

AN ORDINANCE

97469

DECLARING THE FM471 FROM LOOP 1604 TO FM 1560 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 BEING DESCRIBED AS: BEING 0.6807 ACRES (29,650 SQUARE FEET) OF LAND OUT OF COUNTY BLOCK (C.B.) 4449, BEXAR COUNTY, TEXAS, AND NEW CITY BLOCK (N.C.B.) 17635, SAN ANTONIO, TEXAS; BEING 0.233 (10,154 SQUARE FEET) ACRE TRACT OF LAND OUT OF THE REMAINDER OF THE 109.686 ACRE TRACT, NEW CITY BLOCK 17635 AND THE C. VILLANUEVA SURVEY NO. 85, ABSTRACT NO. 774, AND COUNTY BLOCK 4449; AND BEING 0.488 OF ONE ACRE OF LAND IN NEW CITY BLOCK (N.C.B.) 17635, SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$200,150.00 FROM 2001 CERTIFICATES OF OBLIGATION 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; AND 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 is obligated to obtain right of way to certain property in connection with the Grissom (471) Loop 1604 to FM 1560 Project; and

WHEREAS, the project includes widening of the right of way on Farm to Market Highways; 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 four parcels of land for use as part of the Project and the property to be acquired are fully described in **Exhibit “A”** attached hereto.

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 FM471 from Loop 1604 to FM1560 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 FM471 from Loop 410 to FM1560 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 the metes and bounds description attached hereto as **Exhibit “A”** 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 “B”** which is attached hereto and incorporated herein for all purposes.

SECTION 5. The budget in Fund No. 43-171095, 2001 Street Improvements, shall be revised by reducing Index Code 695734, entitled “Unallocated Appropriations: Proceeds”, by the amount of \$200,150.00.

SECTION 6. The amount of \$170,250.00 is appropriated in Fund No. 43-171009, 2001 Street Improvements, in Index Code 762153, entitled “Land Acquisition”, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.

SECTION 7. The amount of \$2,000.00 is appropriated in Fund No. 43-171009, 2001 Street Improvements in Index Code 762435, entitled “Miscellaneous (Awnings, Fences, Etc.)”, and is authorized to be encumbered and made payable for miscellaneous expenses.

SECTION 8. The amount of \$4,500.00 is appropriated in Fund No. 43-171009, Street Improvements in Index Code 762286, entitled “Title Fees”, and is authorized to be encumbered and made payable for miscellaneous title fee expenses.

SECTION 9. The amount of \$20,000.00 is appropriated in Fund No. 43-171009, 2001 Street Improvements in Index Code 762294, entitled “Legal Fees”, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.

SECTION 10. The amount of \$1,000.00 is appropriated in Fund No. 43-171009, Street Improvements in Index Code 762302, entitled “Lender Fees”, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.

SECTION 11. The amount of \$400.00 is appropriated in Fund No. 43-171009, Street Improvements in Index Code 762583, entitled “Right of Entry Fees”, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

SECTION 12. The amount of \$2,000.00 is appropriated in Fund No. 43-171009, 2001 Street Improvements in Index Code 758698, entitled “Appraisal Services”, and is authorized to be encumbered and made payable for miscellaneous appraisal fees.

SECTION 13. 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 14. 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 15. 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 16. This Ordinance shall be effective on the 27th day of April 2003.

PASSED AND APPROVED this the 17th day of April 2003.



M A Y O R

EDWARD D. GARZA

ATTEST: 
CITY CLERK

APPROVED AS TO FORM: 
for City Attorney