



# City of San Antonio

## Agenda Memorandum

**File Number:**19-3382

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**Agenda Item Number:** 10A.

**Agenda Date:** 4/18/2019

**In Control:** City Council A Session

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**DEPARTMENT:** Transportation & Capital Improvements

**DEPARTMENT HEAD:** Razi Hosseini, P.E., R.P.L.S.

**COUNCIL DISTRICTS IMPACTED:** Council Districts 4, 6 and 10

### **SUBJECT:**

Real Estate Acquisition on behalf of SAWS: Declaration of public necessity for acquisition of real properties to construct and/or replace sewer main pipeline

### **SUMMARY:**

Consideration of the following ordinances, on behalf of SAWS, authorizing the acquisition through negotiation or condemnation of interests in 28 permanent parcels and 10 temporary parcels of land sufficient for project purposes of privately-owned real property and declaring the projects to be public use projects and a public necessity for the acquisitions.

A. An ordinance authorizing the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (6 permanent parcels and 5 temporary parcels) and declaring the project to be for public use and a public necessity for the acquisitions related to the W-1 Leon Creek: Highway 151 to Highway 90 - Lower Segment Project located west of Pinn Road along the eastern bank of Leon Creek to its intersection with Highway 90, located in Council District 6.

B. An ordinance authorizing 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.

C. An ordinance authorizing the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (6 permanent parcels and 5 temporary parcels) and declaring the project to be for public use and a public necessity for the acquisitions related to the E-4 Bulverde Area Sewer Capacity Relief and Storage at Loop 1604 Project located in the northeast quadrant of Loop 1604 and Bulverde Road extending south across Loop 1604 and crossing Classen Road, running along Bulverde Road then heading south and west to the intersection of Bulverde Road and Redland Road located in Council District 10.

These public use projects are necessary for the expansion and operation of the SAWS water and sanitary sewer infrastructure system. Pursuant to enacted Texas Senate Bill (SB 18), these items require City Council to initiate a motion authorizing the use of power of eminent domain, should it be needed.

## **BACKGROUND INFORMATION:**

The following three projects were identified for improvements as part of the July 23, 2013 Consent Decree between the San Antonio Water System (SAWS) and the Environmental Protection Agency (EPA):

A. The W-1 Leon Creek: Highway 151 to Highway 90 in Council District 6 - Lower Segment Project will replace and upsize approximately two miles of 42-inch and 54-inch sewer main with 72-inch and 78-inch sewer main along Leon Creek in the Western sewershed. This project will replace aging infrastructure conveying more than 70 percent of the sewershed's total flow. This project requires the acquisition of permanent and temporary easements on approximately eight parcels. The design phase began in 2018, and construction is expected to begin in late 2019 with completion in early 2021. The estimated construction cost for the project is \$15,000,000.00.

B. The W-6 Highway 90 to West Military Drive Sewer Main Project in Council Districts 4 and 6 will replace and upsize approximately five miles of existing 54-inch sewer main with 90-inch diameter sewer main in the Western sewershed. The project will require the acquisition of permanent, temporary easements and fee simple acquisitions. The design phase began in 2018, and construction is expected to begin in August, 2020 with completion in December, 2023. The estimated construction cost for this project is \$190,000,000.00.

C. The E-4 Bulverde Area Sewer Capacity Relief and Storage at Loop 1604 Project in Council District 10 consists of the construction of approximately 1.14 miles of sewer pipe to alleviate the capacity constraint in the existing sewer infrastructure due to upstream growth. This project requires the acquisition of permanent and temporary easement on approximately eight parcels. The design phase began in 2018, and construction is expected to begin in early 2020 with completion in 2021. The estimated construction cost for this project is \$12,000,000.00.

SAWS intends to use every effort available to obtain the required permanent land rights for said pipelines through good faith negotiations, but may require eminent domain if the easement negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the projects as public projects. 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.

These public use projects are necessary for improvement of sanitary water and sewer infrastructure systems. The property acquisitions will be completed by SAWS. Approval of these ordinances 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:**

The following ordinances, on behalf of SAWS, authorize the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declare the projects to be for public use and a public necessity. These projects are necessary for improvements to sewer infrastructure. The property acquisitions will be completed by SAWS. Approval of these ordinances 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.

A. An ordinance authorizing the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (~~seven parcels~~) and declaring the project to be for public use and a public necessity for the acquisitions related to the W-1 Leon Creek: Highway 151 to Highway 90 - Lower Segment Project located west of Pinn Road along the western bank of Leon Creek to its intersection with Highway 90, located in Council District 6.

B. An ordinance authorizing the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (~~six 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 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.

C. An ordinance authorizing the acquisition through negotiation or condemnation of interests in land sufficient for project purposes of privately-owned real property (~~one parcel~~) and declaring the project to be for public use and a public necessity for the acquisitions related to the E-4 Bulverde Area Sewer Capacity Relief and Storage at Loop 1604 Project located in the northeast quadrant of Loop 1604 and Bulverde Road extending south across Loop 1604 and crossing Classen Road, running along Bulverde Road then heading south and west to the intersection of Bulverde Road and Redland Road located in Council District 10.

SAWS intends to use every effort available to obtain the required permanent land rights for said pipelines through good faith negotiations, but may require eminent domain if the easement negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the projects as public projects. 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.

## **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 projects and potentially subjecting SAWS to penalties under the Consent Decree with the EPA.

## **FISCAL IMPACT:**

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

A. W-1 Leon Creek: Highway 151 to Highway 90 - Lower Segment Project costs are funded from SAWS FY 2016 and 2019 Capital Improvement Program, Wastewater Core Business, Main Replacement - Sewer Category.

B. W-6 Highway 90 to West Military Drive Sewer Main Project costs are funded from SAWS FY 2019 and 2020 Capital Improvement Program, Wastewater Core Business, Main Replacement - Sewer Category.

C. E-4 Bulverde Area Sewer Capacity Relief and Storage at Loop 1604 Project costs are funded from SAWS 2020 Capital Improvement Program, Sewer Delivery Core Business, Central Sewer Integration Pipeline.

## **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 outlined projects.

The projects were reviewed and approved by the San Antonio Water System Board of Trustees on the following dates:

A. W-1 Leon Creek: Highway 151 to Highway 90 - Lower Segment Project - March 12, 2019

B. W-6 Highway 90 to West Military Drive Sewer Main Project - March 12, 2019

C. E-4 Bulverde Area Sewer Capacity Relief and Storage at Loop 1604 Project - February 12, 2019