

City of San Antonio



AGENDA

City Council A Session

Municipal Plaza Building
114 W. Commerce Street
San Antonio, Texas 78205

Thursday, June 6, 2024

9:00 AM

Municipal Plaza Building

The City Council will hold its regular meeting in the Norma S. Rodriguez Council Chamber in the Municipal Plaza Building beginning at the above referenced date and time for the following items. Once convened, the City Council will take up the following items in any order during the meeting but no sooner than the designated times.

9:00AM: Call to Order

Members of the public can comment on items on the agenda. To sign up to speak visit www.saspeakup.com. Click on meetings and events and select the meeting you'd like to participate in. Sign up to speak or submit a written comment. Questions relating to these rules may be directed to the Office of the City Clerk at (210) 207-7253.

Individuals signing up for public comment may register for VIA bus fare or parking validation at www.saspeakup.com. VIA bus fare or parking at City Tower Garage (located at 100 Blk N. Main) will be provided to individuals who request the assistance. Staff will provide VIA bus fare passes and parking validation tickets in the lobby of City Council Chambers.

To view the Live meeting please view our [Live Stream](#)

During the meeting, the City Council may meet in executive session for consultation with the City Attorney's Office concerning attorney-client matters under Chapter 551 of the Texas

Government Code.

ACCESS STATEMENT

The City of San Antonio ensures meaningful access to City meetings, programs and services by reasonably providing: translation and interpretation, materials in alternate formats, and other accommodations upon request. To request these services call (210) 207-2098 or Relay Texas 711 or by requesting these services online at <https://www.sanantonio.gov/gpa/LanguageServices>. Providing at least 72 hours' notice will help to ensure availability.

Intérpretes en español estarán disponibles durante la junta del consejo de la ciudad para los asistentes que lo requieran. También se proveerán intérpretes para los ciudadanos que deseen exponer su punto de vista al consejo de la ciudad. Para más información, llame al (210) 207-7253.

For additional information on any item on this agenda, please visit www.sanantonio.gov or call (210) 207-7080.

23.

2024-06-06-0398

Ordinance approving the acquisition, on behalf of the San Antonio Water System, through negotiation or condemnation of interests in land sufficient for project purposes involving four permanent water easements in NCB 18081, 18053, 18058, 18086, 18049, 18674, 18695 and 18086, located in the northwest quadrant of San Antonio, beginning near Culebra Creek north of Grissom Rd moving southeasterly along the Culebra Creek Greenway ending near Pipers Bluff road in Council District 6 related to the W-52 Culebra Creek Sewer Capacity Relief Project; declaring the project to be for public use and a public necessity for the acquisition. [John Peterek, Assistant City Manager; Razi Hosseini, Director, Public Works]

THE CITY COUNCIL MAY RECESS FOR LUNCH AND RECONVENE TO CONSIDER ANY UNFINISHED COUNCIL BUSINESS

6:00 P.M. – If the Council has not yet adjourned, the presiding officer shall entertain a motion to continue the council meeting, postpone the remaining items to the next council meeting date, or recess and reconvene the meeting at a specified time on the following day.

Printed on: 04/06/2025 07:56 AM



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 23

Agenda Date: June 6, 2024

In Control: City Council A Session

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.

