

**PUBLIC WORKS DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

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

SUBJECT: Purchase of Storm Water Fee Credits No. 00222 through 00403 from H. B. Zachry Company

DATE: July 14, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the purchase of Storm Water Fee credits from H. B. Zachry Company, which were earned through their participation in the Six Mile Creek #83F project, and authorizes payment in the amount of \$200,000.

Staff recommends the approval of this ordinance.

BACKGROUND INFORMATION

The City of San Antonio has determined that regional storm water management is preferable to site specific onsite storm water mitigation. Developers are allowed to participate in the Regional Storm Water Management Program (RSWMP) when the engineering data they submit demonstrates no negative off-site impact from the proposed development. The developer can participate in the RSWMP by paying a one-time fee in lieu of on-site detention, constructing a regional storm water facility to mitigate an existing drainage problem, or constructing or participating in the construction of a regional storm water facility to mitigate the anticipated increased storm water runoff in the watershed.

H. B. Zachry Company earned \$274,538.34 in storm water development fee credits for their participation in the Six Mile Creek #83F project, which was completed in July of 2001, at a total cost of \$6,532,241. These credits may be used for payment of storm water fees ordinarily required by the City of San Antonio Unified Development Code for or in connection with the platting or development of real property. H. B. Zachry contributions consisted of a cash contribution of \$151,191 that represents a 22.70% pro rata percentage of the total \$906,466 contribution from the other three private parties. In addition, H. B. Zachry Company's property component contribution was 2.35 acres. This project removed a significant portion of the Six Mile Creek watershed from the 100-year floodplain and provided a mutual benefit to the City by having a major drainage project in place that provides drainage relief to the residents and businesses in this watershed. Allowing abutting property owners the opportunity to recapture some of their property from the floodplain provided economic development opportunities. The collective contributions helped to defray the City's project deficit.

As of this date, H. B. Zachry Company has used only \$3,000 worth of storm water fee credits (Credits Nos. 00220 & 00221) earned for their participation in the Six Mile Creek #83F. It is to the City's benefit to purchase the remaining storm water fee credits, worth \$271,538.34, for a discounted amount of \$200,000, approximately 74% of the value of the credits.

At the time of execution of the agreement setting out the contributions of the City and the private parties for construction of the project, \$900,000 was placed in an interest bearing escrow account with Alamo Title Company ("Alamo"). Upon approval of this ordinance, H. B. Zachry Company will execute a letter agreement authorizing the release of the escrow accounts associated with the Six Mile Creek #83F project currently held at Alamo. Alamo will then release to the City of San Antonio all funds and deeds held related to this project. The total amount to be released is \$1,011,677.60.

POLICY ANALYSIS

Approval of this ordinance will be a continuation of City Council policy to continue to foster relationships with private interests in public/private partnerships. H.B. Zachry Company participated in this project with the intention of benefiting the economic development of the South Park Mall area of the City.

FISCAL IMPACT

This is a one-time improvement expenditure within budget and is not included in the FY 05-10 Capital Improvement Program Budget. Funds in the amount of \$200,000 are available from the Storm Water Regional Facilities fund and are authorized payable to the H. B. Zachry Company.

COORDINATION

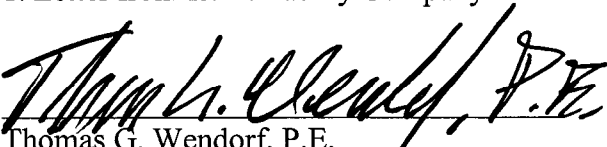
This ordinance has been coordinated with the City Attorney's Office, the Office of Management and Budget and the Finance Department.


SUPPLEMENTARY COMMENTS

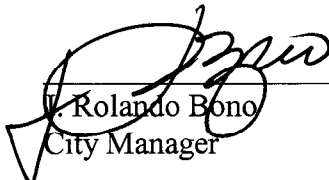
The Discretionary Contracts Disclosure Form required by the Ethics Ordinance is attached.

ATTACHMENTS

1. Letter from H. B. Zachry Company


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


Melissa Byrne Vossmer
Assistant City Manager


Rolando Bono
City Manager



*Action
needed*

April 27, 2005

The Honorable Councilman Richard Perez
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

Mr. Tom Wendorf
Director, Dept. of Public Works
City of San Antonio
7402 S. New Braunfels
San Antonio, Texas 78283-3966

RE: Six Mile Creek Regional Drainage Project

Dear Councilman Perez and Mr. Wendorf:

This will supplement our meeting of April 26 concerning the above referenced matter.

Let me begin by thanking you both for "hearing me out " on the history of this transaction which began long before either of you were involved with the City of San Antonio. I believe we made great progress toward resolving the outstanding issues of our Agreements.

It is my understanding that commencing immediately, the City of San Antonio ("COSA") will complete all work necessary regarding Case No. 04-06-01468P, referencing Six Mile Creek from Hutchins Place, so as to provide the prerequisite material for FEMA to commence the map revision process (i.e., the LOMR). It is my understanding that this work by the COSA will be completed within the next 45 days or by approximately June 15, 2005.

In addition, the COSA's Storm Water Operations has issued \$274,500 of Storm Water Credit Certificates to H.B. Zachry Company in association with the Six Mile Creek Project. Per our discussions, the Director of Public Works and Councilman Perez will recommend to the City Council prior to June 30, 2005 that the COSA repurchase City of San Antonio Storm Water Credit Certificates, No.



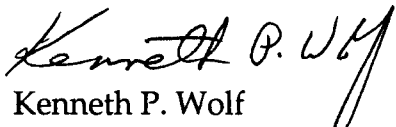
220 through and including 403, currently held in the name of H.B. Zachry Company, for a total purchase price of \$200,000.

It is our understanding that in conjunction with the completion of the above actions, H.B. Zachry Company will execute a letter agreement to release the escrow accounts currently held at Alamo Title Company. I have confirmed by telephone with Chris Varley at Alamo Title that within 24 hours of City Council approval of the above transaction, Alamo Title Company will release to the COSA all funds and deeds currently held at Alamo Title relative to this project. Mr. Varley will issue a letter to each of us next month detailing exactly how the instructions on the resolution of the escrow account should be styled.

Assuming this letter comports with your understanding of our agreement please proceed immediately in pursuing these objectives with the expectation of a presentation to the City Council in June, 2005.

Thank you again for your assistance on this matter.

Very truly yours,


Kenneth P. Wolf
Authorized Representative

cc: Harlene Kennedy
Ken Brown
Chris Varley