

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

**AN ORDINANCE**

**AUTHORIZING CLOSURE, VACATION, AND ABANDONMENT OF AN IMPROVED PORTION OF S. MAIN BETWEEN E. ARSENAL STREET AND E. CESAR CHAVEZ BOULEVARD ADJACENT TO NEW CITY BLOCKS 927 AND 929.**

\* \* \* \* \*

**NOW THEREFORE,  
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Subject to the reservation below, and as an exercise of its discretion, the City Council authorizes the City Manager or her designee to file a certificate in the real property records of Bexar County, Texas, closing, vacating, and abandoning the Right-of-Way Segment. The certificate must not be delivered until H.E. Butt Grocery Company has:

- A. Duly executed and delivered a development agreement concerning the surrounding area with such covenants and undertakings as the City Manager deems beneficial to the City, including the commitment to build and operate a grocery store in the block of Flores Street between Cesar Chavez and Arsenal; and
- B. Completed the improvements stated in Attachment III.

**SECTION 2.** The Right-of-Way Segment is generally described as:

That portion of Main Street described generally as extending southward from the south right-of-way line of Cesar Chavez Boulevard to the north right-of-way line of Arsenal.

**SECTION 3.** A picture of the Right-of-Way Segment is set forth at **Attachment I**. The detailed description of the Right-of-Way Segment is set forth on **Attachment II**. Both Attachments I and II are incorporated into this ordinance for all purposes as if they were fully set forth. Attachment II controls over any discrepancy between it and Attachment I.

**SECTION 4.** The Right-of-Way Segment exists by virtue of a deed dated May 11, 1948, from the United States of America acting by and through the War Assets Administration to the City of San Antonio and recorded at volume 2535, page 230, records of Bexar County, Texas.

**SECTION 5.** The properties abutting the Right-of-Way Segment are:

<i>Address:</i>	<i>Description:</i>	<i>Owner Listed by Bexar Appraisal District:</i>
646 S. Main	Lots 1 and P-100A, Block 3, NCB 929	HE Butt Grocery Company
432 Dwyer	Lot 2, Block 3, NCB 929	HE Butt Grocery Company
622 S. Main	Arb P-200, NCB 929	City of San Antonio

The listing above is made solely to facilitate indexing this Ordinance in the real property records. If the listing is inaccurate or not comprehensive, it does not affect the validity of the closure.

**SECTION 6.** All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and facilities, if any, may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Right-of-Way Segment without first reaching an agreement with a utility having lines or facilities in the segment does so at his own risk. After the date of this Ordinance, no utility may add additional utility lines or facilities in the Right-of-Way Segment based on a claim that the Right-of-Way Segment is public right of way. All existing drainage rights in the Right-of-Way Segment are retained by the City. This closure does not give up any right arising other than from the plat or other instrument creating the public street or alley right of way. Neither does this Ordinance create new easement rights.

**SECTION 7.** The City Manager or her designee, severally, are authorized and directed to execute and deliver all documents and to do all other things conducive to reflect this closure, abandonment, and vacation.

**SECTION 8.** The Right-of-Way Segment exists by easement. The underlying fee ownership of the Right-of-Way Segment by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned. For purposes of future conveyance and to better reflect their ownership generally, owners of the adjacent property should replat. No such replat impairs the rights retained by City above, unless in the course of replatting, the owner, at its own expense, otherwise provides for those rights according to platting rules of general applicability.

**SECTION 9.** The Legistar system provides no financial information for this ordinance.

**SECTION 10.** This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

**PASSED AND APPROVED** this ??? day of ????? 2013.

KLB [??????]  
Item No. /unknown at ordinance preparation time/

M     A     Y     O     R  
Julián Castro

**Attest:**

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Leticia M. Vacek, City Clerk

**Approved As To Form:**

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Michael D. Bernard, City Attorney

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