AZJ
12/11/2014
Item No. 18

AN ORDINANCE 2014-12-11-1015

AUTHORIZING FOUR JOINT USE AGREEMENTS WITH THE SAN ANTONIO WATER SYSTEM FOR THE USE 0.171 ACRE DRAINAGE RIGHT-OF-WAY WITHING THE HEATHERWOOD SUBDIVISION, 0.481 ACRE DRAINAGE RIGHT-OF-WAY WITHING THE HEATHERWOOD SUBDIVISION, 1.209 ACRE DRAINAGE RIGHT-OF-WAY WITHIN THE WOODSTONE SUBDIVISION, AND 0.378 ACRE DRAINAGE RIGHT-OF-WAY WITHIN THE RAINTREE SUBDIVISION IN COUNCIL DISTRICT 10 FOR A TOTAL FEE OF $3,720.00.

* * * * *

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

SECTION 1. The City Manager and her designee, severally, are authorized and directed to grant indefinite-term joint use agreements on City property, as shown on **Attachment I** in Council District 10, for a fee of $3,720.00. In furtherance of the preceding, the City Council authorizes and directs the City Manager or her designee, severally, to execute and deliver on behalf of the City Joint Use Agreements substantially in the forms attached as **Attachment II**, which are incorporated into this ordinance by reference for all purposes as if fully set forth. The City Manager and her designee, severally, should take all other actions reasonably necessary or convenient to effectuate the transaction, including agreeing to nonmaterial changes to its terms and executing and delivering ancillary documents conducive to effectuating the transaction.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 256000000002 and General Ledger 4202410.

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 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 4. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this **11th** day of **December, 2014**.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

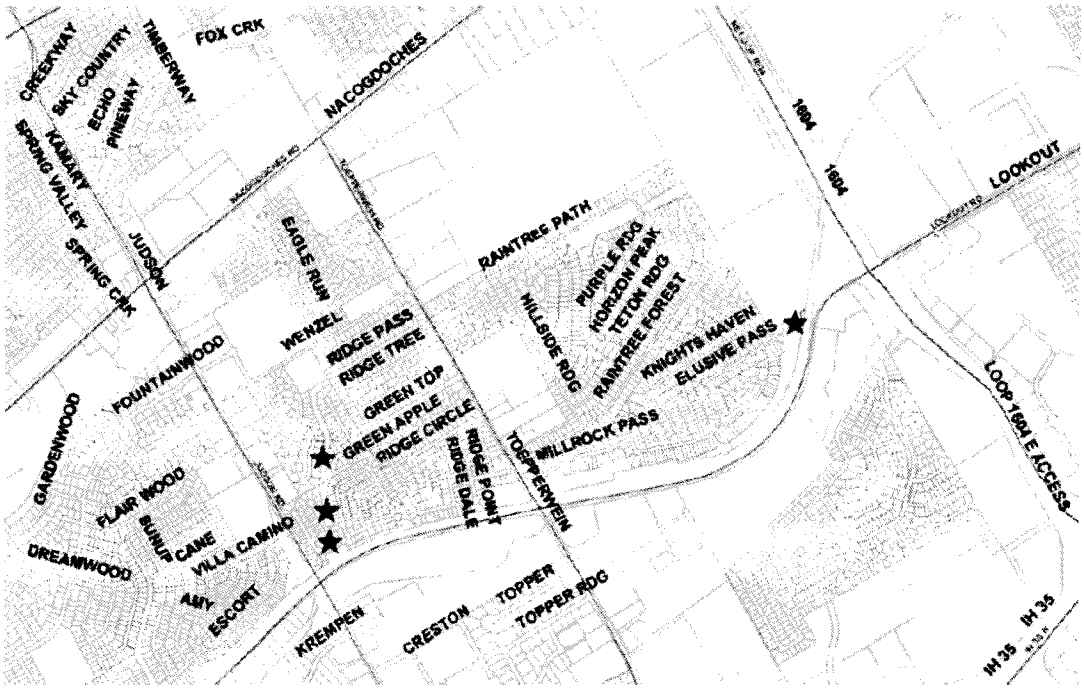
APPROVED AS TO FORM:

