

CONSENT AGENDA
ITEM NO. 22

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
PUBLIC WORKS DEPARTMENT**

TO: Mayor and City Council

FROM: Thomas G. Wendorf, P.E., Director of Public Works

THROUGH: Terry M. Brechtel, City Manager

COPIES: Melissa Byrne Vossmer, Christopher J. Brady, Albert Ortiz, Andrew Martin,
Peter Zaroni, Milo D. Nitschke; File

SUBJECT: Pedestrian Warning Flasher Ordinance

DATE: June 24, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the City Manager or her designee to enter into a Funding Agreement with Silver Rio Limited Partnership accepting funds in the amount of \$6,540 for the construction of pedestrian warning signals on Market St. at the Westin Hotel. The City shall provide material and labor to construct and maintain the pedestrian warning signal.

Staff recommends approval of this ordinance.

BACKGROUND

Due to the number of pedestrians that cross mid-block on Market Street in front of the Westin Hotel to and from the Market Street Garage, it is important to ensure that the proper precautions be provided to facilitate a safe passage for pedestrians and an efficient movement for traffic. As a result of a request from the Westin Hotel, the City will install pedestrian warning signals to provide motorists with additional warning that a pedestrian has entered the roadway.

This ordinance authorizes a Funding Agreement between the City of San Antonio and Silver Rio Limited Partnership to provide funding in the amount of \$6,540 for the construction of pedestrian warning signals on Market St. at the Westin Hotel. These solar powered, amber flashing beacons are to be installed on each side of Market Street in front of the Westin Hotel to provide advance warning to drivers that a pedestrian is entering the street. When a pedestrian pushes the button located on the signal assembly, the warning signals will be activated. The signals are not intended to stop traffic, but are intended to assist in warning approaching traffic of the presence of a pedestrian. Appropriate signage will be installed indicating that traffic is not required to stop. Under the terms of this Agreement and following the receipt of funds from Silver Rio Partnership Limited, City forces will construct, install, and maintain the pedestrian warning signal.

POLICY ANALYSIS

Approval of this ordinance is consistent with Council Policy to promote traffic and pedestrian safety.

FISCAL IMPACT

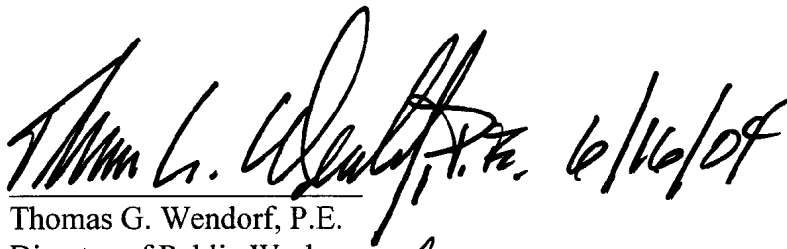
Funds in the amount of \$6,540 are authorized to be accepted from Silver Rio Limited Partnership and are anticipated to be sufficient for all material and labor costs.

COORDINATION

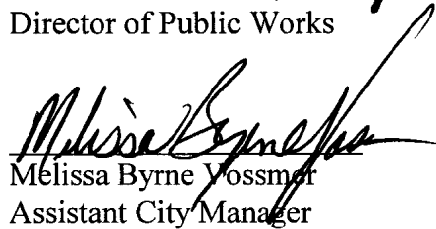
This request for ordinance has been coordinated with the Office of Management and Budget, the Finance Department and the City Attorney's Office.

ATTACHMENTS:

1. Correspondence related to the flasher installation
2. Funding Agreement

 6/16/07

Thomas G. Wendorf, P.E.
Director of Public Works



Melissa Byrne Yossmer
Assistant City Manager

Approved:


Terry M. Brechtel
City Manager



CITY OF SAN ANTONIO

PO BOX 53996
SAN ANTONIO, TEXAS 78283-3966

April 16, 2004

Mr. Rick Ueno, General Manager
Westin Riverwalk
420 West Market Street
San Antonio, TX 78205

Dear Mr. Ueno:

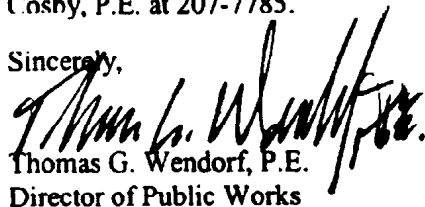
Safety of motorists and pedestrians is extremely important to the City of San Antonio Department of Public Works. In fact, our transportation mission is to encourage the safe and efficient movement of people and goods through a well designed, operated, and maintained multi-modal transportation network of city streets and highways. With our ultimate goal of safety in mind, identifying an acceptable alternative to the issue of pedestrians crossing the street at an unmarked mid-block location is of major concern.

At the Westin Hotel, guests who opt against using the valet parking service can park their vehicle in the Market Street garage and walk between the garage and the hotel. The route that includes the sidewalk and the existing marked crosswalk at the signalized intersection of Navarro and Market Streets is approximately 425 feet and requires about 1 minute 45 seconds to traverse. Other guests choose to cross the street at a mid-block location that is approximately 80 feet and requires about 20 seconds to traverse.

With this number of pedestrians crossing at mid-block, it is important to ensure that the proper treatment be provided to facilitate a safe and efficient movement. As a result of a request from Westin Hotel, the City will provide additional warning at the unmarked crossing. Public Works is recommending the installation of ground mounted pedestrian activated solar powered warning beacons and marked crosswalks directly between the Westin and the Market Street Garage. While Public Works has advised against such traffic control devices due to creating a false sense of security for pedestrians as they cross the street, the Department is proposing the installation as a pilot program provided that the Westin pay for the required materials and labor. Total cost for the installation is estimated to be \$6,540.00.

Should you have any questions or comments, or wish to pursue this alternative, please contact Jason F. Cosby, P.E. at 207-7785.

Sincerely,


Thomas G. Wendorf, P.E.
Director of Public Works

cc: Jason E. Cosby
Kent Hickingbottom
Marco A. Barros

FUNDING AGREEMENT FOR INSTALLATION OF PEDESTRIAN WARNING SIGNALS

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City") acting by and through its City Manager, pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 2004 and Silver Rio Limited Partnership through its General Partner, Silver/Hixon Management, L.L.C. (hereinafter referred to as "Private Party"), both of which may be referred to herein collectively as the "Parties".

WHEREAS, a Project consisting of pedestrian warning signals on Market Street; and

WHEREAS, the City and Private Party have agreed, in the interest of promoting the safe and efficient movement of traffic in the Central Business District, enhancing pedestrian safety, and pursuant to the terms hereof, to participate in a joint Project to benefit the community transacting business in the Central Business District; and

NOW, THEREFORE, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. THE PROJECT

Private Party shall contribute total funding for and City shall construct the Project. The Project shall consist of constructing pedestrian warning signals. Private Party, subject to the terms hereof, shall provide the project funding (subsequently defined herein) and referred to herein as Private party's "Contribution."

II. OBLIGATIONS OF PARTIES

- A. Private Party shall provide funding for the construction of the Project in the amount of six thousand five hundred forty dollars (\$6,540.00), the Private Party's Contribution, within ten (10) days of execution of the Agreement.
- B. City shall construct the Project, which shall include, oversight of the construction of the Project.

III. MISCELLANEOUS

- 1. Representatives of the Private Party shall have access to the Project during construction provided such access shall be accompanied by an agent of the City and will cause no delay, hindrance or interference with City's efforts or cause delay to the Project.
- 2. Any modifications to this Agreement must be in writing, and signed by each signatory hereof or its successor or they shall not be binding upon any of the parties hereto.

3. If any covenant, provision, or clause of this Agreement shall be held illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that this Agreement shall otherwise continue in full force and effect. It is the further intention of the parties that in lieu of each covenant, provision or agreement of this instrument that is held illegal, invalid, or unenforceable, there be added as a part hereof a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.
4. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. No party may, without the prior written consent of all other parties hereto, assign any rights, powers, duties, or obligations hereunder. This Agreement shall not inure to the benefit of any party other than the parties to this Agreement and their successors and permitted assignees.
5. Neither this Agreement nor any part thereof shall be construed as creating a partnership, joint venture or other business affiliation among the parties or otherwise.
6. This Agreement and the exhibits hereto supersede any and all other prior or contemporaneous agreements, oral or written, among the parties hereto with respect to the Project.
7. All notices given with respect to this Agreement shall be in writing and deemed delivered upon receipt if hand delivered or sent by confirmed facsimile transmission, and, if mailed, deemed received on the third business day after deposit in the United States mail, postage prepaid, addressed to the parties shown below:

IF TO THE CITY:

City of San Antonio
ATTN: CITY MANAGER
PO Box 839966
San Antonio, Texas 78283-3966
FACSIMILE: (210) 207-4217

IF TO PRIVATE PARTY:

Jim Blomstrom
Silver Rio Limited Partnership
315 East Commerce Street, Suite 300
San Antonio, Texas 78205
FACSIMILE: (210) 225-5910

WITH A COPY TO:

City of San Antonio
Department of Public Works
Director's Office
Municipal Plaza Building, 6th Floor
PO Box 839966
San Antonio, Texas 78283-3966
FACSIMILE: (210) 207-4406

8. This Agreement shall be governed by and construed under the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be exclusively in Bexar County, Texas.

9. The parties hereto agree they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate the purpose of this Agreement.
10. Each signatory hereof represents to the other parties to this Agreement that he or she has been duly authorized to do so and in so doing shall bind the party on whose behalf he or she is signing to the terms hereof.
11. Each party hereto shall pay its own attorney's fees with respect to the drafting, review and negotiation of this Agreement and all subsequent instruments and agreements related to the Project, and none of such fees shall in any event ever be considered part of the Project costs payable pursuant to the terms hereof. In the event it should ever become necessary for any party to retain the services of any attorney to enforce its rights hereunder against any other party(ies) hereto, then, should such party prevail, shall be entitled to recover, in addition to any other damages and awards to which it may be entitled, its reasonable attorneys' fees from the defaulting party(ies).
12. Any amounts which any party hereto may become obligated to pay to any other party under the terms hereof shall be paid within thirty (30) days after the same become due, and in the event such amounts are not paid within such time, then they shall accrue interest from the expiration of such thirty (30) day period until paid at the lesser of eighteen percent (18%) per annum or the maximum nonusurious rate allowed by applicable law.
13. Time is of the essence of this Agreement and each and every provision hereof.
14. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.

EXECUTED and **AGREED** to this the _____ day of _____, 2004.

CITY OF SAN ANTONIO

**SILVER RIO LIMITED PARTNERSHIP
THROUGH ITS GENERAL PARTNER,
SILVER/HIXON MANAGEMENT, L.L.C.**

Terry M. Brechtel
City Manager

Printed Name: _____
Title: _____

Attest:

City Seal:

City Clerk

Approved as to Form:

City Attorney