

## AN ORDINANCE **9 8 7 0 4**

DECLARING THE AVONDALE - NEW BRAUNFELS TO I.H. 37 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; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) 0.052 ACRE TRACT OF LAND OUT OF THE NORTH AND EAST SIDE OF LOT 20, BLOCK 2, NCB 7578; (2) 0.009 ACRE TRACT OF LAND OUT OF THE NORTHWEST 71.00 FEET OF LOT 20, BLOCK 2, NCB 7578; (3) 0.007 ACRE TRACT OF LAND OUT OF THE NORTHWEST IRREGULAR 67.12 FEET OF LOT 21, BLOCK 2, NCB 7578; (4) 0.007 ACRE TRACT OF LAND OUT OF THE WEST 757.55 FEET OF THE NORTH 141.8 FEET OF LOT 22, BLOCK 2, NCB 7578; (5) 0.017 ACRE TRACT OF LAND OUT OF LOT 23, BLOCK 2, NCB 7578; (6) 0.008 ACRE TRACT OF LAND OUT OF THE EAST 67.12 FEET OF LOT 24, BLOCK 2, NCB 7578; (7) 0.008 ACRE TRACT OF LAND OUT OF THE WEST 67.12 FEET OF LOT 24, BLOCK 2, NCB 7578; (8) 0.008 ACRE TRACT OF LAND OUT OF THE EAST 67.12 FEET OF LOT 25, BLOCK 2, NCB 7578; (9) 0.008 ACRE TRACT OF LAND OUT OF THE WEST 67.12 FEET OF LOT 25, BLOCK 2, NCB 7578; (10) 0.009 ACRE TRACT OF LAND OUT OF THE WEST 74.24 FEET OF LOT 26, BLOCK 2, NCB 7578; (11) 0.017 ACRE TRACT OF LAND OUT OF THE WEST 64 FEET OF LOT 27 AND THE EAST 70.24 FEET OF LOT 27, BLOCK 2, NCB 7578; (12) 0.026 ACRE TRACT OF LAND OUT OF THE NORTH 157.50 FEET OF LOT 28 AND THE NORTH IRREGULAR 74.24 FEET OF LOT 29, BLOCK 2, NCB 7578; (13) 0.008 ACRE TRACT OF LAND OUT OF THE WEST 60 FEET OF THE NORTH 142.5 FEET OF LOT 29, BLOCK 2, NCB 7578; (14) 0.017 ACRE TRACT OF LAND OUT OF THE NORTH 150 FEET OF LOT 31, BLOCK 2, NCB 7578; (15) 0.008 ACRE TRACT OF LAND OUT OF LOT 32A, BLOCK 2, NCB 7578; (16) 0.007 ACRE TRACT OF LAND OUT OF THE EAST IRREGULAR 39.56 FEET OF THE NORTH 150 FEET OF LOT 34 AND THE WEST 67.12 FEET OF THE NORTH 150 FEET OF LOT 33, BLOCK 2, NCB 7578; (17) 0.007 ACRE TRACT OF LAND OUT OF THE SOUTH 175.5 FEET OF THE WEST 62.7 FEET OF LOT 6, BLOCK 1, NCB 7581; (18) 0.013 ACRE TRACT OF LAND OUT OF THE EAST 62.6 FEET OF LOT 6 AND THE SOUTH 175.3 FEET OF THE WEST 62.1 FEET OF LOT 7, BLOCK 1, NCB 7581; (19) 0.008 ACRE TRACT OF LAND OUT OF THE EAST 74.36 FEET OF THE SOUTH 175.2 FEET OF LOT 9, BLOCK 1, NCB 7581; (20) 0.005 ACRE TRACT OF LAND OUT OF THE WEST 49.8 FEET OF THE SOUTH 140 FEET OF LOT 10, BLOCK 1, NCB 7581; (21) 0.005 ACRE TRACT OF LAND OUT OF THE WEST 49.8 FEET OF THE EAST 74.6 FEET OF THE SOUTH 140 FEET OF LOT 10, BLOCK 1, NCB 7581; (22) 0.005 ACRE TRACT OF LAND OUT OF THE EAST 24.8 FEET OF THE SOUTH 140 FEET OF LOT 10 AND THE WEST 24.9 FEET OF THE SOUTH 140 FEET OF LOT 11, BLOCK 1, NCB 7581; (23) 0.005 ACRE TRACT OF LAND OUT OF THE WEST 49.8 FEET OF THE EAST 99.6 FEET OF THE SOUTH 140 FEET OF LOT 11, BLOCK 1, NCB 7581; (24) 0.005 ACRE TRACT OF LAND OUT OF THE SOUTH 140 FEET OF THE EAST 49.8

**FEET OF LOT 11, BLOCK 1, NCB 7581; (25) 0.013 ACRE TRACT OF LAND OUT OF LOT 12, BLOCK 1, NCB 7581; (26) 0.006 ACRE TRACT OF LAND OUT OF THE WEST 62.3 FEET OF LOT 13, BLOCK 1, NCB 7581; (27) 0.006 ACRE TRACT OF LAND OUT OF THE EAST 62.3 FEET OF LOT 13, BLOCK 1, NCB 7581; (28) 0.007 ACRE TRACT OF LAND OUT OF THE WEST 62.75 FEET OF LOT 14, BLOCK 1, NCB 7581; (29) 0.006 ACRE TRACT OF LAND OUT OF THE EAST 62 FEET OF LOT 14, BLOCK 1, NCB 7581; (30) 0.008 ACRE TRACT OF LAND OUT OF THE WEST 74.8 FEET OF LOT 15, BLOCK 1, NCB 7581; (31) 0.008 ACRE TRACT OF LAND OUT OF THE EAST 50 FEET OF LOT 15 AND THE WEST 31 FEET OF LOT 16, BLOCK 1, NCB 7581; (32) 0.010 ACRE TRACT OF LAND OUT OF THE EAST 93.89 FEET OF LOT 16, BLOCK 1, NCB 7581; (33) 0.007 ACRE TRACT OF LAND OUT OF THE WEST 62.45 FEET OF LOT 17, BLOCK 1, NCB 7581; (34) 0.007 ACRE TRACT OF LAND OUT OF THE EAST 62.45 FEET OF LOT 17, BLOCK 1, NCB 7581; (35) 0.013 ACRE TRACT OF LAND OUT OF LOT 18, BLOCK 1, NCB 7581; (36) 0.013 ACRE TRACT OF LAND OUT OF THE SOUTH IRREGULAR 323.19 FEET OF LOT 19, BLOCK 1, NCB 7581; AND (37) 0.013 ACRE TRACT OF LAND OUT OF LOT 42, BLOCK 1, NCB 7581; 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 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS IN THE AMOUNT OF \$125,245.00 FOR THE PROPERTY AND FOR THE PROJECT INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT 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.**

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**WHEREAS**, the City Council has previously approved the Avondale – New Braunfels to I.H. 37 Project as part of the Community Development Block Grant (CDBG) Program; and

**WHEREAS**, the City of San Antonio (“City”) desires to reconstruct Avondale Street from New Braunfels to I.H. 37 to a 29-foot, two lane street section, with four foot sidewalks, curbs, and driveway approaches; and

**WHEREAS**, the construction of the street widening is a necessary public project and 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 privately owned property; and

**WHEREAS**, it is further necessary to obtain and acquire the fee simple title and/or an easement interest in thirty-seven (37) parcels of land (hereinafter referred to as the "Property") for use as part of the Project and the Property to be acquired is more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes; and

**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**, Community Development Block Grant (CDBG) 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 Avondale – New Braunfels to I.H. 37 Community Development Block Grant (CDBG) 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 Avondale – New Braunfels to I.H. 37 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 property (hereinafter referred to as the "Property") more specifically described in Exhibit "A," attached hereto and incorporated herein for all purposes.

**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. 26-013532 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. 26-013532:

\$ 36,395.00 payable for land acquisition expenses; Index Code No. 752543;  
\$ 20,000.00 payable for miscellaneous expenses, Index Code No. 752568;  
\$ 16,000.00 payable for title fees; Index Code No. 752576;  
\$ 25,000.00 payable for legal fees; Index Code No. 752584;  
\$ 4,000.00 payable for lender fees; Index Code No. 752592;  
\$ 3,700.00 payable for right of entry expenses; Index Code No. 752600; and  
\$ 20,150.00 payable for appraisal fees; Index Code No. 752618.

**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 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 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.

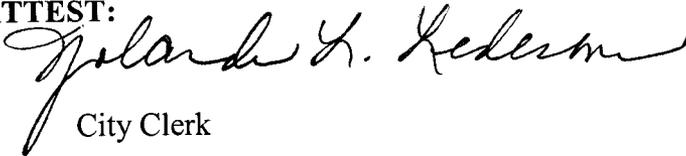
**SECTION 10.** This ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED this 15<sup>th</sup> day of January, 2004.



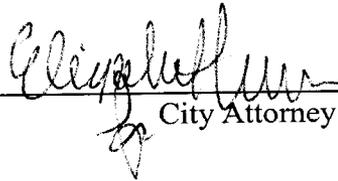
M A Y O R  
EDWARD D. GARZA

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney