

AN ORDINANCE 100656

DECLARING THE PROPOSITION THREE CREEKWAYS LINEAR PARKS ACQUISITION AND PARK EXPANSION PROJECT ("PROJECT") TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR USE AS A PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED BELOW, 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 FUNDS IN THE AMOUNT OF \$1,355,926.00 FROM PARKS DEVELOPMENT AND EXPANSION VENUE PROJECT PROPOSITION THREE SALES TAX FUNDS FOR THE PROJECT, INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE 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; SAID PROPERTIES BEING DESCRIBED AS FOLLOWS:

| Lot(s) | Block | NCB | Subdivision |
|---------------------------------------|------------|-------|-----------------------------------|
| 5 | -0- | 10575 | Friederichs |
| Guillermo Nunez Survey No. 151 | Abs 548 | 10575 | Guillermo Nunez Survey No. 151 |
| 11 & 12 | 20 | 10698 | Wheatley Heights |
| 20, 21, & 22 | 29 | 10710 | Wheatley Heights |
| 26 | 30 | 10711 | Wheatley Heights |
| 7, 16, 20 | 32 | 10713 | Wheatley Heights |
| 1, 14 | 33 | 10713 | Wheatley Heights |
| 6, 18 & 19 | 34 | 10715 | Wheatley Heights |
| 20 | 40 | 10721 | Wheatley Heights |
| 5, 11, 12, 15, 21, 23, 24, 26 & 30 | 41 | 10722 | Wheatley Heights |
| 11 | 44 | 10722 | Wheatley Heights |
| 24 | 47 | 10723 | Wheatley Heights |

| | | | |
|--------------------------------------------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| 1 & 2 | 43 | 10724 | Wheatley Heights |
| 12 | 44 | 10725 | Wheatley Heights |
| 2, 3, 4, 5, 15, 16, 29 & 30 | 45 | 10726 | Wheatley Heights |
| 15 | 3 | 10729 | Brookdale |
| 1, 16, 19 & 20 | 3 | 10729 | Brookdale |
| 5, 12, & 17 | 4 | 10730 | Brookdale |
| 8, 17, 18, & 20 | 5 | 10731 | Brookdale |
| east 50 ft of the west 100 of the north irr 404.7 ft of Tr D | 22 | 10732 | Grandview |
| 7 | 5 | 10730 | Meadowcliff |
| 1, 3, 4, 5, & 21 | 3 | 16513 | Meadowcliff |
| 1, 2, 3, 4, 5, 8, 9, 14, 17, 18, 19, 20, & 21 | 5 | 16515 | Meadowcliff |
| Pinckney Caldwell Survey No. 83 | Abs 124 | 12750 | Pinckney Caldwell Survey No. 83 |
| G. Rodriguez Survey No. 131 | Abs 621 | 12163 | G. Rodriguez Survey No. 131 |
| G. Rodriguez Survey No. 131 | Abs. 621 | 12153 | G. Rodriguez Survey No. 131 |
| Elizabeth Plunkett Survey #72 | Abs 573 | 18058 | Elizabeth Plunkett Survey #72 |
| Tract C | | 13962 as more particularly described in an instrument of record at Vol. 10349, Page 2266 of the Bexar County Deed Records | |

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WHEREAS, it is necessary to obtain and acquire the fee simple title to certain parcels of land as authorized under the Proposition Three Linear Creekway Program approved in May 2000 and the properties to be acquired is described in Section 3 below, and more fully described 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, values for the Property to be acquired have been completed and reviewed by the City's staff 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 Proposition Three Creekway Linear Parks Acquisition and Park Expansion 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 certain privately owned real property, by negotiation and/or condemnation, if necessary, for linear parks and flood management as part of the Proposition Three Creekway Linear Parks Acquisition and Park Expansion 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 I** 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 \$151,800.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5201150, WBS Element 26-00437-01-10, entitled "Bid Advertisement Document", and is authorized to be encumbered for publication fees, in connection with Parks Development and Expansion Project.
- b) The amount of \$69,000.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5201120, WBS Element 26-00437-03-01-06, entitled "Legal Review", and is authorized to be encumbered for attorney fees, in connection with Parks Development and Expansion Project.
- c) The amount of \$59,200.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5406520, WBS Element 26-00437-03-02, entitled "Land Acquisition Cost", and is authorized to be encumbered commissioner's fees, in connection with Parks Development and Expansion Project.

- d) The amount of \$1,480.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5406520, WBS Element 26-00437-03-02, entitled "Land Acquisition Cost", and is authorized to be encumbered for administrative fees, in connection with Parks Development and Expansion Project.
- e) The amount of \$158,000.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5201120, WBS Element 26-00437-03-01-06, entitled "Legal Review", and is authorized to be encumbered for attorney fees, in connection with Parks Development and Expansion Project.
- f) The amount of \$33,300.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5209010, WBS Element 26-00437-03-01-01, entitled "Title Commitments", and is authorized to be encumbered for title fees, in connection with Parks Development and Expansion Project.
- g) The amount of \$27,125.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5201160, WBS Element 26-00437-03-01-02, entitled "appraisals", and is authorized to be encumbered for appraisal fees, in connection with Parks Development and Expansion Project.
- h) The amount of \$856,021.00 is appropriated in SAP fund 41-028000, Parks Development & Expansion, SAP Project definition 26-00437, General Ledger Account 5209010, WBS Element 26-00437-03, entitled "Land Acquisition Cost", and is authorized to be encumbered for land acquisition, in connection with Parks Development and Expansion Project.

SECTION 6. 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, 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 7. 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 8. 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 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 9. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

SECTION 10. This Ordinance shall be effective on the 17th day of April 2005.

PASSED AND APPROVED this the 7th day of April, 2005.




M A Y O R

EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


City Attorney

Agenda Voting Results

Name: 14.

Date: 04/07/05

Time: 02:11:20 PM

Vote Type: Multiple selection

Description: An Ordinance declaring the Proposition Three Creekways Linear Parks Acquisition and Park Expansion Project ("Project") to be a public project; declaring a public necessity for the acquisition of the fee simple title to certain privately owned real property, by negotiations and/or condemnation, if necessary, for use as a part of the Project; to wit, all or portions of the properties being described below, 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 funds in the amount of \$1,355,926.00 from Parks Development and Expansion Venue Project Proposition Three Sales Tax funds for the Project, including miscellaneous expenses associated with the Project such as appraisals and attorney's fees; authorizing the 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; said properties being described as follows: [Presented by Christopher J. Brady, Assistant City Manager; J. Rolando Bono, Interim City Manager]

| Voter | Group | Status | Yes | No | Abstain |
|--------------------|-------------|-------------|-----|----|---------|
| ROGER O. FLORES | DISTRICT 1 | | x | | |
| JOEL WILLIAMS | DISTRICT 2 | | x | | |
| RON H. SEGOVIA | DISTRICT 3 | | x | | |
| RICHARD PEREZ | DISTRICT 4 | | x | | |
| PATTI RADLE | DISTRICT 5 | Not present | | | |
| ENRIQUÉ M. BARRERA | DISTRICT 6 | Not present | | | |
| JULIAN CASTRO | DISTRICT 7 | Not present | | | |
| ART A. HALL | DISTRICT 8 | | x | | |
| CARROLL SCHUBERT | DISTRICT 9 | | x | | |
| CHIP HAASS | DISTRICT_10 | | x | | |
| MAYOR ED GARZA | MAYOR | Not present | | | |