LEF/mb
06/09/16
Item No. 12

AN ORDINANCE 2016-06-09-0437

**(I) DETERMINING THE PUBLIC NECESSITY FOR PUBLIC USE AND AUTHORIZING THE ACQUISITION OF CERTAIN PRIVATELY OWNED REAL PROPERTY IN BEXAR COUNTY, TEXAS BEING PERMANENT SANITARY SEWER EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS (COLLECTIVELY, THE "EASEMENTS"), THROUGH THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH THE SAN ANTONIO WATER SYSTEM ("THE SYSTEM") OVER, UNDER, ACROSS AND UPON PRIVATELY OWNED REAL PROPERTY (THE "PROPERTIES") FOR A SEWER PROJECT CONSISTING OF THE ELIMINATION OF THREE LIFT STATIONS AND THE CONSTRUCTION OF APPROXIMATELY 11,400 LINEAR FEET OF NEW SANITARY SEWER MAIN RUNNING PARALLEL TO COVAL ROAD TO OLD PEARSALL ROAD, BEING IN THE SOUTHWEST QUADRANTS OF BEXAR COUNTY, TEXAS IN CITY COUNCIL DISTRICT 4, AND BEING ALONG A GENERAL ROUTE AND GENERAL LOCATION DESCRIBED AND DEPICTED IN EXHIBITS A-1 AND A-2, ALL ATTACHED HERETO AND INCORPORATED HEREIN, WHICH EASEMENTS SHALL BE ACQUIRED BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR THE PUBLIC USE OF THE EXPANSION AND OPERATION OF THE SYSTEM THROUGH THE CONSTRUCTION OF THE LIFT STATIONS 225, 251 & 267 ELIMINATION PROJECT (THE "PROJECT"); (II) AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OF THE SYSTEM, BEING THE PRESIDENT/CEO, OR THE CHIEF ADMINISTRATIVE OFFICER OF THE CITY OF SAN ANTONIO, OR THEIR RESPECTIVE DESIGNEES, TO TAKE ALL APPROPRIATE ACTION TO ACQUIRE THE PROPERTY INTERESTS BY NEGOTIATION AND/OR CONDEMNATION; AND (III) RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES OF THE SYSTEM TO ACQUIRE SUCH EASEMENTS.**

* * * * *

**WHEREAS,** the San Antonio Water System Board of Trustees ("SAWS") has determined that the acquisition of permanent and temporary easement rights to certain real properties located in Bexar County, Texas are necessary and desirable for the expansion and operation of the San Antonio Water System (the "System") in connection with the construction, operation and maintenance of Lift Stations 225, 251 & 267 Elimination Project (the "Project"), which Project includes elimination of Lift Station #225 (Valley Ridge), #251 (Solana Ridge), and #267 (Carmona Hills). The Lift Stations 225, 251 & 267 are located along Covel Road and will be eliminated by constructing approximately 11,400 linear feet of 18-inch, 21-inch and 24-inch diameter gravity sewer main running parallel to Covel Road to Old Pearsall Road located in

southwest Bexar County along the route shown by the Overall Project Drawing marked **Exhibit A – 1** attached hereto and made a part hereof; and

**WHEREAS,** employees, agents and attorneys acting for the City of San Antonio, by and through the System, are in the process of investigating, surveying, defining and negotiating for the acquisition of such permanent and temporary easements (which shall include, for all purposes herein, any related rights of ingress and egress as may be needed) on behalf of the City of San Antonio; and

**WHEREAS**, in connection with the acquisition of such permanent and temporary easement rights, it may be necessary for the System to enter upon properties to investigate and survey the needed property interests so that they may be defined and described with specificity for inclusion in any easement or conveyance document, or, if necessary, as part of any filings to institute proceedings in eminent domain to acquire the necessary property rights; **NOW THEREFORE,**

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

**SECTION 1.** The above caption and recitals are incorporated herein for all purposes.

**SECTION 2.** Public necessity for public use requires that the System, through the City of San Antonio acquire permanent sewer easements and temporary construction easements (collectively, the "Property Interests"), over, under, across, and upon certain real properties (the Properties") either through purchase or by the process of eminent domain for the public purpose and public use of the expansion and operation of the System, in connection with the construction, operation and maintenance of the Project, in the location and along the route shown by the Overall Project Drawing marked **Exhibit A-1** attached hereto and made a part hereof and to take all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to investigate, survey, specify, define and secure the necessary property rights. The City Council further finds that the public purpose and public use to be served in and addressed by this ordinance is paramount to any private or public uses that may be encountered in the location and along the route for said acquisitions, and to such end, the property interests for which eminent domain proceedings may be instituted expressly include, to the extent deemed necessary or desirable by the System, any covenants, conditions and restrictions of record (the "Restrictions") that affect the use of the property interests.