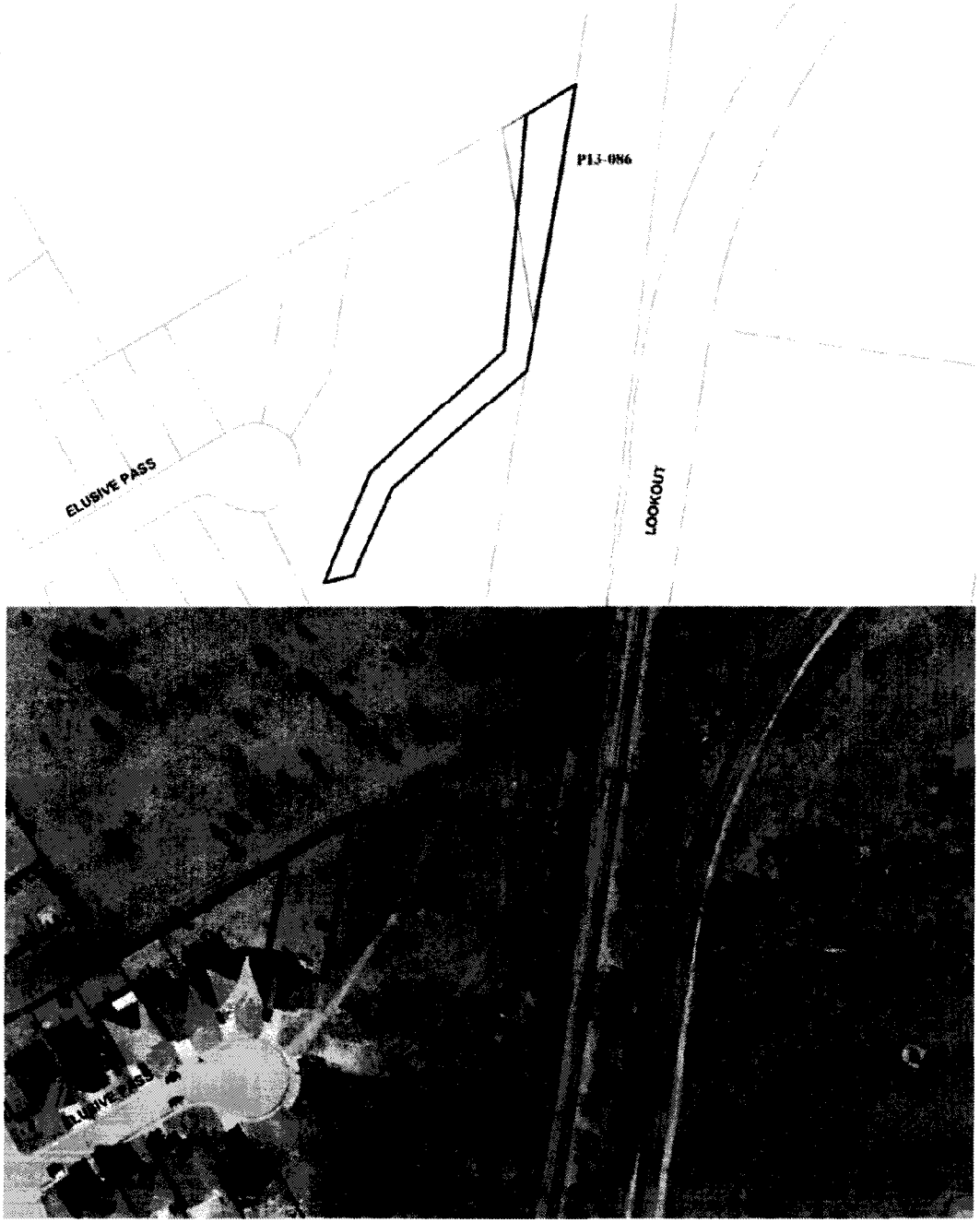
Martha G. Sepeda, Acting City Attorney

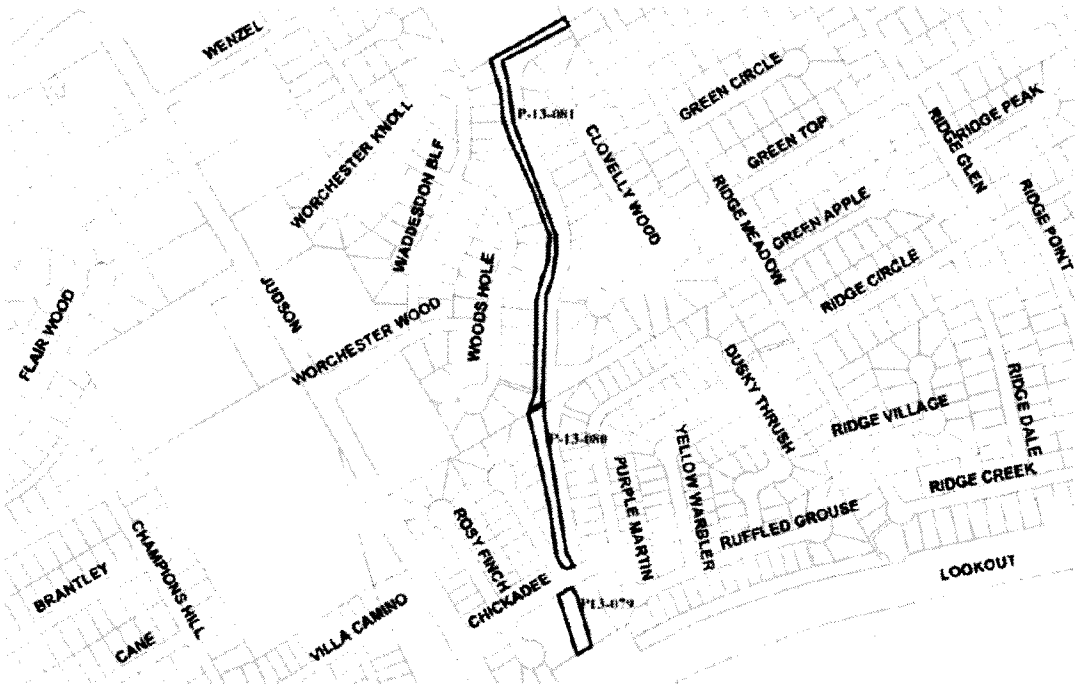
Agenda Item:	**18 (in consent vote: 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20A, 20B, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36A, 36B, 37A, 37B, 38A, 38B, 39A, 39B, 41)**
Date:	12/11/2014
Time:	02:45:24 PM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing four Joint Use Agreements between the City of San Antonio and the San Antonio Water System for use of 0.171 acre drainage right-of-way within the Heatherwood Subdivision, 0.481 acre drainage right-of-way within the Heatherwood Subdivision, 1.209 acre drainage right-of-way within Woodstone Subdivision, and 0.378 acre drainage right-of-way within the Raintree Subdivision in Council District 10 for a total fee of $3,720.00. [Peter Zanoni, Deputy City Manager; Mike Etienne, Director, EastPoint & Real Estate Services Office]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1	x					
Keith Toney	District 2		x				x
Rebecca Viagran	District 3		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			x	

