, 18, 20, 21, 23, 25, 26A, 26B, 26C, 26D, 27) | | | | | | |
| Date: | 06/22/2017 | | | | | | |
| Time: | 09:26:11 AM | | | | | | |
| Vote Type: | Motion to Approve | | | | | | |
| Description: | An Ordinance accepting \$1,000,000.00 from Charles C. Butt to the City of San Antonio towards improvements to Lincoln Park, a 2017-2022 Bond Project, located in Council District 2 and authorizing the execution of a Donation Agreement between the City of San Antonio, the Tricentennial Celebration Commission and Mr. Charles C. Butt [Peter Zanoni, Deputy City Manager; Mike Frisbie, 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 | |
| William Cruz Shaw | District 2 | | x | | | | |
| Rebecca Viagran | District 3 | | x | | | | 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 | | | | |

EXHIBIT A

LINCOLN PARK DONATION AGREEMENT

This Lincoln Park Donation Agreement (the "Agreement") is made and entered into as of the Effective Date by and among the City of San Antonio, a municipal corporation (the "City") pursuant to Ordinance No. _____ approved on June 22, 2017, the San Antonio Tricentennial Celebration Commission, a Texas public, non-profit corporation (the "Commission"), and Charles C. Butt (the "Donor"). The City, the Commission and the Donor are each referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Commission is organized to assist with planning, developing, identifying potential partners, fundraising, managing and financing projects involved with the City's Tricentennial Celebration during 2018; and

WHEREAS, Lincoln Park is located on the near eastside in Council District 2 and has been a gathering place for families and neighbors for almost 100 years; and

WHEREAS, Charles C. Butt is the majority shareholder of HEB, one of America's largest private companies that serves over 150 communities through over 350 stores located throughout Texas and Mexico, who is recognized as a leading titan in his industry; and

WHEREAS, beyond being recognized as a leading titan in his industry, Mr. Butt is also a generous philanthropist who, through his stewardship of the family business, and the thoughtful and deliberate distribution of his charitable dollars, continues to make indelible marks on the community he calls home; and

WHEREAS, on May 6, 2017, San Antonio voters approved the 2017 - 2022 Bond Program, consisting of six propositions totaling \$850 Million which included \$1,000,000.00 for improvements at Lincoln Park (the "Project") , located within Council District 2; and .

WHEREAS, Mr. Butt's previously offered to contribute \$1,000,000.00 to match the Bond funding for Lincoln Park, which contribution will be made to the Commission for the benefit of the City of San Antonio, and will help complete a splash pad in the Park as part of the Project in time for the City's Tricentennial celebration in May 2018, with completion of the Project to follow in April 2020; and

WHEREAS, through the terms of this Agreement, the Donor desires to contribute \$1,000,000.00 (the "Donation") to the Commission for the benefit of the City to supplement the funds approved in the 2017-2022 Bond Program for improvements to Lincoln Park (the "Project") located at 2915 E Commerce, San Antonio, Texas in City Council District 2; and

WHEREAS, the Parties intend this Agreement to set forth each Party's responsibilities and obligations in connection with the Donation and its use for the Project; **NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, it is agreed between the parties as follows:

I. PURPOSE

1.1 The Parties have determined that the Donor will provide a donation of \$1,000,000.00 to the Commission for the benefit of the City for planned improvements to Lincoln Park.

II. TERM

2.1 This Agreement shall commence on June 23, 2017 and continue until the Project is completed, at which time this Agreement shall terminate.

III. OBLIGATIONS OF THE DONOR

3.1 The Donor shall contribute to the Commission for the benefit of the City an amount of \$1,000,000.00 to be paid in full no later than 10 days after the effective date of this Agreement, solely for the use by the City in connection with planned improvements to Lincoln Park.

3.2 Contingent on his availability, the Donor may participate in a ground-breaking ceremony or such other presentation announcing the Donation, the date and specifics of which will be determined by the City in consultation with the Donor.

IV. OBLIGATIONS OF THE COMMISSION

4.1 The Commission shall receive the Donation from the Donor and in turn transfer the Donation to the City for the purposes stated above, no later than 10 days after approval of this Agreement by the City Council.

4.2 In coordination with the City, the Commission will provide the Donor with 30 days advance notice of the ceremonies or presentations referenced in Section 3.2 and provide logistical support to the Donor in connection with such activities.

4.4 The Commission will recognize the Donor and his Donation in coordination with the Donor's Communication team, according to mutually agreed upon terms.

V. OBLIGATIONS OF THE CITY

5.1 Upon receipt of the Donation through the Commission, the City will deposit the Donation in the City's account established for the Project and limit use of the Donation to costs associated with the Project.

5.2 Upon request by the Donor or his representative, the City will provide updates on the progress of the Project and the specific use of the Donation in connection therewith, and subject to availability, attend site visits to the location of the Project in Lincoln Park.

5.3 The City will recognize the Donor and the Donation in coordination with the Donor's Communication team, according to mutually agreed upon terms.

VI. MEDIA

6.1 All press releases or other public communications of any nature whatsoever relating to the subject matter of this Agreement, and the method of the release for publication thereof, will be subject to the prior mutual approval in writing of the Parties. Notwithstanding anything herein to the contrary, each Party has the right to publicly disclose this Agreement and its subject matter as required by applicable laws without the prior written approval of the other Parties.

VII. NOTICE

7.1 Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, (c) United States mail, postage prepaid, registered or certified mail, or (d) via facsimile, telegram or e-mail, address as follows:

If to the City:

Mike Frisbie, P.E.
Director, Transportation & Capital Improvements
P.O. Box 839966
San Antonio, Texas 78283-3966

If to the Commission:

San Antonio Tricentennial Commission
101 S. Santa Rosa
San Antonio, Texas 78207
Attention: Edward Benavides, CEO

If to the Donor:

Charles C. Butt
c/o Dya Campos
HEB Director of Governmental and Public Affairs
646 South Main Ave.
San Antonio, Texas 78204

VIII. APPLICABLE LAW

8.1 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.

8.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

IX. COMPLIANCE WITH LAWS

9.1 Each party will comply with all applicable federal, state and local laws, rules and regulations which may apply to the performance of their respective obligations under this Agreement.

X. AMENDMENTS

10.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions or deletions to the terms hereof, shall be effected by an amendment, in writing, executed by the Parties.

XI. SEVERABILITY

11.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XII. LEGAL AUTHORITY

12.1 The signatories to this Agreement represent, warrant, assure and guarantee that they have full legal authority to execute this Agreement on behalf of the party for which they are signing and to bind such party to all of the terms, conditions, provisions and obligations herein contained.

XIII. ENTIRE AGREEMENT

13.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other Agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with this Agreement. This Agreement shall supersede any and all prior written and oral agreements between the Parties.

IX. COUNTERPARTS

9.1 For convenience of the parties hereto, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all purposes.

**THE SAN ANTONIO TRICENTENNIAL
CELEBRATION COMMISSION**

CHARLES C. BUTT

By: _____
Edward Benavides, CEO

THE CITY OF SAN ANTONIO

By: _____

APPROVED AS TO FORM:

City Attorney