

**CITY OF SAN ANTONIO
DEPARTMENT OF ASSET MANAGEMENT
INTERDEPARTMENTAL CORRESPONDENCE SHEET**

PUBLIC HEARING
THE CERTAIN
ITEM NO. 5
3:00PM

TO: Mayor and City Council

FROM: Rebecca Waldman, Director, Department of Asset Management

THROUGH: Terry M. Brechtel, City Manager

COPIES: Erik J. Walsh, Assistant to the City Manager; Shawn P. Eddy, Special Projects Manager, Property Disposition

DATE: Thursday, January 9, 2003

SUBJECT: S.P. No. 982—Request to close, vacate and abandon a 0.142-acre portion of River Road Public Right of Way located between East Ashby Place and Highway 281 North

PETITIONER: David Arrington
DBA Borden Park, L.P.
c/o Earl & Brown Law Offices
Attn: Habib Erkan, Atty.
111 Soledad St., Suite 1111
San Antonio, TX 78205

SUMMARY AND RECOMMENDATIONS

This Ordinance will close, vacate and abandon a 0.142-acre portion of River Road Public Right of Way located between East Ashby Place and Highway 281 North, as requested by David Arrington, DBA Borden Park, L.P., in exchange for a 0.183 acre parcel of land legally described as Tract C, NCB A-2, both parcels valued equally at \$24,854.00, as consideration.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Petitioner is requesting the closure, vacation and abandonment of a 0.142-acre portion of River Road Public Right of Way located between East Ashby Place and Hwy. 281 North in exchange for the acceptance of a 0.183 tract of land located between the intersections of Elmira and Ashby Streets, as shown on attached Exhibit "A". A portion of the petitioner's existing building, commonly known as the Borden Dairy Building and loading docks, were inexplicably constructed over the Public Right of Way more than 50 years ago. This action would be effected by an exchange deed between the petitioner and the City which will include conveyance by the City of the portion of property in which the petitioner is encroaching, and the conveyance and release of all claims, for a small triangular property across the street which the City had allegedly encroached upon for recent street and curb improvements. Councilman Bobby Perez supported this action through a six-signature memo dated April 4, 2002.

POLICY ANALYSIS

This action is consistent with City Ordinances regulating the closure, vacation and abandonment of Public Right of Way within the Corporate Limits of the City of San Antonio.

FISCAL IMPACT

The City assessed a fee of \$24,854.00 as consideration for the closure, vacation and abandonment of the Public Right of Way. Petitioner has proposed, and City has agreed to accept as consideration, a 0.183 acre parcel of land legally described as Tract C, NCB A-2 as shown on Exhibit "A", Page 2 of 4, which is of equal value.

COORDINATION

In compliance with City procedures, this request has been canvassed through interested City departments, public utilities and applicable agencies. A Canvassing Checklist and an executed Letter of Agreement, by which the petitioner agrees with all conditions imposed through this canvassing, are attached for review.

SUPPLEMENTARY COMMENTS

The City of San Antonio's Planning Commission will consider this request at its regular meeting of 11/27/2002 and its findings will be presented to City Council on 1/9/2003.

An executed Discretionary Contracts Disclosure Statement from the petitioner is attached.

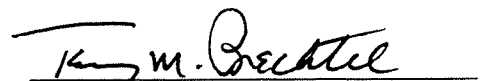


Rebecca Waldman, Director
Department of Asset Management



Erik J. Walsh
Assistant to the City Manager

Approved:



Terry M. Brechtel
City Manager

FOUND AT AN ANGLE POINT OF SAID LOT 14 BEARS SOUTH 02°48'04" WEST AND A DISTANCE OF 9.73 FEET.

THENCE NORTH 02°48'04" EAST, COINCIDENT WITH SAID CORNER LINE, A DISTANCE OF 232.06 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.142 OF ONE ACRE, IS 106.96 FEET, 0.1 AND

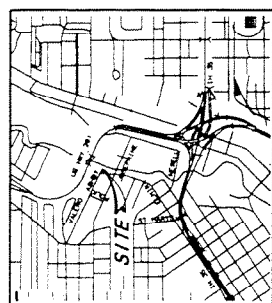
STATION	SURVEY DATE	AUGUST 12, 2002	AUGUST 28, 2002
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Exhibit "A"
Page 1 of 4

BROWN ENGINEERING CO.