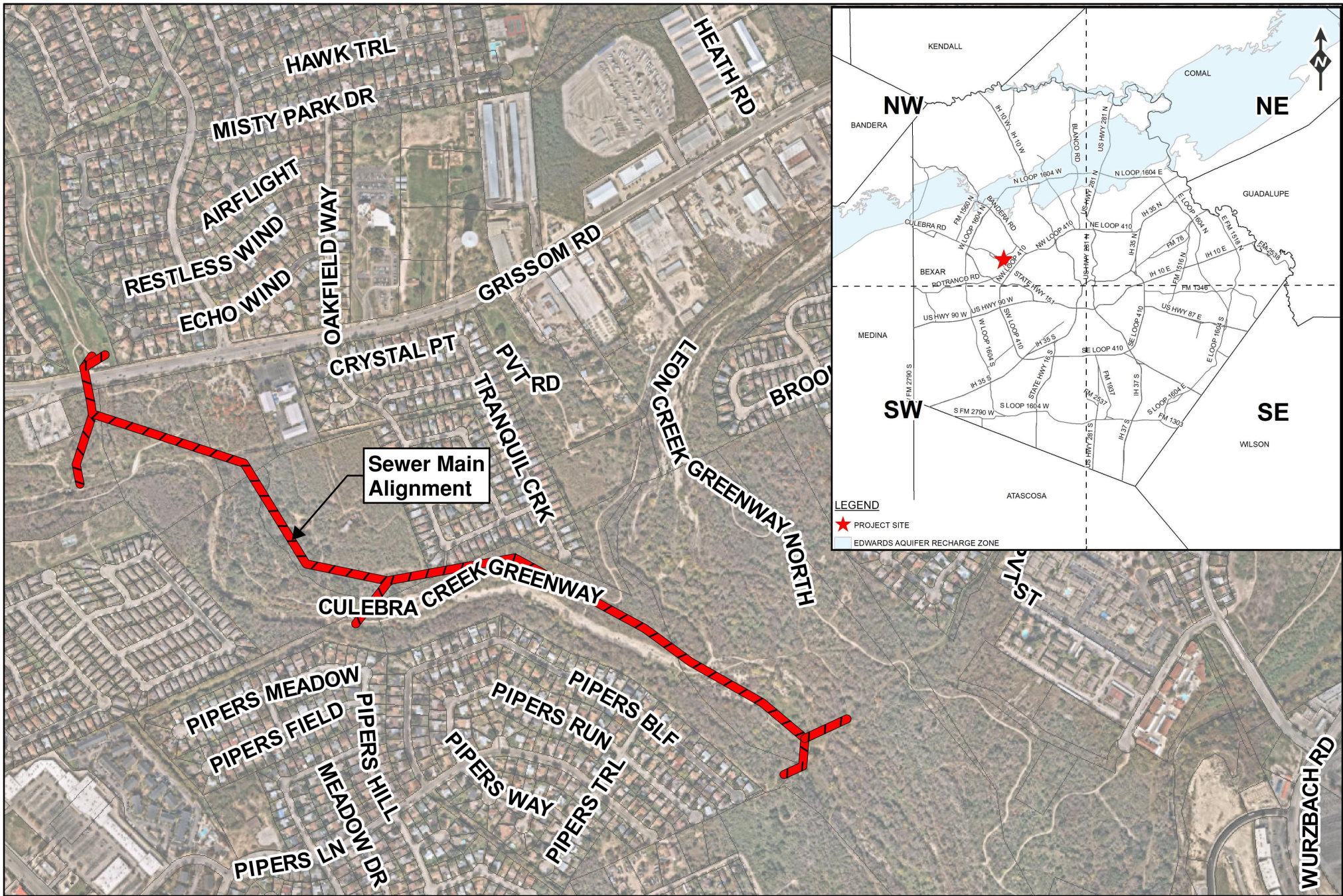
FISCAL IMPACT:

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.



W-52 CULEBRA CREEK SEWER CAPACITY RELIEF



AERIAL DEPICTION ATTACHMENT I

Route Description

The Project alignment is located in the northwest quadrant of San Antonio, beginning near Culebra Creek north of Grissom Rd moving southeasterly along the Culebra Creek Greenway ending near Pipers Bluff road. .

Project Located In: NCB 18081, 18053, 18058,18086, 18049, 18674, 18695 and 18086

RESOLUTION NO. 2024-074

OF THE SAN ANTONIO WATER SYSTEM (THE "SYSTEM") BOARD OF TRUSTEES DECLARING A PUBLIC NECESSITY FOR PUBLIC USE, THE ACQUISITION OF CERTAIN PRIVATELY OWNED REAL PROPERTY IN THE CITY OF SAN ANTONIO (THE "CITY") BEING PERMANENT SEWER EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS AND ACCESS EASEMENTS (COLLECTIVELY, THE "EASEMENTS") FOR THE W-52 CULEBRA CREEK SEWER CAPACITY RELIEF PROJECT (THE "PROJECT"), WHICH REQUIRES THE CONSTRUCTION OF NEW SEWER MAIN IN THE NORTHWEST QUADRANT OF BEXAR COUNTY, TEXAS, 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 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 EASEMENTS AND AUTHORIZING THE SYSTEM TO TAKE ALL APPROPRIATE ACTION TO ACQUIRE THE EASEMENTS 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 System has determined that acquisition of the Easements is necessary for the Project, the alignment of the Project being depicted in Attachment I to this Resolution, and described 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 Easements through good faith negotiations, but may require eminent domain if the negotiations fail; and

WHEREAS, the System finds that the acquisition of such Easements 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 Easements 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 Easements, (iii) authorize and direct the institution and prosecution to conclusion of all necessary proceedings to condemn such Easements, in the event that the System's staff is unable to acquire one or more parcels of the Easements 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 Easements 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 Easements by negotiation and/or condemnation, (c) declare that the conveyance of such Easements 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 Easements; 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 Easements for public use by negotiation and/or condemnation, if necessary, for the Project.
2. That a public necessity hereby exists to acquire the Easements 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(s) of the respective parcels for the acquisition of the Easements, to execute easements and/or sales agreements or other documents acquiring the Easements from the owners of the Easements 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 one or more parcels of the Easements 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 Easements 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 Easements.
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 Easements 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 Easements by negotiation and/or condemnation, (iii) declare that the conveyance of such Easements 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 2nd day of April, 2024.


Jelynn LeBlanc Jamison, Chairwoman

ATTEST:


Eduardo Parra, Secretary

Attachments:

- I Project Alignment Depiction
- II Description of Project Alignment

**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 SEWER EASEMENTS, PERMANENT ACCESS EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS (COLLECTIVELY, THE “EASEMENTS”) ON CERTAIN PRIVATELY OWNED REAL PROPERTY IN THE CITY OF SAN ANTONIO (THE “CITY”) FOR THE W-52 CULEBRA CREEK CAPACITY PROJECT (THE “PROJECT”) IN THE NORTHWEST QUADRANT OF BEXAR COUNTY, TEXAS, AND BEING DESCRIBED AND DEPICTED IN EXHIBITS A-1 AND A-2 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 PROJECT; AND (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 EASEMENTS 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 is 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 construction of a sewer line located in Bexar County, along the general alignment 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 negotiating for the acquisition of such Easements on behalf of the City of San Antonio; and

WHEREAS, the System finds that the acquisition of the Easements 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

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, 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, as described and depicted in **EXHIBIT A-1 and A-2** 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, the Easements 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 Easement.

SECTION 3. The Easements which are the subject of Section 2 required for are located along the general alignment depicted in **EXHIBIT A-1** and described in **EXHIBIT A-2** and in the New City Block(s) listed in **EXHIBIT A-2** 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 Easements 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 the Easements as to the value of such interest in land or other terms, or the of the legal inability of the owners to convey the Easements, 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 Easements 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 ____ day of _____, 2024.

**M A Y O R
Ron Nirenberg**

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

Declaration of Public Necessity for Acquisitions

Cristina De La Garza

Manager – Engineering

Mark Brewton

Senior Corporate Counsel

City Council A Session - Item 23

June 6, 2024



MAKING SAN ANTONIO
WATERFUL



W-52 Culebra Creek Capacity Relief Project

System Improvements and Upgrades

- The W-52 Culebra Creek Capacity Relief Project is critical to SAWS to meet the Consent Decree Order entered into by SAWS and the Environmental Protection Agency.
- 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 overflow events.

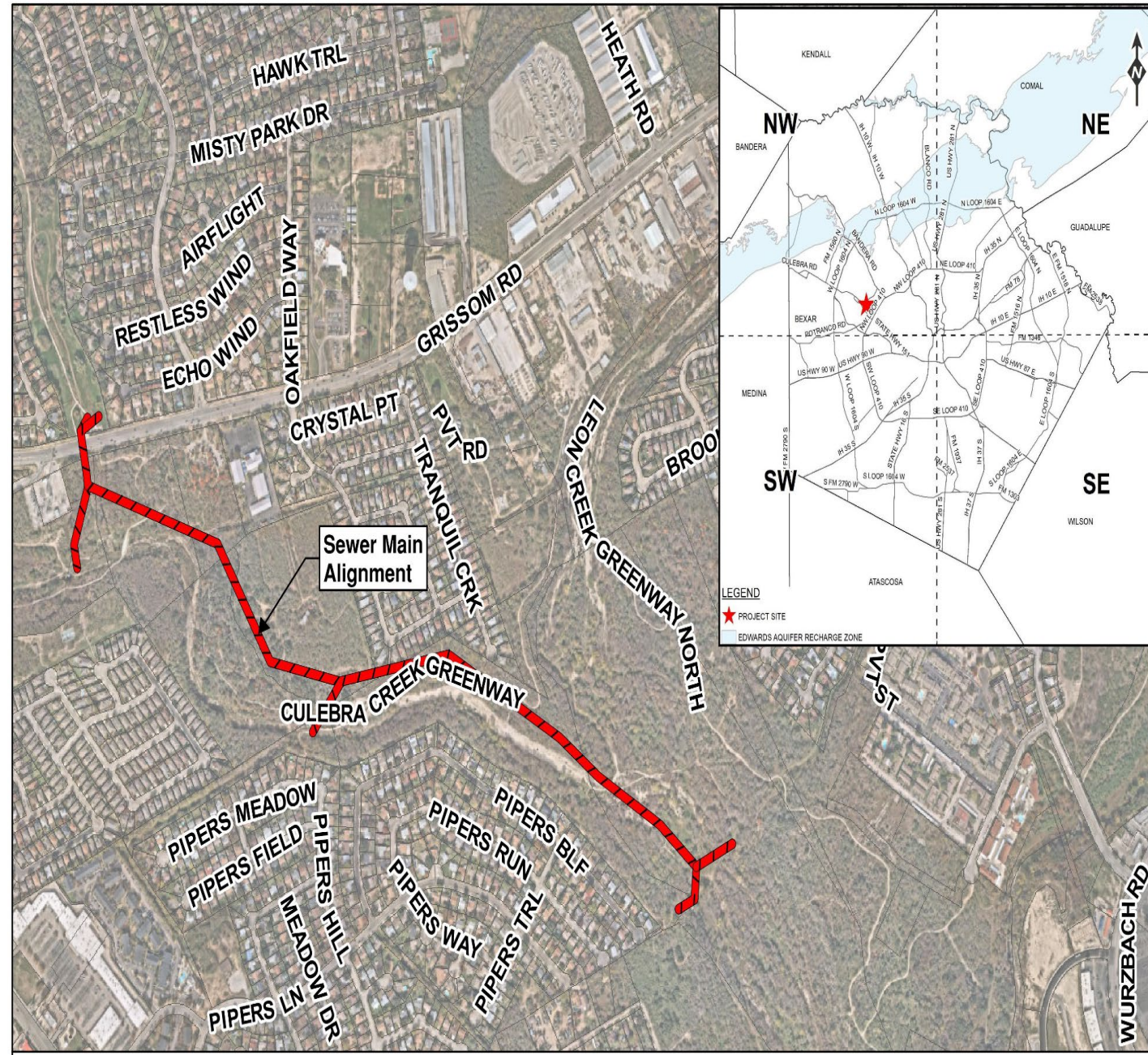
W-52 Culebra Creek Capacity Relief Project

System Improvements and Upgrades

- The W-52 Culebra Creek Capacity Relief Project seeks to acquire two Permanent Sewer Easements and four Temporary Construction Easements on privately owned property. The two Permanent Easements and three of the Temporary Easements are located in drainage easements.
- Design Phase was completed in April 2024, and construction is expected to begin in August 2024 with completion in August 2026

W-52 Culebra Creek Capacity Relief Project

- Council District 6
- Necessary improvements to the wastewater infrastructure as mandated by Consent Decree Order
- Acquisition of two Permanent Sewer Easements and four Temporary Construction Easements on private property
- Construction to begin shortly after land rights are obtained



Declaration of Public Necessity for Acquisitions

Recommendations

- San Antonio Water System is seeking authorization to acquire the necessary permanent and temporary construction easements to complete the Project through negotiation or condemnation
- Council must declare the project a public necessity in order for SAWWS to utilize the power of eminent domain

Declaration of Public Necessity for Acquisitions

Cristina De La Garza

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