Attachment I




P13-086
ELUSIVE PASS
LOOKOUT


WENZEL
WORCHESTER KNOLL
WADDESDON BLF
JUDSON
WORCHESTER WOOD
FLAIR WOOD
WOODS HOLE
P-13-081
CLOVELLY WOOD
GREEN CIRCLE
GREEN TOP
RIDGE MEADOW
GREEN APPLE
RIDGE GLEN
RIDGE PEAK
RIDGE POINT
RIDGE CIRCLE
DUSKY THRUSH
RIDGE VILLAGE
RIDGE DALE
P-13-080
YELLOW WARBLER
PURPLE MARTIN
RIDGE CREEK
RUFFLED GROUSE
ROSY FINCH
CHICKADEE
P13-079
LOOKOUT
BRANTLEY
CHAMPIONS HILL
CANE
VILLA CAMINO

SAWS Parcel: P13-079 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 3

EXHIBIT "A"

FIELD NOTES
for a 0.171 of an Acre (7,461 SQ. FT.)
Joint Use Agreement

BEING A 0.171 OF AN ACRE (7,461 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.171 OF AN ACRE (7,461 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a calculated point on the south right-of-way line of Chickadee Lane, a 70-foot wide right-of-way, and the north line of said variable width drainage right-of-way, for the northwest corner of the herein described tract;

(1) Thence N. 59°16'05" E., with the south right-of-way line of Chickadee Lane and the north line of said variable width drainage right-of-way, a distance of 35.01 feet to a calculated point, for the northeast corner of the herein described tract, from said point, a found ½" iron rod at the northeast corner of said variable width drainage right-of-way and the northwest corner of Lot 61, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, bears N. 59°16'05" E., 0.31 feet, N. 61°15'12" E., 39.14 feet, and N. 63°14'18" E., 15.15 feet;

Thence Southeasterly, across said variable width drainage right-of-way, the following two courses numbered (2) and (3):

(2) S. 29°38'46" E., a distance of 38.61 feet to a calculated point;

(3) S. 17°21'30" E., a distance of 174.76 feet to a calculated point on the north right-of-way line of Union Pacific Railroad, a varying width right-of-way, and the south line of said variable width drainage right-of-way, for the southeast corner of the herein described tract, from said point, a found ½" iron rod at the southwest corner of Lot 59, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, bears a chord of N. 61°02'53" E., 66.10 feet;

(4) Thence, with the north right-of-way line of Union Pacific Railroad and the south line of said variable width drainage right-of-way, along a curve to the left having a radius of 3066.00 feet, a central angle of 00°40'13", a chord which bears

S. 60°05'44" W., 35.86 feet, and an arc distance of 35.87 feet to a calculated point at the southwest corner of said variable width drainage right-of-way and the southeast corner of Lot 62, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, for the southwest corner of the herein described tract;

Thence Northwesterly, with the west line of said variable width drainage right-of-way and the east line of said Lot 62, Block 12, the following two courses numbered (5) and (6):

(5) N. 17°21'30" W., a distance of 178.78 feet to a found ½" iron rod, for an angle point;

(6) N. 29°38'12" W., a distance of 34.18 feet to the **POINT OF BEGINNING** and containing 0.171 of an acre (7,461 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

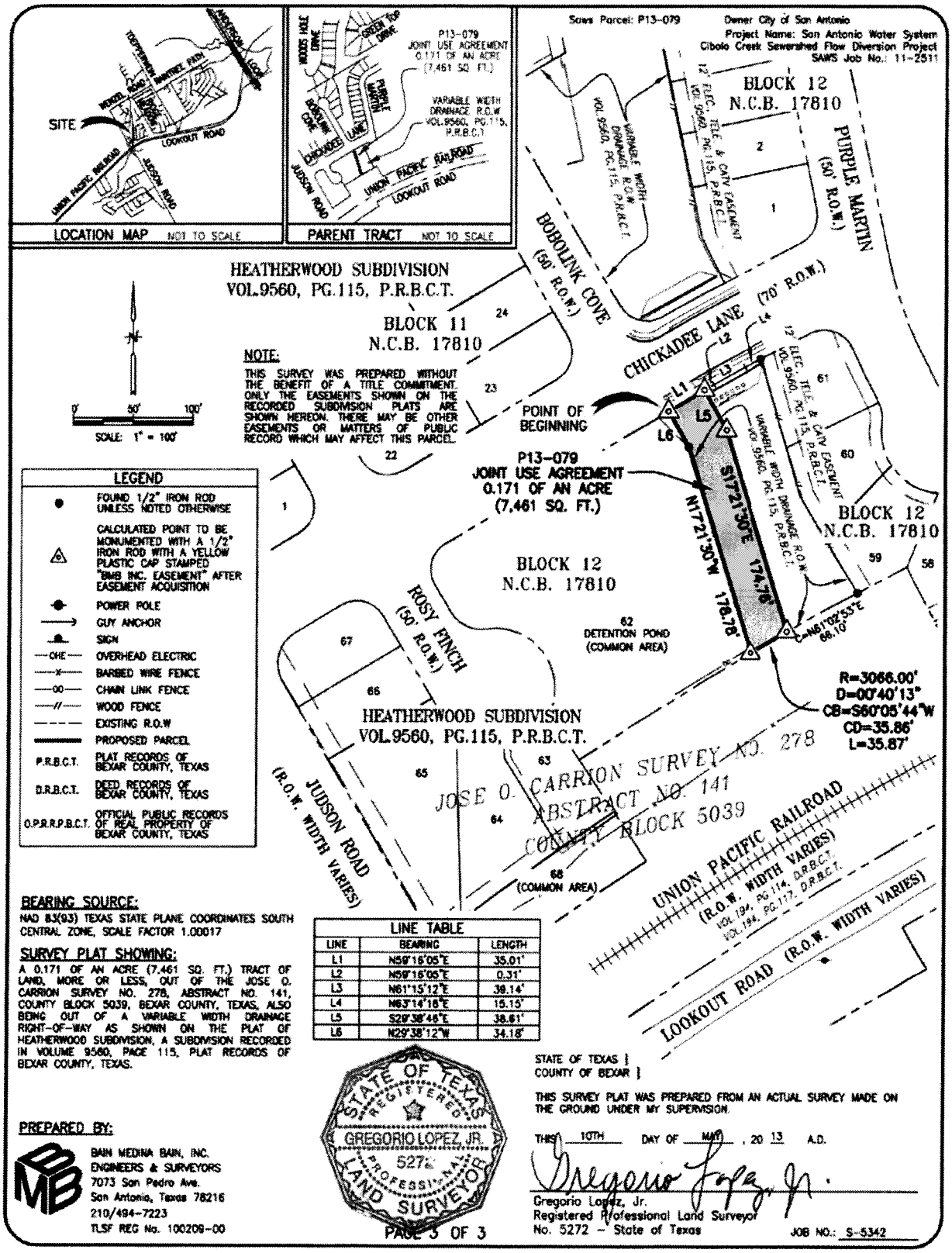
That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS REGISTERED GREGORIO LOPEZ JR. 5272 PROFESSIONAL LAND SURVEYOR

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas



LINE TABLE		
LINE	BEARING	LENGTH
L1	N59°16'05"E	35.01'
L2	N59°16'05"E	0.31'
L3	N61°15'12"E	39.14'
L4	N63°14'18"E	15.15'
L5	S29°38'46"E	38.61'
L6	N29°38'12"W	34.18'

SAWS Parcel: P13-080 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 4

EXHIBIT "A"

FIELD NOTES
for a 0.481 of an Acre (20,969 SQ. FT.)
Joint Use Agreement

BEING A 0.481 OF AN ACRE (20,969 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.481 OF AN ACRE (20,969 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a calculated point on a 25-foot radius curve return at the intersection of the north right-of-way line of Chickadee Lane, a 70-foot wide right-of-way, with the east right-of-way line of Bobolink Cove, a 50-foot wide right-of-way, and the south line of said variable width drainage right-of-way, for the southeast corner of the herein described tract;

Thence Northwesterly, with the east right-of-way line of Bobolink Cove, and the south and west lines of said variable width drainage right-of-way, the following two courses numbered (1) and (2):

(1) Along a curve to the right having a radius of 25.00 feet, a central angle of 88°29'02", a chord which bears N. 74°58'26" W., 34.88 feet, and an arc distance of 38.61 feet to a calculated point, at the point of tangency;

(2) N. 30°43'55" W., a distance of 47.41 feet to a calculated point, for the southwest corner of the herein described tract;

Thence Northerly, across said variable width drainage right-of-way, the following two courses numbered (3) and (4):

(3) N. 07°18'33" W., a distance of 109.18 feet to a calculated point, for an angle point;

(4) N. 11°51'17" W., a distance of 60.64 feet to a calculated point on a northwest line of said variable width drainage right-of-way and the southeast line of Lot 38, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for a corner of the herein described tract;

Thence Northerly, with the northwest and west lines of said variable width drainage right-of-way and the southeast and east lines of said Block 11, N.C.B. 17810, the following three courses numbered (5) through (7):

(5) N. 59°20'03" E., a distance of 5.28 feet to a found ½" iron rod at an interior corner of said variable width drainage right-of-way and the southeast corner of said Lot 38, Block 11, N.C.B. 17810, for an angle point;

(6) N. 11°43'30" W., a distance of 243.44 feet to a found ½" iron rod at an interior corner of said variable width drainage right-of-way, the north corner of Lot 36, Block 11, N.C.B. 17810 of said Heatherwood Subdivision and the east corner Lot 35, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for an angle point;

(7) N. 26°10'51" W., a distance of 87.46 feet to a found ½" iron rod at the northwest corner of said variable width drainage right-of-way, the northeast corner of said Lot 35, Block 11, the southwest corner of a 77-foot wide drainage right-of-way out of Woodstone Hills Subdivision, a subdivision recorded in Volume 9000, Pages 126-127, Plat Records of Bexar County, Texas, and the southeast corner of Lot 10, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, for the northwest corner of the herein described tract;

(8) Thence N. 59°17'48" E., with the northwest line of said variable width drainage right-of-way and the southeast line of said 77-foot wide drainage right-of-way, a distance of 68.20 feet to a calculated point, for the northeast corner of the herein described tract;

Thence Southerly, across said variable width drainage right-of-way, the following four courses numbered (9) through (12):

(9) S. 00°20'16" W., a distance of 35.99 feet to a calculated point;

(10) S. 11°42'06" E., a distance of 315.11 feet to a calculated point;

(11) S. 07°19'43" E., a distance of 185.42 feet to a calculated point;

(12) S. 26°42'12" E., a distance of 48.51 feet to the **POINT OF BEGINNING** and containing 0.481 of an acre (20,969 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

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That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

