

AN ORDINANCE      **97429**

**DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT AND A PERMANENT ELECTRIC TRANSMISSION AND DISTRIBUTION LINES EASEMENT AND ANY OTHER NECESSARY OR DESIRABLE PROPERTY RIGHTS OVER, ACROSS, UPON, AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY FOR THE LEON CREEK TO PLEASANTON PROJECT, ALSO KNOWN AS THE LEON CREEK – PLEASANTON 138 kV TRANSMISSION LINE REBUILD PROJECT; SUCH EASEMENT, AND OTHER NECESSARY OR DESIRABLE PROPERTY RIGHTS BEING LOCATED ON THE FOLLOWING DESCRIBED REAL PROPERTY LOCATED IN BEXAR COUNTY, TEXAS:**

**BEING TRACT 9, CONTAINING 5.00 ACRES IN THE HELEN JOHNSON SUBDIVISION, BEXAR COUNTY, TEXAS ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 2222, PAGE 54 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS AND BEING OUT OF THE DIONICIO MARTINEZ SURVEY NO 1, ABSTRACT NO. 9, COUNTY BLOCK 4012, BEXAR COUNTY, TEXAS.**

**FOR THE PUBLIC PURPOSES OF THE CONSTRUCTION, RECONSTRUCTION, REFURBISHMENT, OPERATION, AND MAINTENANCE OF THE LEON CREEK TO PLEASANTON ELECTRIC TRANSMISSION AND DISTRIBUTION LINES, TOGETHER WITH ALL NECESSARY OR DESIRABLE APPURTENANCES THERETO, AND A COMMUNICATION SYSTEM FOR THE CITY OF SAN ANTONIO ELECTRIC AND GAS SYSTEM; AUTHORIZING ALL APPROPRIATE ACTION OF THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH THE CITY PUBLIC SERVICE BOARD OF SAN ANTONIO, IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE SUCH NEEDED TEMPORARY AND PERMANENT EASEMENTS AND ANY OTHER NECESSARY OR DESIRABLE PROPERTY RIGHTS THAT CANNOT BE ACQUIRED THROUGH NEGOTIATION; AND RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES ACTING FOR THE CITY OF SAN ANTONIO, BY AND THROUGH THE CITY PUBLIC SERVICE BOARD OF SAN ANTONIO, TO ACQUIRE SUCH EASEMENTS AND ANY OTHER NECESSARY OR DESIRABLE PROPERTY RIGHTS; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS OR EMINENT DOMAIN PROCEEDINGS TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE NECESSARY PROPERTY RIGHTS; AND DECLARING THE SECTIONS OF THE ORDINANCE TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION OF THIS ORDINANCE IS DETERMINED TO BE INVALID.**

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**WHEREAS**, the City Public Service Board of San Antonio (CPS) has determined that the acquisition of temporary and permanent easement rights, appurtenances and other necessary or desirable property rights to certain privately owned real property located in Bexar County, Texas are necessary and desirable for the construction, operation and maintenance of the Leon Creek to Pleasanton electric transmission and distribution lines, necessary or desirable appurtenances, and a communication system, for the City of San Antonio Electric and Gas System, and has previously budgeted funds to be expended for these purposes, an adequate part of which remains on hand for such purposes; and

**WHEREAS**, employees, agents and attorneys acting for the City of San Antonio, by and through CPS, are in the process of surveying, defining and negotiating for the acquisition of such property rights to certain privately owned real property as may be needed on behalf of the City of San Antonio; and

**WHEREAS**, in connection with the acquisition of such easement rights, appurtenances and other necessary or desirable property rights to certain privately owned real property, it may be necessary for the City of San Antonio, acting by and through CPS, to enter upon such property to survey such property rights so that they may be defined and described with specificity for inclusion in any easement agreement, if necessary, or as part of any court filings to institute proceedings in eminent domain to acquire such property rights; **NOW, THEREFORE;**

