

AN ORDINANCE **97550**

DECLARING THE LOOP 410 AT NACOGDOCHES DRAINAGE IMPROVEMENT 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: A 0.1747 ACRE, OR 7,610 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH CONSTRUCTION EASEMENT; AND A 0.1113 ACRE, OR 4,847 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH SANITARY SEWER EASEMENT, 16-FOOT MINIMUM; AND A 0.2092 ACRE, OR 9,110 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH DRAINAGE EASEMENT; ALL OUT OF LOT 5, NEW CITY BLOCK 11868; A 0.2782 ACRE, OR 12,120 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH CONSTRUCTION EASEMENT, AND A 0.1696 ACRE, OR 7,385 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH SANITARY SEWER EASEMENT, AND A 0.2938 ACRE, OR 12,795 SQUARE FEET, TRACT OF LAND BEING A VARIABLE WIDTH DRAINAGE EASEMENT, ALL OUT OF LOT 10, NEW CITY BLOCK 11868; A 0.2085 ACRE, OR 9,082 SQUARE FEET TRACT OF LAND, BEING A VARIABLE WIDTH SANITARY SEWER EASEMENT, 16-FOOT MINIMUM OUT OF LOT 37, AND A 0.1501 ACRE, OR 6,537 SQUARE FEET, TRACT OF LAND BEING A 26-FOOT SANITARY SEWER EASEMENT OUT OF LOT 41, BOTH OUT OF BLOCK 1, NEW CITY BLOCK 11857, UTLEY SUBDIVISION; AND A 0.2301 ACRE, OR 10,025 SQUARE FEET, TRACT OF LAND, BEING A 16-FOOT SANITARY SEWER EASEMENT OUT OF LOT 42, BLOCK 1, NEW CITY BLOCK 11857, REGENCY PLAZA SUBDIVISION; ALL IN THE CITY OF 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 \$813,368.00 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; 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 construct drainage improvements as part of the Loop 410 at Nacogdoches Drainage Improvement Project; and

WHEREAS, the construction of the 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 nine 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
16869E	A 0.1747 acre, or 7,610 square feet, tract of land being a variable width construction easement out of that tract conveyed to Watts Investments described in instrument recorded in Volume 7256, Pages 1148-1155 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 5, in New City Block 11868 of the City of San Antonio in the 8.029 Acre (Busby Property) Subdivision recorded in Volume 5300, Page 141 of the Deed and Plat Records of Bexar County Texas, and out of the Remainder of Lot 4 in New City Block 11868 of the City of San Antonio in the 8.029 Acre Subdivision and the 14.188 Acre Subdivision recorded in Volume 5580, Page 157 of the Deed and Plat Records of Bexar County, Texas		11868
16870E	A 0.1113 acre, or 4,847 square feet, tract of land being a variable width sanitary sewer easement, 16-foot minimum, out of that tract conveyed to Watts Investments, described in instrument recorded in Volume 7256, Pages 1148-1155 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 5, in New City Block 11868 of the city of San Antonio in the 8.029 acre (Busby Property) Subdivision recorded in Volume 5300, Page 141 of the Deed and Plat Records of Bexar County, Texas.		11868
16871E	A 0.2092 acre, or 9,110 square feet, tract of land being a variable width drainage easement out of that tract conveyed to Watts Investments, described in instrument recorded in Volume 7256, Pages 1148-1155 of the Official Public Records of Real Property of Bexar County, Texas, out of		11868

