LEF:mb
06/19/14
Item No. 15.

AN ORDINANCE 2014-06-19-0453

(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 UPONPRIVATELY OWNED REAL PROPERTY (THE "PROPERTIES") FOR A SEWER PROJECT THAT WILL BE LOCATED ALONG AN APPROXIMATLEY 4.2-MILE ALIGNMENT BEGINNING NEAR THE INTERSECTION OF ELEGANTE WAY AND MANDOLINO LANE, TERMINATING NEAR THE INTERSECTION OF JUDSON ROAD AT LOOKOUT ROAD, IN NORTHEAST QUADRANT OF BEXAR COUNTY, TEXAS, AND BEING ALONG A GENERAL ROUTE AND GENERAL LOCATION DESCRIBED AND DEPICTED IN EXHIBIT A-1 AND EXHIBIT 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 CIBOLO CREEK SEWERSHED DIVERSION FLOW 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 the Cibolo Creek Sewershed Diversion Flow project (the "Project"), which Project includes the construction of 4.36-mile long, 8-inch through 18-inch diameter wastewater force and gravity mains located in northeast 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 water 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 easements are required for the Project consist of permanent sanitary sewer easements and temporary construction easements, located generally along the route depicted in **Exhibit A-1** and in the County Blocks and New City Blocks listed in **Exhibit A-2**, and more particularly described in **Exhibit A-2,** which Exhibits are attached to and is made a part of this Ordinance for all purposes, together with all rights of ingress and egress necessary in connection with the Project and the use of the foregoing permanent ease.

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 19 day of June, 2014.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

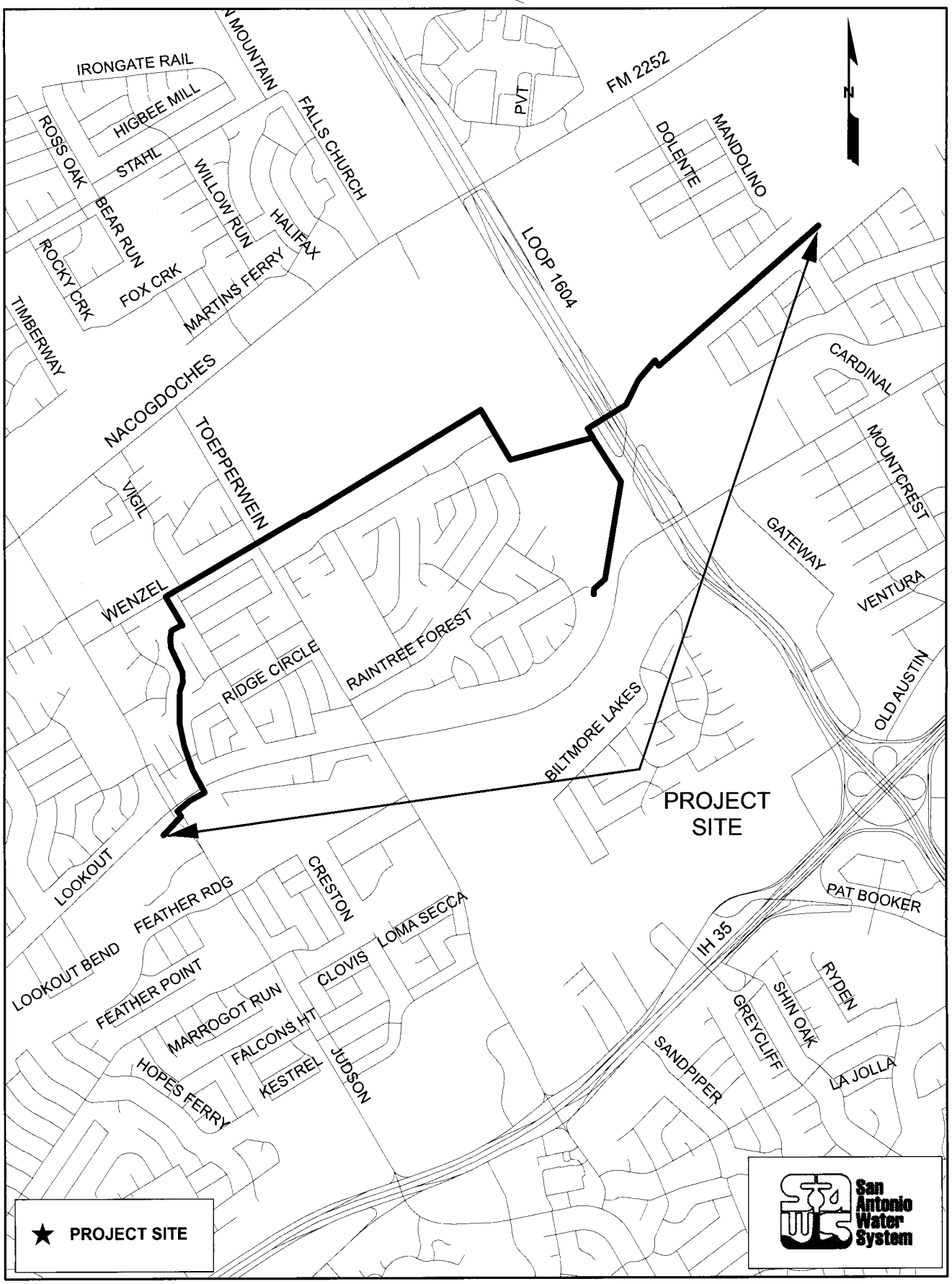
APPROVED AS TO FORM:

for Robert G. Greenblum, City Attorney

Agenda Item:	**15**
Date:	06/19/2014
Time:	10:32:22 AM
Vote Type:	Motion to Approve
Description:	An Ordinance, on behalf of SAWS, authorizing the acquisition through negotiation or condemnation, of interests in real property sufficient for project purposes, of 22 parcels of privately-owned real property located in NCB 15724, 14049, 17810, 17813, 16587, 16588, & 16589, for the Cibolo Creek Sewershed Diversion Flow Project as approved by the SAWS Board of Directors on May 5, 2014, located in Council District 10; declaring it to be a public use project and a public necessity for the acquisition. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation and Capital Improvements]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		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			x	

SAN ANTONIO WATER SYSTEM
PROJECT SITE MAP
EXHIBIT A-1



CIBOLO CREEK SEWERSHED FLOW DIVERSION PROJECT

ATTACHMENT I

Route Description

BEGINNING near the intersection of Elegante Way and Madolino Lane, heading southwesterly, along the Union Pacific Railroad tracks, across N. E. Loop 1604, and then branching off in two directions:

1. Heading South along N. E. Loop 1604 to the Union Pacific Railroad tracks, and turning southwest along the Union Pacific Railroad tracks, ending near the dead end cul-de-sac of Elusive Pass.
2. Heading West, along an existing sewerline to near the Northeast curve of Raintree Forest, then heading north to cul-de-sac of Raintree Path, then turning West to Ridgemeadow Drive, then heading South in the drainage channel and along the drainage channel until it commences nears the intersection of Judson and Lookout Road.

AFFECTING PROPERTY LOCATED IN:

New City Blocks: 15724, 14049, 17810, 17813, 16587,16588, 16589

EXHIBIT A-2