

RESOLUTION NO. 15-129

OF THE SAN ANTONIO WATER SYSTEM (THE "SYSTEM") BOARD OF TRUSTEES, CONCERNING THE DISTRICT SPECIAL PROJECT, DECLARING A PUBLIC NECESSITY FOR PUBLIC USE, THE ACQUISITION OF CERTAIN PRIVATELY OWNED REAL PROPERTY IN THE CITY OF SOMERSET BEING A 0.458 ACRE TRACT OF LAND, A 0.624 ACRE PERMANENT WATER EASEMENT AND A 0.628 ACRE TEMPORARY CONSTRUCTION EASEMENT (COLLECTIVELY, THE "PROPERTY"), THIS PROJECT BEING LOCATED ADJACENT TO SOMERSET PUMP STATION NEAR THE INTERSECTION OF SOMERSET ROAD AND S. LOOP 1604 WEST IN THE CITY OF SOMERSET, IN THE SOUTHWEST QUADRANT OF BEXAR COUNTY, TEXAS, WHICH PROPERTY 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 CLAYTON TANK REPLACEMENT PROJECT (THE "PROJECT"); REQUESTING THAT THE CITY COUNCIL OF THE CITY OF SAN ANTONIO ("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 PROPERTY AND AUTHORIZING THE SYSTEM TO TAKE ALL APPROPRIATE ACTION TO ACQUIRE THE PROPERTY 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 San Antonio Water System's District Special Project (the "DSP") was created by the City Council of the City of San Antonio on October 20, 2011, pursuant to Ordinance No. 2011-10-20-0845, and this action is related to, and consistent with, that Ordinance; and

WHEREAS, the Project, which calls for design and construction of new facilities, including a new ground storage tank and the installation of a pressure reducing valve along with other system upgrades to the Somerset Pump Station located in southwest Bexar County. These improvements will complete the upgrade of the Somerset Pump Station, and make the Clayton Tank unnecessary; and

WHEREAS, the System has determined that acquisition of the Property is necessary for the construction of another ground storage tank in addition to a pipeline connecting this site to the Water Resource Integration Pipeline, the general location and general description of the Project area being more particularly set out and the more specific location of the Project location are being depicted on Attachments I, II and III 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 Property through good faith negotiations, but may require condemnation if the negotiations fail; and

WHEREAS, the System finds that the acquisition of such Property for the Project is necessary for the public health, safety, welfare, and best interests of the citizens of the City and the surrounding region; 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 Property 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 Property, (iii) authorize and direct the institution and prosecution to conclusion of all necessary proceedings to condemn such Property, in the event that the System's staff is unable to acquire one or more parcels of the Property 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 Property 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 Property by negotiation and/or condemnation, (c) declare that the conveyance of such Property shall be to the City for the use and benefit of the System, and (d) authorize the City Manager, or designees, including the City Attorney, System General Counsel 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 Property; now therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES CONCERNING THE DISTRICT SPECIAL PROJECT:

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 Property for public use by negotiation and/or condemnation, if necessary, for the Project.
2. That a public necessity hereby exists to acquire the Property over, under and across certain privately owned real property, by negotiation and/or condemnation, if necessary, for the expansion of the public water system as part of the Project.
3. That the System's staff is hereby directed to negotiate with the owner of the respective parcels for the acquisition of the Property, to execute easements and/or sales agreements or other documents acquiring the Property and easements from the owner of the land 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 one or more parcels of the Property by negotiation by reason of its inability to agree with the owner thereof as to the value of the Easements, or is unable to acquire the Property for any other reason, the City Manager, or designees, including the City Attorney, System General Counsel and/or designated Special Counsel, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn such Property.

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 Property 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 Property by negotiation and/or condemnation, (iii) declare that the conveyance of such Property shall be to the City for the use, benefit and control of the System and (iv) authorize the City Manager, or designees, including the City Attorney, System General Counsel and/or designated Special Counsel to file eminent domain proceedings and prosecute such proceedings through final judgment and any appeals, if deemed necessary.


6. That funding for the acquisition of the Property is found in the 2014 Capital Improvement Program, Clayton Tank Replacement Project, Job No. 14-6101.

7. 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.

8. 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.

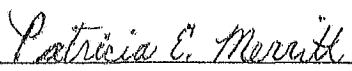
9. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 2nd day of June, 2015.



Berto Guerra, Jr., Chairman

ATTEST:



Patricia E. Merritt, Secretary

Attachments:

- I Plat and Field Notes 0.458 acre Tank Site
- II Plat and Field Notes 0.624 acre permanent water line easement
- III Plat and Field Notes 0.628 acre temporary construction easement