

ORDINANCE 2021-06-17-0464

**APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND THE PORT AUTHORITY OF SAN ANTONIO AUTHORIZING THE ACCEPTANCE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$1,000,000.00 FROM THE PORT AUTHORITY OF SAN ANTONIO FOR COMPLETION OF CONSTRUCTION OF THE PORT SAN ANTONIO PROJECT; AND AUTHORIZING THE AMENDING OF THE FY 2021 – FY 2026 CAPITAL IMPROVEMENT PROGRAM WITH THESE FUNDS FROM PORT SAN ANTONIO TO THE PORT SAN ANTONIO PROJECT.**

\* \* \* \* \*

**WHEREAS**, on May 6, 2017, San Antonio voters approved the City of San Antonio's 2017-2022 Bond Program, of which \$24,000,000.00 was approved for drainage improvements associated with the Port San Antonio project with funds being used toward constructing the project, construction oversight and the reimbursement of construction phase design services and utility adjustments; and

**WHEREAS**, in partnership with the City, the Port Authority of San Antonio agreed to manage and fund the design phase of the project, including the necessary environmental services and manage the preconstruction utility adjustments, the City agreed to contribute \$24,000,000.00 toward the construction and provide construction management services for the Port San Antonio project and fund the preconstruction utility adjustments; and

**WHEREAS**, the Port San Antonio project is a continuation of the City of San Antonio's commitment to providing an adequate storm water system to reduce on-going flooding risks within the City and the project expands the 36th Street Phase IIIB (Billy Mitchell to General Hudnell) drainage infrastructure built as part of the 2012 General Obligation Bond Program; and

**WHEREAS**, project construction began in February 2019 and is estimated to be completed by May 2022; and

**WHEREAS**, as part of the Interlocal Agreement between the Port Authority and the City, the City will not be required to contribute any funds in excess of the \$24,000,000.00 and the Port Authority of San Antonio is responsible for all costs in excess of the City's contribution; and

**WHEREAS**, as part of a joint monthly review of the project budget it was determined that a \$1,000,000 contribution from the Port Authority was necessary to continue and complete project's construction; and

**WHEREAS**, to maintain the overall budget, project adjustments will continue to be coordinated and evaluated by both the City and the Port Authority of San Antonio; and

**WHEREAS**, it is necessary to amend the Interlocal Agreement accordingly and authorize the execution of such amendment acceptance of funds in an amount not to exceed \$1,000,000.00 from the Port Authority of San Antonio for the continuation of project construction; **NOW THEREFORE**:

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

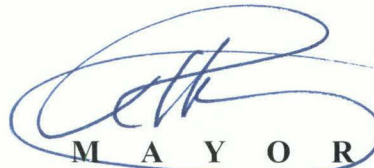
**SECTION 1.** The City Manager or designee is hereby authorized to amend the Interlocal Agreement between the City of San Antonio and Port Authority of San Antonio authorizing the acceptance of funds in an amount not to exceed \$1,000,000.00 into Fund 45099000 GO Capital Projects. A copy of the amendment in substantially final form is attached as **Exhibit I**.

**SECTION 2.** Upon acceptance the budget in Fund 4509900 GO Capital Projects, WBS Element 23-01633-90-10-01 Port of SA - Contributions with GL Account 4502280 Transfer In and WBS Element 23-01633-05-02-01 with GL Account 5201140 shall each be increased by the amount of \$1,000,000.00.


**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 is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.


**PASSED AND APPROVED** this 17<sup>th</sup> day of June, 2021.

  
**M A Y O R**  
Ron Nirenberg

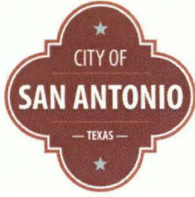
**ATTEST:**

  
Tina J. Flores, City Clerk

**APPROVED AS TO FORM:**

  
Andrew Segovia, City Attorney





## City of San Antonio

### City Council

June 17, 2021

**Item: 22A**

**File Number: 21-4355**

**Enactment Number:**

**2021-06-17-0464**

Ordinance amending the Interlocal Agreement with the Port Authority of San Antonio accepting funds in an amount not to exceed \$1,000,000.00 from the Port Authority of San Antonio for completion of construction of the Port San Antonio project; and amending the FY 2021 – FY 2026 Capital Improvement program with the funds from Port San Antonio to the Port San Antonio project.

