

**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 NEGOTIATION AND/OR CONDEMNATION OF 0.059 ACRES FOR AN EASEMENT INTEREST IN LAND SUFFICIENT FOR PROJECT PURPOSES IN A PORTION OF ONE PARCEL OF PRIVATELY-OWNED REAL PROPERTY LOCATED IN NCB 17725 NEEDED FOR DEVELOPER PARTICIPATION OF THE BULVERDE ROAD AND CLASSEN ROAD REALIGNMENT PROJECT IN CONNECTION WITH THE 2012 GENERAL OBLIGATION BOND-FUNDED PROJECT, LOCATED IN COUNCIL DISTRICT 10, AND DECLARING IT TO BE A PUBLIC USE PROJECT FOR THE ACQUISITION.

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WHEREAS, the City of San Antonio (“City”) desires to acquire easement interest of privately owned real property in Council District 10 as part of the Bulverde Road and Classen Road Realignment 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 easement interest title of privately owned real property as part of the Project as further described in SECTION 1 below; and

WHEREAS, on May 2, 2013, City Council approved a Developer Participation Agreement with Bulverde Marketplace Partners through Ordinance 2013-05-02-0292; and

WHEREAS, as part of the final negotiated agreement terms, the Developer (Bulverde Marketplace Partners) agreed to design and construct the extension and realignment as part of the 2012-2017 bond funded Bulverde Road and Classen Road Realignment Project; and

WHEREAS, the acquisition will be used for the construction of two lanes in each direction, raised medians, curbs, sidewalks and bicycle lanes; and

WHEREAS, the Developer (Bulverde Marketplace Partners) will pay all expenses related to the acquisition of the real property, associated litigation expenses and title fees with no impact to the City; **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 easement interest of privately owned real property in Council District 10, by negotiation and/or condemnation, as part of the Bulverde Road and Classen Road Realignment Project of approximately 0.059 acre (2,571 square feet), located on a 4.074 acre tract, and out of the J. Goll

Survey Number 395, Abstract 297, New City Block 17725, in the City of San Antonio, Bexar County, Texas.

The Project is depicted in **Exhibit A** and more particularly described by metes and bounds in **Exhibit B** and incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property".

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. There is no fiscal impact to this item, as the Developer (Bulverde Marketplace Partners) will pay all fees associated with the acquisition.

SECTION 4. 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 5. The City staff is hereby directed to negotiate with the owner of the respective parcel for the acquisition of the Property at fair market value, to execute a sales agreement purchasing the property from the owner as 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 6. In the event that the City negotiations fail and staff is unable to acquire the parcel 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 7. 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 _____, 2014.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Robert F. Greenblum, City Attorney

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