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REGISTERED
GREGORIO LOPEZ, JR.
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PROFESSIONAL
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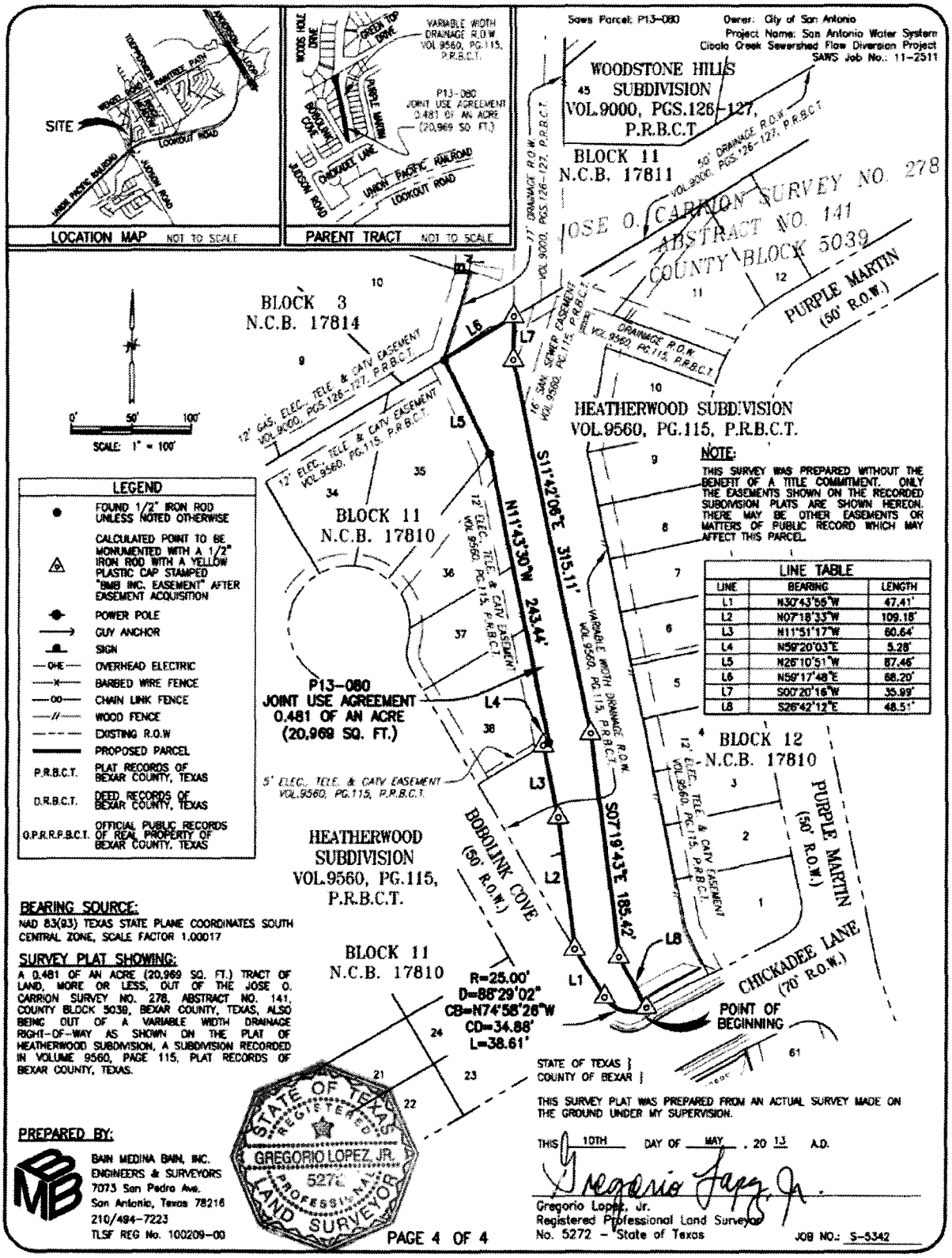


LINE TABLE		
LINE	BEARING	LENGTH
L1	N30°43'55"W	47.41'
L2	N07°18'33"W	109.18'
L3	N11°51'17"W	60.64'
L4	N59°20'03"E	5.28'
L5	N26°10'51"W	87.46'
L6	N59°17'48"E	68.20'
L7	S00°20'16"W	35.99'
L8	S26°42'12"E	48.51'

SAWS Parcel: P13-081 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 7

EXHIBIT "A"

FIELD NOTES
for a 1.209 Acre (52,671 SQ. FT.)
Joint Use Agreement

BEING A 1.209 ACRE (52,671 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 77-FOOT WIDE DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF WOODSTONE HILLS SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9000, PAGES 126-127, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 1.209 ACRE (52,671 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod with a yellow plastic cap stamped "SMG ENGR", on the west line of Lot 7, Block 11, N.C.B. 17811, Greenridge North Unit-1, a subdivision recorded in Volume 7500, Pages 25-27, Plat Records of Bexar County, Texas, at the southeast corner of said 77-foot wide drainage right-of-way and the northeast corner of Lot 28, Block 11, N.C.B. 17811 of said Woodstone Hills Subdivision;

