

AN ORDINANCE 99948

DECLARING THE CULEBRA DRAINAGE #58F, PHASE 1 & 2 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE 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 PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) BEING 0.0251 ACRES (1,091 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT B-2, NEW CITY BLOCK 11493; (2) BEING 3.1857 ACRES (138,768 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT C, NEW CITY BLOCK 11493; (3) BEING 5.8327 ACRES (254,071 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT D, NEW CITY BLOCK 11493; (4) BEING 4.0812 ACRES (177,778 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT F, NEW CITY BLOCK 11493; (5) BEING 4.6564 ACRES (202,832 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT G, NEW CITY BLOCK 11493; (6) BEING 2.9753 ACRES (129,604 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT H, NEW CITY BLOCK 11493; AND (7) BEING 3.3833 ACRES (147,378 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT K, NEW CITY BLOCK 11493; ALL SITUATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY TEXAS; FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS IN THE AMOUNT OF \$259,750.00 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.

* * * * *

WHEREAS, the City Council has previously approved the Culebra Drainage #58F Phase 1 and 2 Project as part of the Community Development Block Grant (CDBG) Program; and

WHEREAS, the City of San Antonio ("City") desires to improve 4,000 feet of Zarzamora Creek, from Rubidoux to Culebra Road with necessary utility improvements; and

WHEREAS, the street improvement 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 seven (7) 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 title and/or 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 Culebra Drainage #58F Phase 1 and 2 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 interest 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 Culebra Drainage #58F Phase 1 and 2 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 more specifically described in Attachment I, attached hereto and incorporated herein for all purposes.

SECTION 4. The approved compensation for the Property is shown in Attachment I, which is attached hereto and incorporated herein for all purposes.

SECTION 5. The budget of Project Definition No. 23-00935, Culebra Drainage #58f Phase 1 and 2 Project, is hereby authorized to be revised in accordance with the budget revision schedule affixed hereto and incorporated herein for all purposes as Attachment II.

SECTION 6. The following financial adjustments are hereby authorized to effect this Ordinance:

- (a) The amount of \$259,750.00 is appropriated in SAP fund 28028000, CDBG-28TH YEAR, in internal order 107000000461, SAP GL Account 6102100 - Interfund Transfers Out. The amount of \$259,750.00 is authorized to be transferred from SAP fund 28028000 to SAP fund 45099000.
- (b) The budget in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00935, shall be revised by increasing WBS element 23-00935-90-04, entitled "Transfer From CDBG 28", SAP GL Account 6101100 - Interfund Transfers In, by the amount of \$259,750.00.
- (c) The amount of \$172,250.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00935, in WBS element 23-00935-03-02-04, entitled Acquisition, SAP GL account 5201110 Right of Way Acquisition, and is authorized to be encumbered and made payable for purchase of land in connection with the Culebra Drainage #58F Phase 1 and 2 Project, when the purchase orders are issued.
- (d) The amount of \$10,000.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00935, in WBS element 23-00935-03-02-03, entitled Legal, SAP GL account 5201120 Right of Way Legal Fees, and is authorized to be encumbered for legal fees in connection with the Culebra Drainage #58F Phase 1 and 2 Project, when the purchase orders are issued.
- (e) The amount of \$8,500.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00935, in WBS element 23-00935-03-02-02, entitled Appraisals, SAP GL account 5201130 Right of Way Appraisal Fees, and is authorized to be encumbered for appraisal fees in connection with the Culebra Drainage #58F Phase 1 and 2 Project, when the purchase orders are issued.
- (f) The amount of \$69,000.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00935, in WBS element 23-00935-03-02-05, entitled Miscellaneous, SAP GL account 5209010 Land Acquisition Cost, and is authorized to be encumbered for land acquisition costs in connection with the Culebra Drainage #58F Phase 1 and 2 Project, when the purchase orders are issued.

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 SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 8. The City staff is hereby directed to negotiate with the owners 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 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., and the law firm of Oppenheimer, Blend, Harrison & Tate, Inc. 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. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

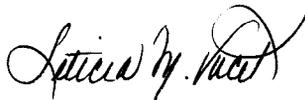
SECTION 11. This Ordinance shall be effective on and after the 14th day of November, 2004.

PASSED AND APPROVED this the 4th day of November, 2004.

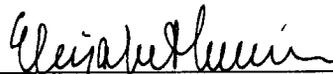


M A Y O R
EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:



City Attorney