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

**SECTION 1.** It is hereby declared that the CPS Leon Creek to Pleasanton Project, also known as the Leon Creek – Pleasanton 138 kV Transmission Line Rebuild Project is a necessary public project. Public necessity requires that the City of San Antonio, acting by and through CPS, acquire temporary and permanent easements and all other necessary or desirable property rights as set forth in the form of easement attached as **Exhibit “A”** to this Ordinance and made a part hereof and any other property right the City of San Antonio, acting by and through CPS, needs or desires for the construction, reconstruction, refurbishment, operation, and maintenance of the Leon Creek to Pleasanton electric transmission and distribution lines, necessary or desirable appurtenances, and a communication system over, across, upon, and under certain privately owned real and/or other property for the public purpose of the construction, reconstruction, refurbishment, operation and maintenance of the Leon Creek to Pleasanton electric transmission and distribution lines, necessary or desirable appurtenances and a communication system for the City of San Antonio Electric and Gas System. Public necessity also requires the City of San Antonio, acting by and through CPS, to acquire any other necessary or desirable property rights, either through purchase or by the process of eminent domain, and to take all other lawful action necessary or incidental to such acquisition or eminent domain proceedings to survey, specify, clarify, define and acquire the necessary or desirable property rights.

**SECTION 2.** The property which is the subject of Section 1 for which temporary and permanent easement rights and other necessary or desirable property rights for the construction, reconstruction, refurbishment, operation and maintenance of the Leon Creek to Pleasanton electric transmission and distribution lines, necessary or desirable appurtenances and a communication system are required are described in **Exhibits “B”, “C” and “D”** attached hereto and incorporated into and made a part of this Ordinance for all purposes.

**SECTION 3.** The City of San Antonio, acting by and through CPS, acting by and through its retained attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary proceedings to condemn the property interests described in Sections 1 and 2 of this Ordinance as the City of San Antonio, acting by and through CPS, is unable to acquire through negotiation by reason of its inability to agree with the owners of the land as to the value of such interests in land, and to take any other legal action necessary or incidental to such acquisition or eminent domain proceedings to survey, specify, clarify, define and acquire the necessary or desirable property rights.

**SECTION 4.** All acts and proceedings done or initiated by the employees, agents and attorneys acting for the City of San Antonio, by and through CPS, for the acquisition of such property interests and rights are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the owners from whom such property interests and rights have been or are being purchased or acquired.

**SECTION 5.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 6.** It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this ordinance, was given to all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code.

**SECTION 7.** The construction, reconstruction, refurbishment, operation and maintenance of the Leon Creek to Pleasanton electric transmission and distribution lines and communication system and related appurtenances for the City of San Antonio Electric and Gas System are extremely important to the public health, safety and welfare and in order not to cause any delay in the scheduled completion of this undertaking, an emergency is hereby declared so that upon receipt of eight (8)

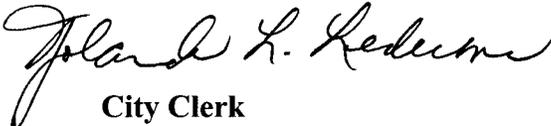
affirmative votes, this Ordinance shall become effective immediately upon passage. In the event that this Ordinance passes and does not receive eight (8) affirmative votes, the effective date of this Ordinance shall be on the eleventh day after the date of its adoption by the City Council.

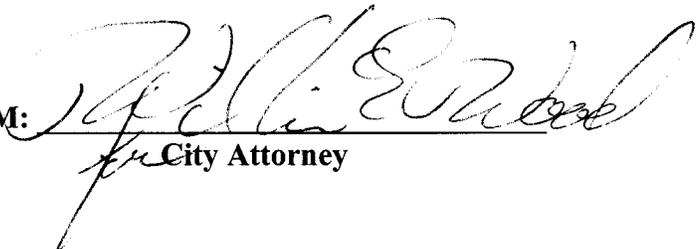
**PASSED AND APPROVED**, this the **10th** day of **April**, 2003.



**M A Y O R**

**EDWARD D. GARZA**

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney