

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

TO: Mayor and City Council

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

SUBJECT: Ordinance authorizing procurement of right-of-way in the total sum of \$21,000 in connection with the Cherry Street Drainage #15B Phase II Project

DATE: January 6, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes funds in the amount of \$21,000 payable to Gerry Rickhoff, County Clerk, as full and final settlement for title to one parcel of land in connection with the Cherry Street Drainage #15B Phase II project, and for the defendants in condemnation proceeding styled *City of San Antonio vs. Jesse E. Pena, Et Al*. This project is located in Council District 2.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

City Ordinance No.84215, dated June 6, 1996, approved a Right of Entry Agreement and Consent in the amount of \$4,500 for a parcel of commercial property located at 403 Center Street and owned by Jesse E. Pena. None of the City's offers for acquisition of the property were acceptable to Mr. Pena and the City proceeded to file a condemnation proceeding styled *City of San Antonio v. Jesse Edward Pena, Et Al*.

In the interim, the property owner was involved in a bankruptcy proceeding and several liens had been filed against the property. This prevented the owner from having a clear title, and delayed completion of this condemnation proceeding.

An updated appraisal of the property, performed by Don Canaday, the City's Contract Appraiser, determined the fair market value of the property, plus an allowance for damages to the remainder, equal to \$19,900.

In order to prevent additional litigation costs, the City made a final offer to the property owner in the amount of \$21,000. The property owner has agreed to accept the amount of \$21,000 for a full release of all claims and settlement of all disputes. This property is the remaining parcel to be acquired in this project.

POLICY ANALYSIS

The acquisition of this property is necessary to complete the real estate transactions for this project. Approval of this ordinance will be a continuation of City Council policy to complete previously approved Capital Improvement Projects.

FISCAL IMPACT

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY 05-Y10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$21,000 are available from 1996 Certificates of Obligation and authorized payable to Gerry Rickhoff, Bexar County Clerk.

COORDINATION

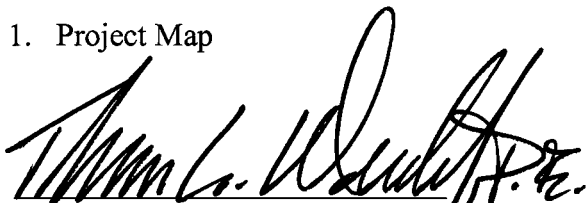
This ordinance was coordinated with the City Attorney's Office, the Finance Department, and the Office of Management and Budget.

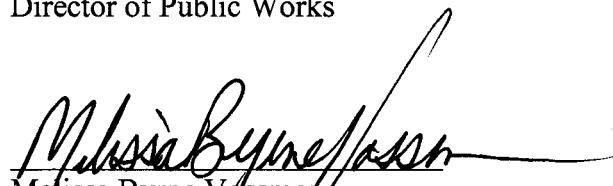
SUPPLEMENTARY COMMENTS

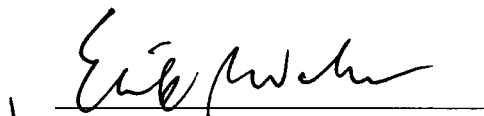
This Ordinance does not require a Discretionary Contracts Disclosure Form.

ATTACHMENTS

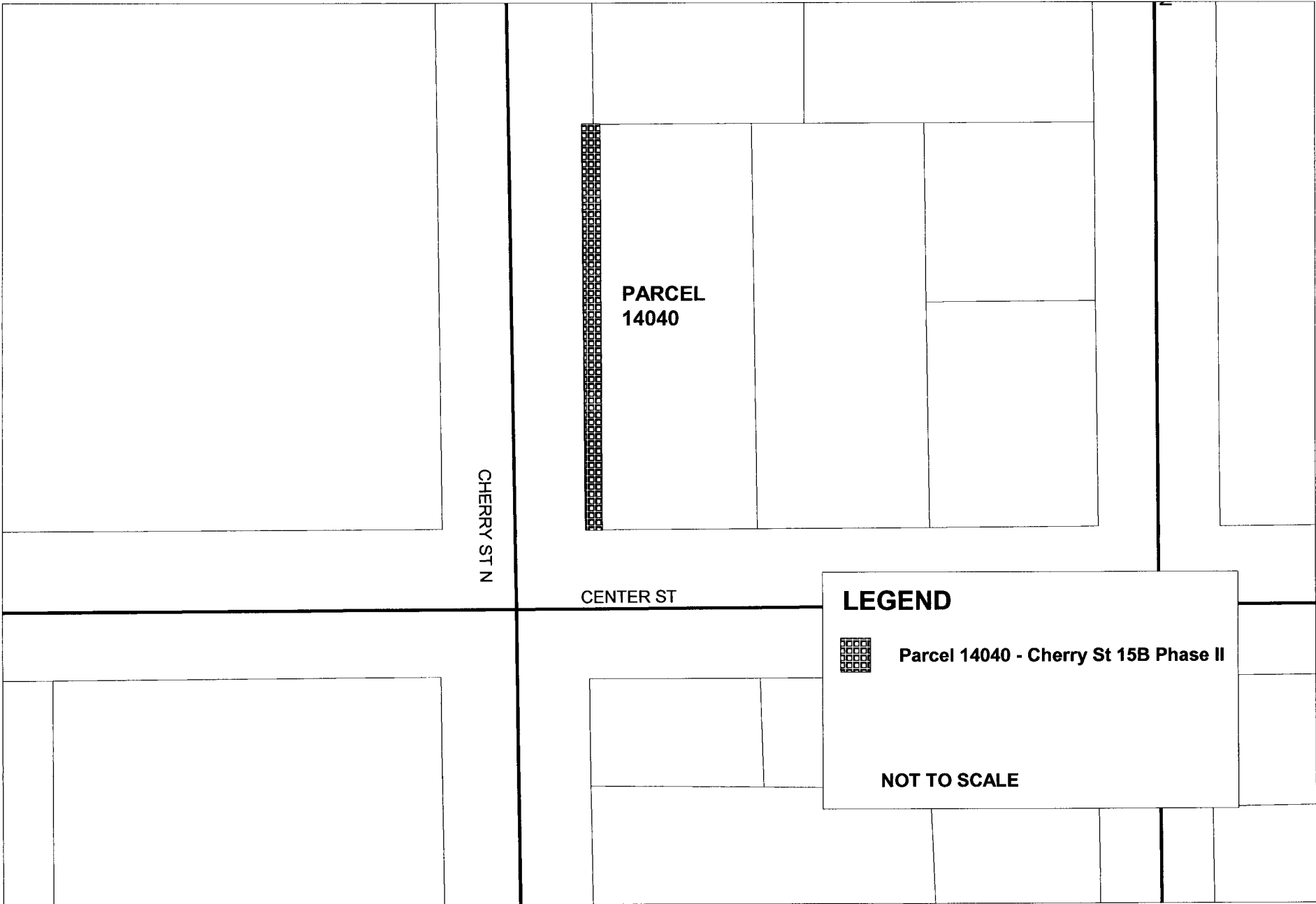
1. Project Map


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


Melissa Byrne Vossmer
Assistant City Manager


J. Rolando Bono
Interim City Manager

CHERRY ST 15B PH II



**FACT SHEET FOR PARCEL P14040
FEE SIMPLE**

CHERRY STREET DRAINAGE #15B PHASE II PROJECT

Appraisal Value	\$ 19,900.00
COSA Final Offer	\$ 21,000.00
Settlement Agreement	\$ 21,000.00
Difference between COSA Final Offer & Settlement	\$ 0.00
Additional Costs:	
• Right of Entry & Consent Agreement	\$ 4,500.00

REASON FOR INITIATING CONDEMNATION:

Property owner not willing to sell at appraised fair market value.