

AN ORDINANCE **2012-09-20-0751**

AUTHORIZING A FUNDING AGREEMENT WITH CPS ENERGY IN AN AMOUNT NOT TO EXCEED \$154,000.00 FOR THE ESTABLISHMENT OF NEW ELECTRICAL FACILITIES AND UPGRADE TO EXISTING ELECTRICAL FACILITIES AS PART OF CAPITAL IMPROVEMENTS TO THE SAN ANTONIO BOTANICAL GARDEN IN COUNCIL DISTRICT 9.

* * * * *

WHEREAS, on October 21, 2010, the City Council passed Ordinance No. 2010-10-21-0929 approving the San Antonio Botanical Garden Master Plan (the “Master Plan”); and

WHEREAS, on May 17, 2012, the City Council passed Ordinance No. 2012-05-17-0348 canvassing the results of a special bond election in which the citizens of San Antonio voted in favor of Proposition No. 3 which authorized the issuance of \$87,150,000 in bonds for park, recreation and open space improvements (the “Bond Program”), including \$1.2 million for capital improvements to the San Antonio Botanical Garden; and

WHEREAS, the capital improvements in the Master Plan include a new Visitor’s Center, Education and Event Building, Staff Building, and Surface Parking – all of which will require the establishment and upgrade of electrical facilities at the San Antonio Botanical Garden; and

WHEREAS, CPS Energy will provide engineering planning, design, and construction of new electrical facilities and upgrades to existing electrical facilities at the San Antonio Botanical Garden as part of the capital improvements approved in the Master Plan (the “Project”); and

WHEREAS, in order to fund the provision of electrical services and construction for the Project by CPS Energy, the City has negotiated a funding agreement with CPS Energy for this purpose; **NOW THEREFORE:**

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

SECTION 1. The City Manager, the Director of the Parks and Recreation Department, or their designee, is authorized to execute the attached Funding Agreement with CPS Energy in the amount of \$154,000.00 from the FY 2012 Parks and Recreation Department General Fund operating budget for the purpose of funding the establishment of new electrical facilities and upgraded electrical facilities as part of the capital improvements to the San Antonio Botanical Garden as approved by the City Council in the Bond Program and the Master Plan. The terms and conditions of the Funding Agreement are hereby approved. A copy of the Funding Agreement is attached hereto as **Attachment I** and incorporated to this Ordinance for all purposes.

SECTION 2. Funding in the amount of \$154,000.00 for this Ordinance is available in Fund 11001000, Cost Center 2615020001, General Ledger 5404530, as part of the Fiscal Year 2012 Budget.

SECTION 3. The payment of capital expenditures to CPS Energy in the amount not to exceed \$154,000.00 is authorized and should be encumbered with a purchase order.

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.

SECTION 5. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 20th day of September, 2012.

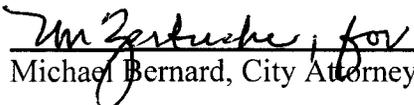

M A V O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

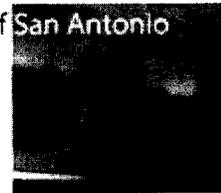


Michael Bernard, City Attorney



Request for
COUNCIL
 ACTION

City of San Antonio



Agenda Voting Results - 41

Name:	8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22B, 23, 24, 25, 26, 27, 28A, 28B, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45						
Date:	09/20/2012						
Time:	10:55:21 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a Funding Agreement with CPS Energy in an amount up to \$154,000.00 from the FY 2012 Parks and Recreation Department General Fund operating budget for the purpose of establishing and upgrading electrical facilities at the San Antonio Botanical Garden in Council District 9. [Ed Belmares , Assistant City Manager; Xavier Urrutia , Director, Parks & Recreation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10	x					

ATTACHMENT I

**FUNDING AGREEMENT BETWEEN THE CITY OF SAN ANTONIO
AND CPS ENERGY FOR
ESTABLISHING AND UPGRADING ELECTRICAL FACILITIES ASSOCIATED
WITH CAPITAL IMPROVEMENTS AT THE
SAN ANTONIO BOTANICAL GARDEN**

