

AN ORDINANCE 100515

**AUTHORIZING \$49,250.00 FROM CERTIFICATES OF OBLIGATION FUNDS FOR THE ACQUISITION OF FEE SIMPLE TITLE AND/OR EASEMENT INTEREST AND FOR OTHER MISCELLANEOUS EXPENSES IN CONNECTION WITH THE ACQUISITION OF TEN (10) PARCELS OF REAL PROPERTY AND DECLARING THE CLARK: FAIR TO SOUTHCROSS MPO PROJECT ("PROJECT"), AN AUTHORIZED 1999 GENERAL OBLIGATION STREET BOND AND MPO PROJECT LOCATED IN COUNCIL DISTRICT 3, TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO PRIVATELY OWNED REAL PROPERTY DESCRIBED BELOW, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT, ALL PROPERTIES BEING IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE; ESTABLISHING JUST COMPENSATION FOR THE PROPERTIES; APPROPRIATING FUNDS FOR THE ACQUISITION OF THE PROPERTIES AND OTHER MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; AND AUTHORIZING NEGOTIATIONS AND THE ACQUISITION OF THE FOLLOWING PROPERTIES ON THE APPROVED TERMS:**

ACRE(S)	LOT(S)	BLOCK	NCB	SUBDIVISION
0.004	1, 2 and north 15.00 feet of 3	2	3721	Mission View Addition
0.0004	S 15 feet of 3; 4 & 5	5	3721	Mission View Addition
0.007	S 3.00 feet of 10; 11, 12 & 13	2	3721	Mission View Addition
0.009	14, 15, 16 & 17	2	3721	Mission View Addition
0.009	18, 19, 20 & 21	2	3721	Mission View Addition
0.025	42 - 47	44	3838	College Heights Addition
0.002	11	11	9576	Highland Hills Subdivision Unit 1
0.003	10	16	9581	Highland Hills Subdivision Unit 1
0.001	8	30	9641	Highland Hills Subdivision Unit 3
0.001	4	25	10141	Highland Hills Subdivision Unit 7-A

\* \* \* \* \*

**WHEREAS**, the City of San Antonio ("City") desires to reconstruct Clark, from Fair to Southcross; and

**WHEREAS**, the construction of the street widening, which will include curbs, sidewalks, driveway approaches, and underground storm drainage, is a necessary public project; 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 further necessary to obtain and acquire the fee simple title and/or easement interest in ten (10) parcels of land for use as part of the Project and the property to be acquired is described in Section 3 below, and more fully in **Attachment I** 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, legal 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 Clark: Fair to Southcross 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) to 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 Clark: Fair to Southcross 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 **Attachment I** 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 **Attachment II** which is attached hereto and incorporated herein for all purposes.

**SECTION 5.** The following financial adjustments are hereby authorized to affect this Ordinance:

A. The amount of \$ 49,250.00 is appropriated in SAP fund 43171000 2001 Street Improvement Certificates of Obligation, SAP GL account 6102100 - Interfund Transfers Out, entitled Transfer to 23-00858. The amount of \$49,250.00 is authorized to be transferred from SAP fund 43171000 to SAP fund 45099000.

B. The budget in SAP fund 45099000, General Obligation Capital Projects, Project Definition 23-00858 Clark Fair to Southcross Project, shall be revised by increasing WBS element 23-00858-90-04, entitled "TRF FR 43171000, SAP GL Account 6101100 - Interfund Transfers In, by the amount of \$49,250.00.

C. The amount of \$ 18,250.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, SAP Project definition 23-00858 Clark Fair to Southcross Project, General Ledger Account 5201110, WBS Element 23-00858-03-02-04, entitled "Acquisition", and is authorized to be encumbered for fee simple title, in connection with the Clark-Fair To Southcross Project.

D. The amount of \$ 10,000.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, SAP Project definition 23-00858 Clark Fair to Southcross Project, General Ledger Account 5201120, WBS Element 23-00858-03-02-03, entitled "Legal", and is authorized to be encumbered for Legal fees , in connection with the Clark-Fair To Southcross Project.

E. The amount of \$ 5,700.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, SAP Project definition 23-00858 Clark Fair to Southcross Project, General Ledger Account 5201130, WBS Element 23-00858-03-02-02, entitled "Appraisals", and is authorized to be encumbered for appraisal fees , in connection with the Clark-Fair To Southcross Project.

F. The amount of \$ 15,300.00 is appropriated in SAP fund 45099000, General Obligation Capital Projects, SAP Project definition 23-00858 Clark Fair to Southcross Project, General Ledger Account 5209010, WBS Element 23-00858-03-02-05, entitled "Miscellaneous", and is authorized to be encumbered for land acquisition cost, in connection with the Clark-Fair To Southcross Project.

G. 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, the Interim City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts 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 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 of the City of San Antonio 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.** 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., the law firm of Braccwell & Patterson, L.L.P., or the law firm of Oppenheimer, Blend, Harrison & Tate, Inc. as special counsel as may be needed from time to time and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

**SECTION 8.** Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

**SECTION 9.** The financial allocations in this Ordinance are subject to approval by the Director of San Antonio, City of San Antonio. The Director of Finance, subject to concurrence by the City Manager, the Interim City Manager or the designee of either, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 10.** This Ordinance shall be effective on March 20, 2005.

**PASSED AND APPROVED** this the 20<sup>th</sup> day of March, 2005.



**M A Y O R**

**EDWARD D. GARZA**

**ATTEST**

  
**CITY CLERK**

**APPROVED AS TO FORM**

  
**City Attorney**