

AN ORDINANCE

96645

**DECLARING THE MOCKERT STREET AREA (MOCKERT, FORREST, W. LAMBERT, KLINE, CASS) PROJECT (“PROJECT”) TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THIS PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES LISTED AS FOLLOWS: BEING 511.55 SQUARE FEET OUT OF LOT 16, AND 6,925.55 SQUARE FEET OUT OF LOT 19; AND BEING 551.54 SQUARE FEET OUT OF THE WEST 33.33 FEET OF LOT 20, AND BEING 131.18 SQUARE FEET OUT OF THE EAST 16.67 FEET OF LOT 20 AND THE WEST 16.67 FEET OF LOT 21, ALL OUT OF BLOCK 2, NCB 2593; BEING 12.43 SQUARE FEET OUT OF THE EAST 120 FEET OF LOT 5 AND EAST 120 FEET OF SOUTH 6.6 FEET OF LOT 4, AND BEING 12.50 SQUARE FEET OUT OF THE SOUTH 58.45 FEET OF LOT 36, BLOCK B, AND BEING 12.50 SQUARE FEET OUT OF LOT S, THE SOUTH 61.30 FEET OF LOT 38, BLOCK B, ALL OUT OF NCB 2874; BEING 12.41 SQUARE FEET OUT OF LOT E, BLOCK 1, IRREGULAR 85 FEET OF NORTH 59.30 FEET OF 10.125 ACRES OUT OF NCB 2931; BEING 12.43 SQUARE FEET OUT OF THE EAST 100 FEET OF LOT 1, AND 12.43 SQUARE FEET OUT OF THE NORTH 101.2 FEET OF LOT 12, BOTH OUT OF BLOCK 2, NCB 2932; AND 12.48 SQUARE FEET OUT OF THE NORTH 30 FEET OF LOT 12 AND NORTH 30 FEET OF WEST 32 FEET OF LOT 11, BLOCK 3, NCB 2933; ALL IN SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS FOR THE PROJECT INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY’S FEES; AUTHORIZING THE CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; FINDING THE ORDINANCE TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of San Antonio (“City”) desires to reconstruct Klein, Cass and W. Lambert from Mockert to S. Flores; Mockert from Klein to Furnish; and Forrest from S. Flores to Halstead by providing typical 30-foot wide, two-lane street sections; and

**WHEREAS**, the construction of the street widening, which will include curbs, sidewalks, driveway approaches and drainage improvements, is a necessary public project; and

**WHEREAS**, the Project is in the best interest of the health, safety and welfare of the public; and

**WHEREAS**, it is necessary to construct a portion of the Project upon property that is privately owned; and

**WHEREAS**, it is further necessary to obtain and acquire the fee simple title and/or an easement interest in fifteen parcels of land for use as part of the Project and the property to be acquired is described as follows:

<b>Parcel No.</b>	<b>Legal</b>	<b>Block</b>	<b>NCB</b>
16853	Being 511.55 square feet out of Lot 16	2	2593
16850	Being 6,925.55 square feet out of Lot 19	2	2593
16851	Being 551.54 square feet out of the west 33.33 feet of Lot 20	2	2593
16852	Being 131.18 square feet out of the east 16.67 feet of Lot 20 and the west 16.67 feet of Lot 21	2	2593
16855-B	Being 12.43 square feet out of the east 120 feet of Lot 5 and east 120 feet south 6.6 feet of Lot 4		2874
16855-A	Being 12.50 square feet out of the south 58.45 feet of Lot 36	B	2874
16855	Being 12.50 square feet out of Lot S, the south 61.30 feet of Lot 38	B	2874
16854	Being 12.41 square feet out of Lot E, Block 1, NCB 2931, irregular 85 feet of north 59.30 feet of 10.125 acres	1	2931
16855-C	Being 12.43 square feet out of the East 100 feet of Lot 1	2	2932
16849	Being 12.43 square feet out of the North 101.2 feet of Lot 12	2	2932
16855-D	Being 12.48 square feet out of the north 30 feet of Lot 12 and North 30 feet of West 32 feet of Lot 11	3	2933

**WHEREAS**, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

**WHEREAS**, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

**WHEREAS**, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

**WHEREAS**, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

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

**SECTION 1.** The Mockert Street Area (Mockert, Forrest, W. Lambert, Kline, and Cass) Project is hereby declared to be a necessary public project.

**SECTION 2.** The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) in certain privately owned real property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Mockert Street Area (Mockert, Forest, W. Lambert, Kline, Cass) Project in San Antonio, Bexar County, Texas.

**SECTION 3.** A specific public necessity exists to acquire by negotiation and/or condemnation, if necessary, the property more specifically described in Exhibit “B” attached hereto and incorporated herein for all purposes. Collectively, the properties may be referred to as the “Property.”

**SECTION 4.** The approved compensation for the Property is shown in Exhibit “A” which is attached hereto and incorporated herein for all purposes.

**SECTION 5.** The amount of \$25,527.00 is appropriated in Fund 45-979052, in Index Code 664219, entitled Land Acquisition, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.

**SECTION 6.** The amount of \$20,000.00 is appropriated in Fund 45-979052, in Index Code 664227, entitled Miscellaneous (Awnings, Fences, Etc.), and is authorized to be encumbered and made payable for miscellaneous expenses.

**SECTION 7.** The amount of \$8,000.00 is appropriated in Fund 45-979052, in Index Code 664235, entitled Title Fees, and is authorized to be encumbered and made payable for miscellaneous title fee expenses.

**SECTION 8.** The amount of \$24,000.00 is appropriated in Fund 45-979052, in Index Code 664284, entitled Legal Fees, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.

**SECTION 9.** The amount of \$2,800.00 is appropriated in Fund 45-979052, in Index Code 664326, entitled Lender Fees, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.

**SECTION 10.** The amount of \$1,100.00 is appropriated in Fund 45-979052, in Index Code 664318, entitled Right of Entry Fees, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

**SECTION 11.** The amount of \$3,500.00 is appropriated in Fund 45-979052, in Index Code 629162, entitled Appraisal Fees, and is authorized to be encumbered and made payable for miscellaneous appraisal fees.

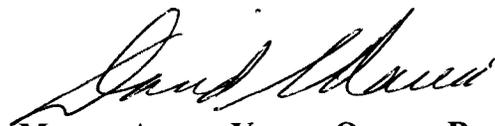
**SECTION 12.** The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

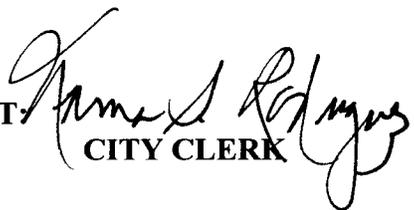
**SECTION 13.** That in the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Patterson, L.L.P. as special counsel as may be needed from time to time and to pay the for services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

**SECTION 14.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director 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 15.** This Ordinance shall be effective on the tenth day after passage hereof.

**PASSED AND APPROVED** this the 31<sup>st</sup> day of October, 2002.

  
M A Y O R **PRO TEM**

**ATTEST:**   
CITY CLERK

**APPROVED AS TO FORM:**   
City Attorney