

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
PUBLIC WORKS DEPARTMENT**

CONSENT AGENDA  
ITEM NO. 21

**TO:** Mayor and City Council

**FROM:** Thomas G. Wendorf, P.E., Director of Public Works

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Melissa Byrne Vossmer, Assistant City Manager; Lou Lendman, Director of Office of Management and Budget; Rebecca Waldman, Director of Asset Management; Milo D. Nitschke, Director of Finance; Andrew Martin, City Attorney; Jason Cosby, Assistant Director of Public Works, File

**SUBJECT:** Termination of Easement Agreement by Travis Park Plaza, L.P., a Texas limited partnership ("Travis Park") and the City of San Antonio for the property located at N. St. Mary's, E. Pecan and E. Travis Streets.

**DATE:** May 1, 2003

**SUMMARY AND RECOMMENDATIONS**

An Ordinance authorizing execution of a Termination of Easement Agreement between Navarro-Travis Garage Corporation, a Texas Corporation ("Garage Corp.") and Helen Nix Coiner, Trustee, and David Brooks, Trustees of Birdie L. Nix Trust ("Nix Trust") dated May 29, 1970 to terminate an easement ("Easement") granted by Garage Corp to Nix Trust, its permittees, and successors, including the City of San Antonio, current owner of the Nix Trust property, on which the St. Mary's Street Parking Garage was constructed, for Nix Trust's use to cross with vehicular or pedestrian traffic for access from its property, at the intersection of E. Travis Street, E. Pecan and N. St. Mary's Street, to and from the public alleyway adjoining the Garage Corp property, such termination as requested by Travis Park Plaza, L.P., current owner of the Garage Corp. Property, and agreed to by the City, which no longer has a necessity for the Easement.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

An easement agreement between Navarro-Travis Garage Corporation, a Texas corporation ("Garage Corp") and Helen Nix Coiner, Trustee, and David Brooks, Trustee, Trustees of the Birdie L. Nix Trust dated May 29, 1970, granting an easement ("Easement") for the use of the Nix Trust, its successors and their permittees, to cross with vehicular or pedestrian traffic for access from the Nix Trust Property to and from the public alleyway, was recorded in Volume 6365, Page 347 of the Deed Records of Bexar County, Texas, regarding real property described as generally located at the intersection of E. Travis Street and N. St. Mary's Street. Travis Park Plaza, L.P., the current owner of the Garage Corp. Property, adjoining the Nix Trust Property, has requested, as required by its lender, that the City agree to terminate the Easement if the City, as current owner of the Nix Trust Property, no longer has a necessity for such Easement.

The City has constructed the St. Mary's Street Parking Garage on the Nix Trust Property and the City has no further need of such Easement or the access rights granted under the Easement. The Easement is very small in size, located adjacent to the remaining portion of the public alley, but on the Garage Corp. Property, and virtually useless to the City. Thus, the City is agreeable to such termination.

### **POLICY ANALYSIS**

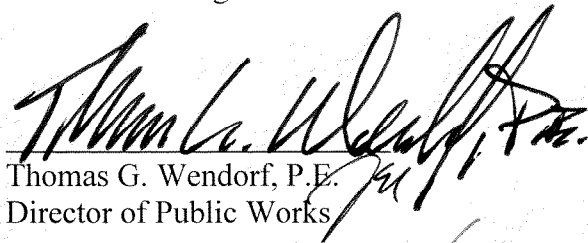
It has been the City's policy to terminate an easement for which there is no longer a necessity.

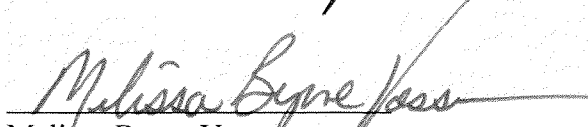
### **FISCAL IMPACT**

There is no financial impact by the termination of the Easement.

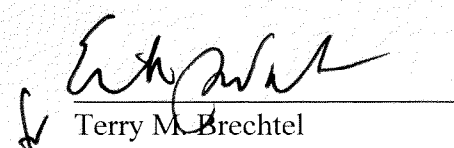
### **COORDINATION**

The Termination of Easement Agreement has been coordinated with the City Attorney's Office, and Asset Management.

 4/18/03  
Thomas G. Wendorf, P.E.  
Director of Public Works

  
Melissa Byrne Vossmer  
Assistant City Manager

Approved:

  
Terry M. Brechtel  
City Manager

**CITY OF SAN ANTONIO  
CITY ATTORNEY'S OFFICE  
INTERDEPARTMENTAL CORRESPONDENCE**

**TO:** Kenneth Appedole, Parking Operations and Enforcement Manager, Public Works  
Department

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**FROM:** Warner F. Fassnidge, Assistant City Attorney III, Development Services Division

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**COPIES TO:** Shawn Eddy, Special Projects Manager, Asset Management Department; File

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**SUBJECT:** Our File No. 03-0019 - Termination of Easement adjacent to the North St. Mary's  
Street Parking Garage

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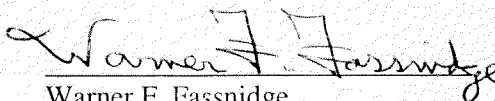
**DATE:** February 12, 2003

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Attached is the letter from Martha Hardy and the partially-executed only ORIGINAL of the Termination of Easement which she also has prepared and I have reviewed and it looks okay to me. Please prepare a memorandum to City Council so this can be taken to the City Council for approval.

Martha has also asked that we let her know the status of the drainage work in the alley between the North St. Mary's Street Parking Garage and Travis Park Plaza garage.

She also expresses a desire to purchase the City's portion of the alley, thus I am copying Shawn Eddy on that matter.



Warner F. Fassnidge  
Assistant City Attorney III

WFF:dd

# BARTON & SCHNEIDER, L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

J. CARY BARTON\*  
RAYMOND J. SCHNEIDER  
M. FRANK RUSSELL  
ROBERT J. BIRNBAUM  
MARTHA A. HARDY  
C. DAWSON BREMER  
REX CRUSE  
ROBERT W. NEGLEY

BOARD CERTIFIED  
\*COMMERCIAL REAL ESTATE LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

ONE RIVERWALK PLACE

SUITE 1825

700 NORTH ST. MARY'S STREET

SAN ANTONIO, TEXAS 78205

TELEPHONE (210) 225-1655

FAX (210) 225-8999

February 11, 2003

Warner F. Fassnidge, Esq.  
Assistant City Attorney  
City Hall  
P.O. Box 839966  
San Antonio, Texas 78283-3966

Re: Travis Park Plaza, L.P.  
City's adjacent property located at N. St. Mary's, E. Pecan and E. Travis Streets  
Termination of Easement Agreement  
Our File No. 5722.003

Dear Warner:

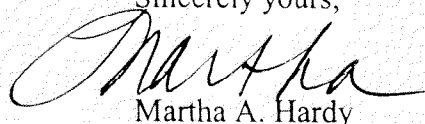
Enclosed please find a partially executed Termination of Easement Agreement signed by Darren B. Casey, manager of Travis Park Management, L.L.C., the general partner of Travis Park Plaza, L.P., the new owner of Travis Park Plaza office building and parking garage complex.

If all is in order, please process this document through the appropriate departments and the City Council. Please call me, of course, if you have any questions regarding this agreement.

In any event, please let me know the status of the drainage work by the City's streets department in the alley between the City's parking garage and the Travis Park parking garage. Our client remains interested in purchasing the City's portion of the alley. The purpose of the alley is unclear since the City built its garage and it seems to be "dead space".

I look forward to working with you further on these matters.

Sincerely yours,



Martha A. Hardy

Warner Fassnidge, Esq.  
February 11, 2003  
Page 2

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Enclosure

cc: Mr. Darren B. Casey  
Mr. Scott Haushill

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# CITY OF SAN ANTONIO

P. O. BOX 839966

SAN ANTONIO TEXAS 78283-3966

Office of the City Attorney  
3<sup>rd</sup> Floor, City Hall  
100 So. Flores St.

February 12, 2003

Martha A. Hardy  
BARTON & SCHNEIDER, L.L.P.  
Attorneys at Law  
One Riverwalk Place, Suite 1825  
700 North St. Mary's Street  
San Antonio, Texas 78205

Re: Your File No. 5722.003 -  
Termination of Easement Agreement

Dear Martha:

This letter acknowledges receipt of the partially-executed Termination of Easement Agreement, which I have forwarded to Kenneth Appedole for processing for City Council approval.

As to your client's interest in purchasing the City's portion of the alley, please contact Shawn Eddy, Special Projects Manager, Department of Asset Management, at 207-4081. I have sent a copy of your letter to him. Several factors enter into such a decision and Shawn conducts a canvass of all departments, SAWS, CPS, SBC, and AOL Time Warner to be sure the property is surplus and not needed by another entity. My main concerns are with regard to a boundary line agreement or similar instrument executed between the City and the Birdie Nix Trust. I do not have a copy of such instrument. Did it appear in the Title Commitment or Title Policy when Travis Park Plaza, L.P. purchased the property?

Also, the presence of drainage lines would indicate the need to retain our easement including perpetual access to service the drainage lines. Other utilities may also be located in the alley which would preclude any construction by your client or even "fencing-in" should the alley be abandoned by the City.

Anyway, your request will need to be in petition form, which Shawn can provide to you.

Very truly yours,

Warner F. Fassnidge  
Assistant City Attorney III

WFF:dd

cc: Shawn Eddy, Special Projects Manager, Asset Management Dept.  
Kenneth Appedole, Parking Operations and Enforcement Manager, Public Works Dept.

## TERMINATION OF EASEMENT AGREEMENT

STATE OF TEXAS                   §  
  §  
COUNTY OF BEXAR           §

This Termination of Easement Agreement (this "Termination") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2003, by TRAVIS PARK PLAZA, L.P., a Texas limited partnership ("Travis Park") and the CITY OF SAN ANTONIO, a Texas municipal corporation ("City"), acting by and through its City Manager or her designee, pursuant to City Ordinance No. \_\_\_\_\_, passed or approved on \_\_\_\_\_, 2003.

### RECITALS

A. An easement agreement between Navarro-Travis Garage Corporation, a Texas corporation ("Garage Corp") and Helen Nix Coiner, Trustee, and David Brooks, Trustee, Trustees of the Birdie L. Nix Trust ("Nix Trust") dated May 29, 1970 (the "Easement"), is recorded in Volume 6365, Page 347 of the Deed Records of Bexar County, Texas (the "Easement Instrument"), regarding that certain real property therein described generally located at the intersection of E. Travis Street and N. St. Mary's Street, San Antonio, Texas (the "Property"). The Property is more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes. Travis Park is the current owner of the Property. A copy of the Easement Instrument is attached hereto as Exhibit "B".

B. The Easement granted to the Nix Trust an easement for the use of the Nix Trust, its successors and their permittees, to cross with vehicular or pedestrian traffic for access from the Nix Trust Property (herein so called) to and from the public alleyway. The Nix Trust Property is more particularly described in the Easement Instrument. The City is the current owner of the Nix Trust Property.

C. The necessity for the Easement has terminated and therefore, Travis Park and the City wish to terminate the Easement and execute this Termination in such regard.

**NOW, THEREFORE**, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Travis Park and the City agree as follows:

Termination. Travis Park and the City hereby terminate the Easement for all intents and purposes to be effective on the date hereof.

IN WITNESS WHEREOF, this Termination has been executed as of the date first above written.

TRAVIS PARK PLAZA, L.P.,  
a Texas limited partnership  
By: Travis Park Management, L.L.C.,  
a Texas limited liability company

By: [Signature]  
Darren B. Casey, Manager

THE CITY OF SAN ANTONIO,  
a Texas municipal corporation

By: \_\_\_\_\_  
City Manager

ATTEST:

By: \_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

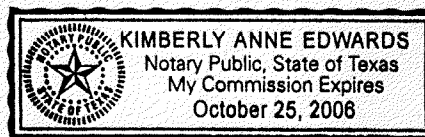
#### ACKNOWLEDGMENTS

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §

This instrument was acknowledged before me, the undersigned notary public, on 10<sup>th</sup> day of February, 2003 by Darren B. Casey, Manager of Travis Park Plaza Management, L.L.C., a Texas limited liability company, general partner of Travis Park Plaza, L.P., a Texas limited partnership, on behalf of said limited partnership.

Kimberly Anne Edwards  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §



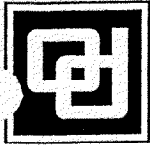
This instrument was acknowledged before me, the undersigned notary public, on \_\_\_ day of \_\_\_\_\_, 2003 by \_\_\_\_\_, \_\_\_\_\_ City Manager of the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas



AFTER RECORDING,  
PLEASE RETURN TO:  
Barton & Schneider, L.L.P.  
Attention: Martha A. Hardy, Esq.  
700 N. St. Mary's, Suite 1825  
San Antonio, TX 78205

M:\5000\5700\5722\5722.003\Termination of Nix-COSA Esmt Agt.002.wpd



**OVERBY  
DESCAMPS  
ENGINEERS**

EXHIBIT " A "  
Page 1 of 2

11815 WARFIELD  
SAN ANTONIO, TX 78216  
TEL: (210) 828-3520  
FAX: (210) 828-3599  
ode@overbydescamps.com

**METES AND BOUNDS DESCRIPTION  
FOR  
2.496 ACRES**

BEING all of Lots 1 through 5, Lot 6A and Lot 6B, Block 15, New City Block 408 in the City of San Antonio, Bexar County, Texas; AND ALSO all of Lot 19, Block 15, New City Block 408 in the City of San Antonio, Bexar County, Texas as recorded in Volume 6200, Page 89 of the Deed and Plat Records of Bexar County, Texas; AND ALSO all of the remaining portion of Lot 18, Block 15, New City Block 408 in the City of San Antonio, Bexar County, Texas as recorded in Volume 6200, Page 89 of the Deed and Plat Records of Bexar County, Texas. Said 2.496 acres being more particularly described as follows:

BEGINNING at a found lead plug at the intersection of the South right-of-way line of East Pecan Street and the West right-of-way line of Navarro Street, said point being the Northeast corner of said Lot 6A;

THENCE along the West right-of-way line of Navarro Street, South 00 degrees 38 minutes 22 seconds West, a distance of 333.82 feet to a found concrete nail at the intersection of said West right-of-way line and the North right-of-way line of East Travis Street, said point being the Southeast corner of said Lot 1;

THENCE along the North right-of-way line of East Travis Street, North 89 degrees 20 minutes 00 seconds West, passing a found lead plug at the Southwest corner of said Lot 1 and the Southeast corner of said Lot 19 at 156.20 feet, passing a found lead plug at the Southwest corner of said Lot 19 and the Southeast corner of Lot 18 at 224.00 feet, and continuing a total distance of 335.48 feet to a set "X" in concrete at the southwest corner of said Lot 18 and the southeast corner of Lot 20, Block 15, New City Block 408, St. Mary's Street Parking Garage Subdivision as recorded in Volume 9547, Page 208 of the Deed and Plat Records of Bexar County, Texas;

THENCE departing said right-of-way line and along the common line between said Lot 18 and Lot 20, North 00 degrees 32 minutes 52 seconds East, a distance of 109.82 feet to a set ½ inch iron pin with a red cap stamped "Overby Descamps";

THENCE continuing along said common line, South 89 degrees 04 minutes 47 seconds East, a distance of 5.94 feet to an angle point;

THENCE continuing along said common line, North 00 degrees 45 minutes 47 seconds East, a distance of 51.49 feet to a set ½ inch iron pin with a red cap stamped "Overby Descamps";

EXHIBIT " A "  
Page 2 of 2

THENCE departing said common line and along the Western line of said Lot 18, North 89 degrees 58 minutes 10 seconds East, a distance of 21.71 feet to a found ½ inch iron pin at a building corner;

THENCE continuing along said Western line, North 00 degrees 30 minutes 09 seconds East, a distance of 41.15 feet to a set PK nail at a building corner;


THENCE continuing along said Western line, North 29 degrees 17 minutes 47 seconds West, a distance of 29.76 feet to a set ½ inch iron pin at a building corner;

THENCE continuing along said Western line, North 00 degrees 39 minutes 59 seconds East, a distance of 105.34 feet to a set ½ inch iron pin with a red cap stamped "Overby Descamps" on the South right-of-way line of East Pecan Street at the Northwest corner of said Lot 18;

THENCE along the South right-of-way line of East Pecan Street, South 89 degrees 20 minutes 00 seconds East, passing a found "X" in concrete at the Northeast corner of said Lot 18 and the Northwest corner of Lot 19 at 98.60 feet, passing a found lead plug at the North east corner of said Lot 19 being also the North west corner of said Lot 6B at 166.60 feet and continuing a total distance of 322.80 feet to the POINT OF BEGINNING and containing acres 2.496 (108726 square feet) of land, more or less.

A survey drawing of this description has been prepared.

August 30, 2002

  
David A. Casanova  
Registered Professional Land Surveyor No. 4251



s:02-156

KME:S

EXHIBIT " B " 99  
Page 1 of 4

STATE OF TEXAS )

COUNTY OF BEXAR )

56984

KNOW ALL MEN BY THESE PRESENTS:

JUN-11-70 61762

LS - I

45

That NAVARRO-TRAVIS GARAGE CORPORATION, a Texas corporation, in consideration of TEN DOLLARS (\$10.00) and other valuable consideration, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto HELEN NIX COINER, TRUSTEE, and DAVID BROOKS, TRUSTEE, Trustees of the BIRDIE L. NIX TRUST, the following described tracts of property in Block 15, New City Block 408, San Antonio, Bexar County, Texas, to-wit:

TRACT ONE:

BEGINNING at the southwest corner of N.C.B. 408, which point is the intersection of the north line of E. Travis Street with the east line of N. St. Mary's Street, thence north with the east line of N. St. Mary's Street 161.5 feet to the south line of an alley; and east with south alley line, and interior angle  $89^{\circ} 50'$ , 115.65 feet to a spike, being the northwest corner of that certain tract of land conveyed by Litton Business Systems, Inc. to Navarro-Travis Garage Corporation by deed dated August 12, 1969, recorded in Volume 6225, page 454, Deed Records of Bexar County, Texas, and the northwest corner and place of beginning of the parcel herein described;

THENCE continuing east with the south line of the alley 6.0 feet to an iron pin, and the northeast corner of this parcel;

THENCE south, with interior angle  $90^{\circ} 13' 11''$ , 51.5 feet to an iron pin, and the southeast corner of this parcel;

THENCE west with interior angle  $89^{\circ} 46' 49''$ , 6.0 feet to the southwest corner of this parcel in the west line of that certain tract conveyed by Litton Business Systems, Inc., as aforementioned;

THENCE north with the west line of that certain tract conveyed by Litton Business Systems, Inc., as aforementioned, 51.5 feet to the place of beginning, with closing interior angle  $89^{\circ} 46' 49''$ .

TRACT TWO:

AN EASEMENT

/ BEGINNING at the southwest corner of N. C. B. 408, which point is the intersection of the north line of E. Travis Street with the east line of N. St. Mary's Street, thence north with the east line of N. St. Mary's Street 161.5 feet to the south line of an alley, and east with the south alley line, and an interior angle  $89^{\circ} 50'$ , 121.65 feet to an iron pin, the northwest corner of the parcel herein described;

W 6365 MC 347



EXHIBIT " B "   
Page 2 of 4

THENCE continuing east with the south line of the alley 5.0 feet to an iron pin, the east corner of this parcel;

THENCE with angle 121° 50' 51" turned from east, to southwest, 9.42 feet to an iron pin, the south corner of this parcel;

THENCE with interior angle 32° 04' 02", 8.0 feet to the place of beginning;

Said easement being subject to the following terms and conditions:

1. This easement is granted for the use of grantees, their successors and their permittees, to cross with vehicular or pedestrian traffic for access from grantees' property in Lot A-17, N.C.B. 408, San Antonio, Bexar County, Texas, to and from the public alleyway in said N.C.B. 408.
2. Grantees and their permittees shall have the right to cross the area of said easement at ground level, and grantor agrees that it will not block or obstruct the area of said easement at the ground level or at any level lower than sixteen (16) feet above the ground, but grantor reserves the right to construct in and otherwise use the air space above said easement at levels above sixteen (16) feet above the ground.
3. This easement shall be perpetual, provided that if not used for a period of twelve (12) consecutive months, then it shall terminate.
4. Grantor reserves the right to use the area of the easement for access to its adjoining property in N.C.B. 408, but such use by grantor shall not obstruct or interfere with the use thereof by grantees and their permittees.

TO HAVE AND TO HOLD the said premises, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto the grantees, their successors and assigns, and grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the said premises unto the grantees, their successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under it, but not otherwise.

Ad valorem taxes on subject property have been prorated to

Vol 6365 p. 348

RE: S

2/17/70

EXHIBIT " B. "   
 of 3 of 4

date hereof, and the grantees assume payment of all such taxes.

This conveyance is made subject to all easements, restrictions, reservations and covenants of private and public nature which appear of record.

EXECUTED this 29<sup>th</sup> day of May, 1970.

NAVARRO-TRAVIS GARAGE CORPORATION

ATTEST:

By F. J. Oppenheimer, President

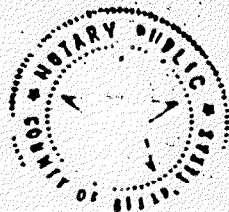
Robert L. Neal, Secretary

STATE OF TEXAS )  
COUNTY OF BEXAR )

BEFORE ME, the undersigned authority, on this day personally appeared F. J. Oppenheimer, President of NAVARRO-TRAVIS GARAGE CORPORATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, as the act and deed of said corporation.

GIVEN under my hand and seal of office, this 29<sup>th</sup> day of

May, 1970.



Frederick L. Pridmore  
Notary Public, Bexar County, Texas

EXHIBIT " B " 99  
Page 4 of 4

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STATE OF TEXAS  
COUNTY OF BEXAR  
I hereby certify that this instrument was FILED on the  
date and at the time stamped hereon by me and will duly  
RECORDED in the Volume and Page of the DEED RECORDS  
of Bexar County, Texas, as stamped herein by me.

JUN 11 1970



*James W. Knight*  
COUNTY CLERK  
BEXAR COUNTY, TEXAS

WARRANTY DEED

NAVARRO-TRAVIS GARAGE CORPORATION

TO

HELEN NIX COINER AND DAVID BROOKS,  
TRUSTEES, BIRDIE L. NIX TRUST

FILED IN MY OFFICE  
JAMES W. KNIGHT  
COUNTY CLERK BEXAR CO.

JUN 11 PM 1 52

Return to:  
Mr. Jesse Oppenheimer  
1414 Milam Building 78205  
San Antonio, Texas

DENMAN, FRANKLIN & DENMAN  
ATTORNEYS  
230 EAST COMMERCE  
SAN ANTONIO, TEXAS

North St. Mary's Street

10' Underground Telephone Easement  
(Volume 9547 Page 208, PLAT)

Telephone  
Monitors

Found 1/2" I.P. with Co  
Stamped "Overby Descamps"

Easement  
(Vol. 6365, Pg. 347, D.R.)  
(See Detail)

S89°04'47"E 5.94'

Found 1/2" I.P. with Co.  
Stamped "Overby Descomps"

Area Under Construction

**Area of  $F$**

Part c  
0.7"

Address : 207

E. Travis Street

