

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
SAN ANTONIO WATER SYSTEM**

**CONSENT AGENDA  
ITEM NO. 13**

**TO:** Mayor and City Council

**FROM:** Leonard D. Young, P.E., Interim President/ Chief Executive Officer, San Antonio Water System and Thomas G. Wendorf, P.E., Director of Public Works, City of San Antonio

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

**COPIES:** Melissa Byrne Vossmer, Assistant City Manager, File

**SUBJECT:** Ordinance Declaring a Public Necessity for the Acquisition of Permanent and Temporary Easement Interests in Certain Privately Owned Real Properties by Negotiation and/or Condemnation if Necessary, for the Western Watershed Sewer Relief Line W-04 Project

**DATE:** September 9, 2004

**SUMMARY AND RECOMMENDATIONS**

This ordinance declares a public necessity for the acquisition of parcels as described herein for a permanent and temporary easement interests in certain privately owned real properties by negotiation and/or condemnation if necessary, for a San Antonio Water System (SAWS) project. This project will meet the SAWS commitment for sewer service for the continued growth in the North West area of San Antonio.

Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

The San Antonio Water System Board of Trustees requires the acquisition of parcels as described herein for permanent and temporary easement interests in certain privately owned real properties by negotiation and/or condemnation if necessary, for the Western Watershed Sewer Relief Line W-04 Project.

- It is in the best interest of the City of San Antonio and necessary for the efficient operation of the San Antonio Water System (SAWS) to construct, operate, and maintain the Western Watershed Sewer Relief Line W-04 Project upon the privately owned property described in Attachment I to the resolution for this item.
- Acquisition of one permanent easement and one temporary easement is required for the proposed alignment. The permanent easement is described herein and will require acquisition by eminent domain.

- The City of San Antonio, acting by and through representatives of SAWS, has been unable to acquire title to the parcels, which are fully described herein.

In order to exercise its power of eminent domain, the City of San Antonio must declare a public necessity for the acquisition of property to be utilized by SAWS. The City exercises this authority on behalf of its departments and agencies when property cannot be acquired for fair market value, or property owners cannot be located.

### **FISCAL IMPACT**

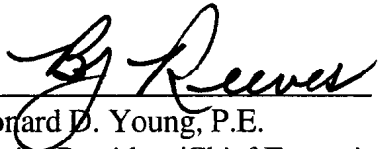
The passage of this ordinance will not have a financial impact on the City of San Antonio. Any condemnation costs including awards will be paid by the San Antonio Water System.

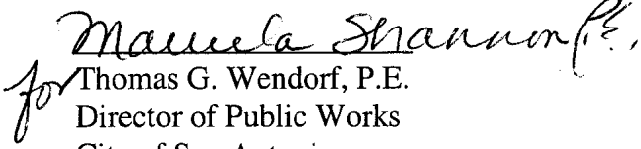
### **ETHICS DISCLOSURE:**

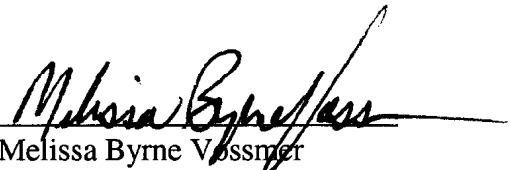
This ordinance does not require an Ethics Disclosure Form.

### **COORDINATION**

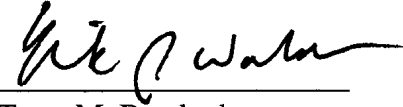
San Antonio Water System with the City's Public Works Department and the City Attorney's Office has coordinated the request for ordinance.

*for*  
  
 Leonard D. Young, P.E.  
 Interim President/Chief Executive Officer  
 San Antonio Water System

*for*  
  
 Thomas G. Wendorf, P.E.  
 Director of Public Works  
 City of San Antonio

  
 Melissa Byrne Vossmer  
 Assistant City Manager  
 City of San Antonio

Approved:

*✓*  
  
 Terry M. Brechtel  
 City Manager

## **AN ORDINANCE**

**REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S WESTERN WATERSHED SEWER RELIEF LINE W-04 PROJECT IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY FOR PUBLIC USE AS A PART OF THE WESTERN WATERSHED SEWER RELIEF LINE W-04 PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTIES DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC USE AS A PART OF THE WESTERN WATERSHED SEWER RELIEF LINE W-04 PROJECT TO WIT: A 5.7638-ACRE PERMANENT SANITARY SEWER EASEMENT, RECORDED IN VOLUME 9504, PAGES 63-69, OUT OF AN ABANDONED SECTION OF POTRANCO ROAD P100, QUIT CLAIMED TO ITHACA INVESTMENTS, AND A 2.6068-ACRE TEMPORARY CONSTRUCTION EASEMENT, LOT 1, BLOCK 3, NEW CITY BLOCK 17242, BOTH EASEMENTS, PERMANENT AND TEMPORARY, ARE OUT OF THE WESTPARK SUBDIVISION UNIT 1, LOCATED IN SAN ANTONIO, BEXAR COUNTY, TEXAS AND LOCATED ON PROPERTY OWNED BY ITHACA INVESTMENTS, LTD, BY ANALIT USA INCORPORATED, GENERAL PARTNER, PAUL S. COVEY, PRESIDENT, SUBJECT TO OBTAINING SUCH REAFFIRMATIONS AND AUTHORIZATIONS FROM THE CITY COUNCIL AS DESCRIBED ABOVE; AUTHORIZING THE SYSTEM'S STAFF AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATOR TO NEGOTIATE AND EXECUTE ALL NECESSARY AGREEMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTIES FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE PERMANENT AND TEMPORARY EASEMENTS AS DESCRIBED ABOVE; FURTHER AUTHORIZING THE SYSTEM'S DESIGNATED GENERAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH FINAL JUDGMENT AND ALL NECESSARY APPEALS FOR THE CONDEMNATION OF PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; APPROVING, RATIFYING, AND DECLARING VALID ALL PRIOR ACTS DONE OR INTERPRETED BY ATTORNEYS, AGENTS, AND EMPLOYEES OF AND/OR ACTING FOR THE SYSTEM TO ACQUIRE SUCH EASEMENTS, AND DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF THE SAN ANTONIO WATER SYSTEM; FINDING THE**

**RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE  
LAWS GOVERNING OPEN MEETINGS; PROVIDING A  
SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE  
DATE**

\* \* \* \* \*

**WHEREAS**, the public health, safety and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of sewer line facility; and

**WHEREAS**, it is necessary to construct, operate, and maintain such a facility, the Loop 410: Blanco To McCullough Water and Wastewater Project (the “project”) located partially upon the property described herein, which is privately owned; and

**WHEREAS**, the City of San Antonio acting by and through representatives of the San Antonio Water System, have been unable to acquire the permanent and temporary easements, on the tracts described herein; and

**WHEREAS**, the San Antonio Water System Board of Trustees (the “Board”) finds that the acquisition of such easements is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding region; and

**WHEREAS**, the Board hereby requests that the City of San Antonio adopt an ordinance declaring a public necessity for the acquisition of such easements described herein, through the filing of lawsuits when deemed necessary to construct, operate and maintain the project, through the exercise of its eminent domain authority; and

**WHEREAS**, the Board further requests the San Antonio City Council to authorize the San Antonio Water System to undertake such proceedings; and

**WHEREAS**, the City Council of the City of San Antonio desires (i) to reaffirm and declare that the System’s Western Watershed Relief Line W-04 Project is a necessary public project, (ii) to reaffirm and declare that a public necessity exists for the acquisition of permanent and temporary easement interests across, over, upon and under certain privately owned real properties described below, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the Western Watershed Relief Line W-04 Project, (iii) to authorize the System to acquire permanent and temporary easement interests, as described herein, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the Western Watershed Relief Line W-04 Project, (iv) to authorize the System, its employees, agents and/or their authorized independent negotiators to negotiate and execute all sales agreements, easements and other necessary documents with the owners of certain privately owned properties described above and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (v) to further authorize the System and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of these permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, (vi) to

approve, ratify and declare valid all prior acts and proceedings done or initiated by attorney, agents and employees or an/or acting for the System to acquire such permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, and (vii) declare that the conveyance of all such permanent and temporary easement interest in certain privately owned properties as described herein shall be to the City of San Antonio for the use and benefit of the System.

**NOW, THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** That it is hereby reaffirmed and declared that the Western Watershed Relief Line W-04 Project is a necessary public interest.

**SECTION 2.** That it is further reaffirmed and declared that a public necessity exists for the acquisition of these permanent and temporary easement interests in certain privately owned properties as described herein and attached hereto and incorporated herein for all purposes as Attachment I by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Western Watershed Relief Line W-04 Project.

**SECTION 3.** That the System, acting on behalf of the City of San Antonio, is hereby authorized (i) to acquire permanent and temporary easement interests, as described herein, by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Western Watershed Relief Line W-04 Project, (ii) that the System, its employees, agents and/or their authorized independent negotiators, to negotiate and execute all sales and other agreements, easements, and other necessary documents with the owners of certain privately owned properties described above, and to take all other lawful actions necessary or incidental to survey, specify, clarify, define and acquire the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein, and (iii) the System and its attorneys, to file eminent domain proceedings, if necessary, and to prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent and temporary easement interests across, over, upon and under certain privately owned properties as described herein.

**SECTION 4.** That all prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the System to acquire such permanent and temporary easement interests are hereby approved, ratified, and declared valid.

**SECTION 5.** That it is further declared that the conveyance of the permanent and temporary easements shall be to the City of San Antonio for the use and benefit of the System.

**SECTION 6.** It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

**SECTION 7.** If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

**SECTION 8.** This **Ordinance** becomes effective within ten days of passage.

**PASSED AND APPROVED this 9th day of September, 2004.**

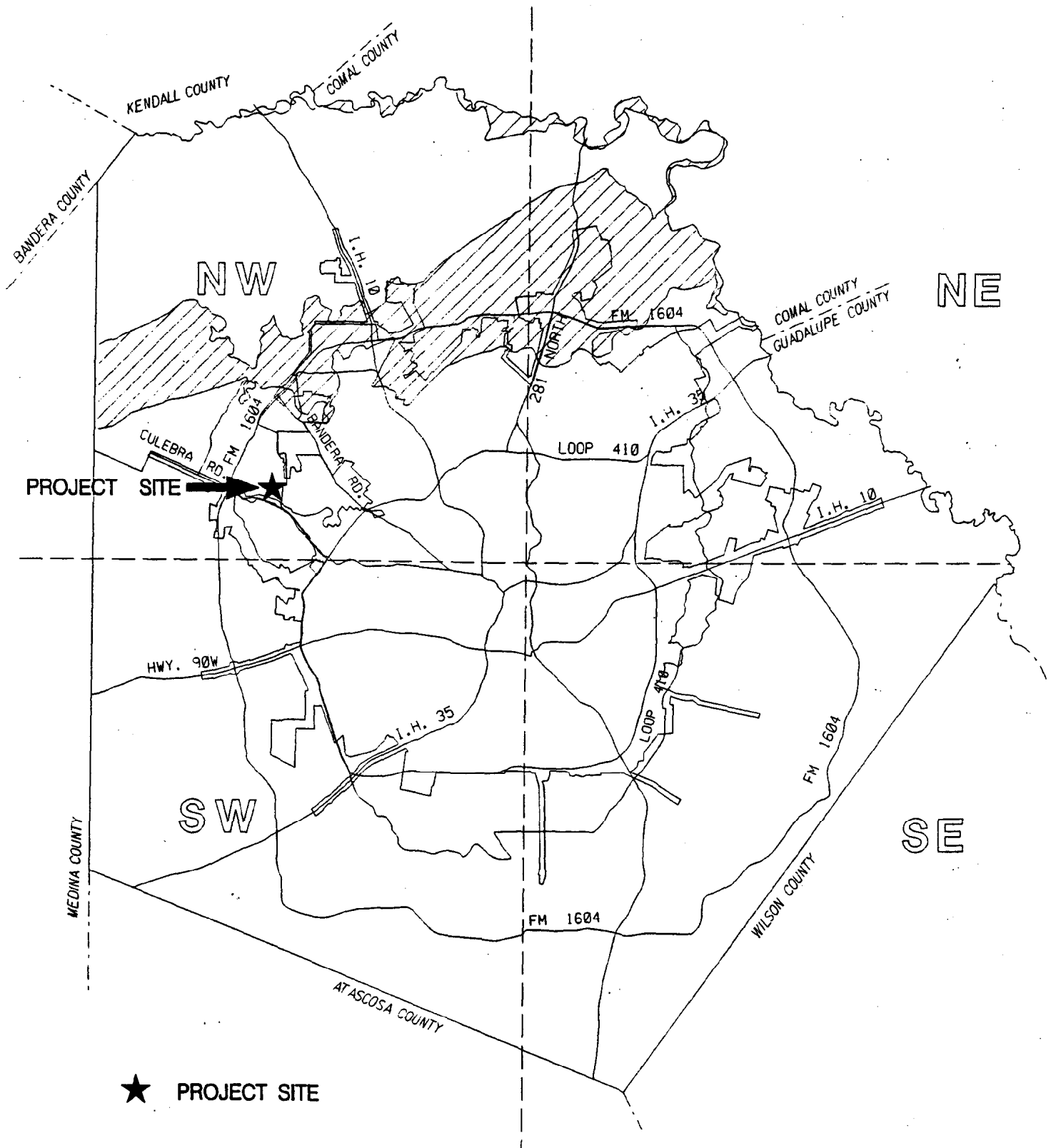
**M A Y O R**

**ATTEST:**

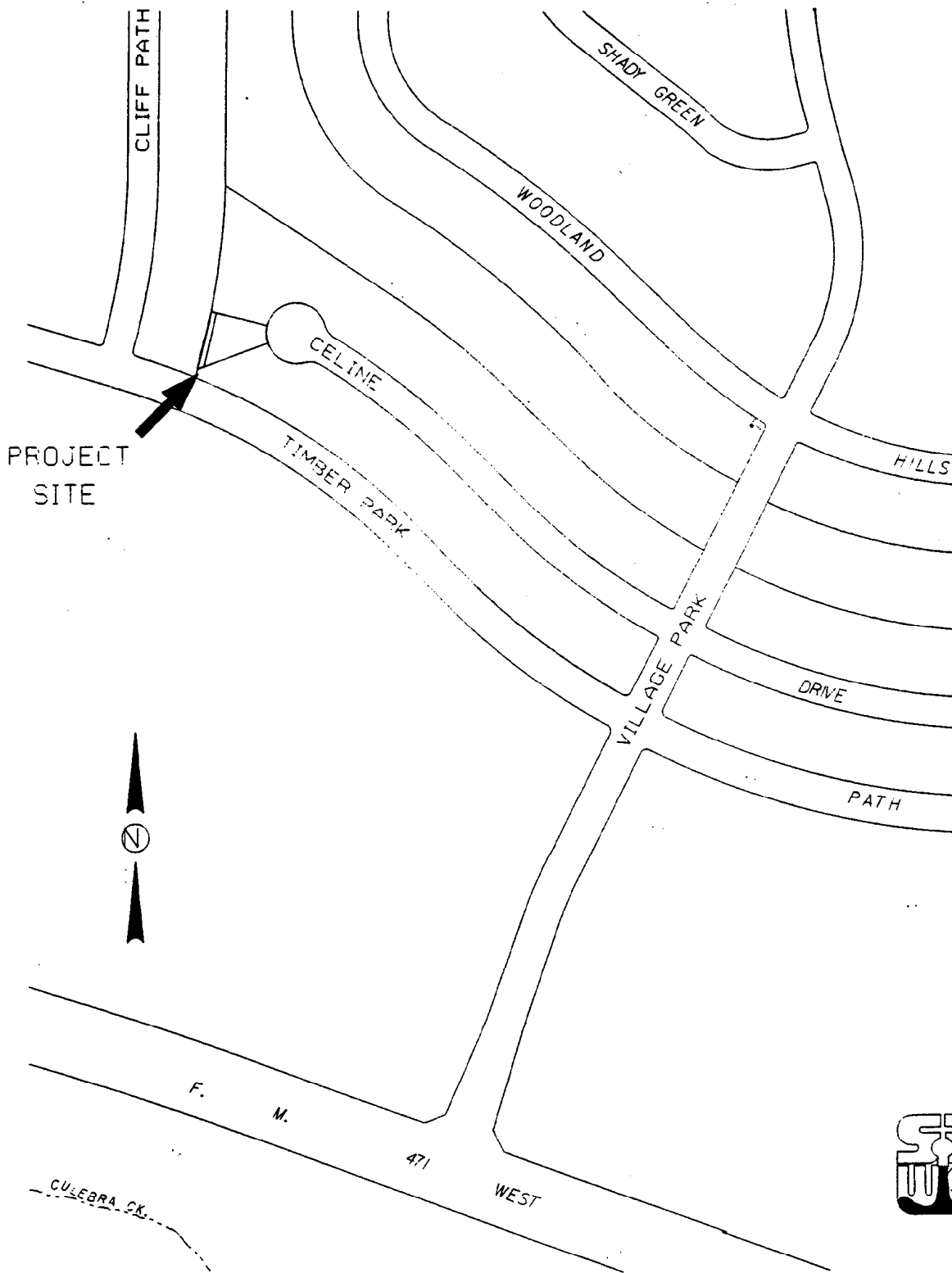
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**CITY CLERK**

**APPROVED AS TO FORM:** \_\_\_\_\_  
**CITY ATTORNEY**

# SAN ANTONIO WATER SYSTEM



WESTERN WATERSHED SEWER RELIEF  
LINE PROJECT (W-EXTENSION-A)



WESTERN WATERSHED RELIEF  
LINE (W\_EXT\_A) PROJECT PHASE III  
PARCEL SAWS-E-RCW-7441



SCALE: 1"=400'

LOT 1  
BLK 3  
N.C.B. 17242

5.7638 AC.

64.197 AC.  
DRAINAGE EASEMENT  
VOL. 6552, PG. 1835

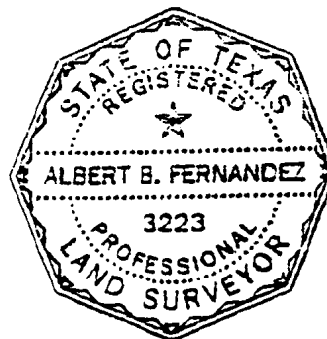
LOOP 410  
(300' R.O.W.)

PARCEL NO: SAWS-7860  
PARCEL NAME: WESTERN WATERSHED SEWER RELIEF LINE W\_04  
PERMANENT SEWER EASEMENT

STATE OF TEXAS  
COUNTY OF BEXAR

I, ALBERT B. FERNANDEZ , HEREBY CERTIFY THAT THE ABOVE PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY, MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS OF BUILDINGS ON ADJOINING PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY EXCEPT AS SHOWN ABOVE.

Albert B Fernandez  
REGISTERED PROFESSIONAL LAND SURVEYOR



A 57638 acre tract out of a Drainage Easement Parcel - 57, and being out of Westpark Subdivision Unit 1 as recorded in Deed and Plat Records, Volume 9504, Page 63 thru 69, San Antonio, Bexar County, Texas and out of an abandoned section of Potranco Road P100, quit claimed to Ithaca Investments.

REVISIONS	
9.15.03	
DRAWN BY	CHECKED BY
JBF	ABF
DATE:	
10/21/2002	
PROJECT NO:	
3292	
SHEET	1

**FERNANDEZ FRAZER WHITE & ASSOCIATES, INC**  
**CONSULTING ENGINEERS / PLANNERS / LANDSCAPE ARCHITECTS**  
210/311 0114  
SARASOTA, FL 34236 AUG 16

SALT AUGUST, TEXAS 1912

# EXHIBIT "A"

Parcel No: SAWS-7860

Parcel Name: Western Watershed  
Sewer Relief Line W-04

## Permanent Sewer Easement

A 5.7638 acre tract out of a Drainage Easement Parcel - 57, and being out of Westpark Subdivision Unit 1 as recorded in Deed and Plat Records, Volume 9504, Page 63 thru 69, San Antonio, Bexar County, Texas and out of an abandoned section of Potranco Road P100, quit claimed to Ithaca Investments and being more fully described by metes and bounds as follows:

Beginning at a point on the northeast right-of-way line of Culebra Road, said point bears N 61° 36' 59" W, 623.62 feet from the most southerly corner of said Drainage Easement (P-57) for the southeast corner of herein described tract;

Thence along said Culebra Road northeast right-of-way line, the following calls:

N 61° 36' 59" W, 69.29 feet;

N 62° 19' 53" W, 5.88 feet to a point for the southwest corner of this tract;

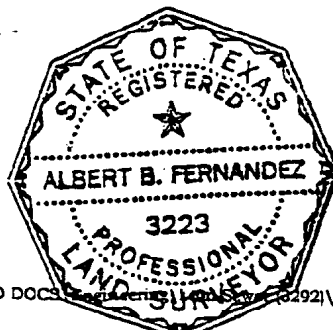
Thence N 32° 05' 09" E, 2,944.28 along a line to a point for an interior corner of this tract;

Thence N 29° 52' 16" W, 334.41 feet along a line to a point on the east right-of-way line of Potranco Road for the northwest corner of this tract;

Thence in a northerly direction 90.16 feet along said abandoned Potranco Road east right-of-way line being a curve to the right and having a delta angle of 09° 30' 05" a tangent of 45.18 feet and a radius of 543.69 feet to a point for the northeast corner of this tract;

Thence S 29° 52' 16" E, 429.29 feet along a line to a point for an exterior corner of this tract;

Thence S 32° 05' 09" W, 2,984.38 feet along a line to the Point of Beginning and containing 5.7638 acres (251,072.63 S. F.) of land more or less.



*Albert B. Fernandez*  
Albert B. Fernandez, P. E., R.P.L.S.  
October 23, 2002  
September 15, 2003

35' TEMPORARY CONSTRUCTION EASEMENT FOR  
PARCEL NO: SAWS-S-7860T  
PARCEL NAME: WESTERN WATERSHED SEWER RELIEF LINE W\_04

STATE OF TEXAS  
COUNTY OF BEXAR

I, ALBERT B. FERNANDEZ, HEREBY CERTIFY THAT THE ABOVE PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY, MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS OF BUILDINGS ON ADJOINING PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY EXCEPT AS SHOWN ABOVE.

Albert J. Duncanson  
REGISTERED PROFESSIONAL LAND SURVEYOR



**FERNANDEZ FRAZER WHITE & ASSOCIATES, INC.**  
**CONSULTING ENGINEERS / PLANNERS / LANDSCAPE ARCHITECTS**  
C/10/177 0/14

A 2.6068 acre tract out of a Drainage Easement Parcel - 57, and being out of Westpark Subdivision Unit 1 as recorded in Deed and Plat Records, Volume 9504, Page 63 thru 69, San Antonio, Bexar County, Texas and out of an abandoned section of Putranco Road P100, quit claimed to Ithaca Investments;

## REVISING

155

DATE

DATE:

8/07/2003

PROJECT NO:

3292

SHEET 1

**SHEETS**

35' Temporary Construction Easement For  
Parcel No: SAWS-S-78607  
Parcel Name: Western Watershed  
Sewer Relief Line W-04

A 2.6068 acre tract out of a Drainage Easement Parcel - 57, and out of Lot 1, Block 3, NCB 17242 and both being out of Westpark Subdivision Unit 1 as recorded in Deed and Plat Records, Volume 9504, Page 63 thru 69, San Antonio, Bexar County, Texas and being out of an abandoned section of Potranco Road P100, quit claimed to Ithaca Investments and being more fully described by metes and bounds as follows:

Thence N 62° 19' 53" W, 35.10 feet along said Culebra Road northeast right-of-way line, to a point for the southwest corner of this tract:

Thence N 29° 52' 16" W, 283.19 feet along a line to a point on the east right-of-way line of Potranco Road for the northwest corner of this tract;

Thence S 29° 52" 16" E, 334.41 feet along a line to a point for an exterior corner of this tract;

Thence S 32° 05' 09" W, 2,944.28 feet along a line to the Point of Beginning and containing 2.6068 acres (113,552.31 S. F.) of land more or less.



Albert B. Fernandez  
Albert B. Fernandez, P. E., R.P.D.S.  
August 7, 2003