



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-3102

**Type:** Real Property Acquisition

**In control:** City Council A Session

**On agenda:** 5/7/2020

**Title:** Ordinance approving the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Riebe Tract Sewer Main Extension Project, located near Bridgepoint Place, State Highway 16, and Newcroft Place in the Extraterritorial Jurisdiction of the City of Helotes.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Helotes Creek Map, Att I, 2. Helotes Creek Route, Att II, 3. Riebe Tract Map, Att I, 4. Riebe Tract Exhibit A-2 Metes & Bounds, 5. Riebe Tract Permanent Easement, 6. Riebe Tract Temporary Construction Easement, 7. Turtle Creek Map, Att. I, 8. Turtle Creek Route - Reso Att. II, 9. Helotes Draft Ordinance.pdf, 10. Riebe tract Draft Ordinance.pdf, 11. Turtle Creek Draft Ordinance.pdf, 12. Ordinance 2020-05-07-0314

Date	Ver.	Action By	Action	Result
5/7/2020	1	City Council A Session	approved	Pass

**DEPARTMENT:** Public Works

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

**COUNCIL DISTRICTS IMPACTED:** Council Districts 8

### SUBJECT:

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

### SUMMARY:

Consideration of the following ordinances, on behalf of SAWS, authorizing the acquisition through negotiation or condemnation of interests in permanent and 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 and declaring the project to be for

public use and a public necessity for the acquisitions related to the Helotes Creek Gravity Main and Lift Station #246 Elimination Project, located in the City of Helotes.

- B. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Riebe Tract Sewer Main Extension Project, located in the Extraterritorial Jurisdiction of City of Helotes.
- C. An ordinance authorizing the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Turtle Creek Water Transmission Main Project located in Council District 8.

These public use projects are necessary for the expansion and operation of the SAWS water and sanitary sewer infrastructure systems. 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:**

- A. The Helotes Creek Gravity Main and Lift Station #246 Elimination Project located within the City of Helotes was identified as part of the July 23, 2013 Consent Decree between the San Antonio Water System (SAWS) and the Environmental Protection Agency (EPA). The project will construct approximately 2 ½ miles of sewer main located along Old Bandera Road then along the westerly right-of-way of State Highway 16 to a point to 16597 Bandera Road and eliminate a sewer lift station. This project requires the acquisition of permanent and temporary easements on approximately 13 parcels. The design phase began in 2016, and construction is expected to begin in 2021 with completion in late 2022. The estimated construction cost for the project is \$18,000,000.
- B. The Riebe Tract Sewer Extension Project located in the City of Helotes consists of the construction of approximately 150 feet of sewer main. This project requires the acquisition of one permanent and temporary easement on one parcel. The design of this project will be completed by a developer and approved by the Development Services Department of San Antonio Water System. The developer will also be required to pay for all construction and acquisition costs related to this project.
- C. The Turtle Creek Water Transmission Main Project in Council District 8 consists of the construction of approximately 5,000 feet of new transmission water main. This project requires the acquisition of permanent and temporary easement on approximately 20 parcels. The design phase began in late 2018, and construction is expected to begin in early 2021 with completion in 2022. The estimated construction cost for this project is \$9,000,000.

SAWS intends to use every effort available to obtain the required land rights for said projects through good faith negotiations, but may require eminent domain if the 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 use 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 and water infrastructure.

A. This ordinance authorizes the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Helotes Creek Gravity Main and Lift Station #246 Elimination Project located in the City of Helotes.

B. This ordinance authorizes the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Riebe Tract Sewer Extension Project located in the northeast quadrant of State Highway 16 and Bridgepoint Place, located in the City of Helotes.

C. This ordinance authorizes the acquisition through negotiation or condemnation, of interests in land sufficient for project purposes, of privately-owned real property and declaring the project to be for public use and a public necessity for the acquisitions related to the Turtle Creek Water Transmission Main Project starting at 4641 Bluffdale Drive (Turtle Creek Pump Station No. 3 location) to the intersection with Fairhaven Street then in a southwesterly direction across several properties until it intersects with Datapoint Drive then heading in a westerly direction crossing Fredericksburg Road to appoint to 8311 Fredericksburg Road (Medical Center Tank site located), located in Council District 8.

The property acquisitions will be completed by SAWS. SAWS intends to use every effort available to obtain the required permanent land rights for said projects through good faith negotiations, but may require eminent domain if the 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. Helotes Creek Gravity Main and Lift Station #246 Elimination Project costs are funded from SAWS FY 2020 Capital Improvement Program, Wastewater Core Business, Main Replacement - Sewer Category.

B. Riebe Tract Sewer Extension Project costs are funded by the developer who will be required to pay for all construction and acquisition costs related to this project.

C. Turtle Creek Water Transmission Main Project costs are funded from SAWS 2021 Capital Improvement Program, Water Delivery Core Business, Mains New Category.

## **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. Helotes Creek Gravity Main and Lift Station #246 Elimination Project - May 7, 2019

B. Riebe Tract Project - October 1, 2019

C. Turtle Creek Water Transmission Main Project - November 5, 2019