

**CITY OF SAN ANTONIO**  
**PUBLIC WORKS DEPARTMENT**  
**CITY COUNCIL AGENDA MEMORANDUM**

**CONSENT AGENDA**  
**ITEM NO. 22**

**TO:** Mayor and City Council

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

**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 Aquifer Storage and Recovery Integration Segment VI Pipeline Project

**DATE:** November 18, 2004

**SUMMARY AND RECOMMENDATIONS**

This ordinance declares a public necessity for 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 a San Antonio Water System project. Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

The San Antonio Water System Board of Trustees requires the acquisition of parcels as described in Attachment I for permanent and temporary easement interests in certain privately owned real properties by negotiation and/or condemnation if necessary, for the Aquifer Storage and Recovery Integration Segment VI Pipeline Project.

The San Antonio Water System (the "SAWS") has previously relied on the Edwards Aquifer as its sole source of water. SAWS is developing the Aquifer Storage and Recovery Project as part of its long-range water resource plan in an effort to diversify its sources of water.

The Aquifer Storage and Recovery Integration Segment VI Pipeline Project will be a portion of a series of water transmission pipelines that will transport water between the Twin Oaks Aquifer Storage and Recovery facility in south Bexar County and the SAWS water distribution system. Acquisition of easements is required for the proposed alignment.

Actions necessary and incidental to the powers of eminent domain including litigation are needed in order to survey, define, clarify and determine the suitability of the real property interests located on privately owned property for the Project.

If it becomes necessary to acquire specific tracts of real property for the Project through condemnation proceedings, SAWS will return to City Council with a separate ordinance(s).

## **POLICY ANALYSIS**

The SAWS Board of Trustees approved Board Resolution No. 04-198 on May 18, 2004, requesting that the San Antonio City Council declare the project to be a necessary public project. 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**

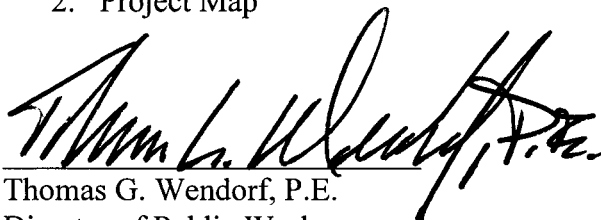
The passage of this ordinance will not have a financial impact on the City of San Antonio. Any condemnation costs including awards will be paid by the San Antonio Water System.

## **COORDINATION**

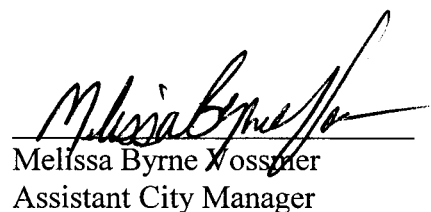
This request for ordinance has been coordinated with SAWS and the City Attorney's Office.

## **ATTACHMENTS**

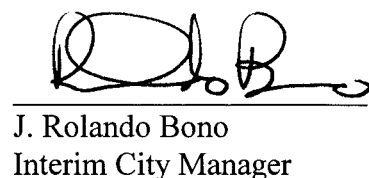
1. SAWS Board Resolution No. 04-198
2. Project Map



Thomas G. Wendorf, P.E.  
Director of Public Works



Melissa Byrne Vossmer  
Assistant City Manager



J. Rolando Bono  
Interim City Manager

TO: San Antonio Water System Board of Trustees

FROM: Leonard D. Young, P.E., Interim President/Chief Executive Officer

SUBJECT: REQUESTING THE CITY COUNCIL OF THE CITY OF SAN ANTONIO TO  
DECLARE A PUBLIC NECESSITY FOR ACQUISITION OF EASEMENTS FOR  
THE AQUIFER STORAGE AND RECOVERY INTEGRATION SEGMENT VI  
PIPELINE PROJECT

Board Action Date: May 18, 2004

**SUMMARY AND RECOMMENDATION:**

The attached resolution requests the City Council of the City of San Antonio to authorize the San Antonio Water System to declare a public necessity for the acquisition of permanent and temporary easements for the construction and operation of the Aquifer Storage and Recovery Integration Segment VI Pipeline Project.

- The San Antonio Water System (the "System") has previously relied on the Edwards Aquifer as its sole source of water. The System is developing the ASR Project as part of its long-range water resource plan in an effort to diversify its sources of water.
- By Resolution No. 01-016, passed and approved on January 16, 2001, the San Antonio Water System Board of Trustees authorized the commencement of the ASR Project.
- In order to complete the ASR project, a pipeline is necessary to transport the water to and from the aquifer storage and recovery facility. The System has determined that it is necessary to acquire permanent easement interests in certain privately owned properties as part of the ASR Integration Segment VI Pipeline Project.
- Acquisition of approximately 11 permanent and temporary construction easements is required for the Project.
- The System's independent appraiser has evaluated the properties needed for the permanent easements and has arrived at an opinion of just compensation. The tracts of land upon which the easements will traverse are all privately owned and ownership is partially listed in Attachment I and described herein or is being researched and/or in negotiations for the required easements.
- The City of San Antonio acting by and through representatives of the System are preparing for the process of eminent domain if unable to acquire the easements along the property alignment.

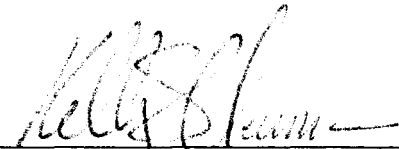
Declaration of Public Necessity For Purchase  
Of Easements for the Aquifer Storage and  
Recovery Segment VI Pipeline Project

AGENDA ITEM NO. 19  
Page 2

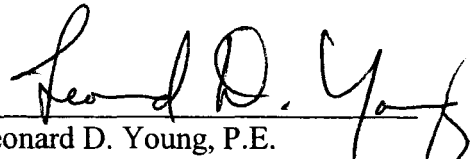
Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

Funds for all costs of acquiring the permanent easements will be financed through the System's Project Fund. As each easement is negotiated, a resolution will be brought before the Board to authorize the appropriation of the funds.

  
Kelley S. Neumann, P.E.  
Interim Vice-President  
Planning, Programming &  
Quality Control

APPROVED BY:

  
Leonard D. Young, P.E.  
Interim President/Chief Executive Officer

Attachment:

1. List of Parcel Numbers, Owners, Legal Descriptions

RESOLUTION NO. 04-198

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES DECLARING THAT THE AQUIFER STORAGE AND RECOVERY INTEGRATION SEGMENT VI PIPELINE PROJECT (HEREINAFTER REFERRED TO AS THE "PROJECT") IS A NECESSARY PUBLIC PROJECT AND THAT IT IS NECESSARY TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES, AS DESCRIBED BELOW, FOR PUBLIC IMPROVEMENTS FOR USE AS PART OF THE PROJECT; REQUESTING THE CITY COUNCIL OF THE CITY OF SAN ANTONIO (i) TO REAFFIRM THAT THE SYSTEM'S PROJECT IS A PUBLIC NECESSITY; (ii) TO ADOPT AN ORDINANCE DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES, AS DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY; AND (iii) TO AUTHORIZE THE SAN ANTONIO WATER SYSTEM TO ACQUIRE PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED REAL PROPERTIES, AS DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS AS PART OF THE PROJECT; TO WIT: A 1.895-ACRE (82,556 SQUARE FEET) PERMANENT EASEMENT AND A 1.925-ACRE (83,834 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ZACHRY REALTY, INC. AND RECORDED IN VOLUME 5279, PAGE 1472, NEW CITY BLOCK 15894 AND KNOWN AS SAWS PARCEL NO. 8353 AND 8353T; A 0.930-ACRE (40,499 SQUARE FEET) PERMANENT EASEMENT AND A 0.861-ACRE (37,522 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ZACHRY REALTY, INC. AND RECORDED IN VOLUME 5279, PAGE 1472, NEW CITY BLOCK 15894 AND KNOWN AS SAWS PARCEL NO. 8355 AND 8355T; A 3.077-ACRE (130,996 SQUARE FEET) PERMANENT EASEMENT AND A 2.952-ACRE (128,590 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO SUN NLF, LTD. PARTNERSHIP AND RECORDED IN VOLUME 3377, PAGE 198, NEW CITY BLOCK 16918 AND KNOWN AS SAWS PARCEL NO. 8357 AND 8357T; A 0.473-ACRE (20,582 SQUARE FEET) PERMANENT EASEMENT OUT OF CONVEYANCE TO

WILD HORSE CANYON DEVELOPMENT, L.L.C. AND RECORDED IN VOLUME 3990, PAGE 1537, NEW CITY BLOCK 16918 AND KNOWN AS SAWS PARCEL NO. 8359; A 0.776-ACRE (33,815 SQUARE FEET) PERMANENT EASEMENT AND A 1.689-ACRE (73,593 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ABG DEVELOPMENT, LTD. AND RECORDED IN VOLUME 8323, PAGE 346, NEW CITY BLOCK 13808 AND KNOWN AS SAWS PARCEL NO. 8373 AND 8373T; A 0.371-ACRE (16,164 SQUARE FEET) PERMANENT EASEMENT, A 0.138-ACRE (6,000 SQUARE FEET) TEMPORARY EASEMENT AND A 0.206-ACRE (8,990 SQUARE FEET) TEMPORARY EASEMENT OUT OF CONVEYANCE TO ABG DEVELOPMENT, LTD. AND RECORDED IN VOLUME 8323, PAGE 346, NEW CITY BLOCK 13808 AND KNOWN AS SAWS PARCEL NO. 8374, 8374T-A AND 8374T-B; ALL REQUIRED PERMANENT AND TEMPORARY EASEMENTS ARE LOCATED WITHIN BEXAR COUNTY, TEXAS AND FOR A PUBLIC PURPOSE AS PART OF THE PROJECT AND SUBJECT TO OBTAINING SUCH 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; FURTHER AUTHORIZING THE SYSTEM'S 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 AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; 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 San Antonio Water System ("System") has previously relied on the Edwards Aquifer as its sole source of water; and

**WHEREAS**, the System's long range water resource plan requires diversification of the sources of its water supply; and

**WHEREAS**, the System is developing the Aquifer Storage and Recovery Project (ASR) on lands located in Bexar County and further located on the Carrizo Aquifer; and

**WHEREAS**, in order to pump water into the Aquifer Storage Recovery facilities during times of abundant water and then pump water out of the ASR facilities during times of water shortages, it is necessary to build a series of pipelines to and from the ASR facility in south Bexar county; and

**WHEREAS**, the Aquifer Storage Recovery Integration Segment VI Pipeline Project (the "project") is a portion of these necessary series of pipelines; and

**WHEREAS**, in order to construct the necessary pipeline to transport the water to and from the aquifer storage and recovery facility, the System has determined that it is necessary to acquire permanent and temporary easement interests in certain privately owned properties as described in Attachment I attached hereto and incorporated herein by for all purposes (collectively "permanent and temporary easements") for use as part of the Project; and

**WHEREAS**, the System's independent appraiser has evaluated the properties needed for the permanent and temporary easements and determined their fair market value; and

**WHEREAS**, it is the System's desire to acquire the properties needed for the permanent and temporary easements by negotiation; and

**WHEREAS**, the System's staff and/or independent negotiator, have begun contacting and negotiating with the owners of the properties needed for the permanent and temporary easements as part of the Project; and

**WHEREAS**, should negotiations fail, it will be necessary for the System to acquire the needed permanent and temporary easements by condemnation; and

**WHEREAS**, the San Antonio Water System Board of Trustees (the "Board") requests that the San Antonio City Council declare such Project and the acquisition of permanent and temporary easements for such Project a public necessity; and

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

**WHEREAS**, the San Antonio Water System Board of Trustees desires to (i) declare that the Aquifer Storage Recovery Integration Segment VI Pipeline Project is a necessary public project and that it is necessary to acquire permanent and temporary easements in certain privately owned properties as described in Attachment I, (ii) to request the San Antonio City Council to adopt an ordinance declaring a public necessity for the acquisition of permanent and temporary easements on private property, through the filing of lawsuits when deemed necessary to construct, operate, and maintain the ASR Integration Segment VI Pipeline Project, (iii) to further request the City of San Antonio to authorize the System to undertake such proceedings to acquire permanent and temporary easements on behalf of the City for the use and benefit of the System, (iv) to authorize the System's President/Chief Executive Officer to execute all documents incident to such legal proceeding and acquisitions, (v) to further authorize the System's 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 and temporary easement interests in privately owned properties as described herein, and (vi) to declare that the conveyance of all such permanent and temporary easement interests in certain privately owned property as described herein shall be to the City of San Antonio for the use and benefit of the San Antonio Water System; now, therefore:

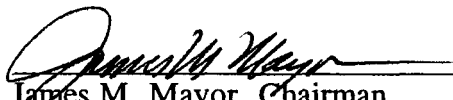
**BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:**

1. That the San Antonio Water System Board of Trustees declares that the Aquifer Storage Recovery Integration Segment VI Pipeline Project is a necessary public project and that it is necessary to acquire permanent and temporary easement interests in certain privately owned properties as partially listed and attached hereto and incorporated herein in Attachment I, for all purposes.
2. That the San Antonio City Council is hereby requested to adopt an ordinance declaring a public necessity for the acquisition of the permanent and temporary easements, through the filing of lawsuits when deemed necessary to gain access for the purposes of constructing, operating and maintaining the Aquifer Storage Recovery Integration Segment VI Pipeline Project.
3. That the San Antonio City Council is hereby further requested to authorize the System to undertake such legal proceeding on behalf of the City for the use and benefit of the System.
4. That the President/Chief Executive Officer is hereby authorized to execute all documents including those incident to such legal proceedings and such acquisitions required for the acquisition of easements on private property.
5. That the System's General Counsel is further authorized 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 and temporary easement interests in any privately owned properties and partially listed in Attachment I, attached hereto and incorporated herein for all purposes.

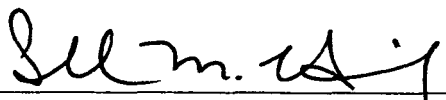


6. That the conveyance of all such permanent and temporary easement interests in certain privately owned property as partially listed and described herein in Attachment I, shall be to the City of San Antonio for the use and benefit of the San Antonio Water System.
7. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that published 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.
8. If any part, section, paragraph, sentence, phrase, 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.
9. This resolution shall take effect immediately upon its passage.

PASSED AND APPROVED this 18th day of May, 2004.

  
James M. Mayor, Chairman

ATTEST:

  
Salvadore M. Hernández, Secretary

## ATTACHMENT I

## **PARCEL LIST FOR CONDEMNATION**

### **PARCEL NUMBERS: 8353 & 8353T**

**OWNER: Zachry Realty, Inc.**

#### **LEGAL DESCRIPTION:**

**Par. 8353-**Being 1.895 acres (82,556 sq. ft.) of land out of a 36.549 Acre Tract (Tract 1), N.C.B 15894, City of San Antonio, Bexar County, Texas as recorded in Volume 5279, Page 1472, Real Property Records, Bexar County, Texas.

**Par. 8353T-**Being 1.925 acres (83,834 sq. ft.) of land out of a 36.549 Acre Tract (Tract 1), N.C.B 15894, City of San Antonio, Bexar County, Texas as recorded in Volume 5279, Page 1472, Real Property Records, Bexar County, Texas.

### **PARCEL NUMBERS: 8355 & 8355T**

**OWNER: Zachry Realty, Inc.**

#### **LEGAL DESCRIPTION:**

**Par. 8355-**Being 0.930 acres (40,499 sq. ft.) of land out of a 5.644 Acre Tract (Tract 3), N.C.B 15894, City of San Antonio, Bexar County, Texas as recorded in Volume 5279, Page 1472, Real Property Records, Bexar County, Texas.

