

AN ORDINANCE 2008-06-19-0577

AMENDING ORDINANCE NO. 2006-05-18-0585 DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION BY NEGOTIATION AND/OR CONDEMNATION OF REAL PROPERTY, TO AMEND THE DESCRIPTION OF PROPERTY TO BE ACQUIRED AS ALL OF LOT 4, NCB 8669 LOCATED AT 36TH STREET AND U.S. HIGHWAY 90 FOR THE 36TH STREET – US90 TO KELLY AFB ENTRANCE (MPO) PROJECT; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,200,000.00.

* * * * *

WHEREAS, Ordinance No. 2006-05-18-0585 approved May 18, 2006 declared a public necessity for the City of San Antonio (“City”) authorizing the purchase of fee simple title to one-half of Parcel 17967 in connection with the 36th Street – US 90 to Kelly AFB Entrance (MPO) Project; and

WHEREAS, the Ordinance called for a real estate taking of 10,896 square feet (0.250 acre) out of New City Block 8669, Lot 4 (Parcel 17967); and

WHEREAS, this Ordinance is to amend the legal description of the property to be acquired as all of Lot 4, New City Block 8669, San Antonio, Texas; and

WHEREAS, this Ordinance authorizes City staff to negotiate and to acquire the property on the approved terms, and also authorizes the City Attorney to file eminent domain proceedings if necessary to acquire the property; and

WHEREAS, this Ordinance authorizes the appropriation of \$1,200,000.00 for the acquisition of fee simple title of the privately owned real property and for miscellaneous expenses such as appraisal and attorney’s fees associated with acquiring this property; **NOW THEREFORE**,

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

SECTION 1. A public necessity is hereby declared for the City of San Antonio to acquire one parcel of land in fee simple title for the 36th Street – US 90 To Kelly AFB Entrance (MPO) Project.

SECTION 2. Ordinance No. 2006-05-18-0585, passed and approved on May 18, 2006, is hereby amended to reflect the legal description of the property to be acquired as “all of Lot 4, New City Block 8669, San Antonio, Texas” as well as the appropriation of funds as follows:

- a) The amount of \$194,000.00 is appropriated in SAP Fund 43902027, 2007 Certificate of Obligations Streets Improvements, SAP WBS CO-20780-01-01-04, SAP GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00839-90-11. The amount of \$194,000.00 is authorized to be transferred to SAP Fund 45099000.

- b) The budget in SAP Fund 45099000, SAP Project Definition 23-00839, 36th Street - US90 to Growdon, shall be revised by increasing SAP WBS element 23-00839-90-11 entitled Trf Fr CO-20780-01-01-04, SAP GL account 6101100 – Interfund Transfer In, by the amount \$194,000.00.
- c) This Ordinance is also a declaration of the City’s official intent to reimburse itself from the proceeds derived from the sale of the City of San Antonio, Combination Tax and Revenue Certificates of Obligation, Series 2008 for any authorized expenditures from any lawfully available funds of the City.
- d) The following appropriations and payments are contingent upon the sale of the City of San Antonio, Combination Tax and Revenue Certificates of Obligation, Series 2008 for SAP Project Definition 23-00839, 36th Street - US90 to Growdon.
- e) The amount of \$1,006,000.00 is appropriated in SAP Fund to be created for the 2008 Certificate of Obligation Bond Sale, SAP GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00839-90-01. The amount of \$1,006,000.00 is authorized to be transferred to SAP Fund 40099000.
- f) The budget in SAP Fund 40099000, SAP Project Definition 23-00839, 36th Street - US90 to Growdon, shall be revised by increasing SAP WBS element 23-00839-90-01 entitled Trf Fr WBS element created for the 2008 Certificates of Obligation, GL account 6101100 – Interfund Transfer In, by the amount \$1,006,000.00.
- g) The amount of \$1,000,000.00 is appropriated in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 23-00839, 36th Street - US90 to Growdon, SAP WBS Element 23-00839-03-02-04, entitled Acquisition, SAP GL Account 5201110.
- h) The amount of \$175,000.00 is appropriated in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 23-00839, 36th Street - US90 to Growdon, SAP WBS Element 23-00839-03-02-01, entitled Title, SAP GL Account 5209010.
- i) The amount of \$25,000.00 is appropriated in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 23-00839, 36th Street - US90 to Growdon, SAP WBS Element 23-00839-03-02-02, entitled Appraisals, SAP GL Account 5201160.

SECTION 3. 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 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 4. Ordinance No. 2006-05-18-0585 will remain unchanged with the exception of the above referenced amendment and appropriation of funds.

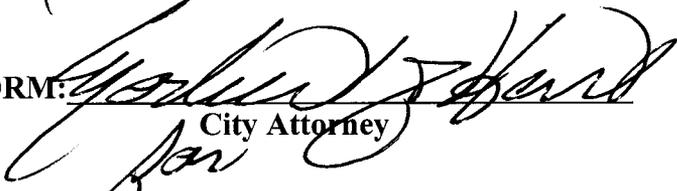
SECTION 5. This Ordinance shall be effective on the tenth day after passage hereof.

PASSED AND APPROVED this the 19th day of June 2008.


FOR M A Y O R

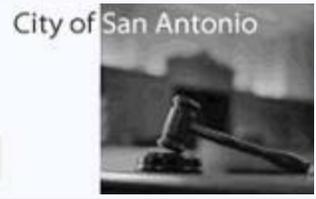
PHIL HARDBERGER

ATTEST: 
CITY CLERK

APPROVED AS TO FORM: 
City Attorney



Request for
**COUNCIL
ACTION**

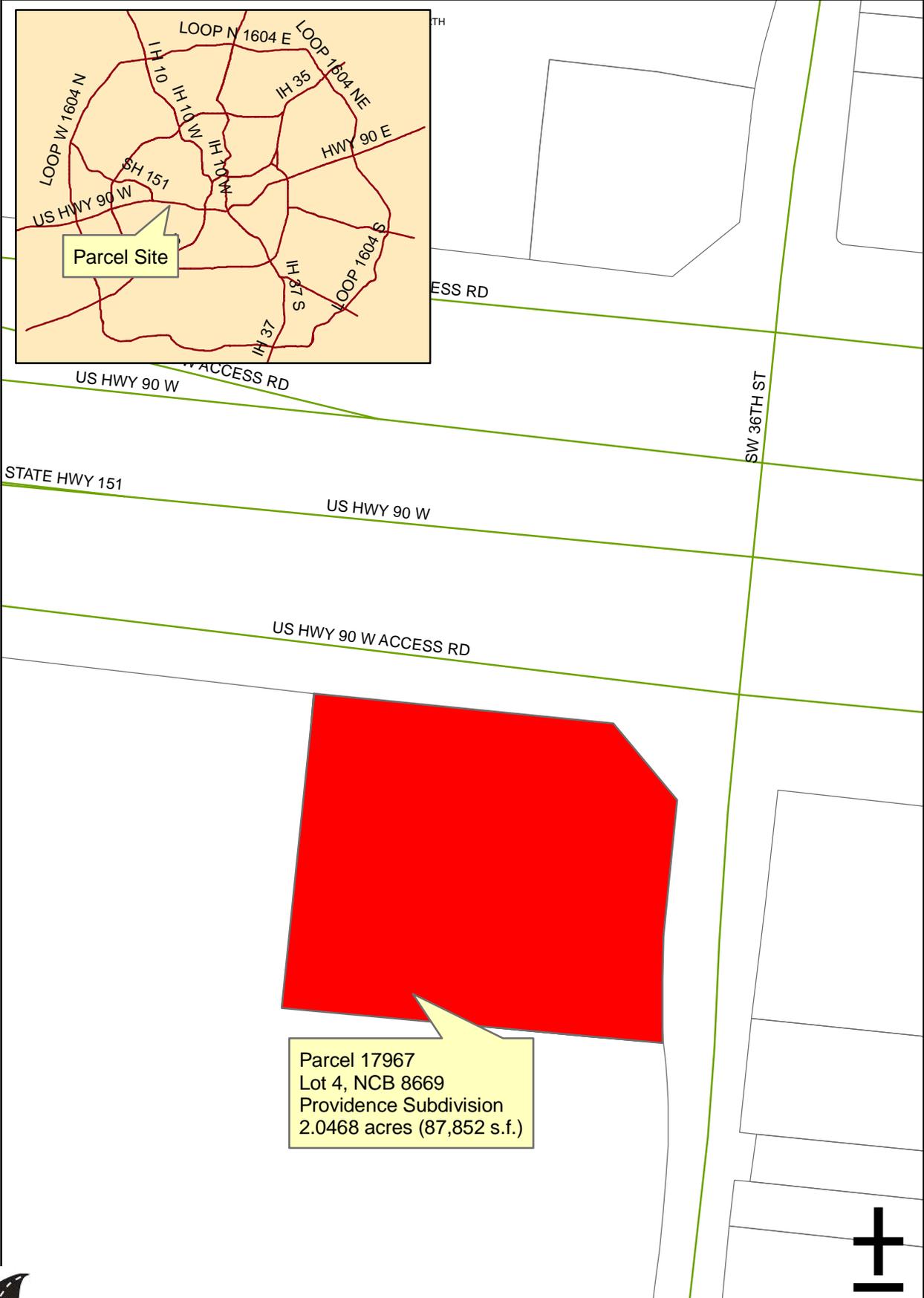


Agenda Voting Results - 37

Name:	37
Date:	06/19/2008
Time:	03:52:49 PM
Vote Type:	Motion to Approve
Description:	An Ordinance amending Ordinance No. 2006-05-18-0585 declaring a public necessity for the acquisition by negotiation and/or condemnation of real property, to amend the description of property to be acquired as all of Lot 4, NCB 8669 located at 36th Street and U.S. Highway 90 for the 36th Street – US90 to Kelly AFB Entrance (MPO) Project; and appropriating funds in the amount of \$1,200,000.00. [Penny Postoak Ferguson, Assistant City Manager; Mike Frisbie, Director, Capital Improvements Management Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2	x					
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x			x	
Lourdes Galvan	District 5		x				x
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10	x					

36th Street - U.S. 90 to Growden Project



AN ORDINANCE 2006-05-18-0585

DECLARING THE 36TH STREET - US90 TO KELLY AFB ENTRANCE (MPO) PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE TO CERTAIN PRIVATELY OWNED REAL PROPERTY IN BEXAR COUNTY, TEXAS, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR A PUBLIC PURPOSE AS PUBLIC IMPROVEMENTS AS PART OF THE PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$841,100.00 FROM 1999 GENERAL OBLIGATION STREET IMPROVEMENT BONDS FOR THE ACQUISITION AND OTHER MISCELLANEOUS ASSOCIATED EXPENSES SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE CITY STAFF TO NEGOTIATE AND TO ACQUIRE THE PROPERTY ON THE APPROVED TERMS; AND AUTHORIZING THE CITY ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; TO ACQUIRE THE FOLLOWING PROPERTIES:

COSA PARCEL	ACREAGE	LOT(S)	BLOCK	NCB	SUBDIVISION
17970	0.653	5		8669	
17957	0.014	11J	8	8084	West Gardendale
17965	0.035	25	8	8084	Aelvoet
17966	0.006	25	8	8084	Aelvoet
17963	0.020	31	8	8084	
17964	0.098	39	8	8084	
17969	0.274	Tract C		8669	
17968	0.928	2		8669	Chico Properties
17968A	0.594	3		8669	Chico Properties
17967	0.888	4		8669	Providence

* * * * *

WHEREAS, the 36th Street - US90 to Kelly AFB Entrance Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is necessary to obtain and acquire the fee simple title to ten (10) parcels of land for use as part of the Project and the Property to be acquired is described in Section 3 below, and more fully in Attachment I which is attached hereto and incorporated herein for all purposes; and

WHEREAS, in order to proceed with the acquisition of the Property, it is necessary and appropriate to establish just compensation for the Property to be acquired; and

WHEREAS, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department 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 36th Street – US90 to Kelly AFB Entrance Project (“the 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 the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the 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** which is attached hereto and is 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 II** which is attached hereto and incorporated herein for all purposes.

SECTION 5. The following financial adjustments are hereby authorized:

- a.) The amount of \$217,000.00 is appropriated in fund 45972000, 1999 Street Improvement 2001, WBS GO-00168-01-01-06, GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00839-90-05. The amount of \$217,000.00 is authorized to be transferred to fund 45099000.

The budget in fund 45099000, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, shall be revised by increasing WBS element 23-00839-90-05 entitled Trf Fr GO-00168-01-01-06, GL account 6101100 – Interfund Transfer In, by the amount of \$217,000.00.

- b.) The amount of \$99,100.00 is appropriated in fund 43506001, 2004 MPO Future Match, WBS CO-00049-01-01-45, GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00839-90-08. The amount of \$99,100.00 is authorized to be transferred to fund 45099000.

The budget in fund 45099000, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, shall be revised by increasing WBS element 23-00839-90-08 entitled Trf Fr CO-00049-01-01-45, GL account 6101100 – Interfund Transfer In, by the amount of \$99,100.00.

- c.) The amount of \$326,000.00 is appropriated in fund 43902003, 2006 C/O Streets Improvements, WBS CO-20060-01-01-06, GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00839-90-10. The amount of \$525,000.00 is authorized to be transferred to fund 45099000.
- d.) The budget in fund 45099000, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, shall be revised by increasing WBS element 23-00839-90-10 entitled Trf Fr CO-20060-01-01-06, GL account 6101100 – Interfund Transfer In, by the amount of \$525,000.00.
- e.) The amount of \$582,850.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, WBS element 26-00839-03-02-04, entitled ROW Acquisition, G/L Account 5209010, and is authorized to be encumbered and made payable for land acquisition.
- f.) The amount of \$52,000.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, WBS element 26-00839-03-02-03, entitled ROW Legal, G/L Account 5201050, and is authorized to be encumbered and made payable for legal fees.
- g.) The amount of \$15,000.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, WBS element 26-00839-03-02-02, entitled ROW Appraisals, G/L Account 5201160, and is authorized to be encumbered and made payable for appraisal fees.

The amount of \$15,000.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, WBS element 26-00839-03-02-01, entitled ROW Title, G/L Account 5201160, and is authorized to be encumbered and made payable for land acquisition costs.
- h.) The amount of \$176,250.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 26-00839, 36th Street – US 90 to Kelly AFB Entrance, WBS element 26-00839-03-02-05, entitled ROW Miscellaneous, G/L Account 5201160, and is authorized to be encumbered and made payable for miscellaneous costs.
- i.) The amount \$525,000.00 is subject to availability and appropriation for FY2007.

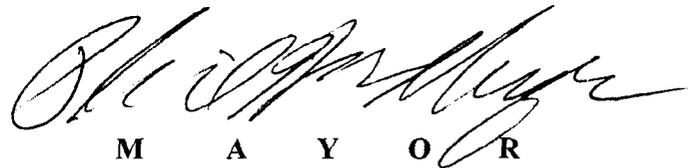
SECTION 6. The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the Property from the owners as the owners are identified by a Commitment 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 of the City 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. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

SECTION 8. 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, or the City Manager's designee, may correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 10. This Ordinance shall be effective on the 28th day of May, 2006.

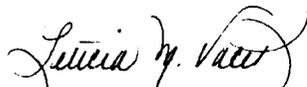
PASSED AND APPROVED this the 18th day of May, 2006.



M A Y O R

PHIL HARDBERGER

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



for City Attorney



CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # 37
Council Meeting Date: 6/19/2008
RFCA Tracking No: R-3512

DEPARTMENT: Capital Improvements
Management Services

DEPARTMENT HEAD: Mike Frisbie

COUNCIL DISTRICT(S) IMPACTED:
Council District 4, Council District 5

SUBJECT:
36th Street – US90 to Kelly AFB Entrance (MPO) Project

SUMMARY:

This ordinance declares the 36th Street – US90 to Kelly AFB Entrance (MPO) Project a public project for the acquisition by negotiation and/or condemnation of property located at Highway 90 West and 36th Street, and authorizes the City Attorney to file eminent domain proceedings, if necessary, to acquire the property. This ordinance also appropriates funds from 2009 Certificates of Obligation in the amount of \$1,200,000.00.

BACKGROUND INFORMATION:

Project Description

This project will reconstruct and widen the existing four lane roadway to four lanes with a center median. New curbs and sidewalks and necessary drainage improvements will also be included in this project.

Previous Council Action

On May 18, 2006, City Council approved Ordinance No. 2006-05-18-0585, authorizing the purchase of fee simple title to one-half of Parcel 17967 in connection with the 36th Street – US90 to Kelly AFB Entrance (MPO) Project. The ordinance called for a real estate taking of 10,896 square feet (0.250 acre) out of New City Block 8669 Lot 4 (Parcel 17967).

The Certificates of Obligation funds appropriated under this Ordinance provide for the acquisition of this property and for miscellaneous associated expenses such as appraisal and attorney's fees. This Ordinance authorizes City staff to negotiate and to acquire the property on the approved terms, and also authorizes the City Attorney to file eminent domain proceedings if necessary to

acquire the property.

Property Description

Parcel 17967 – Lot 4, and being out of New City Block 8669, PROVIDENCE SUBDIVISION, situated in the City of San Antonio, Bexar County, Texas, and according to plat thereof recorded in volume 6200, Page 88, Deed and Plat Records of Bexar County, Texas. (Fee Simple Title)

ISSUE:

This Ordinance amends previous City Council action by revising the legal description of the property to be acquired. On May 18, 2006, City Council authorized the purchase of approximately one half (½) of Parcel 17967; however, it has been determined to be more cost effective to acquire the entire property, and as a result, it is necessary to amend the previous Ordinance.

Purchasing the full parcel at this time allows maximum land use for the project and offers an opportunity for the potential resale of the remaining property following project completion. This acquisition and the declaration of public purpose are necessary for the completion of this project. The Port Authority is in agreement that this step is necessary to the project

ALTERNATIVES:

Should a partial taking of the property occur, the small remaining portion of the parcel would be devalued significantly. The approval of this amendment will allow the acquisition of the subject property and will move this project forward. If the full parcel is acquired, the project acquisition cost will remain nearly the same; however, should only the portion of property be taken, the scope of the project would need to be reduced, or the project could require additional funding in the future.

FISCAL IMPACT:

This capital improvement expenditure is in the amount of \$1,200,000.00 and funding is available from Certificates of Obligation for the 36th Street – US90 to Kelly AFB Entrance (MPO) Project. The funding comes from budgeted Fiscal Year 2009 Certificate of Obligations.

RECOMMENDATION:

Staff recommends approval to declare a public project and to purchase the entire Parcel 17967 in connection with the 36th Street – US90 to Kelly AFB Entrance (MPO) Project. This project is in the best interest of the health, safety and welfare of the public.

ATTACHMENT(S):

File Description	File Name
36th Street Fiscal Impact Sheet	36th Street Recon - Fiscal Impact Sheet.xls
Map-36th Street-US 90-Growden	Map - 36th Street - US 90- Growden.pdf
Voting Results	
Ordinance/Supplemental Documents	200806190577.pdf

DEPARTMENT HEAD AUTHORIZATIONS:

Debbie Sittre Assistant Director Capital Improvements Management Services

APPROVED FOR COUNCIL CONSIDERATION:

Penny Postoak Ferguson Assistant City Manager