

AN ORDINANCE

98401

DECLARING THE EVERGREEN COURT - EVERGREEN STREET TO N. ST. MARY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT TO BE A PUBLIC PROJECT, AND THE EVERGREEN STREET - MCCULLOUGH AVENUE TO E. EUCLID AVENUE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF 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 THE PROJECTS; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) A 0.0019 ACRE TRACT OF LAND OUT OF LOT 7, BLOCK 30, NCB 392; (2) A 0.0032 ACRE TRACT OF LAND OUT OF LOT 12, BLOCK 20, NCB 393; (3) A 0.0019 ACRE TRACT OF LAND OUT OF THE SOUTH 105 FEET OF LOT 5, BLOCK B, NCB 1717; (4) A 0.0026 ACRE TRACT OF LAND OUT OF LOTS 12, 13 AND 14, BLOCK 27, NCB 1717; (5) A 0.0034 ACRE TRACT OF LAND OUT OF LOT 16, BLOCK B, NCB 1717; AND (6) A 0.0015 ACRE TRACT OF LAND OUT OF THE SOUTHEAST PART OF LOT 13, BLOCK A, NCB 1716; ALL IN CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECTS; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING 27TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS IN THE AMOUNT OF \$29,475.00 FOR THE PROPERTY AND FOR THE PROJECTS INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECTS SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING 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.

* * * * *

WHEREAS, the City Council has previously approved the Evergreen Court – Evergreen Street to N. St. Mary’s Project and the Evergreen Street – McCullough Avenue to E. Euclid Avenue Project (hereinafter collectively referred to as “Projects”) as part of the Community Development Block Grant (CDBG) Program; and

WHEREAS, the City of San Antonio (“City”) desires to reconstruct Evergreen Court – Evergreen Street to N. St. Mary’s Community Development Block Grant (CDBG) Project and Evergreen Street – McCullough Avenue to E. Euclid Avenue Community Development Block Grant (CDBG) Project to a width of 30-feet (two lanes), to include curbs, sidewalks, driveway approaches and necessary drainage improvements; and

WHEREAS, the construction of the street widening, which will include curbs, sidewalks, driveway approaches, and drainage improvements, are necessary public projects; and

WHEREAS, the Projects are in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is necessary to construct a portion of the Projects upon Properties that are privately owned; and

WHEREAS, it is further necessary to obtain and acquire the fee simple title and/or an easement interest in six (6) parcels of land for use as part of the Projects and the Properties to be acquired are described as follows:

Parcel No.	Legal	Block	NCB
17506	A tract containing approximately 0.0034 (149.83 sq. ft.) of land situated in San Antonio, Bexar County, Texas, out of Lot 16, Block B, New City Block 1717;	B	1717
17507	A tract containing approximately 0.0026 acre (111.87 sq. ft.) of land situated in San Antonio, Bexar county, Texas, out of Lot 12, 13, 14, Block 27, New City Block 1717;	27	1717
17508	A tract containing approximately 0.0019 acre (84.55 sq. ft.) of land situated in San Antonio, Bexar County, Texas, out of Lot 7, Block 30, New City Block 392;	30	392
17509	A tract containing approximately 0.0032 acre (137.97 sq. ft.) of land situated in San Antonio, Bexar County, Texas, out of Lot 12, Block 20, New City Block 393;	20	393
17510	A tract containing approximately 0.0015 acre (66.48 sq. ft.) of land situated in San Antonio, Bexar County, Texas, out of the southeast part of Lot 13, Block A, New City Block 1716; and	A	1716
17511	A tract containing approximately 0.0019 acre (81.99 sq. ft.) of land situated in San Antonio, Bexar County, Texas, out of the south 105 feet of Lot 5, Block B, New City Block 1717.	B	1717

WHEREAS, in order to proceed with the acquisition of the Properties, it is also deemed necessary and appropriate to establish just compensation for the Properties to be acquired; and

WHEREAS, independent appraisals for the Properties 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 Properties; 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 Projects; and

WHEREAS, Community Development Block Grant (CDBG) funds are available to acquire the necessary right of way and pay the necessary expenses for these Projects; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Evergreen Court – Evergreen Street to N. St. Mary’s Community Development Block Grant (CDBG) Project and Evergreen Street – McCullough Avenue to E. Euclid Avenue Community Development Block Grant (CDBG) Project are hereby declared to be necessary public projects.

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 Evergreen Court – Evergreen Street to N. St. Mary’s Community Development Block Grant (CDBG) Project and Evergreen Street – McCullough Avenue to E. Euclid Avenue Community Development Block Grant (CDBG) Project in San Antonio, Bexar County, Texas.

SECTION 3. A specific public necessity exists to acquire by negotiation and/or condemnation, if necessary, the Properties 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 of Project No. 26-013521 is hereby authorized to be revised in accordance with the budget revision schedule affixed hereto and incorporated herein for all purposes as Exhibit “C.”

SECTION 6. The following sums are hereby authorized for encumbrance in and payment from Project No. 26-013521:

- \$ 5,025.00 payable for land acquisition expenses; Index Code No. 478008;
- \$ 9,000.00 payable for miscellaneous expenses, Index Code No. 478032;
- \$ 3,000.00 payable for title fees; Index Code No. 478040;
- \$10,800.00 payable for legal fees; Index Code No. 478057;
- \$ 1,050.00 payable for lender fees; Index Code No. 478065; and
- \$ 600.00 payable for right of entry expenses; Index Code No. 478073.

SECTION 7. 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 8. 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 9. 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.

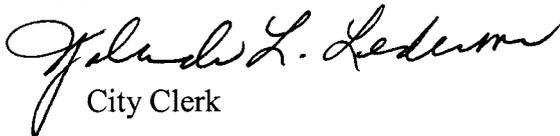
SECTION 10. This ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED this 6th day of November, 2003.

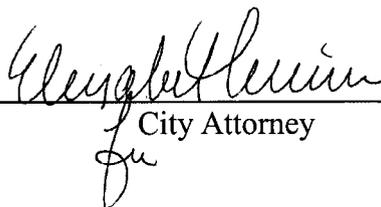


M A Y O R
EDWARD D. GARZA

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney