LEF:mb
03/12/15
Item No. 18A.

AN ORDINANCE 2015-03-12-0191

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.

* * * * *

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 12th day of March, 2015.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for Martha G. Sepeda, Acting City Attorney

Agenda Item:	**18A**
Date:	03/12/2015
Time:	10:18:50 AM
Vote Type:	Motion to Approve
Description:	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.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				x
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				

GENERAL NOTES

(1) THIS SURVEY DOES NOT IDENTIFY OR DELINEATE ANY SURFACE OR SUBSURFACE MINERAL RIGHTS. NOR DOES IT IDENTIFY ANY RIGHTS TO THE SURFACE RESULTING FROM SAID MINERAL RIGHTS.

(2) THIS SURVEY WAS PERFORMED ON THE GROUND ON JANUARY 2014.

(3) BEARINGS ARE BASED ON NORTH AMERICAN DATUM OF 1983 (93) , TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE.

FLOOD NOTE

SUBJECT PROPERTY APPEARS TO BE SITUATED WITHIN THE FLOOD ZONE AREA AE (SPECIAL FLOOD HAZARD AREA) (SFHA). SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. BASE FLOOD ELEVATIONS DETERMINED. AS INDICATED ON THE FOLLOWING FLOOD INSURANCE RATE MAP 48029C0610H. EFFECTIVE DATE: SEPTEMBER 29, 2010 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS. SURVEYOR DOES NOT GUARANTEE OR WARRANT THE ACCURACY OR CORRECTNESS OF THE FEMA MAPS.

LINE TABLE		
LINE	BEARING	LENGTH
L1	[illegible]	[illegible]
L2	[illegible]	[illegible]
L3	[illegible]	[illegible]
L4	[illegible]	[illegible]
L5	[illegible]	[illegible]
L6	[illegible]	[illegible]
L7	[illegible]	[illegible]
L8	[illegible]	[illegible]
L9	[illegible]	[illegible]

SCHEDULE B EXCEPTIONS

THIS SURVEY WAS PERFORMED WITH THE BENEFIT OF A TITLE COMMITMENT PREPARED BY NORTH AMERICAN TITLE INSURANCE COMPANY WITH FILE # NTX-[illegible] HAVING AN EFFECTIVE DATE OF MARCH 6, 2014 AND ISSUE DATE OF MARCH 17, 2014.

THE FOLLOWING SURVEY-RELATED ITEMS ARE LISTED ON SCHEDULE B OF SAID TITLE COMMITMENT.

RIGHT-OF-WAY AND EASEMENT AS SHOWN IN INSTRUMENT FILED IN VOLUME 1471, PAGE 256, DEED RECORDS OF BEXAR COUNTY, TEXAS.

RIGHT-OF-WAY AS REFERENCED IN AND TRANSFERRED BY INSTRUMENT FILED IN VOLUME 1375, PAGE 369, DEED RECORDS OF BEXAR COUNTY, TEXAS.

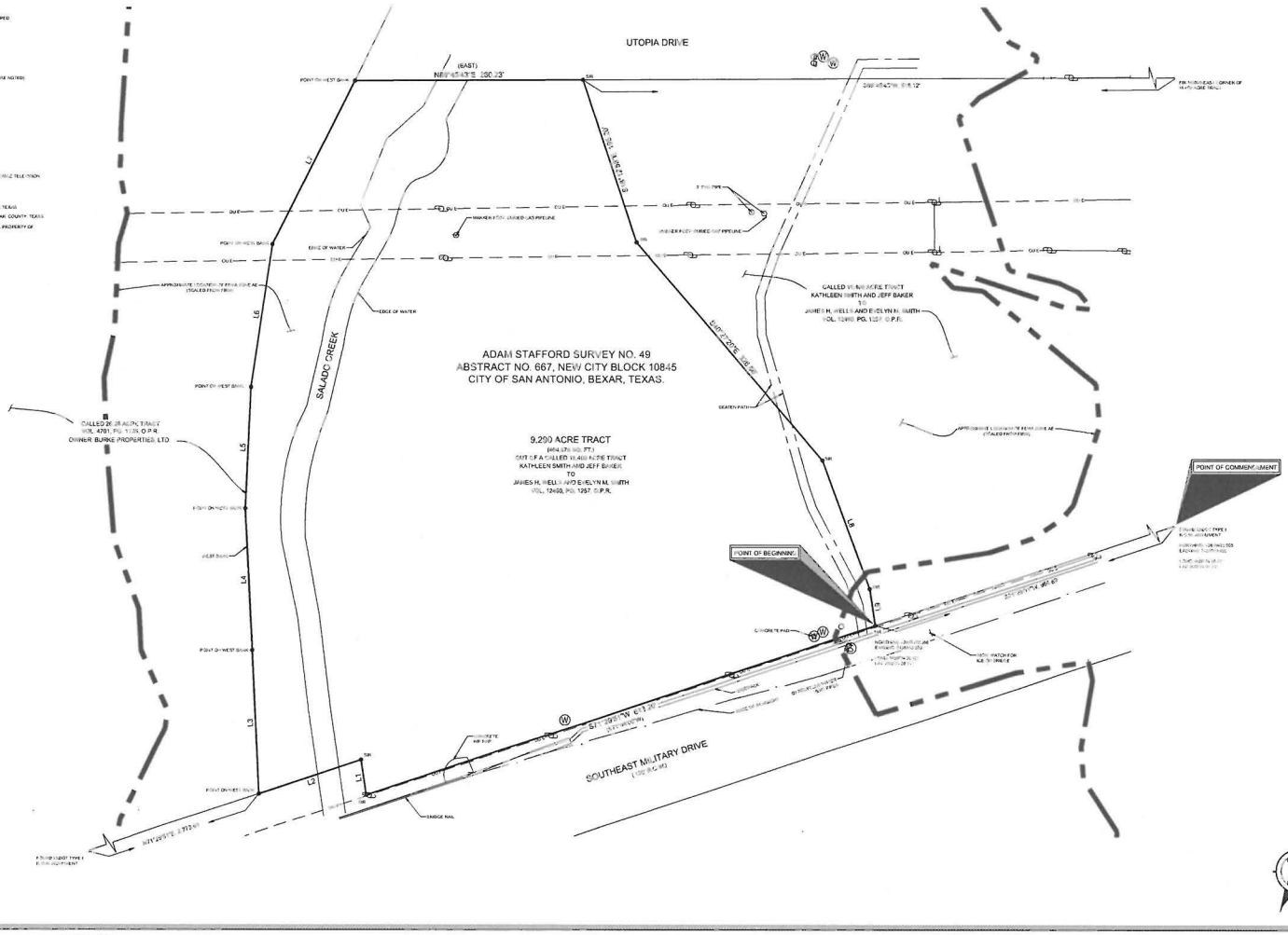
EASEMENT AS SHOWN IN INSTRUMENT FILED IN VOLUME 888, PAGE 170, DEED RECORDS OF BEXAR COUNTY, TEXAS.

RIGHT-OF-WAY AS SHOWN BY INSTRUMENT FILED IN VOLUME 1192, PAGE 878, DEED RECORDS OF BEXAR COUNTY, TEXAS.

EASEMENT AS SHOWN IN INSTRUMENT FILED IN VOLUME 6767, PAGE 447, OFFICIAL RECORDS OF BEXAR COUNTY, TEXAS.

LEGEND

- FOUND IRON ROD (UNLESS OTHERWISE NOTED)
- SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP."
- POINT IN CREEK
- UTILITY POLE
- OVERHEAD UTILITY
- ELEVATOR TRANSFORMER
- FIRE HYDRANT (UNLESS OTHERWISE NOTED)
- WATER VALVE
- WATER METER
- STORM WATER MANHOLE
- STORM WATER INLET
- CLEANOUT
- LIGHT POLE/GUARD
- ELECTRIC METER
- FIRE HYDRANT
- SBC ELECTRIC TELEPHONE AND CABLE TELEVISION
- R/W RIGHT OF WAY
- SQ.FT. SQUARE FEET
- D.R. DEED RECORD OF BEXAR COUNTY, TEXAS
- D.F.R. DEED RECORD OF BEXAR COUNTY, TEXAS
- O.P.R. OFFICIAL PUBLIC RECORD OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
- C.O.P. CONCRETE OVERFLOW PAD
- N.T.S. NOT TO SCALE
- RECORD INFORMATION
- EDGE OF WATER
- WIRE FENCE
- INTERMITTENT WATER EDGE
- DRAIN INLET
- PIPE
- WOOD PEDESTAL
- TELEPHONE PEDESTAL
- ELECTRIC PULL BOX
- VARIABLE WIDTH
- PRIVATE FENCE
- AIR CONDITIONER PAD
- OVERALL



AS SURVEYED DESCRIPTION

BEING A 9.290 ACRE (404,476 SQUARE FEET) TRACT OF LAND OUT OF THE ADAM STAFFORD SURVEY NO. 49, ABSTRACT NO. 667 AND NEW CITY BLOCK 10845, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, AND A 26.28 ACRE TRACT, BEING A PORTION OF A CALLED 14.00 ACRE TRACT CONVEYED FROM KATHLEEN SMITH AND JEFF BAKER TO JAMES H. WELLS AND EVELYN M. SMITH BY DEED RECORDED IN VOLUME 12459, PAGE 1257, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, CITY OF BEXAR COUNTY, TEXAS (OPR RECORDS) CITED HEREIN ARE RECORDED IN BEXAR COUNTY, TEXAS. SAID 9.290 ACRE TRACT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, WITH ALL BEARINGS BEING REFERENCED TO NORTH AMERICAN DATUM OF 1983, TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204):

