

RESOLUTION NO. 2022-179

**OF THE SAN ANTONIO WATER SYSTEM (THE "SYSTEM") BOARD OF TRUSTEES DECLARING A PUBLIC NECESSITY FOR PUBLIC USE, THE ACQUISITION OF A PERMANENT SEWER EASEMENT ON CERTAIN PRIVATELY OWNED REAL PROPERTY IN THE CITY OF SAN ANTONIO (THE "CITY"), BEING 0.0083 ACRES (362 SQUARE FEET), (THE "EASEMENT") FOR THE 2020 CMOM PACKAGE 4 PROJECT (THE "PROJECT") IN THE NORTHEAST QUADRANT OF BEXAR COUNTY, TEXAS, WHICH EASEMENT 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 PROJECT; REQUESTING THAT THE CITY COUNCIL OF THE CITY OF SAN ANTONIO (THE "CITY COUNCIL") ADOPT AN ORDINANCE REAFFIRMING AND DECLARING THAT THE PROJECT IS FOR A PUBLIC USE AND A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF THE EASEMENT AND AUTHORIZING THE SYSTEM TO TAKE ALL APPROPRIATE ACTION TO ACQUIRE THE EASEMENT BY NEGOTIATION AND/OR CONDEMNATION; FINDING THIS RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the Project consists of installing approximately 25 feet of new sewer pipe to address sewer mains in need of repair due to condition assessment; and

**WHEREAS**, the System has determined that acquisition of the Easement is necessary for the Project, the general location of the Easement being depicted in Attachment I to this Resolution, and the legal description of the Easement being more particularly set forth on Attachment II to this Resolution, both attached hereto and incorporated herein for all purposes; and

**WHEREAS**, the System intends to use every effort available to obtain the required Easement through good faith negotiations, but may require eminent domain if the negotiations fail; and

**WHEREAS**, the System finds that the acquisition of such Easement for the Project is necessary for the public health, safety, welfare, and best interests of the customers of the System;

and

**WHEREAS**, the San Antonio Water System Board of Trustees desires to (i) affirm and declare that the Project is for a public use and the acquisition of the Easement is for public use and is a public necessity for the completion of the Project, (ii) direct the System staff to negotiate the acquisition of the Easement, (iii) authorize and direct the institution and prosecution to conclusion of all necessary proceedings to condemn such Easement, in the event that the System's staff is unable to acquire the Easement by negotiation, (iv) request that the City Council adopt an ordinance to (a) reaffirm and declare that the Project is for a public use and the acquisition of the Easement is for public use and is a public necessity for the completion of the Project, (b) authorize the System to take all appropriate action to acquire the Easement by negotiation and/or condemnation, (c) declare that the conveyance of such Easement shall be to the City for the use and benefit of the System, and (d) authorize the System's Chief Legal & Ethics Officer and/or designated special counsel to file eminent domain proceedings and prosecute such proceedings through final judgment and any appeals, if deemed necessary, and (v) provide and approve funding for the acquisition of the Easement; now, therefore:

**BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:**

1. That the Project is hereby declared to be a necessary public project and a public necessity is hereby declared for the acquisition of the Easement for public use by negotiation and/or condemnation, if necessary, for the Project.
2. That a public necessity hereby exists to acquire the Easement over, under and across certain privately owned real property, by negotiation and/or condemnation, if necessary, for the expansion of the public sanitary sewer system as part of the Project.
3. That the System's staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Easement, to execute easement or other documents acquiring the Easement from the owners of the real property upon which the Easement is located, and to finalize such acquisitions on behalf of the City, for the use and benefit of the System.
4. That in the event the System's staff is unable to acquire the Easement by negotiation by reason of its inability to agree with the owners thereof as to the value of the Easement, or is unable to acquire the Easement for any other reason, the System's Chief Legal & Ethics Officer and/or designated special counsel, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn such Easement.

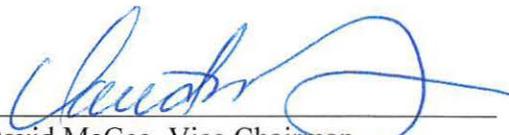
5. That the City Council of the City is hereby requested to (i) adopt an ordinance to reaffirm and declare that the Project is for a necessary public use and the acquisition of the Easement is for a public use and is a public necessity for the completion of the Project, (ii) authorize the System to take all appropriate action to acquire the Easement by negotiation and/or condemnation, (iii) declare that the conveyance of such Easement shall be to the City for the use, benefit and control of the System, and (iv) authorize the System's Chief Legal & Ethics Officer and/or designated special counsel to file eminent domain proceedings and prosecute such proceedings through final judgment and any appeals, if deemed necessary.

6. It is officially found, determined and declared that the meeting at which this resolution 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.

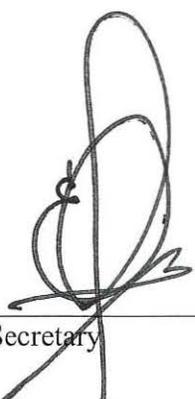
7. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, 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.

8. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 13<sup>th</sup> day of September, 2022.

  
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David McGee, Vice Chairman

ATTEST:

  
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Eduardo Parra, Secretary

Attachments:

- I. Aerial Map of Easement
- II. Legal Description