100

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LOCATION ON MAP

GENERAL NOTES

THIS SUMMARY IS THE PROPERTY OF THE UNITED STATES GOVERNMENT. IT IS LOANED TO YOU BY THE NATIONAL ARCHIVES. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT PERMISSION IN WRITING FROM THE NATIONAL ARCHIVES.

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METERS AND BOUNDS DESCRIPTION OF 0.183 ACRE OF LAND

[illegible]

SUPERVISOR'S CERTIFICATE

SUBJECT TO THE GENERAL NOTES SUMMARY

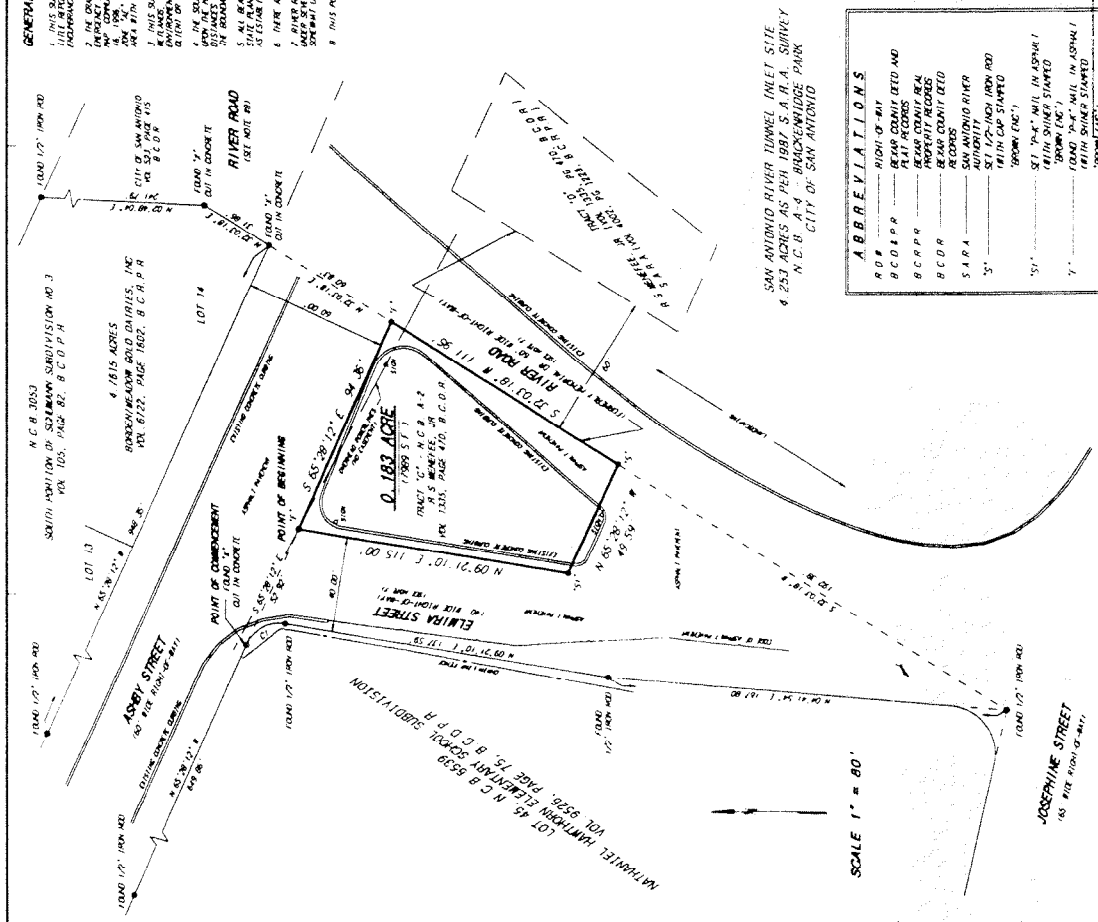
THE BROWN ENGINEERING COMPANY, ACTING BY AND THROUGH DUDLEY P. ALBERTSON, P.E.'S, HEREBY CERTIFY THAT THE DRAINING SURFACE METHOD IS A TRUE AND CORRECT REPRESENTATION OF A LAND TITLE SURVEY MADE ON THE GROUND UNDER SUPERVISION OF THE ROAD OR PARCEL OF LAND MORE PARTICULARLY DESCRIBED BY THESE AND GRANTS HERETO ADJUTED.

SEARCHED SEP 21 1998
BROWN ENGINEERING COMPANY

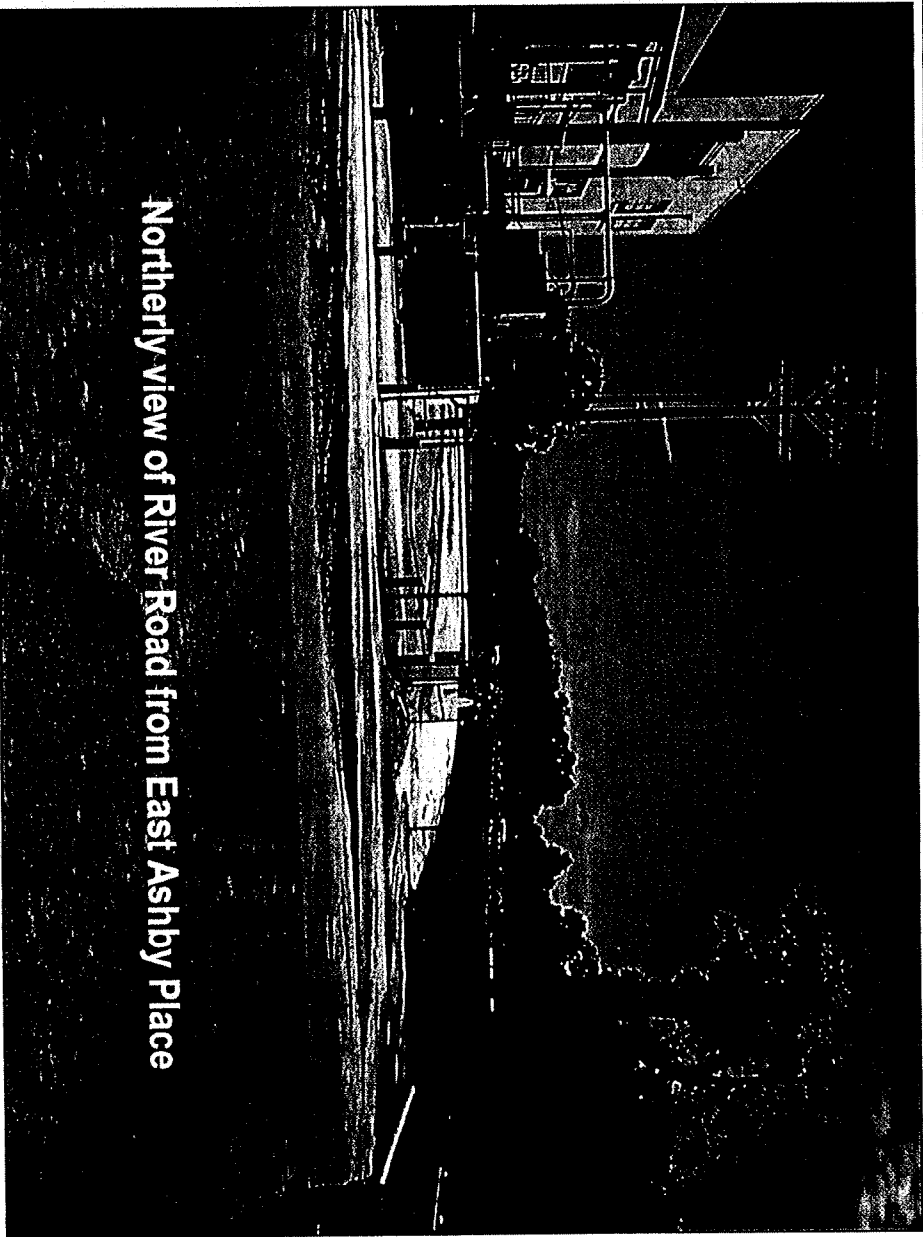
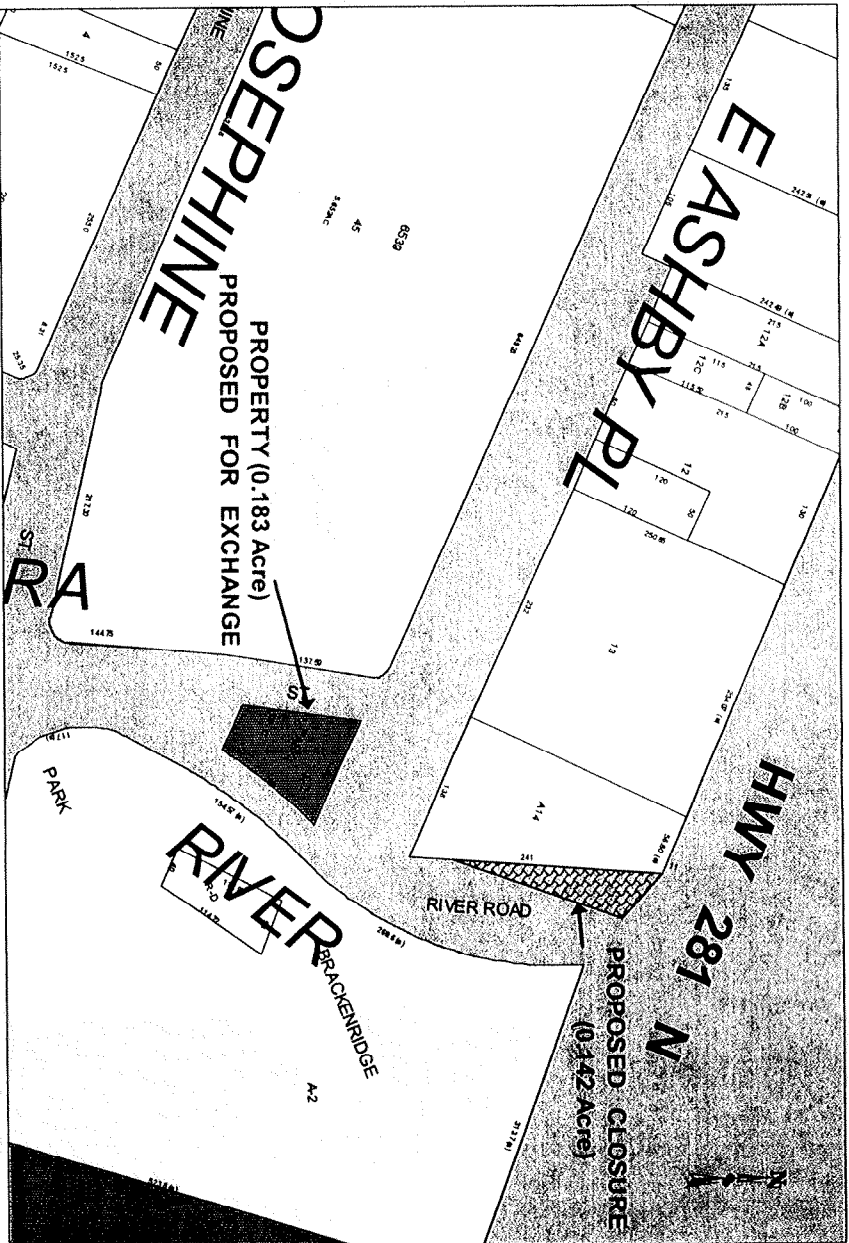
LOW P. ALBERTSON
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4963
JOURNAL OF THE

Exhibit "A"^{REVISED}

Page 2 of 4

[illegible]

CURVE DATA				
C NO	EXT 14	NO/LUS	AGE	OVER AGE
1	01/49/22	15.00	11.47	5.28/20.71/1
				18.23



Northerly view of River Road from East Ashby Place

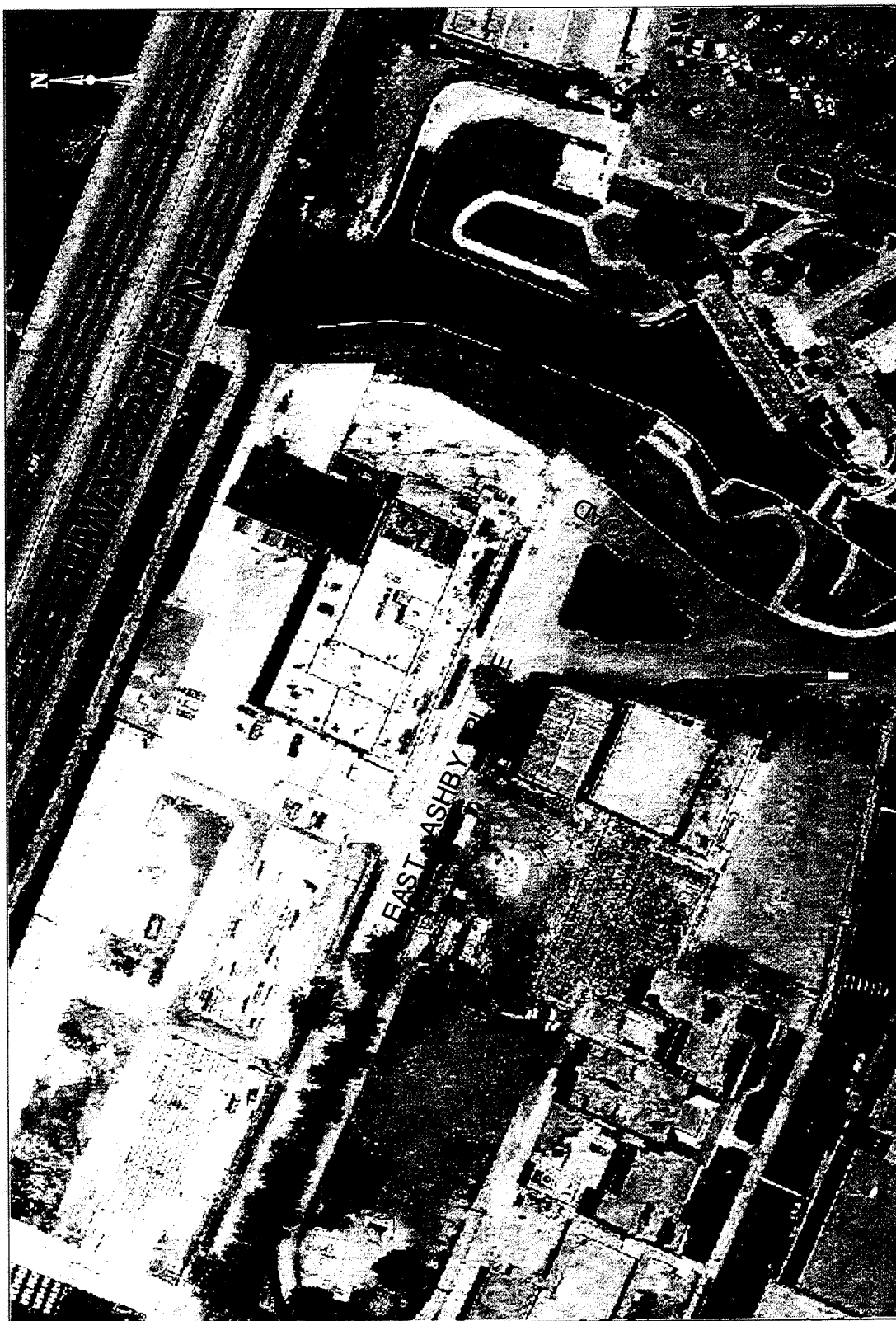


Exhibit "A"

Page 4 of 4

Canvassing Checklist

SPNo 982

Request: Petitioner is requesting the closure, vacation and abandonment of a 0.142 acre portion of River Road Public Right of Way located between East Ashby Place and Hwy. 281 North as shown on attached Exhibit "A", to remedy an existing building encroachment. The abutting property owner purchased the property about three (3) years ago which included a pre-existing building dating back to the 1930s. Portions of the existing building were found to encroach over River Road. Petitioner has proposed, and City has agreed to accept, an exchange of a 0.183 acre tract of land located at the southwest corner of River Road and East Ashby Place, that has been the subject of litigation against the City, as consideration for this closure.

	Included in Canvassing	Out Date	In Date	Uncond. Approval	Conditional Approval	Denial
Planning Department	<input checked="" type="checkbox"/>	3/12/1999	11/18/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PublicWorks	<input checked="" type="checkbox"/>	3/12/1999	4/20/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development Services	<input checked="" type="checkbox"/>	3/12/1999	3/11/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police Department	<input checked="" type="checkbox"/>	3/12/1999	3/19/1999	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Department	<input checked="" type="checkbox"/>	3/12/1999	3/29/1999	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation	<input checked="" type="checkbox"/>	3/12/1999	12/16/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Neighborhood Action (NAD)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
City Public Service	<input checked="" type="checkbox"/>	3/12/1999	4/15/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
S.A. Water System (SAWS)	<input checked="" type="checkbox"/>	3/12/1999	3/31/1999	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TXDOT	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.A. River Authority (SARA)	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VIA Metropolitan	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Agency	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neighborhood Association	<input checked="" type="checkbox"/>	12/5/2002		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Canvassing Comments

Tobin Hill NA; Attn: Ben Siegal; P. O. Box 12376; 78212



CITY OF SAN ANTONIO

November 8, 2002

DEPARTMENT OF ASSET MANAGEMENT

P.O. BOX 839966 SAN ANTONIO, TEXAS 78283-3966

TEL. 210-207-4032 FAX 210-207-7888

David Arrington, DBA Borden Park, L.P.
c/o Earl & Brown Law Offices
Attn: Habib Erkan
Riverview Towers, 111 Soledad, Suite 1111
San Antonio, Texas 78205

Re: S. P. No. 982—Request to close, vacate and abandon a portion of River Road Public Right of Way located between East Ashby Place and Hwy. 281 North

Dear Mr. Erkan:

The City of San Antonio has completed the canvassing of your request and after considerable consultation is prepared to recommend to City Council the closure, vacation and abandonment of an 0.142 acre portion of River Road Public Right of Way abutting petitioner's property in NCB 3053 containing several existing encroachments upon that Public Right of Way, in exchange for a 0.183 acre, triangular tract of land described as Lot Tract C, NCB A-2; both of which are of equal value of \$24,854.00 as per an in-house appraisal.

In addition, recommendation of this transaction is subject to the following conditions:

PUBLIC WORKS DEPARTMENT: "Approved remaining portion of Public Right of Way is retained as a drainage easement."

DEVELOPMENT SERVICES DEPARTMENT: "Approved provided permits are secured if necessary."

CITY PUBLIC SERVICE: "Must retain an existing 14 foot-wide electric and gas easement on frontage of East Ashby Street and Highway 281."

SAN ANTONIO WATER SYSTEM: "Approved provided any existing water and/or sewer easements remain accessible for operational and maintenance purposes at all times."

DEPARTMENT OF ASSET MANAGEMENT:

- The closure, vacation and abandonment of this Public Right of Way will be authorized by a City Ordinance.
- Petitioner asserts that all evidence of ownership of all property abutting the public right of way proposed to be closed, vacated and abandoned by the City of San Antonio is true and correct.
- The petitioner acknowledges that this property will be accepted in its "as is" condition.

