

AN ORDINANCE 100969

DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S US 281: MUD CREEK TO STONE OAK PARKWAY PROJECT ("PROJECT") IS A NECESSARY PUBLIC PROJECT; FURTHER DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES DESCRIBED BELOW FOR USE AS PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM (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 BELOW 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 BELOW; FURTHER AUTHORIZING THE GENERAL COUNSEL OF SAWS TO FILE CONDEMNATION PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGMENT AND ALL NECESSARY APPEALS) FOR THE CONDEMNATION OF THE TEMPORARY AND PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED BELOW; AND ANY OTHER PARCEL OR TEMPORARY OR PERMANENT EASEMENT INTEREST REQUIRED FOR PUBLIC NECESSITY THAT MAY DEVELOP ALONG THE PROPOSED ALIGNMENT OF THE PROJECT BETWEEN PARCEL NO. SAWS-9629 AND PARCEL NO. SAWS-9666 INCLUSIVELY; APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES OF AND/OR ACTING FOR SAWS TO ACQUIRE SUCH PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED HEREIN; DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT AND TEMPORARY EASEMENTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED HEREIN SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE; SAID PROPERTIES DESCRIBED AS FOLLOWS:

PARCEL	ACRES / S.F.- EASEMENTS PERMANENT (P)	ACRES / S.F.- EASEMENTS TEMPORARY (T)	LEGAL DESCRIPTION NEW CITY BLOCK/LOT NO.
SAWS-9629-B	0.0689 / 3,000	0.0654 / 2,850	Lot-4, Blk-25, NCB 19219
SAWS-9631-A	0.1174 / 5,114	0.0398 / 1,732	S. Jett Survey 92 ½, Abstract-855
SAWS-9631-B	0.2649 / 11,537	0.0883 / 3,846	S. Jett Survey 92 ½, Abstract-855
SAWS-9632	0.0098 / 426	0.0026 / 115	S. Jett Survey 92 ½, Abstract-855
SAWS-9633-A	0.2307 / 10,051	0.0770 / 3,356	C. Sheilbel Survey 360 ½, Abstract-724
SAWS-9633-D	0.0733 / 3,193	0.0163 / 708	C. Sheilbel Survey 360 ½, Abstract-724
SAWS-9638	0.1838 / 8,008	0.0614 / 2,676	S. Jet Survey 92 ½, Abstract-855

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**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 sewer facilities for the community; and

**WHEREAS**, it is necessary to construct, operate, and maintain such facility(s) known as US 281: Mud Creek to Stone Oak Parkway Project (the "Project"); and

**WHEREAS**, the US 281: Mud Creek to Stone Oak Parkway Project is on property that is privately owned; and

**WHEREAS**, the City of San Antonio acting by and through representatives of the San Antonio Water System ("SAWS") have been unable to acquire the easement interest on the tracts; and

**WHEREAS**, the San Antonio Water System Board of Trustees ("Board") found, pursuant to Board Resolution No. 05-182 that the acquisition of such easement interests 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, pursuant to Board Resolution No.05-182, that the City of San Antonio City Council adopt an ordinance declaring a public necessity for the acquisition of such easements through the filing of lawsuits when deemed necessary to gain access for the purpose of surveying, appraising, testing and acquisition through the exercise of its eminent domain authority; and

**WHEREAS**, the Board further requested, pursuant to Board Resolution No. 05-182, that the San Antonio City Council authorize SAWS to undertake such proceedings; **NOW THEREFORE**,

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

**SECTION 1.** It is hereby declared that the San Antonio Water System's US 281: Mud Creek to Stone Oak Project (the "Project") is a necessary public project.

**SECTION 2.** It is further declared that a public necessity exists for the acquisition of easement interests across, over, upon and under certain privately owned real properties described herein, by negotiation and/or condemnation if necessary for public improvements for use as part of the US 281: Mud Creek to Stone Oak Project; such property being more particularly described in **Attachment I**, which is attached hereto and incorporated herein, and any other parcel or easement interests required for public necessity that may develop along the alignment of the US 281: Mud Creek to Stone Oak Project between parcel No. SAWS-9629 and Parcel No. SAWS-9666 inclusively (the "Property").

**SECTION 3.** The San Antonio Water System, its employees, agents, and/or their authorized independent negotiators are hereby authorized to negotiate and execute all sales, any other agreements, easements and other necessary documents with the owners of certain privately owned properties and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the easement interest across, over, upon and under such Property.

**SECTION 4.** The San Antonio Water System's General Counsel is hereby authorized to file condemnation proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the easement interests across, over, upon and under such Property.

**SECTION 5.** All prior acts and proceedings done or initiated by attorneys, agent and employees of and/or acting for the San Antonio Water System to acquire such easement interests across, over, upon and under such Property are hereby approved, ratified and declared valid.

**SECTION 6.** The conveyance of all such easement interests in the Property shall be to the City of San Antonio for the use and benefit of the San Antonio Water System.

**SECTION 7.** 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 ordinance, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

**SECTION 8.** If any part, section, paragraph, sentence, phrase or word of this ordinance 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 ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

**SECTION 9.** An emergency hereby exists and upon the affirmative vote of at least eight members of the City Council, this Ordinance shall become effective immediately upon passage; otherwise to become effective upon the expiration of ten days from the date of passage.

**PASSED AND APPROVED** this the 2nd day of June 2005.



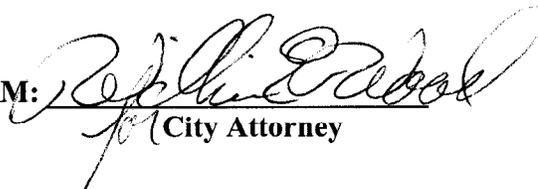
M A Y O R

EDWARD D. GARZA

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney