

AN ORDINANCE **97914**

**DECLARING THE TEZEL – TIMBER PATH TO OLD TEZEL MPO PROJECT (“PROJECT”) TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE AND/OR EASEMENTS TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING AS FOLLOWS: (1) 0.008 HECTARES (0.020 OF AN ACRE) DRAINAGE EASEMENT, OUT OF A 5.00 ACRE TRACT, N.C.B. 15008, DESCRIBED AS TRACT II, VOLUME 2769, PAGE 1390, REAL PROPERTY RECORDS; (2) 0.010 HECTARES (0.024 OF AN ACRE) DRAINAGE EASEMENT OUT OF LOT 200, BLOCK 200, N.C.B. 15008, (3) 0.162 HECTARES (0.400 OF AN ACRE), OUT OF AND A PART OF A 4.108 ACRE TRACT, N.C.B. 15093, (4) 0.849 HECTARES (2.098 ACRES) OF LAND OUT OF AND PART OF A 10.299 ACRE TRACT, N.C.B. 15093, (5) A 0.4091 ACRE TRACT OF LAND, OUT OF AND PART OF A 14.224 ACRE TRACT, N.C.B. 15093, (6) 0.001 HECTARES (0.003 OF AN ACRE) OF LAND, BEING PART OF LOT 1, BLOCK 1, N.C.B. 18308, (7) 0.051 HECTARES (0.126 OF AN ACRE) DRAINAGE EASEMENT OUT OF A 6.24 ACRE TRACT, N.C.B. 18309; (8) 0.052 HECTARES (0.128 OF AN ACRE) DRAINAGE EASEMENT OUT OF AND A 6.24 ACRE TRACT, N.C.B. 18309, AND (9) 0.106 HECTARES (0.262 OF AN ACRE) DRAINAGE EASEMENT OUT OF AND A 6.580 ACRE TRACT, N.C.B. 18313, AND RECORDED IN WARRANTY DEED, VOLUME 8558, PAGE 1762, REAL PROPERTY RECORDS; ALL IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$333,850.00 FROM 1999 G.O. STREET IMPROVEMENT BOND FUNDS FOR THE PROJECT AND 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.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio (“City”) desires to reconstruct and widen the existing two-lane street to four lanes with turn lanes, curbs, six-foot sidewalks at the curb, drainage, signal

improvements and six-foot bicycle lanes as part of the Tezel-Timber Path to Old Tezel Metropolitan Planning Organization Project; and

**WHEREAS**, the construction of the street widening, which will include curbs, sidewalks 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 in 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>
16609E	Being 0.008 hectares (0.020 of an acre) N.C.B. 15008 City of San Antonio, Bexar County, Texas, drainage easement out of a 5.00 acre tract being described as Tract II, Volume 2769, Page 1390, Real Property Records, Bexar County, Texas.		15008
16610E	Being 0.010 hectares (0.024 of an acre) N.C.B. 15008 City of San Antonio, Bexar County, Texas. Drainage easement out of Lot 200, Block 200, Northminster Subdivision, situated in Bexar County, Texas according to plat thereof recorded in Volume 9508, Page 38, Deed and Plat Records of Bexar County, Texas	200	15008
16603	Being 0.162 hectares (0.400 of an acre) of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 4.108 acre tract, New City Block 15093, being conveyed to Timber Ranch Development, as recorded in Volume 7190, Page 1273, Real Property Records, Bexar County, Texas,		15093
16604	Being 0.849 hectares (2.098 acres) of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 10.299 acre tract, New City Block 15093, being conveyed to Dugas Diversified Development LC, as recorded in Volume 5668, Page 1249, Real Property Records, Bexar County, Texas.		15093
16605	Being a 0.4091 acre tract of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 14.114 acre tract, New City Block 15093, being conveyed to Timber Ranch Development, LTD., L.C., as recorded in Volume 5780, Page 1192, Real Property Records, Bexar County, Texas		15093
16611	Being 0.001 hectares (0.003 acres) of land situated in the City of San Antonio, Bexar County, Texas, being part of Lot 1, Block 1, Rustic timber subdivision, New City Block 18308, as recorded in Volume 9514, Page 152, Deed and Plat Records, Bexar County, Texas	1	18308

16606E	Being 0.051 hectares (0.126 of an acre) NC.B. 18309 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.24 acre tract of land recorded in Special Warranty Deed with Vendor's Lien, Volume 5233, Page 1796, Real Property Records, Bexar County, Texas		18309
16607E	Being 0.052 hectares (0.128 of an acre) NC.B. 18309 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.24 acre tract of land recorded in Special Warranty Deed with Vendor's Lien, Volume 5233, Page 1796, Real Property Records, Bexar County, Texas		18309
16608E	Being 0.106 hectares (0.262 of an acre) NC.B. 18313 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.580 acre tract of land recorded in Warranty Deed, Volume 8558, page 1762, Real Property Records, Bexar County, Texas.		18313

**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.** Tezel – Timber Path to Old Tezel Metropolitan Planning Organization 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 or easements 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 Tezel – Timber Path to Old Tezel Metropolitan Planning Organization 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" affixed hereto as **Attachment I** and incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property."

**SECTION 4.** The just compensation (fair market value) for the Property in the amount set out has been considered and approved as shown in **Attachment II** affixed 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 reducing appropriations in index code 695577, entitled Unallocated Appropriations: Proceeds, by the amount of \$333,850.00.

**SECTION 6.** The amount of \$333,850.00 is appropriated in Fund 45-972005, 1999 Street Improvements, Sold in 2001, in index code 915686, entitled Transfer to 45-979064 Tezel-Timber Path to. The amount of \$333,850.00 is authorized to be transferred from 45-972005 to 45-979064.

**SECTION 7.** The budget in Fund 45-979000, 1999 Street Improvements, is revised by increasing budgeted revenues in index code 127209, entitled Transfer from 45-972005 (45-979064) Tezel-Timber, by \$333,850.00.

**SECTION 8.** The amount of \$302,450.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 488601, entitled Land Acquisition, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.

**SECTION 9.** The amount of \$6,000.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 483198, entitled Miscellaneous (Awnings, Fences, Etc.), and is authorized to be encumbered and made payable for miscellaneous expenses.

**SECTION 10.** The amount of \$3,500.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 483479, entitled Title Fees, and is authorized to be encumbered and made payable for miscellaneous title fee expenses.

**SECTION 11.** The amount of \$20,000.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 483487, entitled Legal Fees, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.

**SECTION 12.** The amount of \$1,000.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 483495, entitled Lender Fees, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.

**SECTION 13.** The amount of \$900.00 is appropriated in Fund 45-979064, 1999 Street Improvements, Sold in 2001, in Index Code 483503, entitled Right of Entry Fees, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

**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 owners are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized

**ATTACHMENT II**

**TEZEL – TIMBER PATH TO OLD TEZEL MPO PROJECT**

<b>Parcel No.</b>	<b>Legal</b>	<b>VALUE</b>
16609E	Being 0.008 hectares (0.020 of an acre) N.C.B. 15008 City of San Antonio, Bexar County, Texas, drainage easement out of a 5.00 acre tract being described as Tract II, Volume 2769, Page 1390, Real Property Records, Bexar County, Texas.	\$3,000
16610E	Being 0.010 hectares (0.024 of an acre) N.C.B. 15008 City of San Antonio, Bexar County, Texas. Drainage easement out of Lot 200, Block 200, Northminster Subdivision, situated in Bexar County, Texas according to plat thereof recorded in Volume 9508, Page 38, Deed and Plat Records of Bexar County, Texas	\$2,483
16603	Being 0.162 hectares (0.400 of an acre) of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 4.108 acre tract, New City Block 15093, being conveyed to Timber Ranch Development, as recorded in Volume 7190, Page 1273, Real Property Records, Bexar County, Texas,	\$34,848
16604	Being 0.849 hectares (2.098 acres) of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 10.299 acre tract, New City Block 15093, being conveyed to Dugas Diversified Development LC, as recorded in Volume 5668, Page 1249, Real Property Records, Bexar County, Texas.	\$167,480
16605	Being a 0.4091 acre tract of land situated in the City of San Antonio, Bexar County, Texas, being out of and part of a 14.114 acre tract, New City Block 15093, being conveyed to Timber Ranch Development, LTD., L.C., as recorded in Volume 5780, Page 1192, Real Property Records, Bexar County, Texas	\$40,865
16611	Being 0.001 hectares (0.003 acres) of land situated in the City of San Antonio, Bexar County, Texas, being part of Lot 1, Block 1, Rustic timber subdivision, New City Block 18308, as recorded in Volume 9514, Page 152, Deed and Plat Records, Bexar County, Texas	\$392
16606E	Being 0.051 hectares (0.126 of an acre) NC.B. 18309 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.24 acre tract of land recorded in Special Warranty Deed with Vendor's Lien, Volume 5233, Page 1796, Real Property Records, Bexar County, Texas	\$13,035
16607E	Being 0.052 hectares (0.128 of an acre) NC.B. 18309 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.24 acre tract of land recorded in Special Warranty Deed with Vendor's Lien, Volume 5233, Page 1796, Real Property Records, Bexar County, Texas	\$13,242
16608E	Being 0.106 hectares (0.262 of an acre) NC.B. 18313 City of San Antonio, Bexar County, Texas, drainage easement out of a 6.580 acre tract of land recorded in Warranty Deed, Volume 8558, page 1762, Real Property Records, Bexar County, Texas.	\$27,105

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.

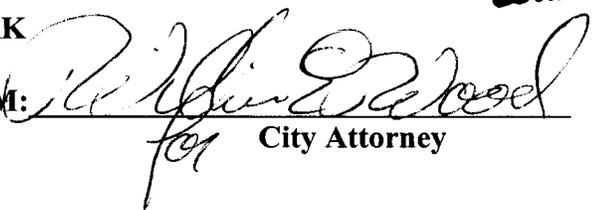
**SECTION 15.** That in the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through 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.** A copy of the respective instruments shall be submitted to the City Attorney for approval under Section 54, Charter of the City of San Antonio. If the City Attorney approves the instrument then the City of San Antonio accepts title to the respective property upon closing of this transaction.

**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 August 17, 2003.

**PASSED AND APPROVED this the 7<sup>th</sup> day of August, 2003.**

**ATTEST:**  **M A Y O R**  
**CITY CLERK**   
**APPROVED AS TO FORM:**   
**for City Attorney**