

AN ORDINANCE

97220

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S LOOP 410 AND MCCULLOUGH AVENUE SANITARY SEWER MAIN REPLACEMENT PROJECT IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE LOOP 410 AND MCCULLOUGH AVENUE SANITARY SEWER MAIN REPLACEMENT PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE LOOP 410 AND MCCULLOUGH AVENUE SANITARY SEWER MAIN REPLACEMENT PROJECT, TO WIT; A 0.028 ACRE PERMANENT EASEMENT AND A 0.087 ACRE TEMPORARY EASEMENT BOTH SITUATED IN LOT 111, NCB 12025 IN THE NORTH STAR SHOPPING CENTER SUBDIVISION OF RECORDS IN VOLUME 9514, PAGES 52-54 OF THE PLAT RECORDS OF BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE LOOP 410 AND MCCULLOUGH AVENUE SANITARY SEWER MAIN REPLACEMENT PROJECT AUTHORIZING THE SYSTEM, ITS EMPLOYEES, AGENTS AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATORS TO NEGOTIATE AND EXECUTE ALL SALES AND OTHER AGREEMENTS, EASEMENTS AND OTHER NECESSARY DOCUMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTIES DESCRIBED ABOVE AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; FURTHER AUTHORIZING THE SYSTEM AND ITS ATTORNEYS TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGEMENT AND ALL NECESSARY APPEALS) FOR THE CONDEMNATION OF THE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEY, AGENTS AND EMPLOYEES AND/OR ACTING FOR THE SYSTEM TO ACQUIRE SUCH PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED

PROPERTIES AS DESCRIBED ABOVE; DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF THE SAN ANTONIO WATER SYSTEM; FINDING THE ORDINANCE TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the public health, safety and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of potable water, recycled water, and

WHEREAS, it is necessary to construct, operate, and maintain such a facility, the Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project (the “ project”) located partially upon the property described in **Attachment I**, which is privately owned; and

WHEREAS, the City of San Antonio acting by and through representatives of the San Antonio Water System, have been unable to acquire the permanent and temporary easements, on the tracts described in **Attachment I**; and

WHEREAS, the San Antonio Water System Board of Trustees (the “Board”) found that the acquisition of such easements is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding region; and

WHEREAS, the Board requested requests that the City of San Antonio adopt an ordinance declaring a public necessity for the acquisition of such easements described in **Attachment I**, through the filing of lawsuits when deemed necessary to construct, operate and maintain the project, through the exercise of its eminent domain authority; and

WHEREAS, the Board further requested the San Antonio City Council to authorize the San Antonio Water System to undertake such proceedings; and

WHEREAS, the City Council of the City of San Antonio desires to (i) reaffirm and declare that the System’s Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project is a necessary public project (ii) reaffirm and declare that a public necessity exists for the acquisition of permanent easement interests across, over, upon and under certain privately owned real properties described below, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project (iii) authorize the System to acquire permanent easement interests, as described in **Attachment I**, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project, (iv) authorize the System, its employees, agents and/or their authorized independent negotiators to negotiate and execute all sales and other agreements, easements and other necessary documents wit the owners of certain privately owned properties described above and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent easement interests across,

over, upon and under certain privately owned properties as described in **Attachment I**, (v) further authorize the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of other permanent easement interests across, over, upon and under certain privately owned properties as described in **Attachment I**, (vi) approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent easement interests across, over, upon and under certain privately owned properties as described in **Attachment I**, and (vii) declare that the conveyance of all such permanent easement interest in certain privately owned properties as described in **Attachment I** shall be to the City of San Antonio for the use and benefit of the System: **NOW THEREFORE:**

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

SECTION 1. It is hereby reaffirmed and declared that the System's Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project is a necessary public interest.

SECTION 2. It is further reaffirmed and declared that a public necessity exists for the acquisition of permanent easement interests in certain privately owned properties as described in **Attachment I** attached hereto and incorporated herein for all purposes by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project.

SECTION 3. The System, acting on behalf of the City of San Antonio, is hereby authorized (i) to acquire permanent easement interests, as described in **Attachment I**, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Loop 410 and McCullough Avenue Sanitary Sewer Main Replacement Project, (ii) the System, its employees, agents and/or their authorized independent negotiators to negotiate and execute all sales and other agreements, easements, and other necessary document with the owners of certain privately owned properties described above and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent easement interests across, over, upon and under certain privately owned properties as described in **Attachment I**, (iii) the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent easement interest across, over, upon and under certain privately owned properties as described in **Attachment I**, (iv) to approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent easement interests across, over, upon and under certain privately owned properties as described in **Attachment I**, and (v) to declare that the conveyance of all such permanent easement interest in certain privately owned properties as described in **Attachment I** shall be to the City of San Antonio for the use and benefit of the System.

SECTION 4. All prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the System to acquire such permanent easement inters are hereby approved and ratified.

SECTION 5. That it is further declared that the conveyance of the permanent easement shall be to the City of San Antonio for the use and benefit of the System.

SECTION 6. It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 7. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

SECTION 8. This ordinance becomes effective immediately if passed by at least eight votes. Otherwise it shall be effective on March 2, 2003.

PASSED AND APPROVED this 20th day of February, 2003.



M A Y O R

EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


for CITY ATTORNEY