	Lot 5, in New City Block 11868 of the City of San Antonio in the 8.029 acre (Busby Property) Subdivision recorded in Volume 5300, Page 141 of the Deed and Plat Records of Bexar County, Texas.		
16872E	A 0.2782 acre, or 12,120 square feet, tract of land being a variable width construction easement out of that tract conveyed to Guaranty Center Ltd., described in instrument recorded in Volume 9506, Pages 726-733 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 10, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, page 148 of the Deed and Plat Records of Bexar County, Texas.		11868
16873E	A 0.1696 acre, or 7,385 square feet, tract of land being a variable width sanitary sewer easement out of that tract conveyed to Guaranty Center, Ltd., described in instrument recorded in Volume 9506, Pages 726-733 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 10, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, Page 148 of the Deed and Plat Records of Bexar County, Texas.		11868
16874E	A 0.2938 acre, or 12,795 square feet, tract of land being a variable width drainage easement out of that tract conveyed to Guaranty Center, Ltd., described in instrument recorded in Volume 9506, Pages 726-733 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 10, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, Page 148 of the Deed and Plat Records of Bexar County, Texas.		11868
16875E	A 0.2085 acre, or 9,081 square feet, tract of land, being a variable width sanitary sewer easement, 16-foot minimum, situated within Lot 37, Block 1, Utley Subdivision, recorded in Volume 6100, Page 186 of the Deed and Plat Records of Bexar County, Texas, in New City Block 11857 of the City of San Antonio, Bexar County, Texas, the said Lot 37 was conveyed to Exxon Corporation by General Warranty Deed described in instrument recorded in Volume 2387, Pages 1268-1269 of the Official Public Records of Real Property of Bexar County, Texas.	1	11857
16876E	A 0.1501 acre, or 6,537 square feet, tract of land, being a 16-foot sanitary sewer easement, situated within Lot 41, Block 1, Utley Subdivision recorded in Volume 7700, Page 235 of the Deed and Plat Records of Bexar County, Texas, in New City Block 11857 of the City of San Antonio, Bexar	1	11857

	County, Texas, the said Lot 41 was conveyed to North Frost Center Phase II, L.L.C., by General Warranty Deed with Vendor's Lien described in instrument recorded in Volume 7301, Pages 122-126 of the Official Public Records of Real Property of Bexar County, Texas.		
16877E	A 0.2301 acre, or 10,025 square feet, tract of land, being a 16-foot sanitary sewer easement, situated within Lot 42, Block 1, of the Regency Plaza Subdivision as recorded in Volume 8700, Page 12 of the Deed and Plat Records of Bexar County, Texas, in New City Block 11857 of the City of San Antonio, Bexar County, Texas.	1	11857

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 Loop 410 at Nacogdoches Drainage Improvement 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 Loop 410 at Nacogdoches Drainage Improvement 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 Attachment I 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 Attachment II which is attached hereto and incorporated herein for all purposes.

SECTION 5. The budget in Fund 43-161095, 2001 Drainage Improvements, shall be revised by reducing Index Code 695718, entitled Unallocated Appropriations, in the amount of \$813,368.00.

SECTION 6. The amount of \$749,368.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769349, entitled Land Acquisition, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 8. The amount of \$5,000.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769356, entitled Miscellaneous (Awnings, Fences, Etc.), and is authorized to be encumbered and made payable for miscellaneous expenses in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 9. The amount of \$9,000.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769364, entitled Title Fees, and is authorized to be encumbered and made payable for miscellaneous title fee expenses in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 10. The amount of \$35,000.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769372, entitled Legal Fees, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 11. The amount of \$1,800.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769380, entitled Lender Fees, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 12. The amount of \$1,000.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769398, 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 Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 13. The amount of \$12,200.00 is appropriated in Fund 43-161005, 2001 Drainage Improvements, in Index Code 769406, entitled Appraisal Fees, and is authorized to be encumbered and made payable for miscellaneous appraisal fees in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

SECTION 14. 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 15. 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 16. 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 17. This Ordinance shall be effective on the tenth day after passage hereof.

PASSED AND APPROVED this the 1st day of May, 2003.

M A Y O R
EDWARD D. GARZA

ATTEST: Jolanda L. Ledezma
CITY CLERK

APPROVED AS TO FORM: [Signature]
City Attorney