STATE OF TEXAS

§

COUNTY OF BEXAR

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§

This Funding Agreement (the “Agreement”), made by and between the City of San Antonio, Texas, a Texas Municipal Corporation (the “City”), and CPS Energy, a municipally-owned electric and gas utility owned by the City (singularly a “Party” and collectively the “Parties”), is for the expenditure of funds for capital improvements to the San Antonio Botanical Garden. Accordingly, the Parties agree as follows:

WITNESSETH

WHEREAS, on October 21, 2010, the City Council passed Ordinance No. 2010-10-21-0929 approving the San Antonio Botanical Garden Master Plan (the “Master Plan”); and

WHEREAS, on May 17, 2012, the City Council passed Ordinance No. 2012-05-17-0348 canvassing the results of a special bond election in which the citizens of San Antonio voted in favor of Proposition No. 3 which authorized the issuance of \$87,150,000 in bonds for park, recreation and open space improvements (the “Bond Program”), including \$1.2 million for capital improvements to the San Antonio Botanical Garden; and

WHEREAS, the capital improvements in the Master Plan include a new Visitor’s Center, Education and Event Building, Staff Building, and Surface Parking – all of which will require the establishment and upgrade of electrical facilities at the San Antonio Botanical Garden; and

WHEREAS, CPS Energy will provide engineering planning, design documents, any necessary relocation of facilities, and construction of new electrical facilities and upgrades to existing electrical facilities at the San Antonio Botanical Garden as part of the capital improvements approved in the Master Plan in an amount not to exceed \$154,000.00 (the “Project”); and

WHEREAS, Ordinance No. 2012-09-____ authorizes the City to enter into this Funding Agreement.

AGREEMENT

NOW, THEREFORE; in consideration of the premises and of the mutual covenants and agreements of the Parties, to be mutually kept and performed as set forth in this Agreement, it is agreed as follows:

**ARTICLE I
CITY RESPONSIBILITIES**

- A. City agrees to pay CPS Energy the amount of ONE HUNDRED FIFTY FOUR THOUSAND AND 00/100 DOLLARS (\$154,000.00) for electrical services and construction upon completion of the Project.
- B. City will provide access to the San Antonio Botanical Garden to CPS Energy personnel for the purpose of providing electrical services and construction associated with the Project.
- C. City will provide CPS Energy copies of, or facilitate access to, engineering plan and design documents related to capital improvements at the San Antonio Botanical Garden in order to assist CPS Energy in providing electrical services and construction for the Project.

**ARTICLE II
SCOPE OF SERVICES**

- A. The Parties will mutually agree on the scope of services for the Project at a later time consistent with the construction schedule of improvements at the San Antonio Botanical Garden under the City's Bond Program and the Master Plan.
- B. The Parties agree that payment of capital funds to CPS Energy of \$154,000.00 will be contingent on the Parties reaching mutual agreement on the scope of services.

**ARTICLE III
CPS RESPONSIBILITIES**

- A. CPS Energy shall develop and carry out all engineering planning, design, and construction activities associated with the Project, and coordinate with the City all appropriate approvals prior to actual construction.
- B. The Project shall be completed in accordance with all applicable local, state and federal environmental and developmental regulations.
- C. CPS Energy shall submit an invoice to City for funding upon completion of the Project pursuant to the agreed upon scope of services in an amount not to exceed \$154,000.00.

- D. Prior to entry into the San Antonio Botanical Garden for the purpose of providing the electrical services and construction for the Project, CPS Energy shall coordinate access to the property with the City.

**ARTICLE IV
LEGAL AUTHORITY**

- A. Upon the City Council passing an ordinance approving of this Agreement, the City Manager or designee shall have the authority to execute this Agreement.

IN WITNESS WHEREOF, the City of San Antonio has lawfully caused this Agreement to be executed by the City Manager or designee, and CPS Energy has lawfully caused this Agreement to be executed by the hand of the Senior Vice President of Energy Delivery Services or designee.

Executed on this the ____ day of _____, 2012.

CPS ENERGY

By: _____
Fredrick A. James
Senior VP of Energy Delivery Services

CITY OF SAN ANTONIO

By: _____
Xavier Urrutia
Director, Park & Recreation Department

APPROVED AS TO FORM:

Michael Bernard
City Attorney