

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL**

AN ORDINANCE

(I) DETERMINING THE PUBLIC NECESSITY FOR PUBLIC USE AND AUTHORIZING THE ACQUISITION OF CERTAIN PRIVATELY OWNED REAL PROPERTY IN BEXAR COUNTY, TEXAS BEING PERMANENT AND TEMPORARY EASEMENTS (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 MARTINEZ CREEK SEWER PROJECT (THE “PROJECT”) 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 THIS PROJECT; (II) AUTHORIZING THE PRESIDENT/CEO OF THE SYSTEM, OR THE CITY MANAGER 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 the Easements, located in Bexar County, Texas, are necessary and desirable for the expansion and operation of the System in connection with the construction, operation and maintenance of the Project, which includes the reduction of sanitary sewer overflows by replacing and upsizing sewer pipe, 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 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 Easements, 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 the Easements (the “Property Interests”), over, under, across, and upon certain 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 consist of permanent and temporary easements, located generally along the route described in **EXHIBIT A-2** and in the New City Blocks listed in **EXHIBIT A-2**, which Exhibit is attached to and made a part of this Ordinance for all purposes.

SECTION 4. The City Manager of the City of San Antonio or the President/CEO of the System or their respective designees, acting by and through their attorneys, are 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 ____th day of _____, 2017.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

DRAFT