Councilmember Ana E. Sandoval made a motion to approve. Councilmember John Courage seconded the motion. The motion passed by the following vote:

**Aye:** 10 Nirenberg, McKee-Rodriguez, Viagran, Rocha Garcia, Castillo,  
Cabello Havrda, Sandoval, Pelaez, Courage and Perry

**Abstain:** 1 Bravo

**EXHIBIT I**  
**Interlocal Agreement Amendment Port SA**

**AMENDMENT NO. 1  
TO THE  
INTERLOCAL AGREEMENT  
FOR THE  
FLOOD REMEDIATION AND DRAINAGE IMPROVEMENTS**

This Amendment No. 1 ("Amendment No. 1") to the Interlocal Agreement for the Flood Remediation and Drainage Improvements ("ILA") is dated effective February 10, 2021 ("Effective Date") and is hereby entered into by and between the City of San Antonio ("City"), a Texas municipal corporation acting through its City Manager, and Port Authority of San Antonio ("Port Authority"), a Texas defense base development authority and political subdivision of the State of Texas, established by the City of San Antonio pursuant to Chapter 379B, Subtitle A, Title 12 of the Texas Local Government Code, acting by and through its Board of Directors and duly authorized President and CEO. City and Port Authority are referred to herein individually as "a Party" and collectively as "the Parties."

Whereas, February 2020, through Ordinance 2019-01-17-0024, City and Port Authority entered into an Interlocal Agreement for the Flood Remediation and Drainage Improvements ("Original Agreement"); and

Whereas, the Project purpose is to expand drainage infrastructure at Port San Antonio, to ensure adequate storm water capacity and reduce ongoing flooding risks, to improve the safety and support future economic development ("Project"); and

Whereas, pursuant to the Original Agreement the City will oversee and manage the construction of the Project and contribute \$24,000,000.00, which contribution includes pre-construction utility cost reimbursement, construction phase services reimbursement, construction, environmental and City's capital administration costs, and Port Authority will provide project design and construction phase services, as well as obtain all necessary environmental permits, approvals and clearances; and

Whereas, if Project costs exceed the City's contribution of \$24,000,000.00, Port Authority is responsible for any and all costs to complete the Project in excess of the City's contribution; and

Whereas, this Amendment sets out the process by which Port Authority will reimburse City for any costs necessary to complete the Project once City's contribution has been depleted;

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. If actual Project Costs exceed the City's contribution of \$24,000,000.00, the City shall continue to construct and administer the Project subject to Port Authority reimbursing City for any and all project costs in excess of the City's contribution. City shall invoice



Port Authority for any and all costs in excess of the City's contribution through the PRIMELink system. City invoices will contain back-up documentation to substantiate invoiced costs. Port Authority shall pay all invoices submitted in PRIMELink by City within thirty (30) days of receipt of invoice.

2. As of the Effective Date hereof, it is anticipated that the Project costs will exceed the City's contribution of \$24,000,000.00. Port Authority hereby agrees that it will reimburse City's costs in the not to exceed amount of **\$1,000,000** in excess of the City's contribution without further action. **Notwithstanding anything contained herein to the contrary, if the Project costs exceed the total cost of \$25,000,000 the Parties agree to coordinate and jointly determine whether: i) Port Authority will contribute additional funds to the Project, subject to prior approval of the additional funds by Port Authority's Board of Directors; or ii) the Project scope will be reduced.** If the decision is made to reduce the Project scope, the City and Port Authority will jointly determine the elements of work that will be eliminated and/or revised. Notwithstanding the foregoing, Port Authority acknowledges and agrees that it remains responsible for all costs required to complete the Project in excess of the City's contribution.
3. Except as amended hereby, all other provisions of the Original Agreement are here retained in their entirety and remain unchanged.

**EXECUTED** and **AGREED** to as of the Effective Date shown above.

**City of San Antonio**

DocuSigned by:

*Razi Hosseini*

Razi Hosseini, P.E., R.P.L.S.  
Director/City Engineer  
Public Work Department

**Port Authority of San Antonio**

DocuSigned by:

*James E. Perschbach*

James E. Perschbach  
President & CEO

APPROVED AS TO FORM:

DocuSigned by:

*Katinka Howell*

Assistant City Attorney

DM # 273378v2