

**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:** Military Ditch #65  
**DATE:** June 2, 2005

**SUMMARY AND RECOMMENDATION**

This ordinance declares a public necessity to acquire a temporary construction easement in connection with the Military Ditch #65 project, an authorized 1999-2004 General Obligation Drainage Improvement Bond and 2003 Storm Water Revenue Bond funded project, located in Council District 4, and authorizes the City Attorney to institute eminent domain proceedings for the purchase thereof.

It is necessary that the Council determine that a public necessity exists prior to the acquisition of a temporary construction easement. Project Engineering staff has indicated that this temporary construction easement must be obtained in this location.

Staff recommends the approval of this ordinance.

**BACKGROUND INFORMATION**

The City of San Antonio requires the acquisition of a temporary construction easement for the purpose of drainage improvements to the Six Mile Creek main channel. There is one temporary construction easement to acquire in this project. However, negotiations for an amenable settlement have not been successful and therefore the acquisition of the temporary construction easement has become necessary.

The scope of the project provides for drainage improvements to the Six Mile Creek main channel from the north side of Zarzamora, located at the end of the Upper Six Mile Creek project, to Wagner. Advertisement is scheduled for September 2005, with construction anticipated to begin in January 2006 and projected completion by June 2007.

**POLICY ANALYSIS**

The acquisition of this temporary construction easement is in the best interest of the public and the proposed location is the most appropriate for this project.

### **FISCAL IMPACT**

No funds are to be expended under this ordinance.

### **COORDINATION**

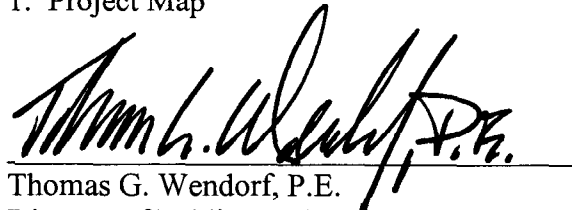
This ordinance was coordinated with the City Attorney's Office, the Finance Department, and the Office of Management and Budget.

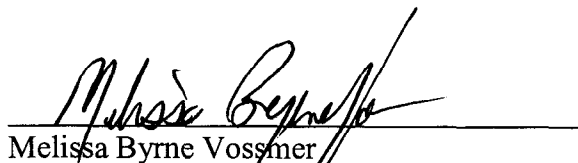
### **SUPPLEMENTARY COMMENTS**


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**

**DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT BEING DESCRIBED AS A 0.1337 ACRE (5,826 SQUARE FEET) TRACT OF LAND, OUT OF AND A PORTION OF LOT 23, NEW CITY BLOCK 9503, SAN ANTONIO, BEXAR COUNTY, TEXAS, RECORDED IN VOLUME 9559, PAGE 145 OF THE BEXAR COUNTY DEED AND PLAT RECORDS, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE, NAMELY THE IMPROVEMENT AND MAINTENANCE OF THE MILITARY DITCH #65 PROJECT, LOCATED IN COUNCIL DISTRICT 4; AND AUTHORIZING THE CITY ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS; RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS AND EMPLOYEES OF THE CITY TO ACQUIRE SUCH PROPERTY; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS OR EMINENT DOMAIN PROCEEDINGS.**

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

**SECTION 1.** A public necessity is hereby declared for the City of San Antonio to acquire a temporary construction easement for the purpose of drainage improvements to the Six Mile Creek main channel from the north side of Zarzamora to Wagner. Said parcel is generally described as follows:

Being a 0.1337 acre (5826 square feet) tract of land, out of and a portion of Lot 23, New City Block 9503, San Antonio, Bexar County, Texas, as recorded in Volume 9559, Page 145 of the Deed Records of Bexar County, Texas; said 0.1337 acres being more particularly described in Attachment I attached hereto and incorporated herein for all purposes.

**SECTION 2.** In the event that the City staff is unable to acquire the temporary construction easement by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcel for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn for the temporary construction easement. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C., the law firm of Bracewell & Giuliani, L.L.P. f/k/a Bracewell & Patterson, L.L.P., and the law firm of Oppenheimer, Blend, Harrison & Tate, Inc., as special counsel as may be needed from time to time and to pay for the services rendered from any appropriations as may be made for the purpose.

**SECTION 3.** The prior actions and efforts of City officials to negotiate the purchase of the necessary rights and the steps taken to initiate and prosecute condemnation of this temporary construction easement is hereby ratified and affirmed.

**SECTION 4.** 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 5.** 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, 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 6.** This Ordinance shall be effective on the \_\_\_\_\_ day of June, 2005.

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

**M      A      Y      O      R**

**ATTEST:**

**CITY CLERK**

**APPROVED AS TO FORM:** \_\_\_\_\_  
**City Attorney**

WAGNER AVE

OHIO ST

MALLARD ST

WABASH ST

WHITMAN AVE

W MAYFIELD

W PYRON AVE

S ZARZAMORA

SAS DR

KENDALL AVE

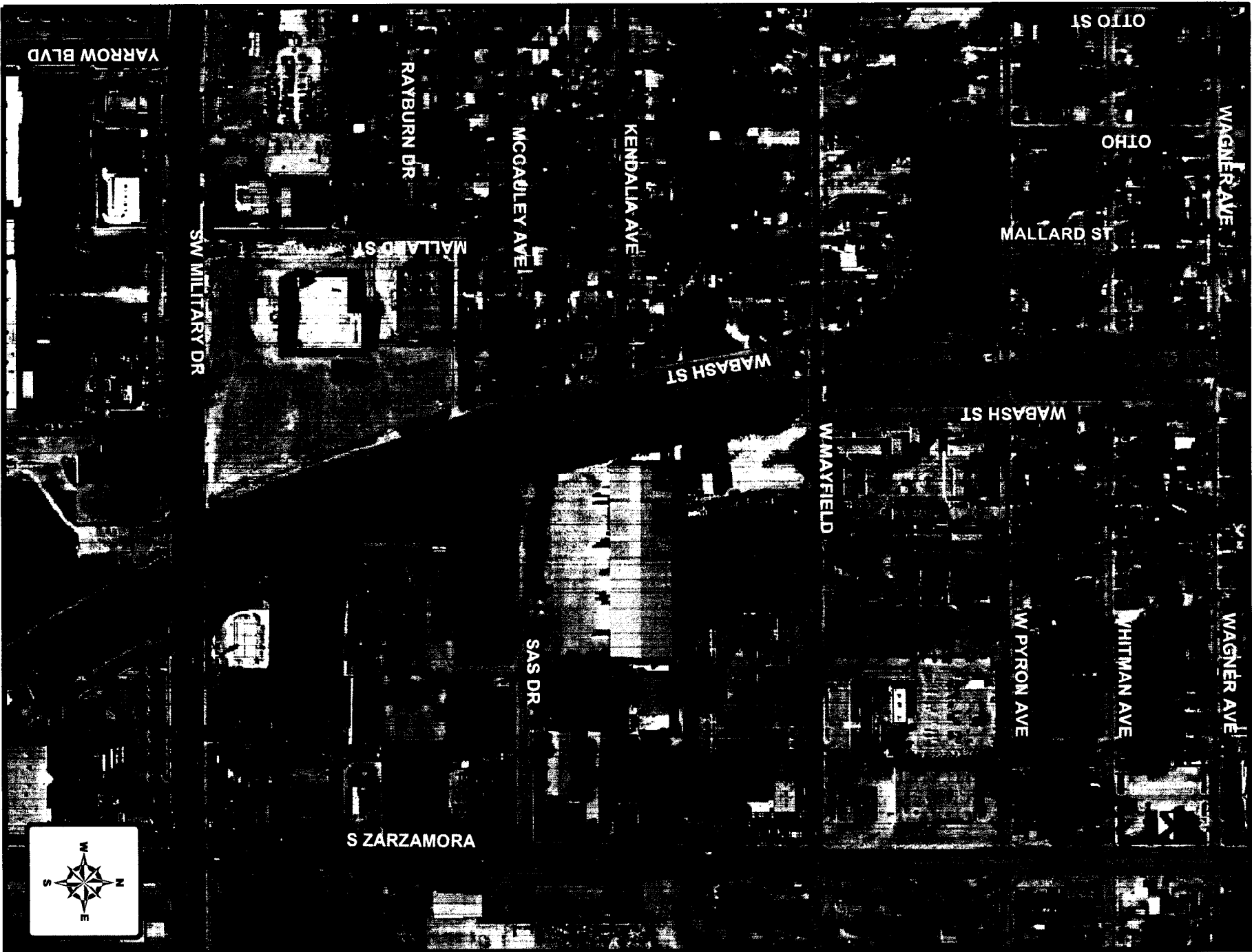
MCGAULEY AVE

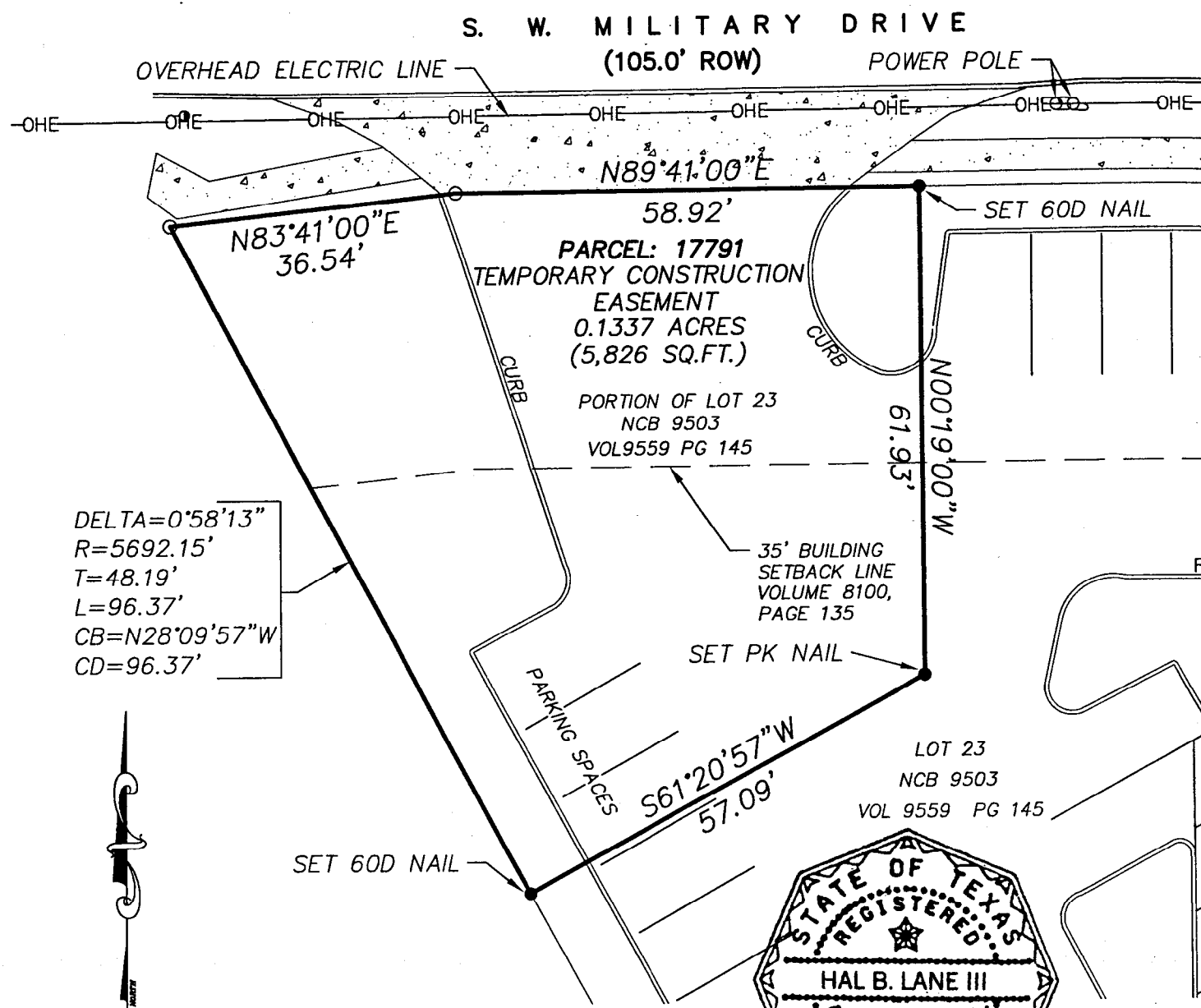
RAYBURN DR

YARROW BLVD

SW MILITARY DR

OTIO ST





SCALE: 1"=20'

- FOUND 1/2" IRON ROD  
w/ VICKREY PROP. COR. CAP

PROJECT: MILITARY DITCH #65  
PARCEL NUMBER 17791



**VICKREY & ASSOCIATES, INC.**  
CONSULTING ENGINEERS

12940 Country Parkway San Antonio, Texas 78216  
Telephone: (210)349-3271

DATE: 06-21-04

SHEET: 1 OF 1

SKETCH OF A 0.1337 ACRES  
TEMPORARY CONSTRUCTION EASEMENT  
OUT OF LOT 16, NCB 9503,  
IN THE CITY OF SAN ANTONIO  
BEXAR COUNTY, TEXAS

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