

ORDINANCE 2019-04-18-0322

(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, TEMPORARY CONSTRUCTION EASEMENTS AND FEE SIMPLE ACQUISITIONS (COLLECTIVELY, THE "PROPERTY INTERESTS"), 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 A SEWER PROJECT CONSISTING OF APPROXIMATELY FIVE MILES OF SEWR MAIN BEGINNING AT A POINT NEAR THE INTERSECTION OF SOUTH CALLAGHAN ROAD AND HIGHWAY 90 EXTENDING IN A WESTERLY DIRECTION TO THE INTERSECTION OF WEST MILITARY DRIVE AND HIGHWAY 90 THEN HEADING IN A SOUTHERN DIRECTION ALONG WEST MILITARY DRIVE TO THE INTERSECTION WITH LEON CREEK IN THE SOUTHWEST QUADRANT OF BEXAR COUNTY, TEXAS AND BEING ALONG A GENERAL ROUTE AND GENERAL LOCATION DESCRIBED AND DEPICTED IN EXHIBITS A-1 AND A-2 ATTACHED HERETO AND INCORPORATED HEREIN, 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 W-6 HIGHWAY 90 TO WEST MILITARY DRIVE SEWER MAIN PROJECT (THE "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 Property Interests, 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 construction of sewer main pipelines located in Bexar County, in the general location 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 Property Interests (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 Property Interests, 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 permanent easements, temporary construction easements and fee simple acquisition (the "Property Interests"), over, under, across, and upon certain privately owned real property (the "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, 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 for which are required for the Project consist of permanent sanitary sewer easements, temporary construction easements and fee simple acquisition, located generally along the route described in **EXHIBIT A-2** and in the New City Blocks 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 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

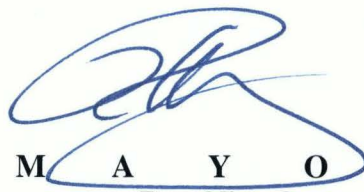
investigate, survey, specify, define and secure the necessary property rights.

