



# City of San Antonio

## Agenda Memorandum

**File Number:**

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**Agenda Item Number:** 23

**Agenda Date:** June 6, 2024

**In Control:** City Council A Session

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**DEPARTMENT:** Public Works Department

**DEPARTMENT HEAD:** Razi Hosseini

**COUNCIL DISTRICTS IMPACTED:** District 6

**SUBJECT:**

Real Estate Acquisition on behalf of SAWS: Declaration of public necessity for acquiring real property for the W-52 Culebra Creek Capacity Project.

**SUMMARY:**

An ordinance authorizing the acquisition, on behalf of the San Antonio Water System (SAWS), through negotiation or condemnation of interests in land sufficient for project purposes, involving the acquisition of four (4) Permanent Sewer Easements, four (4) Temporary Construction Easements and two (2) Ingress/Egress Easements on privately-owned real property located in the northwest quadrant of Bexar County in Council District 6, related to the W-52 Culebra Creek Capacity Project, declaring the project to be for public use and a public necessity for the acquisition.

This public use project is required for a new sewer line in the northwest side of San Antonio. Under the Texas Government Code Ann., Section 2206. et seq, (Vernon 2020), this item requires the City Council to pull the item from the Consent Agenda and initiate a motion authorizing the use of the power of eminent domain, should it be needed.

**BACKGROUND INFORMATION:**

The W-52 Culebra Creek Capacity Project is located within Council District 6. The project will consist of the construction of a sewer line. The project will require the acquisition of four (4) Permanent Sewer Easements, four (4) Temporary Construction Easements and two (2) Ingress/Egress Easements. The design phase was completed in May 2024. Project construction is expected to begin in September 2024 and anticipated to be complete in September 2026. The estimated construction cost for this project is approximately \$32,567,541.00.

SAWS intends to use every effort available to obtain the required land rights for the project through good faith negotiations but may require eminent domain if the negotiations are unsuccessful or if the owner lacks the legal capacity to grant the necessary land rights. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the project as a necessary public project for public use. The City of San Antonio has the authority and power to exercise eminent domain (condemning property) under Article I, Section 17 of the Texas Constitution and Texas Local Government Code.

The public use project is necessary to meet the Consent Decree Order entered into by SAWS and the Environmental Protection Agency and increase the sewer capacity of the infrastructure along Leon Creek. The existing sanitary sewer pipeline is undersized and located within Leon Creek. In order to replace and upsize the existing sewer pipeline, a new sewer line needs to be constructed and relocated away from the creek bed as much as possible to prevent future damage to the new system, SAWS will complete the property acquisition. Approval of this ordinance is a continuation of City Council policy to determine and declare certain projects necessary for public purpose and public use and authorize the acquisition of private property by and through the SAWS Board of Trustees for the public project by negotiation or condemnation.

#### **ISSUE:**

This ordinance will authorize the acquisition, on behalf of the San Antonio Water System (SAWS), through negotiation or condemnation of interests in land sufficient for project purposes involving four (4) Permanent Sewer Easements, four (4) Temporary Construction Easements and two (2) Ingress/Egress Easements located in Council District 6, related to the W-52 Culebra Creek Capacity Project, and declaring the project to be for public use and a public necessity for the acquisition.

#### **ALTERNATIVES:**

City Council could choose not to approve this request and require SAWS to redesign the project, increasing costs and resulting in the delay of the project and potentially subjecting SAWS to a TCEQ violation, violation of the Consent Decree, and significant fines pursuant thereto.

#### **FISCAL IMPACT:**

The passage of this ordinance will not have a financial impact on the City of San Antonio. Any condemnation costs, including awards, will be paid by or through SAWS.

The project fund will finance the expenditures included in the W-52 Culebra Creek Capacity Project, which is funded by the SAWS 2024 Capital Improvement Program, Wastewater Core Business line item.

**RECOMMENDATION:**

On behalf of SAWS, staff recommends approval of this request to authorize acquisition by negotiation or condemnation for the needed land interests for the project. The San Antonio Water System Board of Trustees reviewed and approved the project on April 9, 2024.