

AN ORDINANCE 100968

DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S 24" TRANSMISSION MAIN FROM LOOP 410 AT F.M. 1937 TO PLEASANTON ROAD 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-6730 AND PARCEL NO. SAWS-6736 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 / SQ.FT. EASEMENTS PERMANENT (P)	ACRES / SQ.FT. EASEMENTS TEMPORARY (T)	LEGAL DESCRIPTION	COUNTY BLOCK
SAWS-6730	0.029 / 1,241		Lot-37, Blk-1	5699
SAWS-6730-T		0.024 / 1,061	Lot-38, Blk-1	
SAWS-6732	0.147 / 6,407		Abstract No. 3	5935
SAWS-6732T		0.184 / 8,010	Abstract No. 3	
SAWS-6733	0.711 / 30,959		Abstract No. 3	4006
SAWS-6733-T		0.888 / 38,692	Abstract No. 3	
SAWS-6736	3.127 / 136,203		Abstract No. 3	4006
SAWS-6736-T		3.918 / 170,672	Abstract No. 3	

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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 24" Transmission Main from Loop 410 at F.M. 1937 to Pleasanton Road Project (the "Project"); and

WHEREAS, the 24" Transmission Main from Loop 410 at F.M. 1937 to Pleasanton Road 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 interests on the tracts; and

WHEREAS, the San Antonio Water System Board of Trustees ("Board") found, pursuant to Board Resolution No. 05-181 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.05-181, 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. 05-181, 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 24" Transmission Main from Loop 410 at F.M. 1937 to Pleasanton Road 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 24" Transmission Main from Loop 410 at F.M. 1937 to Pleasanton Road 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 24" Transmission Main from Loop 410 at F.M. 1937 to Pleasanton Road Project between parcel No. SAWS-6730 and Parcel No. SAWS-6736 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 interests 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

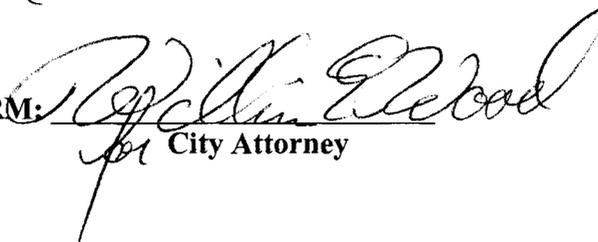
EDWARD D. GARZA

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney