

## AN ORDINANCE **97913**

**AUTHORIZING 1999 GENERAL OBLIGATION DRAINAGE IMPROVEMENT BOND FUNDS IN THE AMOUNT OF \$26,850.00 FOR THE ACQUISITION OF FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO TWO (2) PARCELS OF REAL PROPERTY OUT OF N.C.B. 12019 AND TWO (2) PARCELS OF REAL PROPERTY OUT OF N.C.B. 12026, SAN ANTONIO, BEXAR COUNTY, TEXAS, IN CONNECTION WITH THE LANARK DRAINAGE #92A PHASE I PROJECT, LOCATED IN COUNCIL DISTRICT 2; ESTABLISHING COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS FOR TITLE 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; FINDING THE ORDINANCE TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; AND ESTABLISHING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio (“City”) desires to reconstruct Dell Oak to a typical 30-foot wide, two-lane street section to provide surface drainage of Ashland, Hartline, and Dell into the drainage channel as part of the Lanark Drainage #92A Phase I Project, and

**WHEREAS**, it is necessary to construct a portion of the Project upon property that is privately owned; and

**WHEREAS**, it is 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 is described as follows:

<b>Parcel No.</b>	<b>Legal</b>	<b>NCB</b>
12835B	Being 0.0016 of an acre tract out of Lot 7, Block 15, NCB 12029, North Alamo Heights Subdivision Unit 6 as recorded in Volume 3535, Page 104, Deed and Plat Records, Bexar County, Texas	12029

12835A	Being 0.0014 of an acre tract out of Lot 8, Block 15, NCB 12019, North Alamo Heights Subdivision, Unit 6 as recorded in Volume 3535, Page 104, Deed and Plat Records, Bexar County, Texas	12019
12835C	Being 0.062 of an acre tract out of Lot 4, Block 13, NCB 12026, North Alamo Heights Subdivision, Unit 4 as recorded in Volume 3377, Page 239, Deed and Plat Records, Bexar County.	12026
12835D	Being 0.124 of an acre tract out of a 2.9478 acre tract as recorded in Volume 1343, Page 834, Deed and Plat Records, Bexar County, Texas out of Tract "O", NCB 18180, out of the Gertrudis Rodriguez Survey 132	18180

**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, appraisal fees, and 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 Lanark Drainage #92A Phase I Project is hereby declared to be a necessary public project.

**SECTION 2.** City staff is hereby authorized to acquire by negotiation 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 3.** 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 4.** The budget in Fund 45-962095, 1999 Drainage Improvements, Sold in 2001, shall be revised by reducing Index Code 695585, entitled Unallocated Appropriations, in the amount of \$26,850.00 and is hereby appropriated and encumbered as follows:

- a) The amount of \$2,850.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001 in Index Code 750828 entitled "Land Acquisition", and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.
- b) The amount of \$6,000.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001, in Index Code 313429 entitled "Miscellaneous (Awnings, Fences, Etc.)", and is authorized to be encumbered and made payable for miscellaneous expenses.
- c) The amount of \$2,000.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001, in Index Code 750968 entitled "Title Fees", and is authorized to be encumbered and made payable for miscellaneous title fee expenses.
- d) The amount of \$11,600.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001, in Index Code 313437 entitled "Legal Fees", and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.
- e) The amount of \$4,000.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001, in Index Code 313445 entitled "Lender Fees", and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.
- f) The amount of \$400.00 is appropriated in Fund No. 45-962018, 1999 Drainage Improvements, Sold in 2001, in Index Code 313452 entitled "Right of Entry Fees", and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

**SECTION 5.** 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 6.** 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 indicated in Section 3, above, to execute sales agreements purchasing the property from the owners as

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 7.** 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.

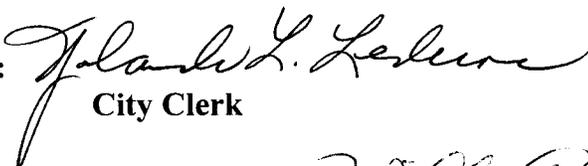
**SECTION 8.** Copies of the respective instruments shall be submitted to the City Attorney for approval under Section 54, Charter of the City of San Antonio. If the City Attorney approves the instrument then the City of San Antonio accepts title to the respective property upon closing of this transaction.

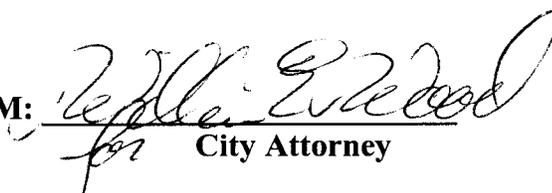
**SECTION 9.** This ordinance shall take effect on the 17th day of August, 2003.

**PASSED AND APPROVED** this 7th day of August, 2003.



M A Y O R  
EDWARD D. GARZA

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
for City Attorney