

AN ORDINANCE 2006-01-05-15

DECLARING THE MARNEY PLAZA OUTFALL PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE AND/OR EASEMENT TO CERTAIN PRIVATELY OWNED REAL PROPERTY BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR A PUBLIC PURPOSE AS PUBLIC IMPROVEMENTS AS PART OF THE PROJECT; THE PROPERTIES BEING DESCRIBED AS: COSA PARCEL 17901, 0.012 ACRES OUT OF LOT 26, BLOCK 58, NEW CITY BLOCK, 8958, PLEASANTON PARK ADDITION, 5TH FILING SUBDIVISION; AND (2) COSA PARCEL 17901A-TE2; 0.032 ACRES OUT OF LOT 26, BLOCK 58, NEW CITY BLOCK 8958, PLEASANTON PARK ADDITION, 5TH FILING SUBDIVISION, ALL IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$12,000.00 FROM 2003-2007 GENERAL OBLIGATION DRAINAGE IMPROVEMENT BONDS FOR THE ACQUISITION AND OTHER MISCELLANEOUS ASSOCIATED EXPENSES SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE CITY STAFF TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY ON THE APPROVED TERMS; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; AUTHORIZING THE ENGAGEMENT OF SPECIAL COUNSEL AS NECESSARY TO ACQUIRE THE PROPERTY.

WHEREAS, the Marney Plaza Outfall Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is further necessary to acquire the fee simple title and/or easement interest in two parcels of land (the "Property") for use as part of the Project and the Property is described in Section 3 below, and more fully in **Attachment I** attached hereto and incorporated herein for all purposes; and

WHEREAS, in order to proceed with the acquisition of the Property, it is also deemed necessary and appropriate to establish just compensation for the Property; and

WHEREAS, independent appraisals for the Property have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

WHEREAS, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees shall be paid as necessary expenses for the completion of the Project; and

WHEREAS, funds are available to acquire the Property (fee simple, easements, or interests as needed) and pay the necessary expenses for this project; **NOW THEREFORE**,

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

SECTION 1. The Marney Plaza Outfall Project is hereby declared to be a necessary public project.

SECTION 2. The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) to the Property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Marney Plaza Outfall Project in San Antonio, Bexar County, Texas.

SECTION 3. The Property specifically described in **Attachment I** incorporated herein for all purposes may be acquired by negotiation and purchase, or condemnation, if necessary.

SECTION 4. The approved, authorized and appropriated compensation for the Property is shown in **Attachment II**, attached hereto and incorporated herein for all purposes.

SECTION 5. The following financial adjustments are hereby authorized to affect this Ordinance:

- (a) The amount of \$12,000.00 is appropriated in fund 45802000, 2003 Drainage Bonds, WBS GO-00045-01-01-35, GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00156-90-04. The amount of \$12,000.00 is authorized to be transferred to fund 45099000.
- (b) The budget in fund 45099000, Project Definition 23-00156, Marney Plaza Outfall Project, shall be revised by increasing WBS element 23-00156-90-04, entitled TRF FR WBS GO-00045-01-01-035, GL account 6101100 – Interfund Transfer In, by the amount of \$12,000.00.
- (c) The amount of \$ 2,150.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 23-00156, Marney Plaza Outfall Project, WBS element 23-00156-03-02-04 is authorized to be encumbered and made payable for Right of Way Acquisition.

- (d) The amount of \$ 2,000.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 23-00156, Marney Plaza Outfall Project, WBS element 23-00156-03-02-03 is authorized to be encumbered and made payable for Right of Way Legal.
- (e) The amount of \$ 2,000.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 23-00156, Marney Plaza Outfall Project, WBS element 23-00156-03-02-02 is authorized to be encumbered and made payable for Right of Way Appraisals.
- (f) The amount of \$ 650.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 23-00156, Marney Plaza Outfall Project, WBS element 23-00156-03-02-01 is authorized to be encumbered and made payable for Title (Fees).
- (g) The amount of \$ 5,200.00 is appropriated in Fund 45099000, General Obligation Capital Projects, Project Definition 23-00156, Marney Plaza Outfall Project, WBS element 23-00156-03-02-05 is authorized to be encumbered and made payable for Land Acquisition Costs.

SECTION 6. The City staff is hereby directed to negotiate with the owner(s) of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the Property from the owners as the owner's 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 the Property from whomever holds legal and/or 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 7. In the event that the City staff is unable to acquire one or more parcels of the Property 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 parcels 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 the law firm: of Davidson & Troilo, P.C., Bracewell & Giuliani, L.L.P., and/or 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 the appropriations set aside herein or such other appropriations as may be made for the purpose.

SECTION 8. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures. Staff is further authorized to conduct all administrative and documentary actions necessary to accomplish the purchase of the Property in the manner set forth herein.

SECTION 9. The financial allocations in this Ordinance are subject to approval by the Director of San Antonio, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP 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 10. This Ordinance shall be effective immediately if it receives eight affirmative votes; otherwise it shall be effective on the 15th day of January, 2006.

PASSED AND APPROVED this the 5th day of January, 2006.



M A Y O R

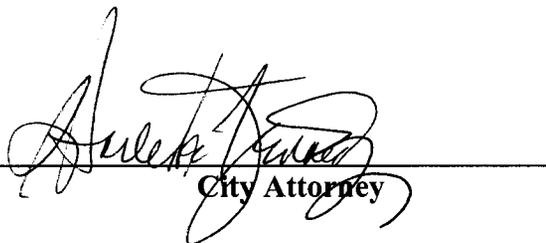
PHIL HARDBERGER

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



City Attorney



CIVIL ENGINEERING CONSULTANTS
DON DURDEN, INC.

11550 IH 10 West, Suite 395
San Antonio, TX 78230-1037
T: 210-641-9999 F: 210-641-6440

Job No.: S0255000
January 20, 2005
Parcel No. 17901

DESCRIPTION OF A 5' WIDE STRIP OF LAND

Being a 5.00 foot wide strip of land in New City Block (N.C.B.) 8958, San Antonio, Bexar County, Texas, being out of Lot 26, Block 58, Roy D. Spears Corporation Plat, recorded in Volume 5502, Page 26, Deed and Plat Records, Bexar County, Texas, and more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" rebar with a "CEC" plastic cap set on the existing easterly right-of-way line of Marney Plaza, (R.O.W. ~ 60 feet), at the southwest end of a curve return from the southerly right-of-way line of Southcross Boulevard, (R.O.W. ~ 80', a northwesterly corner of said Lot 26, and this strip;

THENCE, curving to the right, coincident with said curve return, with a radius of 25.00 feet, a central angle of $36^{\circ}52'12''$, an arc length of 16.09 feet, a chord bearing of North $17^{\circ}44'41''$ East, and a chord distance of 15.81 feet, to a 1/2" rebar with a "CEC" plastic cap set, at the end of this curve, and the north end of a Control of Access Line, the most northerly corner of this strip;

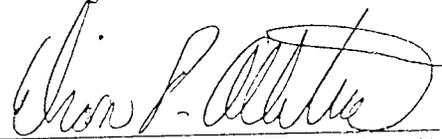
THENCE, South $00^{\circ}41'25''$ East, departing said right-of-way line, crossing Lot 26, coincident with said Control of Access Line, a distance of 112.42 feet, to an x made in concrete on the common line of Lot 26 and the remaining portion of Lot 25, Block 58, Pleasanton Park Addition, 5TH Filing, recorded in Volume 4960, Page 168, Deed and Plat Records, Bexar County, Texas, at the southerly end of said Control of Access Line, the southeasterly corner of this strip;

THENCE, South $89^{\circ}18'35''$ West, coincident with said common line, a distance of 5.00 feet, to a 1/2" rebar with a "CEC" plastic cap set, at the common corner of Lot 26 and said remainder of Lot 25, on the aforementioned easterly right-of-way line of Marney Plaza, the southwesterly corner of this strip;

Job No.: S0255000
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THENCE, North 00°41'25" West, coincident with said easterly right-of-way line, a distance of 97.42 feet to the **POINT OF BEGINNING** and containing 0.012 of one acre (538 square feet) of land, more or less.

The basis of bearing recited herein is the Texas State Plane Coordinate System, South Central Zone, NAD '83. This description was prepared from a survey made on the ground by employees of Civil Engineering Consultants. There is a plat of a survey with like job number.



Dion P. Albertson, RPLS # 4963

LINE TABLE		
LINE	LENGTH	BEARING
L1	112.42'	S00°41'25"E
L2	5.00'	S89°18'35"W
L3	97.42'	N00°41'25"W
L4	121.11'	S00°41'25"E
L5	12.00'	S89°18'35"W



(IN FEET)
1 inch = 60 ft.

LEGEND:

- WATER VALVE
- WATER METER
- SIGN
- POWER POLE
- GUY WIRE ANCHOR
- STORM DRAIN MANHOLE
- LUMINAIRE STANDARD
- D.P.R. DENOTES DEED AND PLAT RECORDS, BEXAR COUNTY, TEXAS
- DENOTES A CONTROL OF ACCESS LINE

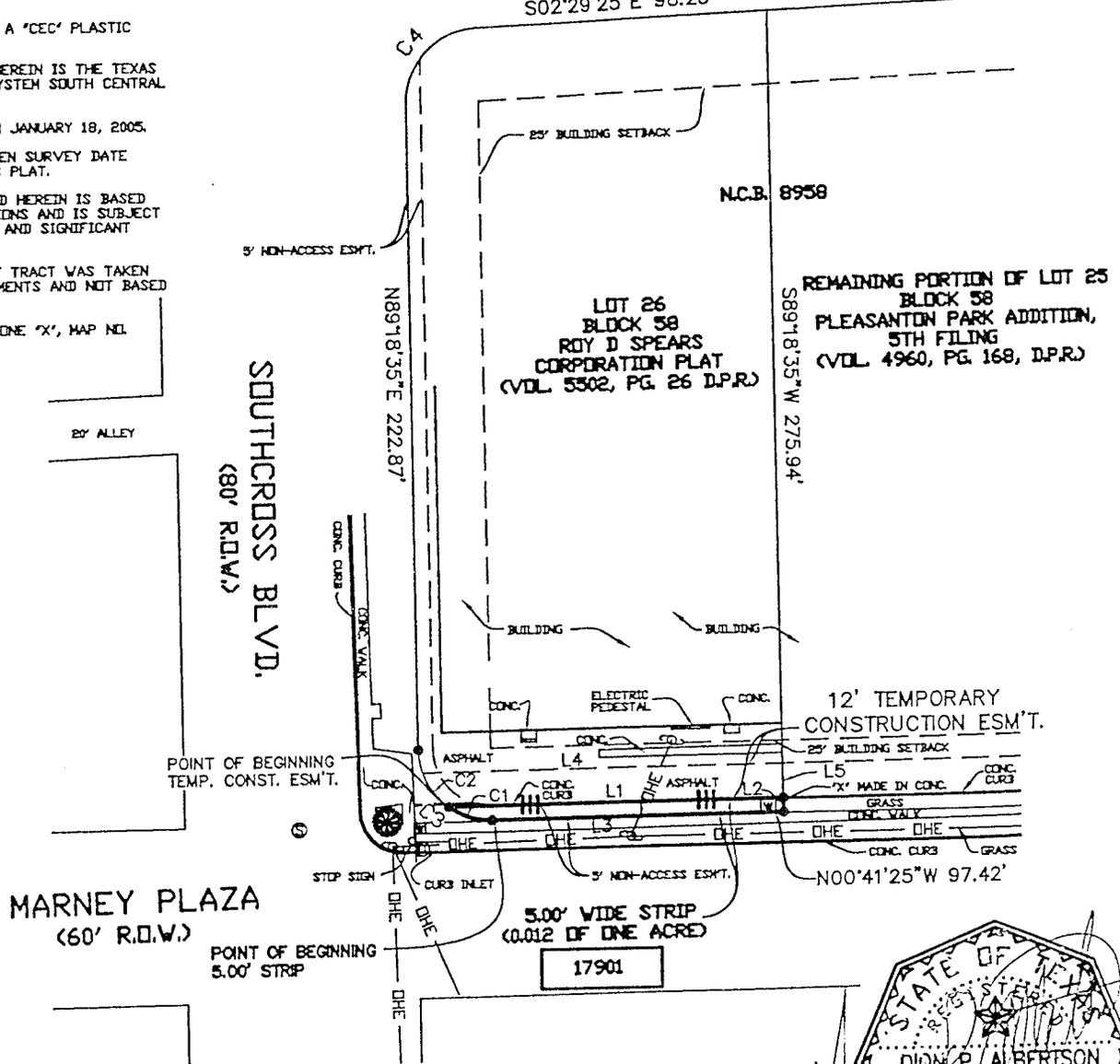
CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	16.09'	25.00'	36°52'12"	15.81'	N17°44'41"E
C2	15.04'	25.00'	34°28'01"	14.80'	N53°24'48"E
C3	39.27'	25.00'	90°00'00"	35.36'	N44°18'35"E
C4	38.48'	25.00'	88°22'00"	34.80'	S46°35'25"E

NOTES

- MONUMENTATION AS SHOWN
 - DENOTES A 1/2" REBAR WITH A 'CEC' PLASTIC CAP SET.
- BASIS OF BEARING RECITED HEREIN IS THE TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
- FIELD SURVEY COMPLETED ON JANUARY 18, 2005.
- A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH ACCOMPANIES THIS PLAT.
- THE SQUARE FOOTAGE RECITED HEREIN IS BASED ON MATHEMATICAL CALCULATIONS AND IS SUBJECT TO THE RULES OF ROUNDING AND SIGNIFICANT NUMBERS.
- THE ACREAGE OF THE PARENT TRACT WAS TAKEN FROM THE RECORDED INSTRUMENTS AND NOT BASED ON FIELD DIMENSIONS.
- PARCEL LOCATED IN FLOOD ZONE 'X', MAP NO. 48029C0607 E.

PLEASANTON ROAD
(90' R.O.W.)

S02°29'25"E 98.25'



N.C.B. 8958

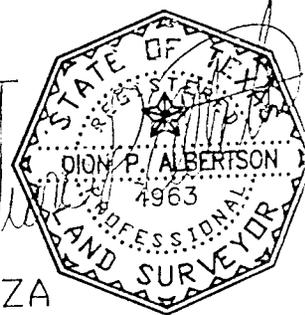
REMAINING PORTION OF LOT 25
BLOCK 58
PLEASANTON PARK ADDITION,
5TH FILING
(VOL. 4960, PG. 168, D.P.R.)

MARNEY PLAZA
(60' R.O.W.)

5.00' WIDE STRIP
(0.012 OF ONE ACRE)

17901

0.764 OF ONE ACRE
(33,287 sq. ft.)
ACQUISITION: 0.012 OF ONE ACRE
(538 sq. ft.)
REMAINDER: 0.752 ACRES
(32,749 sq. ft.)



PROJECT: MARNEY PLAZA

PLAT OF A SURVEY OF
PARCEL NO. 17901

FEE SIMPLE

SHEET	1 OF 1
DRAWN BY:	DD
DATE:	01/20/2005
JOB NO.	E0255000



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T: 210-641-9999 F: 210-641-6440

Job No.: S0255000
January 20, 2005
Parcel No. 17901A-TE2

DESCRIPTION OF A 12' WIDE TEMPORARY CONSTRUCTION EASEMENT

Being a 12.00 foot wide temporary construction easement in New City Block (N.C.B.) 8958, San Antonio, Bexar County, Texas, being out of Lot 26, Block 58, Roy D. Spears Corporation Plat, recorded in Volume 5502, Page 26, Deed and Plat Records, Bexar County, Texas, and more particularly described by metes and bounds as follows:

COMMENCING at a 1/2" rebar with a "CEC" plastic cap set on the existing easterly right-of-way line of Marney Plaza, (R.O.W. ~ 60 feet), at the southwest end of a curve return from the southerly right-of-way line of Southcross Boulevard, (R.O.W. ~ 80'), **THENCE**, curving to the right, coincident with said curve return, with a radius of 25.00 feet, a central angle of 36°52'12", an arc length of 16.09 feet, a chord bearing of North 17°44'41" East, and a chord distance of 15.81 feet, to a 1/2" rebar with a "CEC" plastic cap set, at the north end of a Control of Access Line, the northwesterly corner and **POINT OF BEGINNING** of this strip;

THENCE, curving to the right, continuing coincident with said curve return, with a radius of 25.00 feet, a central angle of 34°28'01", an arc length of 15.04 feet, a chord bearing of North 53°24'48" East, and a chord distance of 14.80 feet, to a point, at the end of this curve, the most northerly corner of this strip;

THENCE, South 00°41'25" East, departing said right-of-way line, crossing said Lot 26, a distance of 121.11 feet to a point, on the common line of Lot 26 and the remaining portion of Lot 25, Block 58, Pleasanton Park Addition, 5TH Filing, recorded in Volume 4960, Page 168, Deed and Plat Records, Bexar County, Texas, the southeasterly corner of this strip;

THENCE, South 89°18'35" West, coincident with said common line, a distance of 12.00 feet, to an X made in concrete, at the south end of the aforementioned Control of Access Line, the southwest corner this strip, from which a 1/2" rebar with a "CEC" plastic cap set at the common corner of Lot 26 and said remaining portion bears, South 89°18'35" West, a distance of 5.00 feet;

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(IN FEET)
1 Inch = 60 ft.

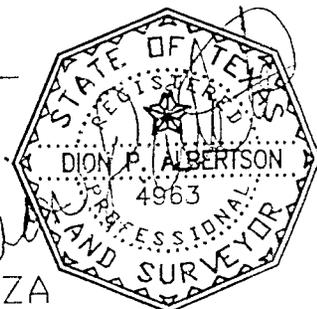
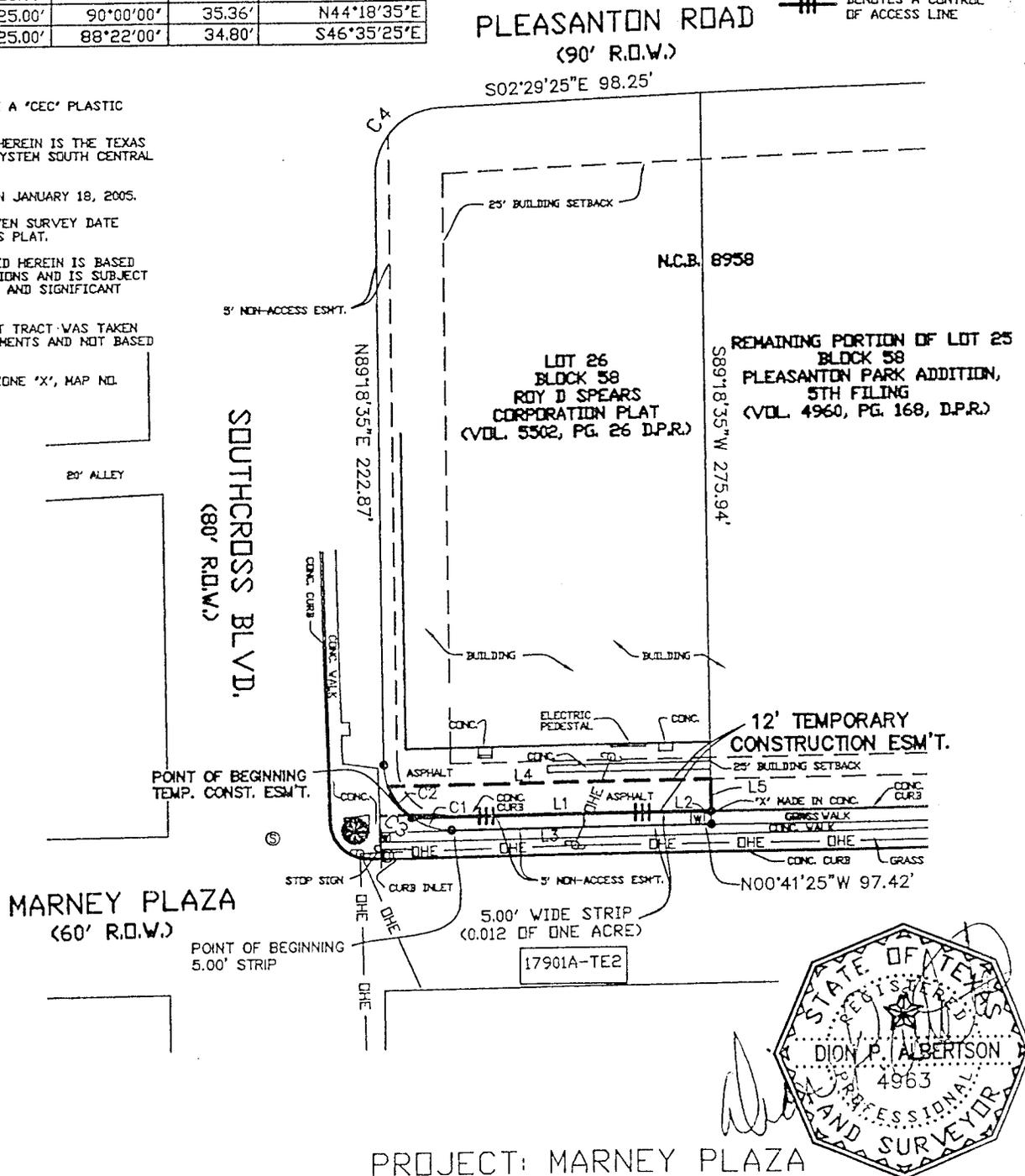
LEGEND:

- WATER VALVE
- WATER METER
- SIGN
- POWER POLE
- GUY WIRE ANCHOR
- STORM DRAIN MANHOLE
- LUMINAIRE STANDARD
- D.P.R. DENOTES DEED AND PLAT RECORDS, BEXAR COUNTY, TEXAS
- DENOTES A CONTROL OF ACCESS LINE

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NOTES

1. MONUMENTATION AS SHOWN.
 - DENOTES A 1/2" REBAR WITH A 'CEC' PLASTIC CAP SET.
2. BASIS OF BEARING RECITED HEREIN IS THE TEXAS STATE PLANE COORDINATE SYSTEM SOUTH CENTRAL ZONE, NAD 83.
3. FIELD SURVEY COMPLETED ON JANUARY 18, 2005.
4. A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH ACCOMPANIES THIS PLAT.
5. THE SQUARE FOOTAGE RECITED HEREIN IS BASED ON MATHEMATICAL CALCULATIONS AND IS SUBJECT TO THE RULES OF ROUNDING AND SIGNIFICANT NUMBERS.
6. THE ACREAGE OF THE PARENT TRACT WAS TAKEN FROM THE RECORDED INSTRUMENTS AND NOT BASED ON FIELD DIMENSIONS.
7. PARCEL LOCATED IN FLOOD ZONE 'X', MAP NO. 46029C0607 E.



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Email: cec@cectexas.com

PLAT OF A SURVEY OF
TEMPORARY CONSTRUCTION
EASEMENT FOR
PARCEL NO. 17901A-TE2

SHEET	1 OF 1
DRAWN BY:	DD
DATE:	01/20/2005
JOB NO.	E0255000

ATTACHMENT II

MARNEY PLAZA OUTFALL PROJECT

PARCEL NO.	LEGAL	VALUE
17901	Being a 5.00 foot wide strip of land in New City Block 8958, San Antonio, Texas, being out of Lot 26, Block 58, Roy D. Spears Corporation Plat, recorded in Volume 5502, Page 26, Deed and Plat Records, Bexar County, Texas	\$1,350
17901A-TE-2	Being a 12.00 foot wide temporary construction easement in New City Block 8958, San Antonio, Bexar County, Texas, being out of Lot 26, Block 58, Roy D. Spears Corporation Plat, recorded in Volume 5502, Page 26, Deed and Plat Records, Bexar County, Texas	\$800