

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE
OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

AUTHORIZING THE ACQUISITION THROUGH CONDEMNATION OF APPROXIMATELY 9.3 ACRES IN NCB 10845 LOCATED ALONG SALADO CREEK IN COUNCIL DISTRICT 3 FOR THE LINEAR CREEKWAY DEVELOPMENT PROJECT, A 2010 PROPOSITION 2 SALES TAX INITIATIVE FUNDED PROJECT; PROPERTY BEING IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS; DECLARING THE LINEAR CREEKWAY DEVELOPMENT PROJECT ON AFOREMENTIONED WATERWAY TO BE A PUBLIC PROJECT FOR PUBLIC USE; DECLARING PUBLIC NECESSITY FOR THE ACQUISITION OF PRIVATELY OWNED REAL PROPERTY; AND AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS.

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WHEREAS, the City of San Antonio (“City”) desires to acquire fee simple title of privately owned real property in Council District 3 as part of the Linear Creekway Development Project; and

WHEREAS, this Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is necessary to obtain and acquire fee simple title of privately owned real property as part of the Project as further described in SECTION 2 below;

WHEREAS, Ordinance No. 2012-09-20-0731 previously authorized by City Council on September 20, 2012 for the acquisition through donation or good faith negotiations, have been unsuccessful to date, authority for condemnation is now being sought in order to proceed with the project; and

WHEREAS, this acquisition will be used for the preservation of floodplain property and riparian habitat along San Antonio’s creekways and will provide the land through which a system of linear parks (a.k.a. greenways) will be created;

WHEREAS, this acquisition will be used for the development of multi-use hike and bike trails, trailheads, signage and associated amenities for use by San Antonio residents and visitors; and

WHEREAS, funds for the property acquisitions have been appropriated through Proposition 2 Sales Tax funding in the FY 2015-2020 Adopted Annual Capital Budget in addition to the associated funding for design and construction of the hike and bike trail projects; **NOW THEREFORE**,

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

SECTION 1. A public use and necessity is hereby declared for the City of San Antonio to acquire fee simple title of privately owned real property in Council District 3, by condemnation, as part of the Linear Creekway Development Project. Said parcel of land is generally described as follows:

9.3 acres out of Adam Stafford Survey No. 49, Abstract No. 667, New City Block 10845

The property for the Project is depicted and more particularly described by metes and bounds in **Exhibit A** and incorporated herein for all purposes.

SECTION 2. The City Manager, or her designee, is hereby authorized to direct the City Attorney to institute and prosecute to conclusion all necessary proceedings to condemn such properties if the City of San Antonio is unable to acquire through negotiation by reason of its inability to agree with the owners thereof as to the value of such property, or for any other reason, and to take any other legal action deemed necessary by the City Attorney to accomplish these purposes.

SECTION 3. The prior actions and efforts of City officials to negotiate the purchase of the necessary rights and the steps taken to initiate and prosecute condemnation of the property are hereby ratified and affirmed.

SECTION 4. Payment in the amount of the negotiated price or for condemnation of a parcel of land with an estimated total fair market value of \$100,000.00 in SAP Fund 40005000, Park Improvements, SAP Project Definition 26-00616, Salado Creek (Southside Lions Park To SE Military Dr), is authorized to be encumbered and made payable for approximately 9.3 acres in NCB 10845 located along Salado Creek in Council District 3 in Bexar County, Texas from previously appropriated funds. Payment is limited to the available amounts budgeted in the projects listed below. All expenditures will comply with the Capital Budget for current and future fiscal years.

SECTION 5. The acquisition of property must be coordinated through the city's Finance Department to assure the addition of these assets into the City's financial records and to record the proper accounting transactions.

SECTION 6. 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 allocations 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, 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 8. In the event that the City negotiations fail and staff is unable to acquire one or more parcels from the property owner by negotiation or 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 any law firm selected by the City Attorney 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. This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED and **APPROVED** this _____ day of _____, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney