

**CITY OF SAN ANTONIO  
CITY COUNCIL AGENDA MEMORANDUM**

**TO:** Mayor and City Council

**FROM:** Martha Sepeda, Acting City Attorney  
Rebecca Waldman, Director, Department of Asset Management

**SUBJECT:** Settlement and Property Agreements among the City of San Antonio, the University of the Incarnate Word, and SBC Corporation

**DATE:** May 26, 2005

**SUMMARY AND RECOMMENDATION**

Consider an ordinance authorizing: (1) a full and final settlement agreement with the University of the Incarnate Word in the lawsuit styled *City of San Antonio v. the University of the Incarnate Word*, Cause No. 2003-CI-01943, 408<sup>th</sup> Judicial District, Bexar County, concerning title to property commonly known as Pioneer Park, located on Hildebrand Avenue on the east side of the San Antonio River; and (2) an agreement with SBC to resolve disputes concerning title to real property immediately south of Pioneer Park; and, pursuant to both agreements, securing the City's title to Pioneer Park, acquiring and conveying City-owned real property at the northeast corner of Hildebrand Avenue and Devine Road, conveying the City's interest in real property immediately south of Pioneer Park, and relocation of portions of Mt. Erin Pass, east of Devine Road.

Legal issues related to this ordinance and the underlying dispute have been discussed with City Council in executive session. Staff recommends approval of this Ordinance

**BACKGROUND**

In 1852, the City of San Antonio held an auction to sell property to raise funds. Lots were sold by reference to a plat, but did not include that portion of land now known as Pioneer Park as shown on Exhibit "A" attached hereto. Over the years, private property owners extended their claim of ownership to the San Antonio River, gaining from 225 to 247 feet, or about 3.395 acres which has been identified as the "disputed area". In 1921, Dr. Urrutia bought the property adjacent to the 3.395 acres and built fountains and statuary on the 3.395-acre tract in question. Subsequently, Dr. Urrutia sold the property to USAA, which, in turn, sold it to Southwestern Bell (now SBC). In 2000, SBC donated the park to the University of the Incarnate Word. Since 1879, questions over ownership of the property arose from time to time, until 2002, when the City gave formal legal notice of its claim to the disputed area to UIW and SBC. At that time, Incarnate Word chose not to negotiate. SBC offered to resolve this issue outside of court. Since then, UIW and the City have determined that a negotiated agreement to resolve the dispute is in the public interest, to avoid the expense and uncertainty of continued litigation. As a part of an overall agreement, all parties have agreed to the following terms and conditions:

Transaction #1 between the University of the Incarnate Word and the City of San Antonio:

- **Pioneer Park:** The City will obtain title to the property located along the southerly right of way line of E. Hildebrand Avenue (known as Pioneer Park or Alumni Park) from UIW, consisting of approximately 4.525 acres in the location as shown as on said Exhibit "A". This conveyance will cover the 3.395 acres of "disputed area", plus an additional 1.13 acres of undisputed land owned by UIW. The 3.395 acres are reflected as "Tract 1" and the 1.13 acres are shown as "Tract 2" on Exhibit "A".
- **Property at northeast corner of Hildebrand and Devine:** The City of San Antonio will transfer title to UIW of City-owned property located at the northeast corner of Hildebrand Avenue and Devine Road, consisting of approximately 3.81 acres and shown as "Tract 1" and "Tract 2" on attached Exhibit "B". In exchange, the City of San Antonio will accept a 0.246 acre tract of land shown as "Tract 3" and a 0.249-acre parcel shown as "Tract 4" on said Exhibit "B". Tract 3 will be used as a part of a realignment of Mt. Erin Pass street right of way and Tract 4 will be used as a greenbelt area. The realignment of Mt. Erin Pass will be accomplished through the City's standard platting process. UIW proposes to redevelop this corner at Hildebrand Avenue @ Devine Road through its proposed construction of a School of Pharmacy as shown on attached architectural drawing labeled Exhibit "C".

In addition to conveying its interest in Pioneer Park to the City, UIW has agreed to pay to the City a negotiated amount of \$700,000 to the City of San Antonio for the 3.81-acre tract of land at the northeast corner of Hildebrand Avenue @ Devine Road. This amount takes into consideration credits to UIW for existing statuary at Pioneer Park and an additional credit for the undisputed property (1.13 acres) which the City will obtain from UIW.

Transaction #2 between the City of San Antonio and SBC

- The City of San Antonio will retain approximately 0.2500 acre (10,889 square feet) for a proposed hike and bike trail along the northerly and easterly banks on the San Antonio River, shown as "Tract 3" on attached Exhibit "A".
- After carving out the 0.2500 acre tract of land which the City will use for hike and bike trail, the City will release its claim of ownership to the remainder of the property which SBC currently uses for parking. The parties will enter into a boundary agreement and exchange of deeds without warranty to evidence the agreement establishing the agreed ownership of the respective properties. SBC will continue to control all of the property until such time as the City is ready to make improvements to the portion reserved for the future hike and bike trail. This property consists of 1.167 acres and is shown as "Tract 4" on attached Exhibit "A". This entire parking lot property is currently within the flood plain.
- SBC will grant to the City a temporary easement across SBC's parking lot for the purpose of access for maintenance vehicles to Pioneer Park. This temporary easement will expire automatically upon completion of a bridge adequate for vehicle usage across the San Antonio River directly from Brackenridge Park to the City tract (Pioneer Park) or upon the sale of the SBC tract to any person or corporation not affiliated with SBC.
- At its discretion, SBC will allow public access to the property currently used by SBC for parking purposes for periodic special events.

- In consideration for this transaction, SBC will pay the City of San Antonio a negotiated amount of \$55,000

### **COORDINATION**

This Agenda Item has been coordinated through the City Attorney's Office and Parks & Recreation, Public Works and Development Services Departments.

### **FISCAL IMPACT**

The City of San Antonio will receive \$755,000 from UIW and SBC from this settlement. Presently, Pioneer Park is in need of access to connect to Brackenridge Park. It is estimated that a bridge to connect both properties will cost approximately \$300,000. In addition, the existing statuary at Pioneer Park will require restoration and re-stabilization, and current fencing and drainage issues will need to be addressed. UIW and SBC have indicated a preference that the monetary consideration, or a portion thereof, be used for improvements within the Pioneer Park area.

### **POLICY ANALYSIS**

By approving this ordinance, the City Council authorizes the Interim City Manager and the city's attorneys to execute all documents necessary to completely resolve and dismiss the litigation initiated by the City of San Antonio against the University of Incarnate Word, including the various deeds and conveyances necessary to implement the agreed terms. The ordinance also authorizes execution of documents necessary to implement the agreement with SBC concerning disputed property south of Pioneer Park, currently improved and used by SBC for parking.


Resolution of these disputes by agreement, as opposed to continued litigation, achieves the policy objective of resolving the boundary dispute and securing title to Pioneer Park from the University of Incarnate Word, and of securing value for the disputed boundary and property from SBC, all without the expense and uncertainty of continued litigation.

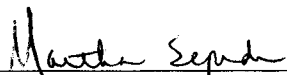
### **SUPPLEMENTARY COMMENTS**

The Planning Commission will consider this request at its regular meeting of May 25, 2005 and its recommendation will be presented to City Council on May 26, 2005.

### **CONCLUSION AND RECOMMENDATION**

Staff recommends approval of this request.

  
Rebecca Waldman, Director  
Department of Asset Management

  
Martha Sepeda,  
Acting City Attorney

  
Erik Walsh  
Assistant to the City Manager

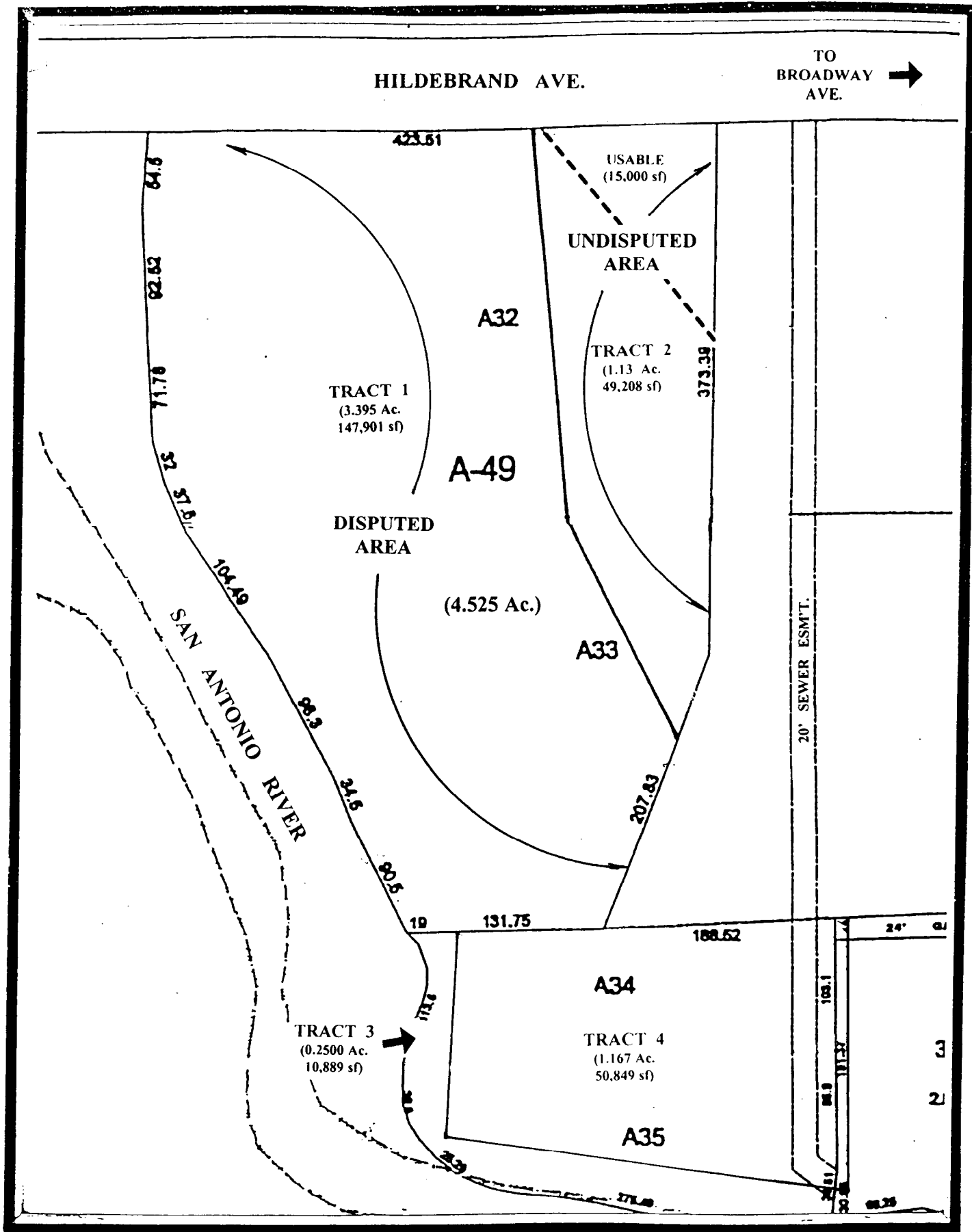
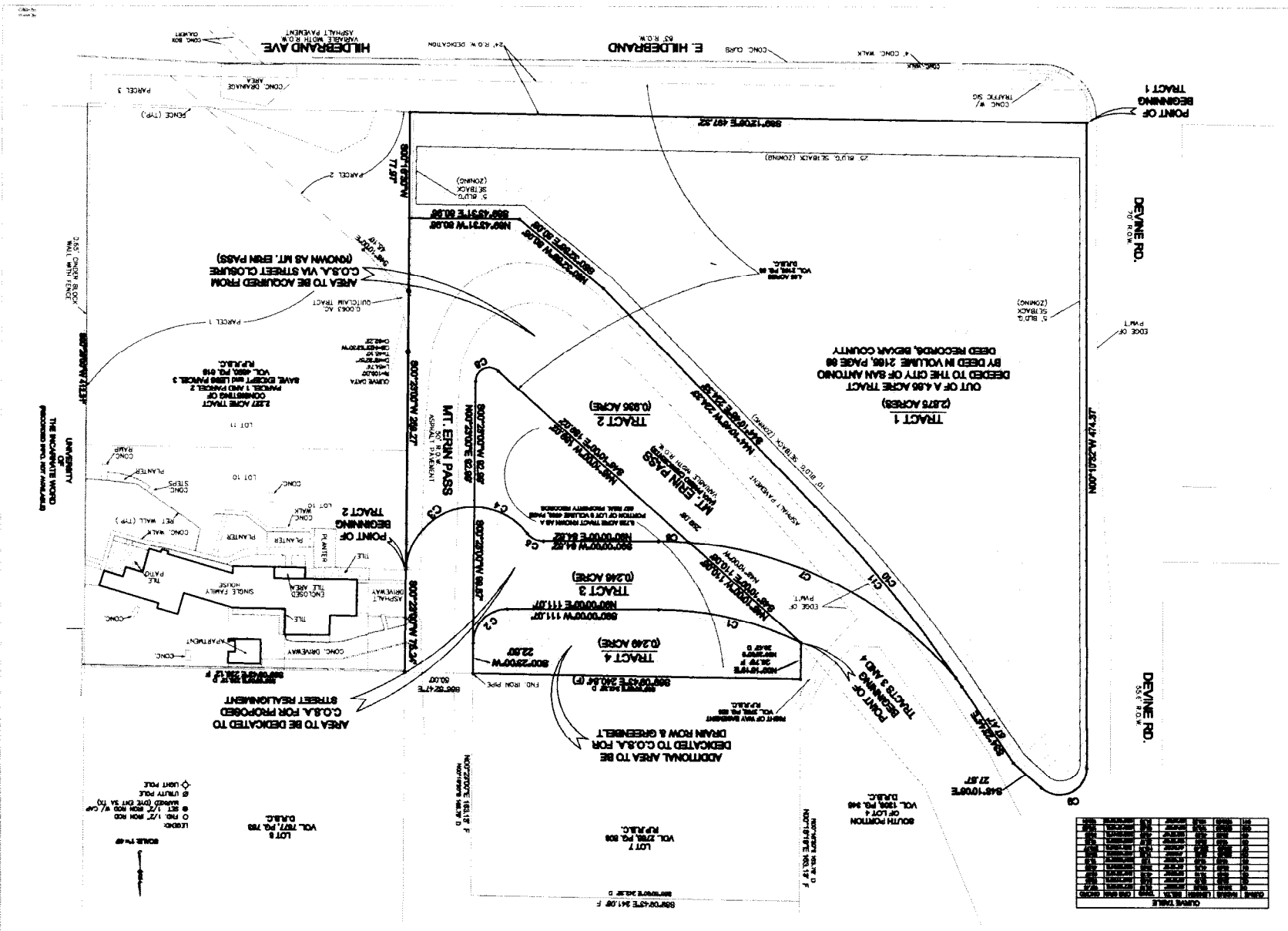
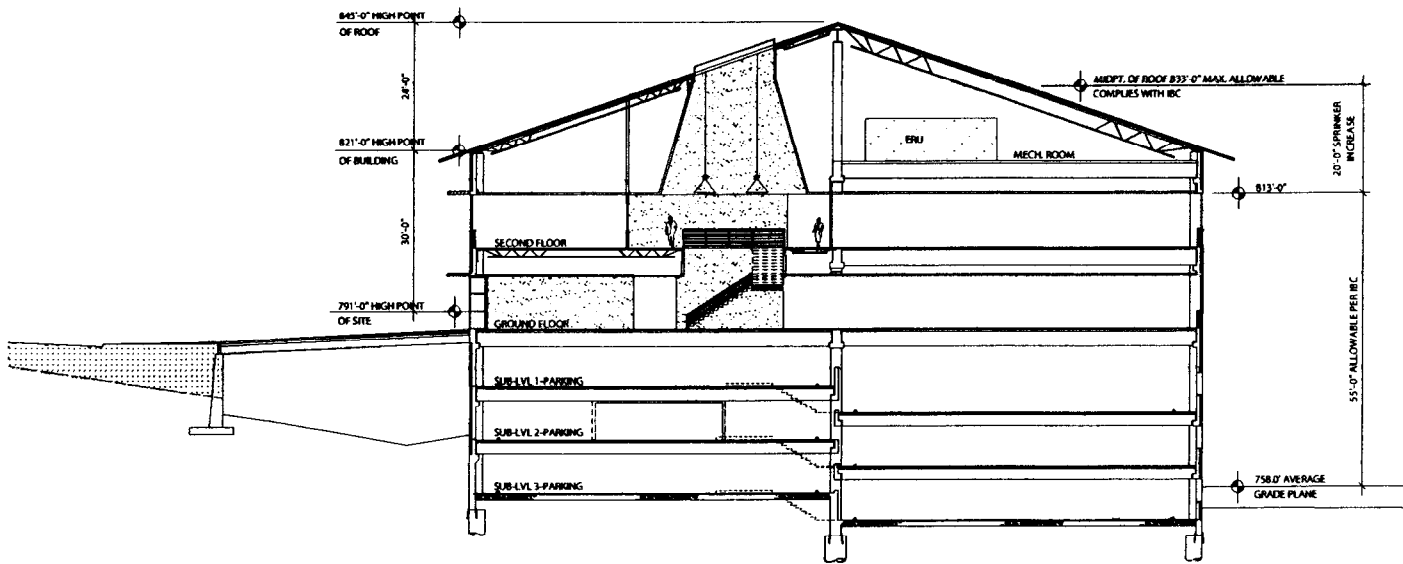


EXHIBIT "A"

**EXHIBIT "B"**





BUILDING SECTION

NEW SCHOOL OF PHARMACY AT THE  
UNIVERSITY OF THE INCARNATE WORD

5/19/2005  
SCALE 1/8"=1'-0"

MCCHESNEY ARCHITECTS  
ARCHITECTURE PLANNING INTERIOR DESIGN

EXHIBIT "C"