

CONSENT AGENDA  
14

**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:** Loop 410 at Nacogdoches Drainage Improvement

**DATE:** June 16, 2005

**SUMMARY AND RECOMMENDATIONS**

This ordinance authorizes additional funds in the amount of \$302,506, payable to Gerry Rickhoff, County Clerk, for acquisition of one temporary variable width construction easement, one variable width sanitary sewer easement and one variable width drainage easement in connection with the Loop 410 at Nacogdoches Drainage Improvement project, an authorized 2001 Certificates of Obligation project, for the defendants in Condemnation Cause No. 2004-ED-0004, City of San Antonio vs. Guaranty Center, Ltd. This project is located in Council Districts 9 and 10.

This ordinance provides for an immediate effective date, upon passage by eight (8) affirmative votes.

Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

Ordinance 97550, dated May 1, 2003, appropriated funds in the amount of \$495,000 for acquisition of one temporary construction easement, a sanitary sewer easement and a drainage easement in the Loop 410 at Nacogdoches Drainage Improvement project. At a Special Commissioners Hearing held on August 10, 2004, Don Canaday, the City's contract appraiser, presented evidence as to his opinion of the value of the property, which was appraised at \$495,000 and the Special Commissioners then established the compensation of \$647,494 for the acquisition of the three tracts of land. Funds were deposited with the Registry of the Court. Both parties filed objections to the Award.

Legal representation for both parties have met, discussed and settled this case for a total of \$950,000. The City has subsequently realized that there is a need to acquire an additional easement area of 38,164 square feet to accommodate the proposed TxDOT construction activities. As part of this settlement, Guaranty is willing to convey the additional easement areas to the City.

In lieu of incurring additional litigation costs, and in order to complete the acquisition of the needed easements for this project, it is recommended that the additional amount of \$302,506 be approved.

This project is currently under construction and scheduled to be completed in June 2007. The scope of this project includes the widening of the existing roadway to seven lanes, adding left and right turn lanes at U.S. 281 to facilitate traffic movement through the intersection of U.S. 281, and upgrades to traffic signalization. This project will also include the construction of six-foot sidewalks at the curb.

### **POLICY ANALYSIS**

The acquisition of this property is necessary to complete the real estate transaction 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 included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$302,506 are available from 2001 Certificates of Obligation and authorized payable to Gerry Rickhoff, County Clerk.

### **COORDINATION**

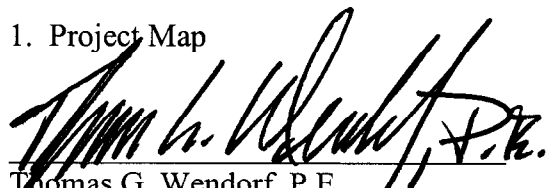
This ordinance was coordinated with the City Attorney's Office, the Finance Department, and the Office of Management and Budget.

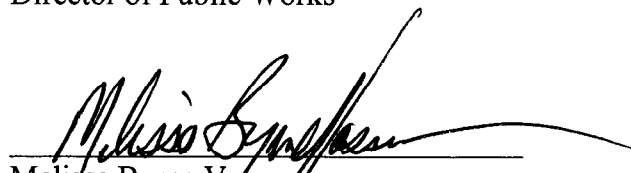
### **SUPPLEMENTARY COMMENTS**

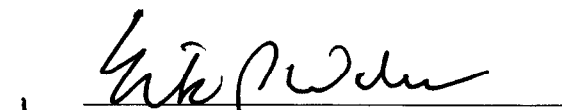
This ordinance does not require a Discretionary Contracts Disclosure Form.

### **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

**AN ORDINANCE**

**AMENDING ORDINANCE NO. 97550, PASSED AND APPROVED ON MAY 1, 2003, TO AUTHORIZE PAYMENT OF THE ADDITIONAL SUM OF \$302,506.00 TO GERRY RICKHOFF, COUNTY CLERK, FOR THE DEFENDANTS IN CONDEMNATION CAUSE NO. 2004-ED-0004, CITY OF SAN ANTONIO, VS. GUARANTY CENTER, LTD., FOR ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT, A SANITARY SEWER EASEMENT AND A DRAINAGE EASEMENT IN CONNECTION WITH THE LOOP 410 AT NACOGDOCHES DRAINAGE IMPROVEMENT PROJECT LOCATED IN COUNCIL DISTRICTS 9 AND 10; REVISING THE BUDGET; APPROPRIATING FUNDS; PROVIDING FOR PAYMENT; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE UPON PASSAGE BY EIGHT (8) VOTES.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio proceeded in Condemnation Cause No. 2004-ED-0004, City of San Antonio vs. Guaranty Center, Ltd. A Texas Limited Partnership, to acquire a temporary construction easement, a sanitary sewer easement and a drainage easement in connection with the Loop 410 at Nacogdoches Drainage Improvements Project;

**WHEREAS**, a Special Commissioners Hearing was held on August 10, 2004, awarding \$647,494; and

**WHEREAS**, the City has recently acknowledged that there is a need to acquire an additional easement area of 38,164 square feet to accommodate the proposed TxDOT construction activities; and Guaranty Center, Ltd. is willing to convey the additional easement area to the City for an additional \$302,506 in order to settle this case; and

**WHEREAS**, this ordinance amends Ordinance 97550 by appropriating the additional sum of \$302,506 to complete the acquisition of this property; and

**WHEREAS**, funds are available to acquire the necessary parcels; **NOW, THEREFORE:**

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

**SECTION 1.** Ordinance 97550, dated May 1, 2003 in the amount of \$647,494.00 is hereby amended to authorize the acquisition in the amount of \$950,000.00 for the property described as:

- a) A 0.2782 acre, or 12,120 square feet, tract of land being a variable width construction easement out of that tract conveyed to Guaranty Center Ltd., described in instrument recorded I Volume 9506, Pages 726-733 of the Official Public Records and Real Property of Bexar County, Texas, out of Lot 20, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, page 148 of the Deed and Plat Records of Bexar County, Texas (Parcel 16872E),

- b) A 0.1696 acre, or 7,385 square feet, tract of land being a variable width sanitary sewer easement out of that tract conveyed to Guaranty Center, Ltd., described in instrument recorded in Volume 9506, Pages 726-733 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 10, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, Page 148 of the Deed and Plat Records of Bexar County, Texas (Parcel 16873E),
- c) A 0.2938 acre, or 12,795 square feet, tract of land being a variable width drainage easement out of that tract conveyed to Guaranty Center, Ltd., described in instrument recorded in Volume 9506, Pages 726-733 of the Official Public Records of Real Property of Bexar County, Texas, out of Lot 10, in New City Block 11868 of the City of San Antonio in the Lindenwood Subdivision recorded in Volume 7500, Page 148 of the Deed and Plat Records of Bexar County, Texas (Parcel 16874E).

**SECTION 2.** The amount of \$302,950.00 is appropriated in SAP Fund \_\_\_\_\_, General Obligation Capital Projects, SAP Project Definition \_\_\_\_\_, in SAP WBS Element \_\_\_\_\_, entitled "Acquisition" and is authorized to be encumbered and made payable to Gerry Rickhoff, County Clerk, in connection with the Loop 410 at Nacogdoches Drainage Improvement Project.

**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the Interim City Manager or the Interim City Manager's designee, correct allocation to specific SASP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 3.** 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 ordinance, was given to all as required by the Texas Code Annotated, as amended, Title 5, Chapter 551, Government code.

**SECTION 4.** If any part, section paragraph, sentence, phrase, or word of this ordinance 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, 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 ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

**SECTION 5.** This ordinance shall become effective immediately upon passage if passed by eight or more votes otherwise this ordinance shall become effective June 16, 2005.

**PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

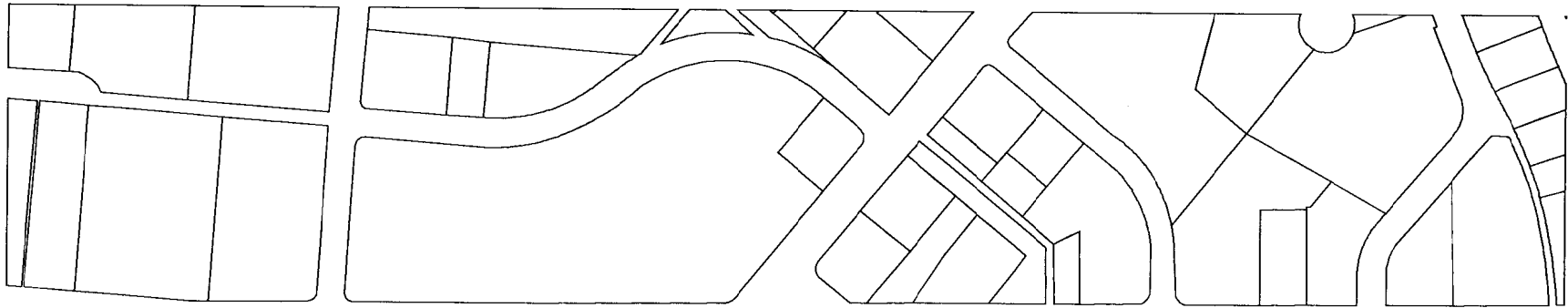
M A Y O R

**ATTEST:**

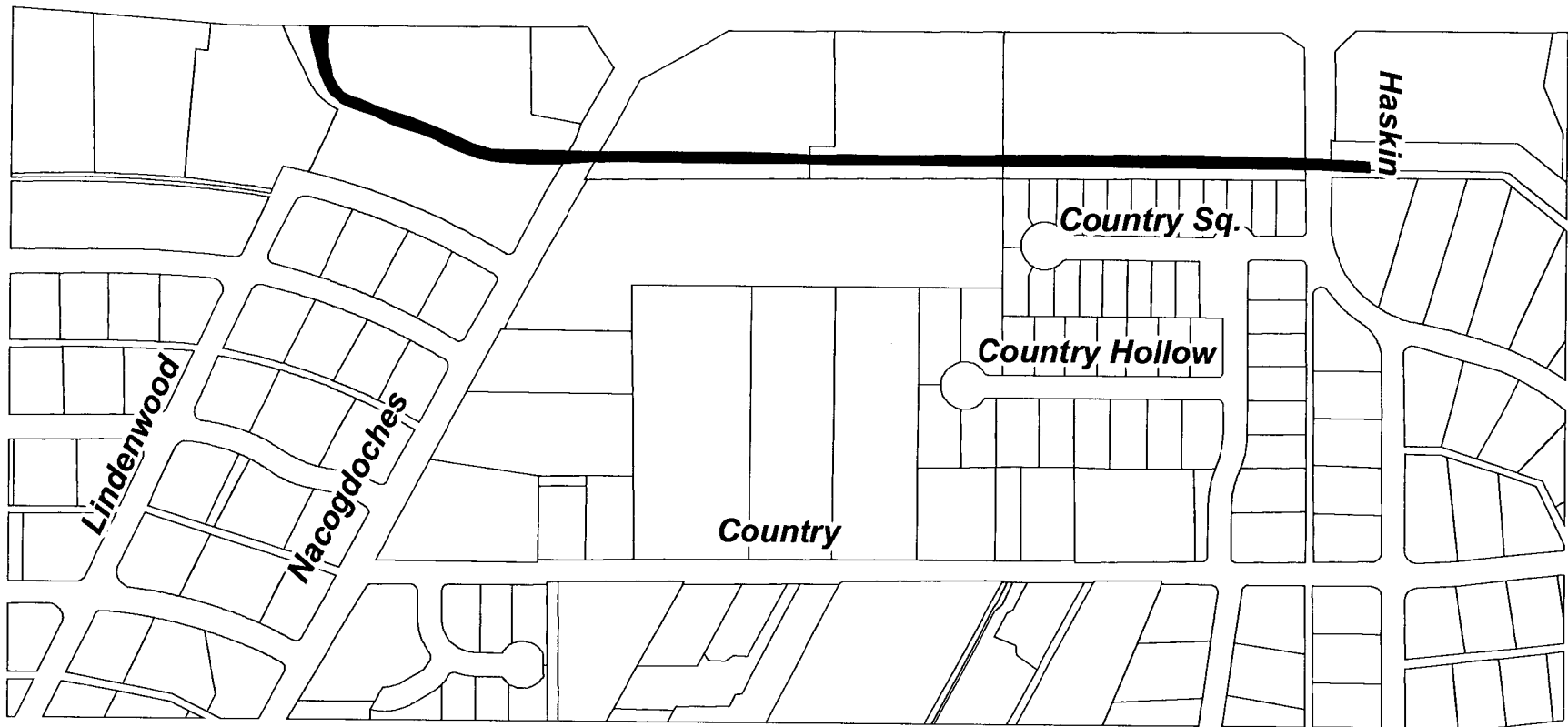
**CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**City Attorney**



## **Loop 410**



CITY OF SAN ANTONIO  
Department of Public Works  
Capital Programs Division

## **Loop 410 at Nacogdoches Drainage Improvements**

Scale: None  
07/07/04  
DEH