COMMENCING AT A FOUND TXDOT TYPE 1 RIGHT OF WAY (ROW) MONUMENT ON THE NORTHWEST ROW LINE OF SOUTHEAST MILITARY DRIVE (100 FOOT ROW), THENCE N71°39'51"W, ALONG SAID ROW AND PARTIALLY ALONG THE SOUTHEAST LINE OF SAID 14.00 ACRE TRACT, A DISTANCE OF 369.53 FEET TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." SAID POINT HAVING GRID COORDINATES OF X=2,152,151.861, Y=13,737,750.94, FOR THE **POINT OF BEGINNING** AND SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE S71°39'51"W, CONTINUING ALONG THE COMMON LINE OF SAID ROW AND THE 14.00 ACRE TRACT, A DISTANCE OF 67.13 FEET, TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." SAID POINT ALSO BEING THE EAST SOUTHERLY CORNER OF SAID 14.00 ACRE TRACT, FOR THE WEST SOUTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE N71°39'51"W, ALONG THE COMMON LINE OF SAID ROW AND 14.00 ACRE TRACT, A DISTANCE OF 67.13 FEET TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE S71°39'51"W, ALONG THE COMMON LINE OF SAID ROW AND 14.00 ACRE TRACT, PASSING THE CENTER OF SALADO CREEK AT A DISTANCE OF 167.94 FEET, CONTINUING ALONG SAID COMMON LINE, A TOTAL DISTANCE OF 537.51 FEET TO A POINT ON THE WEST BANK OF SALADO CREEK, SAME POINT ALSO BEING THE SOUTHEAST CORNER OF A CALLED 26.28 ACRE TRACT RECORDED IN VOLUME 4701, PAGE 1128, OPRR. SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID 14.00 ACRE TRACT, FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE, ALONG SAID COMMON LINE OF SAID 26.28 ACRE TRACT AND 14.00 ACRE TRACT, ALONG SAID WEST BANK OF SALADO CREEK, AS SURVEYED THIS DATE, THE FOLLOWING FIVE (5) CALLS:

N00°16'54"W, A DISTANCE OF 96.78 FEET TO A POINT, FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

N07°46'07"E, A DISTANCE OF 58.01 FEET TO A POINT, FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

N00°47'08"E, A DISTANCE OF 137.84 FEET TO A POINT, FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

N08°38'06"E, A DISTANCE OF 41.10 FEET TO A POINT, FOR A CORNER OF THE HEREIN DESCRIBED TRACT; AND,

N08°44'55"E, A DISTANCE OF 104.87 FEET TO A POINT AT THE NORTHWEST CORNER OF UTOPIA DRIVE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID 14.00 ACRE TRACT, FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE, ALONG SAID COMMON LINE OF SAID 26.28 ACRE TRACT AND 14.00 ACRE TRACT, ALONG SAID WEST LINE OF UTOPIA DRIVE AS SURVEYED THIS DATE, THE FOLLOWING FIVE (5) CALLS:

N89°54'43"E, A DISTANCE OF 290.23 FEET TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

S00°05'17"E, A DISTANCE OF 67.12 FEET TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

S71°39'51"W, A DISTANCE OF 369.53 FEET TO A SET 1/2" IRON ROD WITH CAP STAMPED "VICKREY PROP. CORP." FOR A CORNER OF THE HEREIN DESCRIBED TRACT;

S18°20'09"E, A DISTANCE OF 67.00 FEET, RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 9.290 ACRES (404,476 SQUARE FEET) OF LAND, MORE OR LESS.

CATEGORY 1A, CONDITION II SURVEY

FOR
9.290 ACRE TRACT
4207 SOUTHEAST MILITARY DRIVE
SAN ANTONIO, TEXAS

TO: CITY OF SAN ANTONIO

I, ROBERT M. ANGUIANO, HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL LAND SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II SURVEY.

PRELIMINARY-NOT TO BE
RECORDED FOR ANY PURPOSE
03-22-2014

DATED_____

ROBERT M. ANGUIANO
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 6067
VICKREY AND ASSOCIATES, INC.
RANGUIANO@VICKREYNET.COM

PREPARED FOR:

NO.	DATE	DESCRIPTION
1		
2		
3		
4		

REVISIONS

VICKREY & ASSOCIATES, INC.
CONSULTING ENGINEERS
CIVIL • ENVIRONMENTAL • SURVEY
12340 Country Parkway San Antonio, TX 78216
Telephone: (210) 349-3271
TBPLS Firm Registration No. 10004100

LAND TITLE SURVEY OF A 9.290-ACRE (404,476 SQUARE FEET) TRACT OF LAND, OUT OF THE ADAM STAFFORD SURVEY NO. 49, ABSTRACT NO. 667, NEW CITY BLOCK 10845, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

PROJ NO. 2501-001-141
DATE: 03-22-2014
SCALE
1" = 60'
0 20 50 90

SHEET 1 OF 1

EXHIBIT "A"