

AN ORDINANCE

**9 8 3 9 9**

**DECLARING THE NAKOMA AT U.S. 281 (WESTSIDE) PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE TO ONE (1) PARCEL OF REAL PROPERTY OUT OF NCB 11790, AND AN EASEMENT INTEREST IN ONE (1) PARCEL OF REAL PROPERTY OUT OF NCB 13494, BOTH IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$51,477.00 FROM 2002 CERTIFICATES OF OBLIGATION FOR THE PROJECT AND MISCELLANEOUS EXPENSES, INCLUDING APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE 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.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio ("City") desires to reconstruct and modify the existing two lane street (known as Nakoma Drive) to a four lane street as part of the Nakoma at U.S. 281 (Westside) 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 and/or an easement interest in two (2) 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>
17481	A 1,070 square foot tract of land out of Lot 10, Block 17, New City Block 11790, a 1.445 acre tract, San Antonio, Bexar County, Texas (fee simple title)	17	11790
17482E	A 1,110 square foot tract of land out of Lots 1 & 2, Block 38, New City Block 13494, Beacon Circle Industrial Subdivision Unit 2, San Antonio, Bexar County, Texas (easement interest)	38	13494

**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, attorney's 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 Nakoma at U.S. 281 (Westside) 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 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 Nakoma at U.S. 281 (Westside) 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 Exhibit "A" 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 Exhibit "B" which is attached hereto and incorporated herein for all purposes.

**SECTION 5.** The budget in fund 43-152095, 2002 Certificates Of Obligation MPO, shall be revised by reducing index code 751479, entitled Unallocated Appropriations, in the amount of \$51,477.00.

**SECTION 6.** The amount of \$51,477.00 is appropriated in fund 43-152012, 2002 Certificates Of Obligation MPO, in index code 941575, entitled Trf to 45-979043 Nakoma. The amount of \$51,477.00 is authorized to be transferred from fund 43-152012 to fund 45-979043.

**SECTION 7.** The budget in Fund 45-979000, 1999 Street Improvements, shall be revised by increasing Index Code 135715, entitled Transfer from 43-152012 (45-979043), in the amount of \$51,477.00.

**SECTION 8.** The amount of \$30,277.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 635979, entitled Land Acquisition, and is authorized to be encumbered and made payable for Land Acquisition in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 9.** The amount of \$3,000.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 636084, entitled Miscellaneous, and is authorized to be encumbered and made payable for miscellaneous expenses in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 10.** The amount of \$1,000.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 636092, entitled Title Fees, and is authorized to be encumbered and made payable for title fees in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 11.** The amount of \$15,000.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 636100, entitled Legal Fees, and is authorized to be encumbered and made payable for legal fees in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 12.** The amount of \$2,000.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 636118, entitled Lender Fees, and is authorized to be encumbered and made payable for lender fees in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 13.** The amount of \$200.00 is appropriated in fund 45-979043, 1999 Street Improvements, in index code 636126, entitled Right of Entry, and is authorized to be encumbered and made payable for right of entry in connection with the Nakoma-US 281 to Warfield MPO Project.

**SECTION 14.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance 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 15.** 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 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 16.** That in the event that the City staff is unable to acquire one or 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 them for services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

SECTION 17. This Ordinance shall be effective on the 16<sup>th</sup> day of November , 2003.

PASSED AND APPROVED this the 16<sup>th</sup> day of November, 2003.

ATTEST: *Jolanda L. Kedem*  
CITY CLERK

*ED*  
M A Y O R  
EDWARD D. GARZA

APPROVED AS TO FORM: *William Wood*  
for City Attorney