

AN ORDINANCE **97618**

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S WESTERN WATERSHED RELIEF LINE (W-EXTENSION-A) PROJECT ("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 PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM (SAWS) 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 PROJECT, TO WIT; A 0.107 ACRE TEMPORARY EASEMENT AND A 0.716 ACRE TEMPORARY EASEMENT, BOTH OUT OF THE CANDALARIO VILLANUEVA SURVEY NO. 85, NCB 17635 IN BEXAR COUNTY, TEXAS IN VOLUME 6063, PAGE 852 AND 9177, AND VOLUME 9177, PAGE 1239 OF THE DEED RECORDS OF BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; AUTHORIZING SAWS, 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 SAWS 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/OR EMPLOYEES ACTING FOR SAWS 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 SAWS; FINDING THE ORDINANCE TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, is necessary and in the best interest of the City of San Antonio and its citizens to require the continued construction, operation, and maintenance of potable water, recycled water, and sewer facilities for the community; and

WHEREAS, it is necessary to construct, operate, and maintain such a facility, the Western watershed Relief Line (W-Extension -A) Project ("Project") located partially upon the property described in Attachment I attached hereto and incorporated herein for all purposes, which is privately owned; and

WHEREAS, the Project is located partially upon the private property described in Attachment I attached hereto and incorporated herein for all purposes; 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 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, City Council finds the requested actions to be in the best interests of the City of San Antonio: **NOW THEREFORE:**

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

SECTION 1. City Council hereby reaffirms and declares that the System's Western Watershed Relief Line (W-Extension-A) Project is a necessary public project.

SECTION 2. City Council hereby reaffirms and declares 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 Western Watershed Relief Line (W-Extension-A) Project.

SECTION 3. The San Antonio Water System, acting on behalf of the City of San Antonio, is hereby authorized (i) to acquire permanent easement interests, as described in Attachment I hereto, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Western Watershed Relief Line (W-Extension-A) Project, (ii) 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) 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. It is hereby declared that the conveyance of the permanent easement shall be to the City of San Antonio for the use and benefit of the System is hereby authorized.

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 shall be effective on May 25, 2003.

PASSED AND APPROVED this 15th day of May, 2003.



M A Y O R
EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY