

AN ORDINANCE **97304**

DECLARING THE FAY STREET/ST. JOSEPH: CREIGHTON TO NEW LAREDO HIGHWAY, PART I PROJECT ("PROJECT") TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE 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 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 1, BEING 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 8, BEING 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 14, BEING A 191.167 SQUARE FOOT TRACT OF LAND OUT OF LOT 31, BEING A 0.014 ACRE OR 622.94 SQUARE FOOT TRACT OF LAND OUT OF LOT S, ALL OUT OF BLOCK 6, NEW CITY BLOCK 8732; BEING A 189.185 SQUARE FOOT TRACT OF LAND OUT OF LOT 29, BLOCK 7, NEW CITY BLOCK 8733; AND ALL BEING OUT OF ARTESIAN GARDENS SUBDIVISION; BEING A 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 12, BEING A 19.94 SQUARE FOOT TRACT OF LAND OUT OF LOT 20, AND BEING A 0.014 ACRE OR 601.26 SQUARE FOOT TRACT OF LAND OUT OF LOT 21, ALL OUT OF BLOCK 4, NEW CITY BLOCK 8900; BEING A 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 20, BLOCK 5, NEW CITY BLOCK 8901; BEING A 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 1, BLOCK 8, NEW CITY BLOCK 8904; BEING A 15.505 SQUARE FOOT TRACT OF LAND OUT OF LOT 11, BLOCK 9, NEW CITY BLOCK 8905, AND ALL BEING OUT OF SOUTH SAN ANTONIO SUBDIVISION; 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 IN THE AMOUNT OF \$54,860.00 FROM 1999 G.O. STREET IMPROVEMENT BOND 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; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the City of San Antonio ("City") desires to reconstruct Fay from the midpoint between Crittendon and Creighton to New Laredo Highway, Applebee from Fay to deadend, and Lyell from Fay to Southcross; 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 twelve parcels of land for use as part of the Project and the property to be acquired is described as follows:

Parcel No.	Legal	Block	NCB
16886	Being a 15.505 square foot tract of land out of Lot 1	6	8732
16887	Being a 15.505 square foot tract of land out of Lot 8	6	8732
16888	Being a 15.505 square foot tract of land out of Lot 14	6	8732
16890	Being a 191.167 square foot tract of land out of Lot 31	6	8732
16885	Being a 0.014 acre or 622.94 square foot tract of land out of Lot S	6	8732
16889	Being a 189.185 square foot tract of land out of Lot 29	7	8733
16882	Being a 15.505 square foot tract of land out of Lot 12	4	8900
16883	Being a 19.94 square foot tract of land out of Lot 20	4	8900
16884	Being a 0.014 acre or 601.26 square foot tract of land out of Lot 21	4	8900
16880	Being a 15.505 square foot tract of land out of Lot 20	5	8901
16879	Being a 15.505 square foot tract of land out of Lot 1	8	8904
16881	Being a 15.505 square foot tract of land out of Lot 11	9	8905

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 Fay Street/ St. Joseph: Creighton to New Laredo Highway, Part I 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 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 Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I 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 budget in fund 45-972095, 1999 Street Improvements, Sold in 2001, shall be revised by decreasing index code 695577, entitled Unallocated Appropriations: Proceeds, by the amount of \$54,860.00.

SECTION 6. The amount of \$54,860.00 is appropriated in fund 45-972029, 1999 Street Improvements, Sold in 2001, in index code 937995, entitled Transfer to 45-979073 Fay Street/St. Joseph. The amount of \$54,860.00 is authorized to be transferred from fund 45-972029 to fund 45-979073.

SECTION 7. The budget in fund 45-979000 shall be revised by increasing index code 134338, entitled transfer from 45-972029 (45-979073) Fay Street, by the amount of \$54,860.00.

SECTION 8. The amount of \$25,720.00 is appropriated in Fund "Fund 45-979073, 1999 Street Improvements", 1; "in Index Code 75245, entitled Land Acquisition, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 9. The amount of \$2,120.00 is appropriated in Fund 45-979073, 1999 Street Improvements, in Index Code 752469, entitled Miscellaneous (Awnings, Fences, Etc.), and is authorized to be encumbered and made payable for miscellaneous expenses "in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 10. The amount of \$2,120.00 is appropriated in Fund 45-979073, 1999 Street Improvements, in Index Code 752477, entitled Title Fees, and is authorized to be encumbered and made payable for miscellaneous title fee expenses "in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 11. The amount of \$20,000.00 is appropriated in Fund 45-979073, 1999 Street Improvements , in Index Code 752485, entitled Legal Fees, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses add "in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 12. The amount of \$1,200.00 is appropriated in Fund 45-979073, 1999 Street Improvements , in Index Code 752493, entitled Lender Fees, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project..

SECTION 13. The amount of \$1,200.00 is appropriated in Fund 45-979073, 1999 Street Improvements in Index Code 752501, entitled Right of Entry Fees, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 14. The amount of \$2,500.00 is appropriated in Fund 45-979073, 1999 Street Improvements, in Index Code 752519 , entitled Appraisal Fees, and is authorized to be encumbered and made payable for miscellaneous appraisal fees in connection with the Fay Street/St. Joseph: Creighton to New Laredo Highway, Part I Project."

SECTION 15. 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 16. That in the event that the City staff is unable to acquire one or 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 for services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

SECTION 17. 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 18. This Ordinance shall be effective on the 23rd day of March, 2003.

PASSED AND APPROVED this the 13th day of March, 2003.

ATTEST: 
CITY CLERK


M A Y O R
EDWARD D. GARZA

APPROVED AS TO FORM: 
City Attorney