

AN ORDINANCE **2016-06-02-0394**

**FOR THE MCCULLOUGH AVENUE AREA DRAINAGE PROJECT AUTHORIZING THE ACQUISITION, THROUGH NEGOTIATION OR CONDEMNATION, OF APPROXIMATELY 0.040 ACRES FOR INTERESTS IN LAND SUFFICIENT FOR PROJECT PURPOSES IN A PORTION OF TWO PARCELS OF PRIVATELY-OWNED REAL PROPERTY LOCATED IN NCB 1002 AND 1003 IN CITY COUNCIL DISTRICT 1 AND DECLARING THE PROJECT TO BE A PUBLIC USE PROJECT FOR THE ACQUISITION AND AUTHORIZING EXPENDITURES NOT TO EXCEED \$50,000.00, PAYABLE TO THE SELECTED TITLE COMPANY, FOR LAND, RELOCATION, LITIGATION EXPENSES AND ASSOCIATED TITLE FEES.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio ("City") desires to acquire all or portions of privately owned real property as part of the McCullough Avenue Area Drainage Project; and

**WHEREAS**, it is necessary to obtain and acquire temporary construction easement interest to all, or a portion of, privately owned real property in Council District 1 as part of the Project as further described in **SECTION 2 below**; and

**WHEREAS**, the Project will provide reconstruction of roadway along Euclid Avenue from Brooklyn Avenue to Wilmington Avenue to Elmira Street, along Elmira Street to Newell Avenue and along Newell Avenue to the Newell Avenue Bridge; and

**WHEREAS**, the Project will further provide for construction of a storm sewer system that outfalls into the San Antonio River; and

**WHEREAS**, this Project is in the best interest of the health, safety and welfare of the public; and

**WHEREAS**, there is a one-time capital improvement expenditure in the amount of \$700,000.00 and available from the 2007-2012 General Obligation Bond funds; **NOW THEREFORE**,

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

**SECTION 1.** The McCullough Avenue Area Drainage Project is hereby declared to be necessary public use project.

**SECTION 2.** The City Council of the City of San Antonio finds public use exists to acquire temporary construction easement interest title in privately owned real property, by negotiation and/or condemnation, if necessary, as part of the McCullough Avenue Area Drainage Project. Said parcels of land are described as follows:

| <b>PARCEL NO.</b> | <b>LEGAL DESCRIPTION</b>   |
|-------------------|--|
| 19484TE           | 0.014 acres (629 sq. ft.) out of Lots 1 and 2, Block 9, NCB 1003   |
| 19485TE           | 0.026 acres (1,150 sq. ft.) out of Lots 5 and 6, Block 8, NCB 1002 |

The properties for the Project are more specifically shown on the Site Map attached hereto as **Exhibit A** and further described by metes and bounds in **Exhibits B and C** incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property."

**SECTION 3.** A payment not to exceed \$50,000.00 is authorized for payment through negotiation or condemnation in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 40-00327, McCullough Avenue Area Drainage, and should be encumbered and made payable to the selected title company for land, relocation, litigation expenses and associated title fees of approximately .040 acres, for interests in land sufficient for Project purposes in a portion of two parcels of privately owned real property in Council District 1 in Bexar County, Texas.

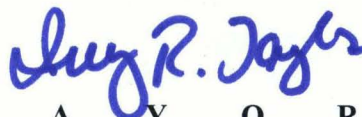
**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** The City staff is hereby directed to negotiate with the owners of the parcels for the acquisition of the property at fair market value, to execute sales agreements purchasing the property from the owners as the owners are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

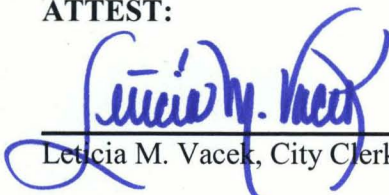
**SECTION 6.** In the event that the City negotiations fail and staff is unable to acquire the property from the property owner by negotiation or for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of any law firm selected by the City Attorney as special counsel, as may be needed from time to time, and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

**SECTION 7.** This Ordinance shall be effective immediately if it receives eight affirmative votes, otherwise, it shall be effective on the tenth day after passage.


**PASSED and APPROVED** this 2<sup>nd</sup> day of June, 2016.

  
M A Y O R  
Ivy R. Taylor

**ATTEST:**

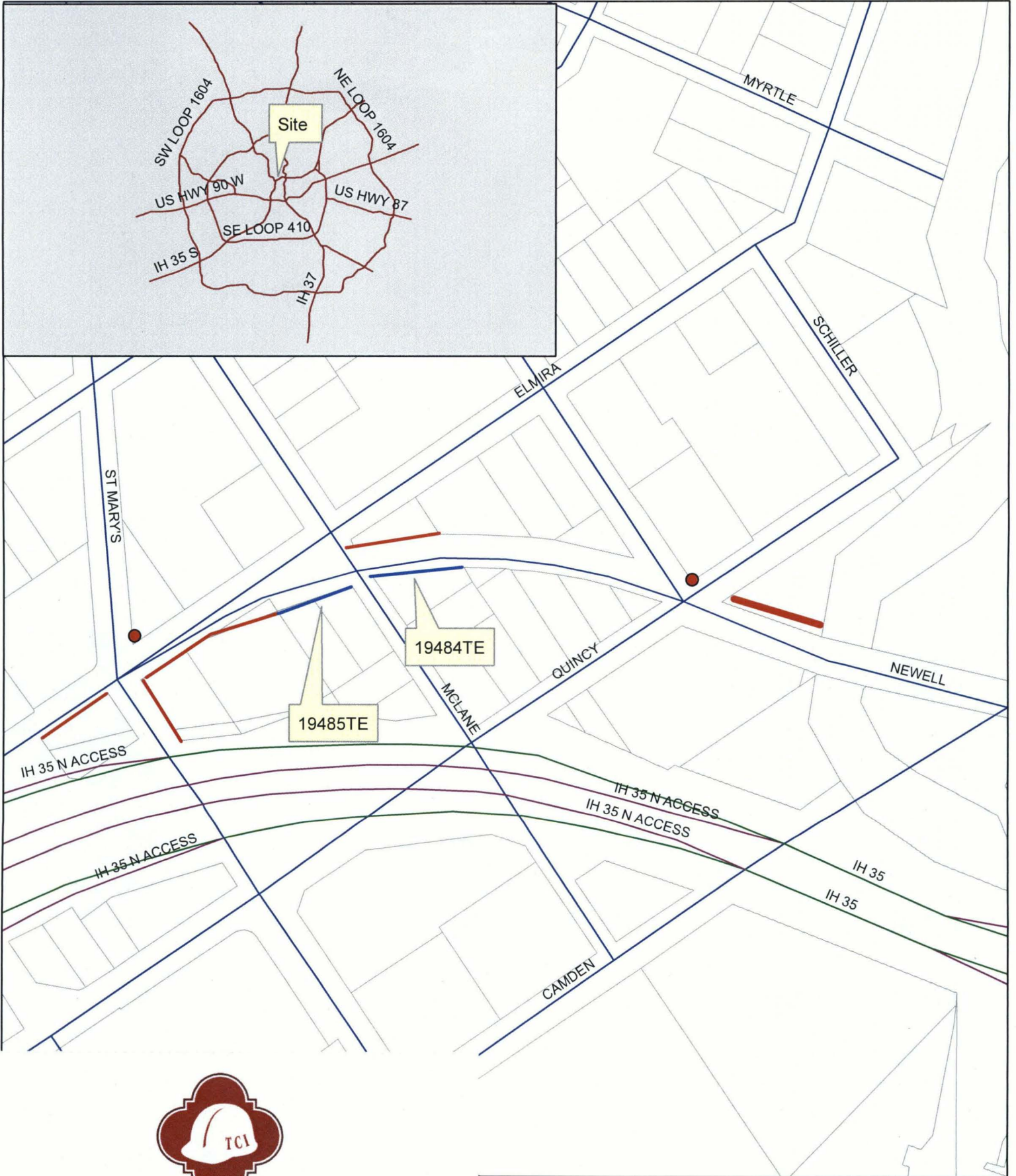
  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
for Martha G. Sepeda, Acting City Attorney

|                     |   |                    |            |            |                |               |               |
|---------------------|---|--------------------|------------|------------|----------------|---------------|---------------|
| <b>Agenda Item:</b> | 12  |                    |            |            |                |               |               |
| <b>Date:</b>        | 06/02/2016  |                    |            |            |                |               |               |
| <b>Time:</b>        | 09:46:18 AM   |                    |            |            |                |               |               |
| <b>Vote Type:</b>   | Motion to Approve   |                    |            |            |                |               |               |
| <b>Description:</b> | An Ordinance for the McCullough Avenue Area Drainage Project authorizing the acquisition, through negotiation or condemnation, of approximately 0.040 acres for interests in land sufficient for Project purposes in a portion of two parcels of privately-owned real property in NCB 1002 and 1003 and declaring the Project to be a public use project for the acquisition and authorizing expenditures not to exceed \$50,000.00, payable to the selected title company, for land, relocation, litigation expenses and associated title fees. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements] |                    |            |            |                |               |               |
| <b>Result:</b>      | Passed  |                    |            |            |                |               |               |
| <b>Voter</b>        | <b>Group</b>  | <b>Not Present</b> | <b>Yea</b> | <b>Nay</b> | <b>Abstain</b> | <b>Motion</b> | <b>Second</b> |
| Ivy R. Taylor       | Mayor   |                    | x          |            |                |               |               |
| Roberto C. Treviño  | District 1  |                    | x          |            |                | x             |               |
| Alan Warrick        | District 2  |                    | x          |            |                |               |               |
| Rebecca Viagran     | District 3  |                    | x          |            |                |               | x             |
| Rey Saldaña         | District 4  |                    | x          |            |                |               |               |
| Shirley Gonzales    | District 5  |                    | x          |            |                |               |               |
| Ray Lopez           | District 6  |                    | x          |            |                |               |               |
| Cris Medina         | District 7  | x                  |            |            |                |               |               |
| Ron Nirenberg       | District 8  |                    | x          |            |                |               |               |
| Joe Krier           | District 9  |                    | x          |            |                |               |               |
| Michael Gallagher   | District 10   |                    | x          |            |                |               |               |

# McCullough Avenue Area Drainage Project



CITY OF SAN ANTONIO  
TRANSPORTATION & CAPITAL IMPROVEMENTS

- ROW acquired
- ROW needed

## EXHIBIT "A"



6477 FM 311 | PO BOX 992  
SPRING BRANCH, TX 78070  
830.228.5788 P | 830.885.2170 F  
WWW.MSENGR.COM | TBPLS #10044200

FN NO. 14HNTB001  
DECEMBER 8, 2015

Parcel No.: 19484  
Project No.: 40-00327  
Project Name: McCullough Avenue Area Drainage  
Owner's Name: Dog Team Too Ltd.  
Page 1 of 3

**FIELD NOTES**  
**0.014 OF ONE ACRE TRACT OF LAND**  
**(629 sq. ft.)**  
**TEMPORARY CONSTRUCTION EASEMENT**

OF A 0.014 ACRE TRACT LOCATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING A PORTION OF LOTS 1 AND 2, BLOCK 9, NCB 1003 OF THE CITY OF SAN ANTONIO, SAME BEING THAT CERTAIN 0.125 ACRE TRACT OF LAND CONVEYED FROM JIM KRUG TO DOG TEAM TOO LTD. BY DEED OF RECORD IN VOLUME 11965, PAGE 1703 OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, SAID 0.014 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING**, AT A FOUND TXDOT MONUMENT AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF NEWELL STREET AND THE EASTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, BEING THE NORTHWESTERLY CORNER OF SAID 0.125 ACRE TRACT AND HEREOF;

**THENCE**, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF NEWELL STREET, THE FOLLOWING COURSES:

N 82° 05' 08" E, A DISTANCE OF 95.25 FEET TO AN ANGLE POINT;

N 88° 44' 18" E, A DISTANCE OF 30.57 FEET TO A FOUND ½ INCH IRON ROD MARKING THE NORTHEASTERLY CORNER OF SAID 0.125 ACRE TRACT AND HEREOF;

**THENCE**, S 33° 18' 59" E, LEAVING THE SOUTHERLY RIGHT-OF-WAY LINE OF NEWELL STREET, ALONG A PORTION OF THE EASTERLY LINE OF SAID 0.125 ACRE TRACT, A DISTANCE OF 5.95 FEET TO THE SOUTHEASTERLY CORNER HEREOF;

**THENCE**, INTO AND ACROSS SAID 0.125 ACRE TRACT, THE FOLLOWING COURSES:

S 88° 48' 42" W, A DISTANCE OF 33.44 FEET TO AN ANGLE POINT;

S 82° 06' 19" W, A DISTANCE OF 92.60 FEET TO A POINT IN THE EASTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, FOR THE SOUTHWESTERLY CORNER HEREOF;

**EXHIBIT "B"**

THENCE, N 33° 17' 26" W, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, A DISTANCE OF 5.50 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 0.014 ACRES (629 SQ. FT.) OF LAND, MORE OR LESS.

I, RICHARD A. GOODWIN, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

A SURVEY EXHIBIT WAS PREPARED ON THIS SAME DATE. BASIS OF BEARING IS NAD 83 TEXAS STATE PLANE COORDINATES, SOUTH CENTRAL ZONE.

SHERWOOD SURVEYING & SUE, LLC  
P.O. BOX 992  
SPRING BRANCH, TEXAS 78070  
TBPLS FIRM #10044200

Richard A. Goodwin 12/8/15  
RICHARD A. GOODWIN                      DATE  
R.P.L.S. #4069                      STATE OF TEXAS

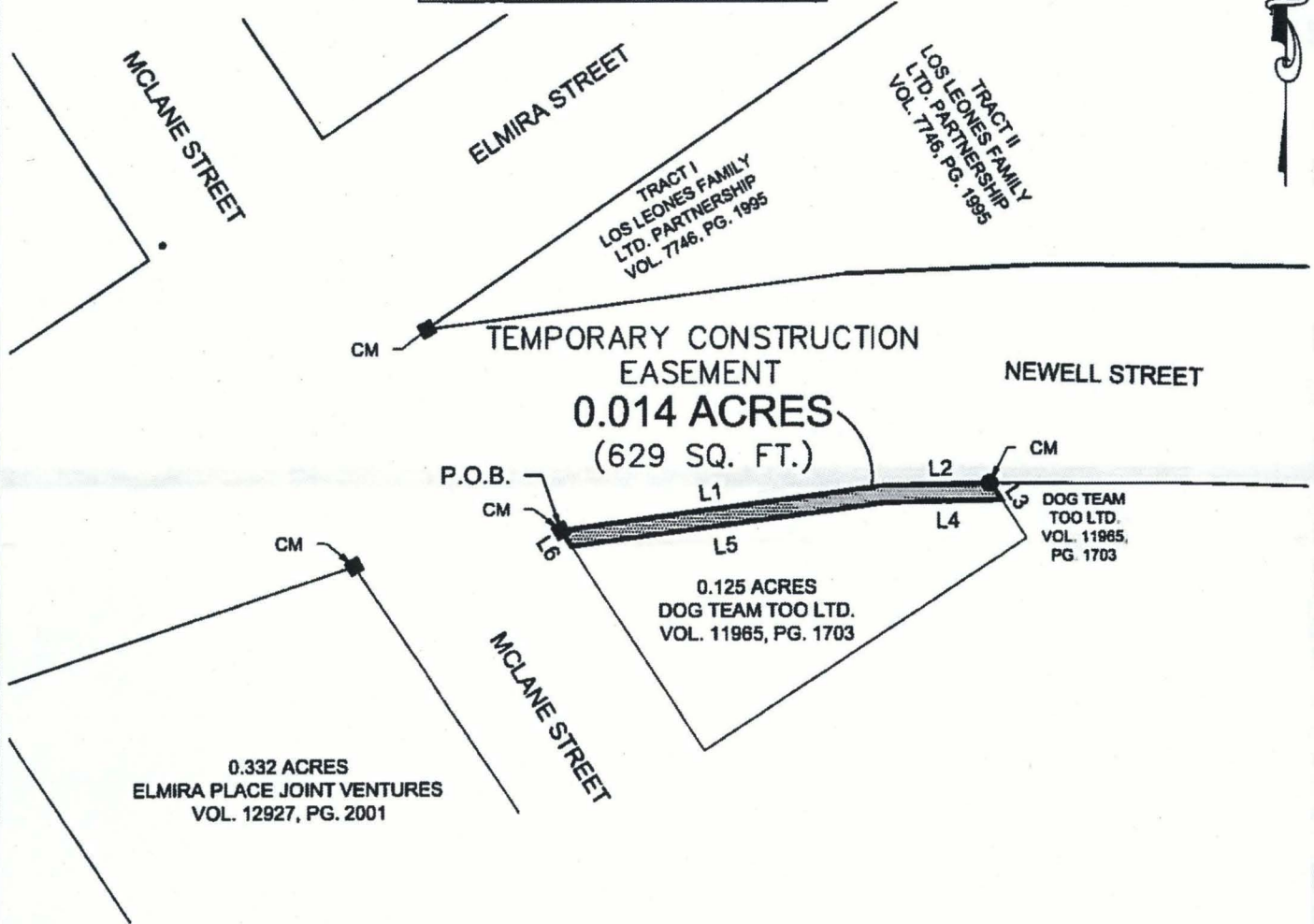


**LEGEND**

- 1/2" IRON ROD FOUND (UNLESS NOTED)
- C.M. CONTROLLING MONUMENT
- P.O.B. POINT OF BEGINNING
- MONUMENT FOUND

**LINE TABLE**

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 82°05'08" E | 95.25'   |
| L2   | N 88°44'18" E | 30.57'   |
| L3   | S 33°18'59" E | 5.95'    |
| L4   | S 88°48'42" W | 33.44'   |
| L5   | S 82°06'19" W | 92.60'   |
| L6   | N 33°17'26" W | 5.50'    |



THIS BOUNDARY SURVEY WAS COMPLETED WITHOUT ADDITIONAL RESEARCH TO DETERMINE IF OTHER MATTERS OF RECORD, IF ANY, MIGHT AFFECT THIS PROPERTY, SUCH AS EASEMENTS, SETBACKS, OR OTHER ENCUMBRANCES.

BASIS OF BEARING IS NAD83 TEXAS STATE PLANE COORDINATES, SOUTH CENTRAL ZONE WITH CONTROLLING MONUMENTS AS NOTED.

DATE OF FIELDWORK: 09-10-15



I, RICHARD A. GOODWIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, REGISTRATION NUMBER 4069, HEREBY STATE THAT DURING THE MONTH OF SEPTEMBER, 2015, A SURVEY OF THE REAL PROPERTY SHOWN HEREON WAS MADE UPON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

*Richard A. Goodwin* 12/8/15

RICHARD A. GOODWIN REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4069 DATE

DOG TEAM TOO LTD.



**SHERWOOD SURVEYING & S.U.E.**  
UTILITIES | RESIDENTIAL | COMMERCIAL | INDUSTRIAL

6477 FM 311, P.O. BOX 992  
SPRING BRANCH, TEXAS 78070  
PHONE \* (830) 228-5788 FAX \* (830) 885-2170

**EXHIBIT**

OF A 0.014 ACRE TRACT LOCATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING A PORTION OF LOTS 1 AND 2, BLOCK 9, NCB 1003 OF THE CITY OF SAN ANTONIO, SAME BEING THAT CERTAIN 0.125 ACRE TRACT OF LAND CONVEYED FROM JIM KRUG TO DOG TEAM TOO LTD. BY DEED OF RECORD IN VOLUME 11965, PAGE 1703 OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS

DATE: 12/08/15

TBPLS FIRM \*10044200

DRAWN BY: MTH

PROJECT No. 14HNTB001



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WWW.MSENGR.COM | TBPLS #10044200

FN NO. 14HNTB001  
DECEMBER 11, 2015

Parcel No.: 19485  
Project No.: 40-00327  
Project Name: McCullough Avenue Area Drainage  
Owner's Name: Elmira Place Joint Ventures  
Page 1 of 3

**FIELD NOTES**  
**0.026 OF AN ACRE TRACT OF LAND**  
**(1,150 sq. ft.)**  
**TEMPORARY CONSTRUCTION EASEMENT**

OF A 0.026 ACRE TRACT LOCATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING A PORTION OF LOTS 5 AND 6, BLOCK 8, NCB 1002 OF THE CITY OF SAN ANTONIO, SAME BEING THAT CERTAIN 0.332 ACRE TRACT OF LAND CONVEYED FROM RUDY RIVAS TO ELMIRA PLACE JOINT VENTURES BY DEED OF RECORD IN VOLUME 12927, PAGE 2001 OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, SAID 0.026 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING**, AT A FOUND TXDOT MONUMENT AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF ELMIRA STREET AND THE WESTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, BEING THE NORTHEASTERLY CORNER OF SAID 0.332 ACRE TRACT AND HEREOF;

**THENCE**, S 33° 54' 45" E, LEAVING THE SOUTHERLY RIGHT-OF-WAY LINE OF ELMIRA STREET, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, A DISTANCE OF 10.36 FEET TO THE SOUTHEASTERLY CORNER HEREOF;

**THENCE**, S 71° 24' 10" W, LEAVING THE WESTERLY RIGHT-OF-WAY LINE OF MCLANE STREET, INTO AND ACROSS SAID 0.332 ACRE TRACT, A DISTANCE OF 115.09 FEET TO A POINT IN THE COMMON BOUNDARY LINE OF SAID 0.332 ACRE TRACT AND THAT CERTAIN TRACT CONVEYED TO BILLIE MARTIN BIRDWELL AND LYNETTE BIRDWELL BY DEED OF RECORD IN VOLUME 14907, PAGE 660 OF SAID OFFICIAL PUBLIC RECORDS, FOR THE SOUTHWESTERLY CORNER HEREOF;

**THENCE**, N 33° 37' 06" W, ALONG A PORTION OF THE COMMON BOUNDARY LINE OF SAID 0.332 ACRE TRACT AND SAID BIRDWELL TRACT, A DISTANCE OF 10.35 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF ELMIRA STREET, BEING THE NORTHEASTERLY CORNER OF SAID BIRDWELL TRACT, SAME BEING THE NORTHWESTERLY CORNER OF SAID 0.332 ACRE TRACT AND HEREOF;

**EXHIBIT "C"**



THENCE, N 71° 24' 30" E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ELMIRA STREET, A DISTANCE OF 115.04 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 0.026 ACRES (1,150 SQ. FT.) OF LAND, MORE OR LESS.

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P.O. BOX 992  
SPRING BRANCH, TEXAS 78070  
TBPLS FIRM #10044200

*R.A. Goodwin* 12/11/15  
RICHARD A. GOODWIN                      DATE  
R.P.L.S. #4069                      STATE OF TEXAS

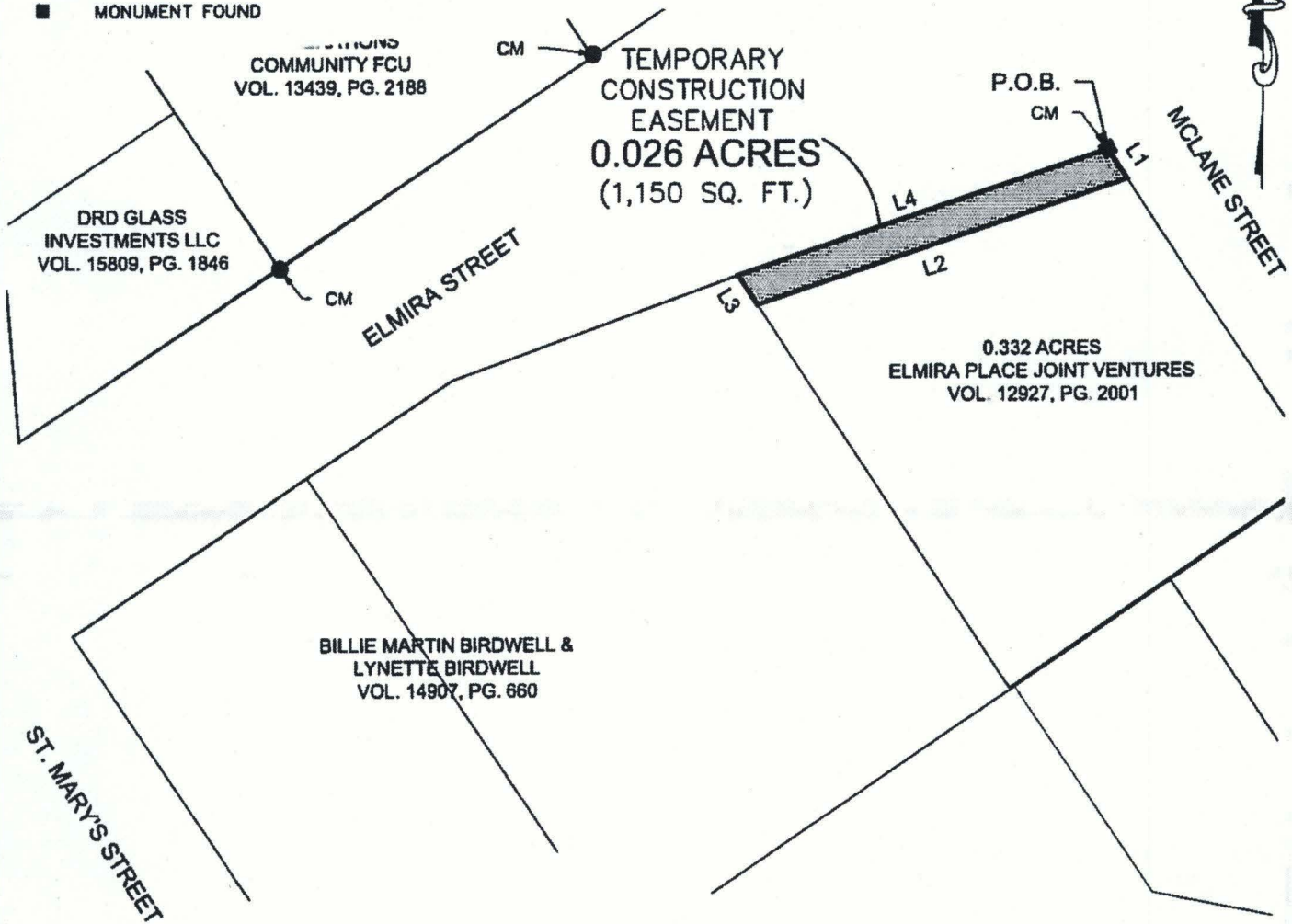
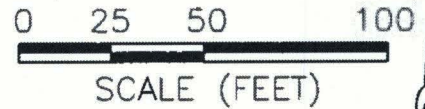


**LEGEND**

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- C.M. CONTROLLING MONUMENT
- P.O.B. POINT OF BEGINNING
- MONUMENT FOUND

**LINE TABLE**

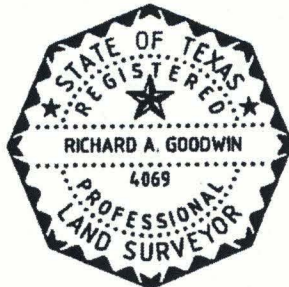
| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | S 33°54'45" E | 10.36'   |
| L2   | S 71°24'10" W | 115.09'  |
| L3   | N 33°37'06" W | 10.35'   |
| L4   | N 71°24'30" E | 115.04'  |



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RICHARD A. GOODWIN  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 4069

*Richard A. Goodwin* 12/11/15

DATE

ELMIRA PLACE  
JOINT  
VENTURES



**SHERWOOD  
SURVEYING & S.U.E.**  
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