

AN ORDINANCE **2010-09-02-0759**

AUTHORIZING AN AMENDMENT TO AN INTERLOCAL AGREEMENT WITH THE CITY OF OLMOS PARK, TO PROVIDE FOR THE DESIGN AND CONSTRUCTION OF A RAILROAD QUIET ZONE FROM W. SUNSET ROAD TO W. HILDEBRAND AVENUE, AND ACCEPTING FUNDS IN THE AMOUNT OF \$96,100.00 FROM THE CITY OF OLMOS PARK.

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WHEREAS, the City of Olmos Park requested City of San Antonio assistance in establishing a railroad quiet zone within the San Antonio City limits, from Basse Road to Dora Street that included four (4) railroad crossings on the Union Pacific Railroad track in District 1; and

WHEREAS, Ordinance No. 2009-03-19-0223 authorized an Interlocal Agreement with the City of Olmos Park to jointly fund a traffic study for a proposed quiet zone; and

WHEREAS, the study included four (4) additional railroad crossings which extend the proposed quiet zone to W. Sunset Road to the north and W. Hildebrand Avenue to the south for a total of eight crossings; and

WHEREAS, Neighborhood Access and Mobility Program (NAMP) funds from District 1 and District 9 will be used for the cost of the design and construction of this Project; and

WHEREAS, the estimated cost for this Project is \$338,849.00, of which the City of Olmos Park will provide \$96,100.00 towards the design and construction of the improvements needed to implement the quiet zone; and

WHEREAS, this Ordinance is a continuation of City policy of cooperation and positive coordination between the City of Olmos Park and the City of San Antonio; **NOW THEREFORE**,

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

SECTION 1. The City Manager or her designee is hereby authorized to execute an Amendment to the Interlocal Agreement between the City of San Antonio and the City of Olmos Park to provide for the design and construction of a railroad quiet zone from W. Sunset Road to W. Hildebrand Avenue, and accept funds in the amount of \$96,100.00 from the City of Olmos Park. A copy of the Amendment is attached hereto and incorporated as **Attachment I**.

SECTION 2. The following financial adjustments are hereby approved:

- a) Funds are authorized to be received from the City of Olmos Park to SAP Fund 40099000, Other Capital Projects, SAP Project Definition 23-00990, ATD-Intersection Improvements, shall be revised by increasing WBS element 23-00990-90-07, entitled Contribution from City Of Olmos Park, SAP GL Account 4502280 – Contribution from other Agencies, by the amount of \$96,100.00.

90-07, entitled Contribution from City Of Olmos Park, SAP GL Account 4502280 – Contribution from other Agencies, by the amount of \$96,100.00.

- b) The amount of \$96,100.00 is appropriated in SAP 40099000, Other Capital Projects, SAP Project Definition 23-00990, ATD-Intersection Improvements, SAP WBS Element 23-00990-05-02-06, entitled Quiet Zone District 1, SAP GL Account 5201140.

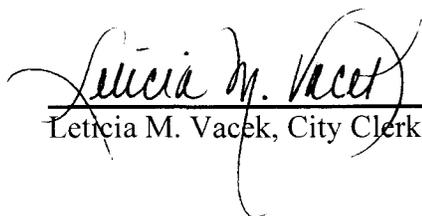
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer, City of San Antonio. The Chief Financial Officer may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project 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 be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 2nd day of September, 2010.

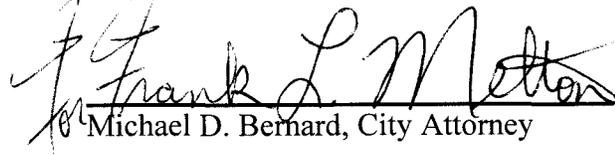

M A Y O R
Julián Castro

ATTEST:

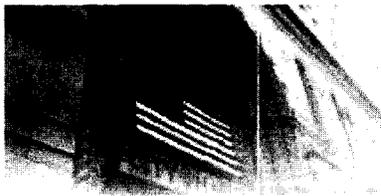


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

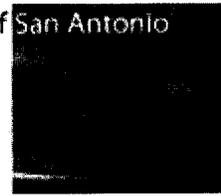


Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 34

Name:	34						
Date:	09/02/2010						
Time:	11:05:49 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing an amendment to an existing Interlocal Agreement with the City of Olmos Park, to provide for the design and construction of a railroad quiet zone from W. Sunset Road to W. Hildebrand Avenue, and acceptance of funds in the amount of \$96,100.00 from the City of Olmos Park, located in Districts 1 and 9. [Sharon De La Garza, Assistant City Manager; Majed A. Al-Ghafry, Director, Public Works]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
John G. Clamp	District 10		x				

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT
FOR SURVEY AND ANALYSIS OF AREAS TO BE
CONSIDERED FOR QUIET ZONE DESIGNATION**

This First Amendment (the "Amendment") to Interlocal Agreement for Survey and Analysis of Areas to be Considered for Quiet Zone Designation is entered into by and between the City of Olmos Park ("Olmos Park"), a Texas municipal corporation acting by and through its City Manager, passed and approved by the City of Olmos Park City Council on the 20th day of May, 2010, as evidenced by the passage of a duly authorized Resolution No. 2010-08, and the City of San Antonio ("San Antonio"), a Texas municipal corporation acting by and through its City Manager, passed and approved by the City of San Antonio City Council on the _____ day of _____, 2010, by adoption of Ordinance Number 2010-_____.

WHEREAS, Olmos Park and San Antonio entered into that one certain Interlocal Agreement for Survey and Analysis of Areas to be Considered for Quiet Zone Designation (the "Agreement"); and

WHEREAS, Article XI of the Agreement provides that any additions to the terms of the Agreement shall be effected by amendment in writing executed by both San Antonio and Olmos Park and subject to the approval by the San Antonio City Council as evidenced by passage of an ordinance and the Olmos Park City Council as evidenced by passage of an ordinance or resolution; and

WHEREAS, Olmos Park and San Antonio desire to amend the Agreement to provide for the determination as to what safety improvements are to be made to four railroad crossings on Union Pacific Railroad track within the jurisdictional boundaries of San Antonio but near the City of Olmos Park and affecting residents and businesses within the jurisdictional limits of San Antonio and Olmos Park, as well as the terms for payment of the costs for installation of such safety improvements.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Olmos Park and San Antonio do hereby agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in and made a part of this First Amendment.

2. Safety Improvements. Based upon the results of the engineering survey and analysis of areas to be considered for quiet zone designation, the parties agree that the following safety improvements shall be made by San Antonio to establish railroad quiet zones along Union Pacific Railroad tracks near Olmos Park:

A.	Basse Road:	Medians, Markings, and Signage Estimated cost: \$48,332.00
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- B. McCullough/Mandalay: Medians, Markings, and Signage
Estimated cost: \$74,315.00
- C. Zilla Street: Medians, Markings, and Signage
Estimated cost: \$52,831.00
- D. Dora Street: Markings, and Signage
Estimated cost: \$16,722.00

3. Public Purpose. Installation of the safety improvements described in Section 2 hereof will benefit Olmos Park, its residents, and businesses located within Olmos Park and has a public purpose of benefit to Olmos Park. Installation of the safety improvements described in Section 2 hereof will benefit San Antonio, its residents, and businesses located within San Antonio and has a public purpose of benefit to San Antonio.

