

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

AN ORDINANCE

**FOR THE WESTOVER VALLEY PHASE II PROJECT, AUTHORIZING
THE ACQUISITION, THROUGH NEGOTIATION OR
CONDEMNATION, OF APPROXIMATELY 4.704 ACRES FOR
INTERESTS IN LAND SUFFICIENT FOR PROJECT PURPOSES IN A
PORTION OF TWO PARCELS OF PRIVATELY-OWNED REAL
PROPERTY LOCATED IN NCB 17639 AND DECLARING THE
PROJECT TO BE A PUBLIC-USE PROJECT FOR THE ACQUISITION
AND AUTHORIZING EXPENDITURES NOT TO EXCEED \$240,000.00,
PAYABLE TO THE SELECTED TITLE COMPANY, FOR LAND,
LITIGATION EXPENSES AND ASSOCIATED TITLE FEES, A 2016
STORMWATER REGIONAL PROGRAM-FUNDED PROJECT
LOCATED IN COUNCIL DISTRICT 6.**

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WHEREAS, the Texas Commission on Environmental Quality (TCEQ) notified the City that the emergency relief channel had been constructed through an undocumented landfill; and

WHEREAS, the City and TCEQ reached an agreement for which the City is ready to move forward with the second phase of the improvements at Westover Valley and will meet the requirements of the agreement with TCEQ; and

WHEREAS, permanent drainage and temporary construction easement interests are required for the Westover Valley Phase II Project and multiple property acquisitions in New City Block 17639; and

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

WHEREAS, the Project will provide drainage improvements to alleviate flooding concerns in the Westover Valley subdivision and such acquisitions are required to complete the Westover Valley Phase II Project; and

WHEREAS, the Project will provide for the re-grading and concrete-lining of the existing channel to Culebra Creek and will capture runoff from upstream properties and convey it through a dedicated drainage easement out-falling at Culebra Creek; and

WHEREAS, it is necessary to obtain and acquire the privately owned real property as part of the Project as further described in SECTION 1 below; and

WHEREAS, funds for the property acquisitions in an amount not to exceed \$240,000.00 are available within the Westover Valley Phase II Project from previously authorized 2016 Stormwater Regional Program funds and included in the 2016-2021 Capital Improvements Program Budget, for the acquisition of permanent and temporary construction easement interests to multiple properties located in District 6, **NOW THEREFORE**;

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

SECTION 1. Westover Valley Phase II Project is hereby declared to be a public use project.

SECTION 2. A public use and necessity is hereby declared for the City of San Antonio to acquire permanent drainage and temporary construction easement interests of approximately 4.704 acres of privately owned real property in Council District 6, by negotiation or condemnation, as part of the Westover Valley Phase II Project of the following:

PARCEL	DESCRIPTION
19446	2.191 acres (95,439 sq. ft) permanent drainage easement over and part of a 11.899 acre tract and a 5.857 acre tract, out of the G.W. Lewis Survey No. 189, Abstract 441, County Block 4416, NCB 17639, San Antonio, Bexar County, Texas
19446TE	2.386 acre tract (103,953 sq. ft) temporary construction easement over and part of a 11.899 acre tract and a 5.857 acre tract, out of the G.W. Lewis Survey No. 189, Abstract 441, County Block 4416, NCB 17639, San Antonio, Bexar County, Texas
19447	0.127 acre tract (5,518 sq. ft) permanent drainage easement out of a 118.970 tract, G.W. Lewis Survey No. 189, Abstract 441, County Block 4416, and partially in NCB 17639, San Antonio, Bexar County, Texas

The

properties are more specifically shown on the Site Map attached hereto as **Exhibit A** and more particularly described by survey and field notes as **Exhibits B through D** and incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property."

SECTION 3. 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 4. A payment not to exceed \$240,000.00 is authorized for payment through negotiation or condemnation in SAP Fund 40099000, Other Capital Projects, SAP Project Definition 23-01390, Westover Valley Relief Channel (Design), and should be encumbered and

made payable to the selected title company for land, litigation expenses and associated title fees of approximately 4.704 acres; two parcels of privately owned real property located in NCB 17639 in Council District 6 in Bexar County, Texas.

SECTION 5. 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 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, 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 7. 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 8. This Ordinance shall be effective immediately if it receives eight affirmative votes, otherwise, it shall be effective on the tenth day after passage.

PASSED and APPROVED this ____ day of _____, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Martha G. Sepeda, Acting City Attorney