Exhibit "C"

Page 1 of 2

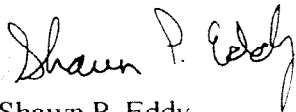
- Petitioner agrees to reserve a perpetual easement for all existing overhead, surface or subsurface utilities within the Public Right of Way proposed to be closed, including but not limited to: electrical, water, sewer, telephone, cable, fiber optic conduit, etc. Petitioner agrees to allow perpetual access to any such utilities or may seek the relocation of a specific utility with the express permission and coordination of the respective owner of the utility and at the sole expense of the petitioner.
- *Petitioner agrees to remove the existing chain link fence from the remaining portion of River Road Public Right of Way within sixty (60) days of City Council approval of closure.*

Further, a fully completed and signed Discretionary Contracts Disclosure Statement is required and enclosed for your convenience.

This Letter of Conditions is being offered by City of San Antonio only to the petitioner named above and will expire thirty (30) days after date of issuance unless a specific extension is requested by the petitioner and granted by the City.

If you concur with the above-mentioned conditions please have your client countersign this letter in the space provided below and return to the undersigned. Upon receipt of this executed Letter of Agreement and the completed Discretionary Contracts Disclosure Statement we will continue processing your request.

Sincerely,



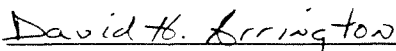
Shawn P. Eddy
Special Projects Manager

AGREED AS TO TERMS AND CONDITIONS:

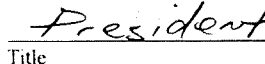
BORDEN PARK, L.P.

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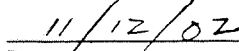
By



Print Name



Title



Date

City of San Antonio Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2

Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any individual who would be a party to the discretionary contract

~~N/A~~ David H. Arrington

(2) the identity of any business entity that would be a party to the discretionary contract

N/A

and the name of:

(A) any individual or business entity that would be a subcontractor on the discretionary contract

N/A

and the name of:

(B) any individual or business entity that is known to be a partner, or a parent or subsidiary business entity, of any individual or business entity who would be a party to the discretionary contract

N/A

¹ A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

(3) the identity of any person or business entity who would be a party to the discretionary contract.

Earl & Brown PC


Political Contributions

Any individual or business entity seeking a discretionary contract with the city shall disclose any contribution, for a discretionary contract, all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any member or elected member of City Council, any candidate for City Council or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include but are not limited to contributions made by the individual's spouse, whether salaried or compensated. Indirect contributions by an entity include but are not limited to contributions made through the officers, owners, attorneys or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
John Sanders Campaign	\$2,500.00	5/02
Kiki Martin Campaign	\$2,600.00	5/02
David Garcia Campaign	\$2,500.00	5/02

Disclosure in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, if reasonably understood, raise a question as to whether any city official or employee would violate Section 1-211(a) or (b) Improper Economic Benefit, by participating in official action relating to the discretionary contract.

Signature: 	Title: Self Company: David H. Arrington	Date: 11/6/02

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

**CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL**

INTERDEPARTMENTAL CORRESPONDENCE SHEET

TO: Mayor and Council Members

FROM: Councilman Bobby Perez, District 1

COPIES TO: Terry M. Brechtel, City Manager; Steve Arronge, Acting City Attorney; Emil Moncivais, Planning; Chris Brady, Acting Director of Building Inspections; Tom Wendorf, P.E., Public Works; Rod Sanchez, Assistant Director, Development Services Department; Norma Rodriguez, City Clerk; Gayle McDaniel, Interim Assistant to City Council; File

SUBJECT: Closure of a Section of River Road and Granting Abutting Property Owner an Easement for Remainder

Date: April 4, 2002

Please join with me in directing staff to bring forward to the City Council an ordinance which accepts a 0.183 acre tract of land located between the intersections of Elmira Street, River Road and Ashby Street in exchange for the closing and conveyance of a 0.123 acre portion of River Road and the granting of a perpetual easement to the remainder of River Road, north of Ashby Street, to the adjoining landowner Star Storage.

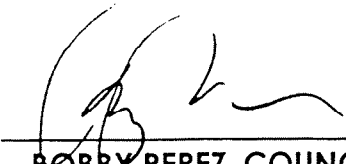
The Department of Public Works has advised me that it is necessary for the City to acquire the 0.183 acre tract in order to abate an existing roadway encroaching on three of four sides of the tract, correct a negative drainage issue, and provide a pedestrian path of travel for an adjoining elementary school and city park.

The adjoining property has offered to purchase this 0.183 acre tract for the City in exchange for the closure of 0.123 acres and the granting of a perpetual easement of the remainder of River Road north of Ashby Street. It should be noted that River Road at the subject location abuts only the Star Storage property to the west and an approximately 30' wide strip of City property to the east, and dead-ends at the U.S. Highway 281 overpass. This property formerly belonged to Borden's Dairy and to Mistletoe Dairy before that. The building, commonly known as the Borden Dairy Building, and loading docks were inexplicably constructed on the 0.123 acre portion of River Road ~~more than~~ 50

Mayor and Council Members
March 28, 2002
Page 2

years ago. This fact has just come to the attention of the City's Asset Management Department. The closure of the 0.123 acre portion of River Road will alleviate this problem. The granting of the perpetual easement to the remainder of River Road will assure that the property owner and his lessee's have access to the aforementioned loading docks. Should the City not take the requested action the current business' operating in the Borden Dairy Building is in jeopardy. If this business is lost, it would cost the loss of well paying jobs in this area. For your convenience, I have attached a diagram showing the 0.183 acre tract as Exhibit A and a copy of a diagram of that portion of River Road which I am asking to be closed, as Exhibit B.

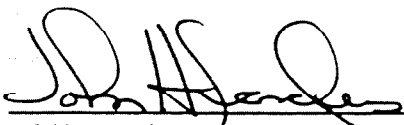
Your concurrence is greatly appreciated.



BOBBY PEREZ, COUNCILMAN
District 1

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CITY CLERK
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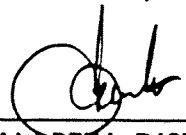
ED GARZA, MAYOR



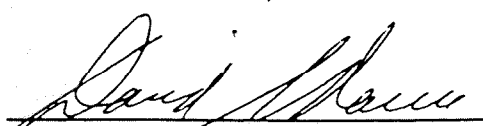
JOHN H. SANDERS, DISTRICT 2



TONI MOORHOUSE, DISTRICT 3



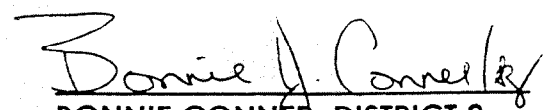
ENRIQUE MARTIN, DISTRICT 4




DAVID GARCIA, DISTRICT 5

ENRIQUE BARRERA, DISTRICT 6

JULIAN CASTRO, DISTRICT 7



BONNIE CONNER, DISTRICT 8



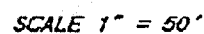
CARROLL SCHUBERT, DISTRICT 9



DAVID CARPENTER, DISTRICT 10

Oct.

EXHIBIT



LEGEND

◇ POWER POLE
↓ STREET SIGN
— GUN HOLE AND ANCHOR
● STEEL WHEEL
D.D. FIRE HYDRANT

CURVE			
STATION	CHORD BEARING	CHORD DISTANCE	CHORD CURVATURE
1	89° 27' 33"	55.87'	24.41'
2	89° 27' 33"	55.87'	24.41'
3	89° 27' 33"	55.87'	24.41'

LINE	
TIME	INVOICE
1	KOHN
2	NEWMAN
3	NEWMAN
4	NEWMAN

GENERAL NOTES

1. ALL BEARINGS SHOWN HERE
PLANE COORDINATE SYSTEM, SEX
DETERMINED BY GLOBAL POSITIVE
2. THERE MAY BE UNDERGROUND
ROADS UNDERGROUND (IMPROVED)
AND ARE NOT FIELD VERIFIED