**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 18<sup>th</sup> day of April, 2019.

  
M A Y O R  
Ron Nirenberg

**ATTEST:**

  
Leticia M. Vacek, City Clerk

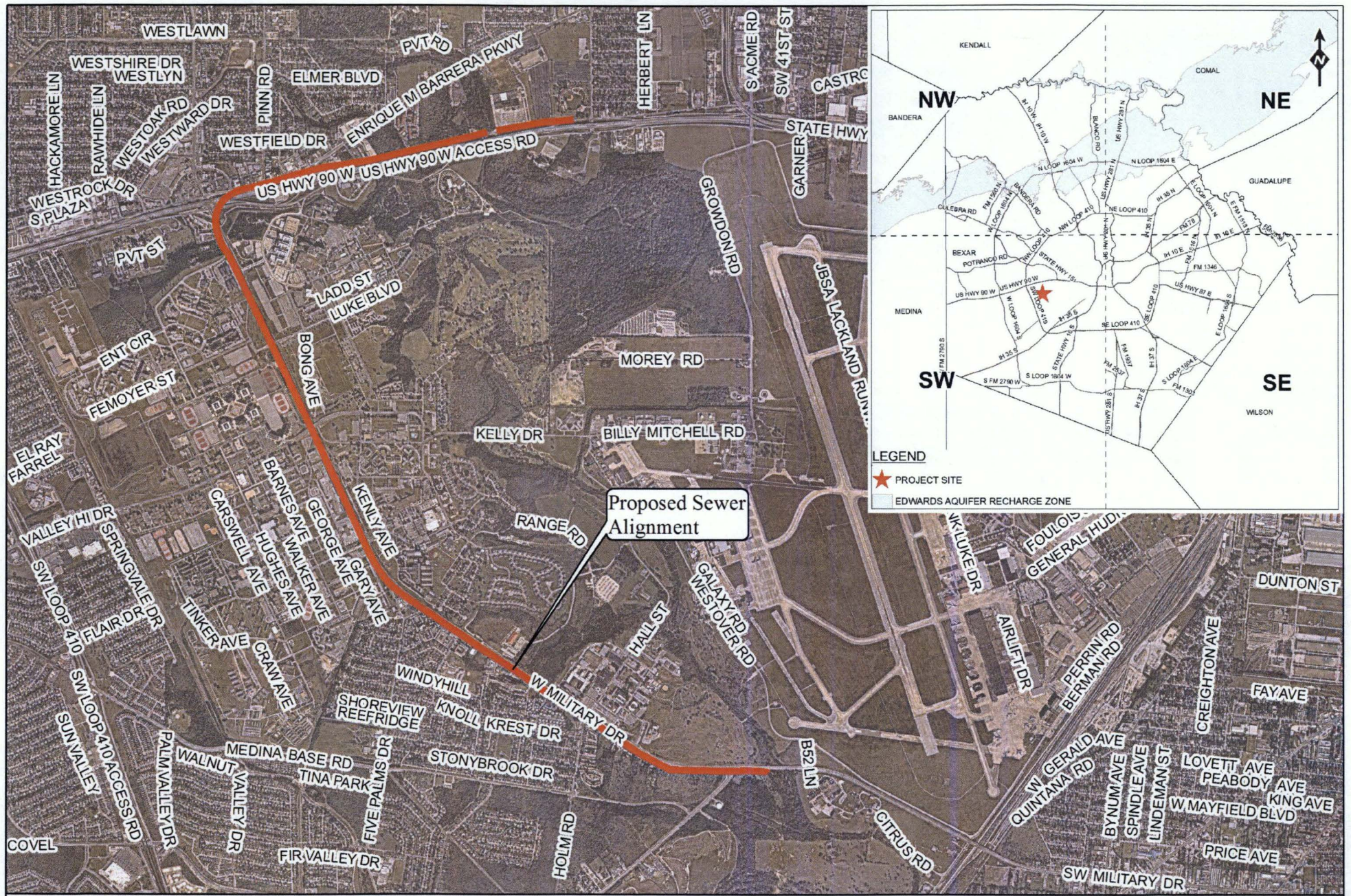
**APPROVED AS TO FORM:**

  
for  
Andrew Segovia, City Attorney

<b>Agenda Item:</b>	<b>10B ( in consent vote: 10A, 10B, 10C )</b>						
<b>Date:</b>	04/18/2019						
<b>Time:</b>	11:21:41 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	Ordinance approving the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (16 permanent parcels) and declaring the project to be for public use and a public necessity for the acquisitions related to the W-6 Highway 90 to West Military Drive Sewer Main Project located near the intersection of South Callaghan Road and Highway 90 extending in a westerly direction to the intersection of West Military Drive and Highway 90 then in a southerly direction to the intersection of West Military Drive and Leon Creek, located in Council Districts 4 and 6.						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				x
Art A. Hall	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

EF/lj  
04/18/2019  
Item No. 10B

# **EXHIBIT “A-1”**



# W-6: HWY 90 TO W MILITARY DRIVE SEWER MAIN PROJECT



AERIAL DEPICTION

EXHIBIT A-1

# **EXHIBIT “A-2”**

## EXHIBIT A-2

### Route Description

Starting from a point near the intersection of W Military Drive and Old Pearsall Road extending northwest along W Military Drive to the intersection of W Military Drive and US Highway 90 where it turns and proceeds east along US Highway 90 to a point near the intersection of US Highway 90 and South Callaghan Road.

The project attempts to minimize property acquisitions where possible and as a result the private parcels needed are in two groups separated by a stretch of the alignment where no private parcels are being sought. Specifically, these two groups are located as follows: (i) from a point near the intersection of W Military Drive and Old Pearsall Road extending northwest along W Military Drive to a point near the intersection of W Military Drive and Five Palms Drive, and (ii) from a point approximately 1,250 feet south of the intersection of W Military Drive and US Hwy 90 and proceeding north along W Military Drive to the intersection of W Military Drive and US Hwy 90 and then turning and proceeding east along US Hwy 90 to a point near the intersection of US Highway 90 and South Callaghan Road.

Project Located In: NCB 13975, 15655, 15318, 15323, 15302, 15299, 15286, 15285, 15602, 15589, 15600, 16528, 16531, 13951, 13962