**Par. 8355T-**Being 0.861 acres (37,522 sq. ft.) of land out of a 5.644 Acre Tract (Tract 3), N.C.B 15894, City of San Antonio, Bexar County, Texas as recorded in Volume 5279, Page 1472, Real Property Records, Bexar County, Texas.

### **PARCEL NUMBERS: 8357 & 8357T**

**OWNER: Sun NLF, Ltd Partnership**

#### **LEGAL DESCRIPTION:**

**Par. 8357-** Being 3.007 acres (130,996 sq. ft.) of land out Tract 22, 23, 24, 25, W & M Subdivision as recorded in Volume 3377, Page 198, Plat Records of Bexar County, Texas and being out of N.C.B 16918, City of San Antonio and out of a 20.240 acre tract as recorded in Volume 5892, Page 1655, Real Property Records, Bexar County, Texas.

## **PARCEL LIST FOR CONDEMNATION**

**Par. 8357T-** Being 2.952 acres (128,590 sq. ft.) of land out Tract 22, 23, 24, 25, W & M Subdivision as recorded in Volume 3377, Page 198, Plat Records of Bexar County, Texas and being out of N.C.B 16918, City of San Antonio and out of a 20.240 acre tract as recorded in Volume 5892, Page 1655, Real Property Records, Bexar County, Texas.

### **PARCEL NUMBER: 8359**

**OWNER: Wild Horse Canyon Development Company, L.L.C.**

#### **LEGAL DESCRIPTION:**

**Par.8359-** Being 0.473 of an acre (20,582 sq. ft.) of land out of Tract 21B, N.C. B. 16918, City of San Antonio as recorded in Volume 3990, Page 1537, Real Property Records of Bexar County, Texas

### **PARCEL NUMBERS: 8373 & 8373T**

**OWNER: ABG Development, Ltd.**

#### **LEGAL DESCRIPTION:**

**Par. 8373-** Being 0.776 of an acre (33,815 sq. ft.) of land out of a 60.145 Acre Tract (Tract I), N.C.B. 13808, City of San Antonio, Bexar County, Texas as recorded in Volume 8323, Page 346, and being out of a 73.198 Acre Tract as recorded in Volume 10013, Page 695, Real Property Records of Bexar County, Texas.

**Par. 8373T-** Being 1.689 of an acre (73,593 sq. ft.) of land out of a 60.145 Acre Tract (Tract I), N.C.B. 13808, City of San Antonio, Bexar County, Texas as recorded in Volume 8323, Page 346, and being out of a 73.198 Acre Tract as recorded in Volume 10013, Page 695, Real Property Records of Bexar County, Texas.

### **PARCEL NUMBERS: 8374, 8374T-A & 8374T-B**

**OWNER: ABG Development, Ltd.**

#### **LEGAL DESCRIPTION:**

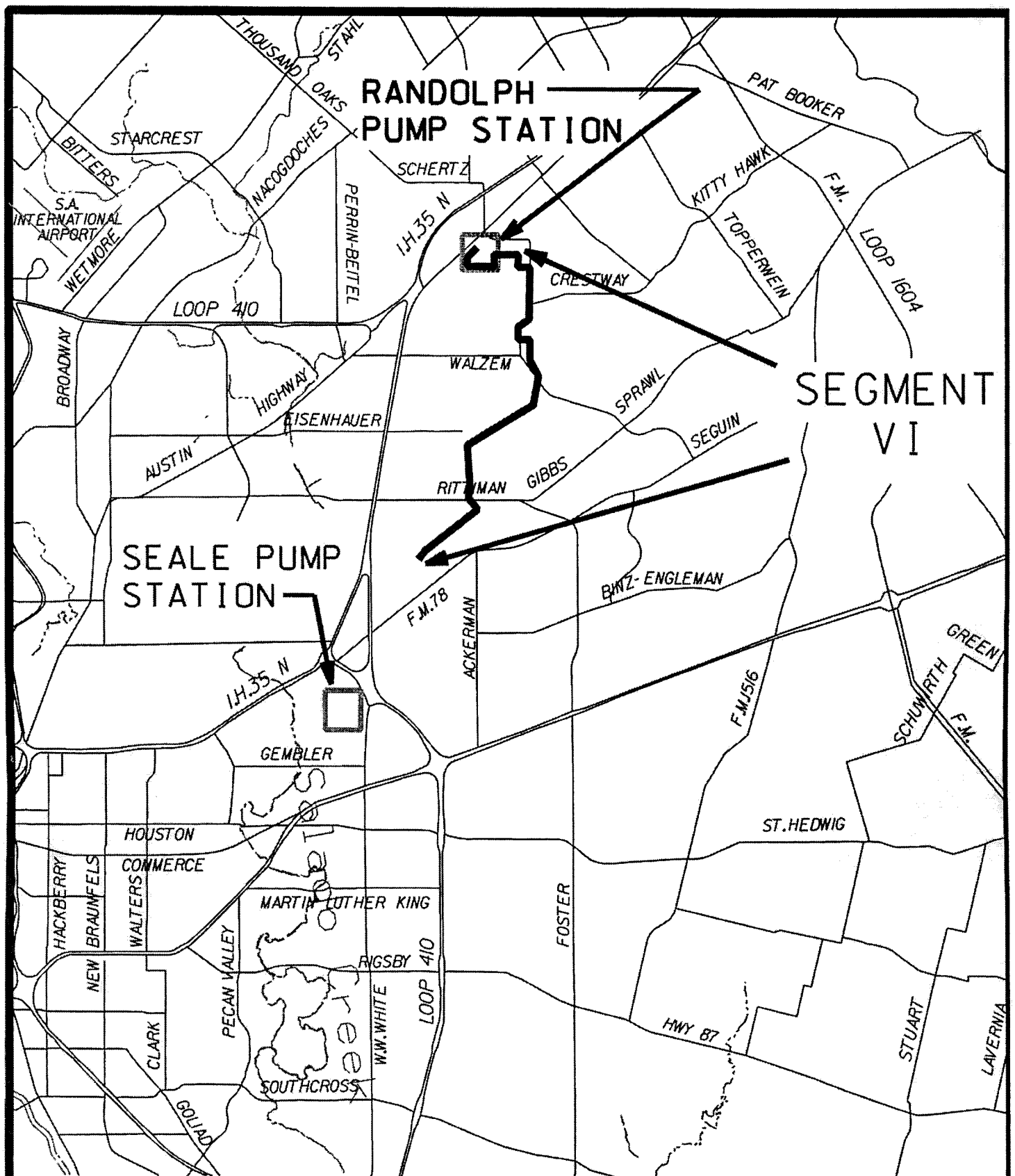
**Par. 8374-** Being 0.371 of an acre (16,164 sq. ft.) of land out of a 13.112 Acre Tract (Tract II), N.C.B. 13808, City of San Antonio, Bexar County, Texas as recorded in Volume 8323, Page 346, and being

## **PARCEL LIST FOR CONDEMNATION**

out of a 73.198 Acre Tract as recorded in Volume 10013, Page 695, Real Property Records of Bexar County, Texas.

**Par. 8374T-A** - Being 0.138 of an acre (6,000 sq. ft.) of land out of a 13.112 Acre Tract (Tract II), N.C.B. 13808, City of San Antonio, Bexar County, Texas as recorded in Volume 8323, Page 346, and being out of a 73.198 Acre Tract as recorded in Volume 10013, Page 695, Real Property Records of Bexar County, Texas.

**Par. 8374T-B** - Being 0.206 of an acre (8,990 sq. ft.) of land out of a 13.112 Acre Tract (Tract II), N.C.B. 13808, City of San Antonio, Bexar County, Texas as recorded in Volume 8323, Page 346, and being out of a 73.198 Acre Tract as recorded in Volume 10013, Page 695, Real Property Records of Bexar County, Texas.



**SAN ANTONIO WATER SYSTEM  
AQUIFER STORAGE & RECOVERY PROGRAM  
PIPELINE SEGMENT VI**