4. Payment. Payment for the safety improvements described in Section 2 hereof shall be shared by Olmos Park and San Antonio with Olmos Park and San Antonio each paying an amount not to exceed \$96,100.00. Payment by Olmos Park will be made within 15 days after this Amendment is passed and approved by both the City Council of San Antonio and the City Council of Olmos Park. Any party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

5. In the event the estimated cost for safety improvements is not sufficient to cover the actual cost or if change orders become necessary to complete the Project, the party making a request for additional funds to cover the cost of work under this Agreement or change order shall make such request in writing to the other party. Each party agrees to use good faith efforts to respond to any request for additional funds or change orders within thirty (30) calendar days after receipt of request for additional funds or change order, or such additional period of time as may be reasonably necessary under the circumstances based on the complexity of the request or change order. Neither party is under any obligation to approve any request for additional funds or change order, and under no circumstances shall a party be responsible for additional cost or change orders not specifically approved by that party in accordance with Texas Law. In the event both parties approve a request for additional funds or a change order, the parties agree to pay one-half (1/2) of the additional cost and/or change order and Olmos Park shall submit its one-half (1/2) to the City of San Antonio within ten (10) days after each party has approved the request for additional funds or change order in accordance with Texas Law.

6. Project Completion. The project to install safety improvements for implementation of a Quiet Zone shall be deemed to be completed on the effective date specified in the Notice of Establishment of a New Quiet Zone, including any amendments thereto, issued by the City of San Antonio. Within 45 days following the effective date, any unused funds from the payment made by Olmos Park shall be returned by the City of San Antonio to the City of Olmos Park. Upon return of any unused funds, or after 45 days from the effective date if no unused funds are to be returned, this amendment and the original Interlocal Agreement shall terminate, and neither party shall have any further responsibility under the amendment or agreement.

7. Applicable Law. This Amendment shall be construed under and governed by the laws of the State of Texas and all obligations of the parties created under this Amendment are performable in Bexar County, Texas. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Amendment shall be heard and determined in Bexar County, Texas.

8. Legal Authority. The signer of this Amendment on behalf of each party represents, warrants, assures, and guarantees that she has full authority to execute this Amendment on behalf of Olmos Park or San Antonio, and to bind Olmos Park or San Antonio, respectively, to all of the terms, conditions, provisions, and obligations contained in this Amendment.

9. Parties Bound. This Amendment shall be binding on and inure to the benefit of each party to this Amendment and their respective successors and assigns, except as expressly provided otherwise in this Amendment.

10. Assignment. Neither party may assign its rights, privileges, or obligations under this Amendment in whole or in part, without the consent of the governing body of the other party as expressed by adopted resolution or ordinance. Any attempt to assign without such action shall be void.

11. Compliance with Laws. The parties to this Amendment agree to comply with all federal, state, and municipal laws, ordinances, resolutions, rules, and regulations applicable to the work or services to be performed pursuant to this Amendment.

12. Ratification. Except as herein provided, the terms of the Agreement are ratified and confirmed.

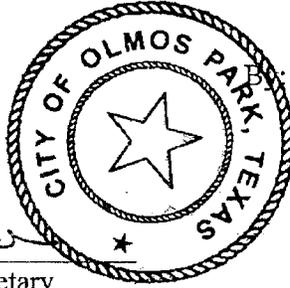
13. Entire Agreement. This Amendment, together with any authorizing ordinances or resolutions, shall constitute the final and entire agreement between the parties to this Amendment and contains all of the terms and conditions agreed upon.

14. Counterparts. This Amendment may be executed in separate identical counterparts by the parties to this Amendment and each counterpart, when so executed and delivered, will constitute an original instrument and all such separate identical counterparts will constitute one and the same instrument.

EXECUTED effective the date stated above.

CITY OF OLMOS PARK

City of Olmos Park, Texas



Amy Buckert
Amy Buckert, City Manager

Attest/Seal

Celia DeLeon
Celia DeLeon, City Secretary

CITY OF SAN ANTONIO

City of San Antonio, Texas

By: Sheryl L. Sculley
Sheryl L. Sculley, City Manager

Attest/Seal

Leticia M. Vacek
Leticia M. Vacek, City Clerk