**SECTION 3.** The property interests which are the subject of Section 2 for which the property interests are required for the Project consist of permanent recycled water easements, permanent sanitary sewer easements and temporary construction easements, located generally along the route described in **Exhibit A-2** and in the County Blocks and New City Blocks listed in **Exhibit A-2,** which Exhibits are attached hereto and made a part of this Ordinance for all purposes.

**SECTION 4.** The Chief Administrative Officer of the City of San Antonio or the President/CEO of the System or their respective designees, acting by and through their attorneys, is hereby authorized to institute and prosecute to conclusion all necessary proceedings to condemn the property interests described in Sections 2 and 3 of this Ordinance, expressly including any Restrictions, and to acquire such interests in land as the System is unable to

acquire through negotiation by reason of its inability to agree with the owners of the land or beneficiaries of any such property interests as to the value of such interest in land or other terms, and to take any other legal action necessary or incidental to such acquisitions or eminent domain proceedings to investigate, survey, specify, define and secure the necessary property rights.

**SECTION 5.** All acts and proceedings done or initiated by the employees, agents and attorneys of the System for the acquisition of such property interests rights are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the grantors from whom such rights are being purchased or acquired.

**SECTION 6.** Severability: If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 7.** 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 9th day of June, 2016.

Ivy R. Taylor

**M A Y O R**
Ivy R. Taylor

**ATTEST:**

Leticia M. Vacek

Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

for Martha G. Sepeda, Acting City Attorney

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|---|---|
| **Agenda Item:** | **12** |
| **Date:** | 06/09/2016 |
| **Time:** | 09:40:10 AM |
| **Vote Type:** | Motion to Approve |
| **Description:** | An Ordinance authorizing the acquisition through negotiation or condemnation, of 15.993 acres of permanent and temporary easements for interests in land sufficient for project purposes, of privately-owned real property located in NCB 15248, for the SAWS Covel Road Lift Stations Elimination Project, located in Council District 4; declaring it to be a public use project. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements] |
| **Result:** | Passed |

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

**EASEMENT PARCEL INVENTORY**

| NO. | OWNER | PERM. | TEMP. |
|---|---|---|---|
| # 1 | EMIL & JEWEL MILLER C/O JAMES M. MILLER | P13-192 | P13-192T |
| # 2 | CHARLES E. NEUMANN | P13-193 | P13-193T Part 1 & 2 |
| #3a | JOHN E. JONES | P13-194 | P13-194T |
| #3b | JOHN E. JONES | P13-195 | P13-195T |
| #3c | JOHN E. & JUDY L. JONES | P13-196 | P13-196T |
| # 4 | DENNIS CHARLES ELKINS | P13-197 | P13-197T Part 1 & 2 |
| # 5 | VALLEY RIDGE MHC, LTD. | P13-198 | P13-198T |
| # 6 | EVELYN JAYNE WILLIAMS | P13-199 | P13-199T |
| # 7 | GUILLERMO & MARIA DEL CARMEN PLACENCIA | P13-200 | P13-200T |
| # 8 | LUIS, GUILLERMO & MARIA DEL CARMEN PLASECENCIA | P13-201 | P13-201T |
| # 9 | JOHN LLOYD MARRS TRUST C/O JOHN LLOYD MARRS | P13-202 | P13-202T Part 1 & 2 |
| #10 | TJFA, L.P. | P13-204 | P13-204T |
| #11 | OPEN SPACE /DRAIN ROW & PARK SPACE, LOT 901, BLK 57 CARMONA HILLS SUBD. | P13-203 Part 1 & 2 | P13-203T Part 1, 2, 3, & 4 |

FORD ENGINEERING INC.
ENGINEERING * SURVEYING * PLANNING
10927 WYE DRIVE, SUITE 104, SAN ANTONIO, TEXAS 78217
PHONE: (210) 590-4777 FACSIMILE: (210) 590-4940
www.fordengineering.com TBPE No. F-1162

## OVERALL EASEMENT PARCEL EXHIBIT

SAWS #13-2505
SAN ANTONIO WATER SYSTEM
LIFT STATION ELIMINATION PROJECT
SOUTHERN PORTION

SCALE: 1" = 400'
MAY 14, 2015
PROJECT NO. 1800.3707

EXHIBIT "A-1"

Exhibit A-2

Route Description

The Project will consist of the elimination of Lift Station #225 (Valley Ridge), #251 (Solana Ridge), and #267 (Carmona Hills). The lift stations, #225, #251, #267 are located along Covel Road and will be eliminated by constructing approximately 11,400 linear feet of 18-inch, 21-inch and 24-inch diameter gravity sewer main running parallel to Covel Road to Old Pearsall Road.

AFFECTING PROPERTY LOCATED IN:

New City Blocks: 15248