

AN ORDINANCE **98885**

AUTHORIZING THE EXECUTION OF A TAKE-OVER AGREEMENT WITH GULF INSURANCE CORPORATION AS SURETY FOR THE DEFAULTING CONTRACTOR BIG-TEX CONTRACTORS, INC., TO COMPLETE THE PEARSALL PARK RENOVATION PROJECT, LOCATED AT 5150 PEARSALL ROAD IN COUNCIL DISTRICT 4; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

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WHEREAS, funding from Certificates of Obligation was approved to develop Pearsall Park, located at 5150 Pearsall Road in City Council District 4; and

WHEREAS, the scope of work included construction of basic park improvements to include an approach and asphalt entry drive, asphalt parking area, screened toilet enclosure, park furnishings, drinking fountains, fenced off-leash dog park area, trail development, landscape planting and irrigation; and

WHEREAS, a contract was approved with Big-Tex Contractors, Inc. through Ordinance 96943 on December 9, 2002; and

WHEREAS, the contractor failed to meet contract requirements through insufficiencies in work product and extended time delays and as a result on October 2, 2003, the Parks and Recreation Department sent a notice by certified mail to Big-Tex Contractors, Inc. and Gulf Insurance Corporation (Surety) stating that the contractor should cease operations on the project; and

WHEREAS, the Surety engaged Dutch Construction to complete the remaining project construction and has agreed that the work will be completed within 60 working days from the date of notice to proceed and in addition, the Surety has agreed to pay an assessed lump sum of \$10,000.00 to cover liquidated damages incurred due to the time delay; **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 a takeover agreement with Gulf Insurance Corporation for the completion of the Pearsall Park improvement project. A copy of the contract in substantially correct form is attached hereto as attachment I.

Section 2. The budget and encumbrance in fund 43-181005, 2001 Parks & Recreation Improvements, shall be revised by reducing index code 532994, entitled Construction Contract (document CP96943A), by the amount of \$98,232.51.

Section 3. The budget and encumbrance in fund 43-181005, 2001 Parks & Recreation Improvements, shall be revised by reducing index code 533018, entitled Construction Contingency, by the amount of \$2,928.90.

Section 4. The amount of \$91,161.41 is appropriated in fund 43-181005, 2001 Parks & Recreation Improvements, in index code 691923, entitled Construction – Surety Company, and is authorized to be encumbered and made payable to Gulf Insurance Corporation in connection with the Pearsall Park Phase One Improvements Project.

Section 5. The budget and encumbrance in fund 43-181005, 2001 Parks & Recreation Improvements, shall be revised by reducing index code 533109, entitled Permit Fees, by the amount of \$50.60, and increasing index code 533307, entitled Landscape Architect Contingency, by the amount of \$50.60. The amount of \$50.60 is authorized to be encumbered and made payable for landscape architect contingency expenses in connection with the Pearsall Park Phase One Improvements Project.

Section 6. The amount of \$10,000.00 is appropriated in fund 43-181005, 2001 Parks & Recreation Improvements, in index code 691931, entitled Project Contingency, and is authorized to be encumbered and made payable for project contingency expenses in connection with the Pearsall Park Phase One Improvements Project.

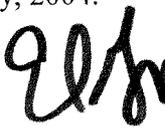
Section 7. The retained amount of \$20,767.35 originally payable to Big-Tex Contractors, Inc., in Fund 43 Certificates of Obligation, Accounts Payable Subsidiary 203-431034, shall be reduced by the amount of \$10,000.00 to reflect the liquidated damages payment to the City by the Surety in the amount of \$10,000.00.

Section 8. The remaining retainage in the amount of \$10,767.35 in Fund 43 Certificates of Obligation, Accounts Payable Subsidiary 203-431034, is authorized to be made payable to Gulf Insurance Corporation in connection with the Pearsall Park Phase One Improvements Project, upon satisfactory completion of the project.

Section 9. 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 allocation to specific Index Codes and Fund Numbers as necessary to carry out the purpose of this Ordinance.

Section 10. This ordinance shall become effective on March 7, 2004.

PASSED AND APPROVED this 26th day of February, 2004.


M A Y O R
EDWARD D. GARZA

ATTEST: Jolanda L. Ledwith
City Clerk

APPROVED AS TO FORM: Gregory J. Smith
City Attorney