Thence N. 30°33'09" W., with the west line of said Lot 7, Block 11, N.C.B. 17811 and the east line of said 77-foot wide drainage right-of-way, a distance of 47.18 feet to a calculated point, for a corner and **POINT OF BEGINNING** of the herein described tract;

Thence Southerly, across said 77-foot wide drainage right-of-way, the following six courses numbered (1) through (6):

(1) S. 59°10'41" W., a distance of 258.62 feet to a calculated point;

(2) S. 09°56'36" E., a distance of 273.73 feet to a calculated point;

(3) S. 31°15'43" E., a distance of 116.58 feet to a calculated point;

(4) S. 22°07'41" E., a distance of 255.50 feet to a calculated point;

(5) S. 10°16'55" W., a distance of 314.33 feet to a calculated point;

(6) S. 00°20'16" W., a distance of 288.70 feet to a calculated point on the south line of said 77-foot wide drainage right-of-way and the north line of a variable width

drainage right-of-way out of Heatherwood Subdivision, a subdivision recorded in Volume 9560, Page 115, Plat Records of Bexar County, Texas, for the southeast corner of the herein described tract;

(7) Thence S. 59°17'48" W., with the south line of said 77-foot wide drainage right-of-way and the north line of said variable width drainage right-of-way, a distance of 68.20 feet to a found ½" iron rod at the southwest corner of said 77-foot wide drainage right-of-way, the northwest corner of said variable width drainage right-of-way, the southeast corner of Lot 10, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision and the northeast corner of Lot 35, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for the southwest corner of the herein described tract;

Thence Northerly, with the west line of said 77-foot wide drainage right-of-way and the east line of Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, the following eight courses numbered (8) through (15):

(8) N. 17°03'51" E., a distance of 73.21 feet to a calculated point;

(9) N. 00°49'40" E., a distance of 286.29 feet to a calculated point at the point of curvature of a curve to the right;

(10) Along said curve to the right having a radius of 260.27 feet, a central angle of 19°14'11", a chord which bears, N. 10°26'45" E., 86.97 feet, and an arc distance of 87.38 feet to a calculated point at the point of tangency;

(11) N. 20°03'51" E., a distance of 37.69 feet to a calculated point at the point of curvature of a curve to the left;

(12) Along said curve to the left having a radius of 341.00 feet, a central angle of 43°20'32", a chord which bears, N. 01°36'25" W., 251.85 feet, and an arc distance of 257.95 feet to a calculated point at the point of reverse curvature;

(13) Along a curve to the right having a radius of 3502.60 feet, a central angle of 04°25'08", a chord which bears, N. 25°45'17" W., 270.06 feet, and an arc distance of 270.14 feet to a calculated point at the point of reverse curvature;

(14) Along a curve to the left having a radius of 213.38 feet, a central angle of 29°33'40", a chord which bears, N. 12°59'30" W., 108.87 feet, and an arc distance of 110.09 feet to a calculated point at the point of reverse curvature;

(15) Along a curve to the right having a radius of 335.00 feet, a central angle of 29°18'28", a chord which bears, N. 16°43'30" W., 169.50 feet, and an arc distance of 171.36 feet to a calculated point on the south line of a 3.991 acre tract described in a Warranty Deed with Vendor's Lien dated March 31, 2003 to Michael J. Belk

and Joni L. Belk, recorded in Volume 9928, Page 2220, Official Public Records of Real Property of Bexar County, Texas, at the northwest corner of said 77-foot wide drainage right-of-way and the northeast corner of Lot 27, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, for the northwest corner of the herein described tract;

(16) Thence N. 59°12'29" E., with the north line of said 77-foot wide drainage right-of-way and the south line of said 3.991 acre tract, a distance of 305.72 feet to a calculated point on the west line of Lot 6, Block 11, N.C.B. 17811 of said Greenridge North Unit-1, at the northeast corner of said 77-foot wide drainage right-of-way and the southeast corner of said 3.991 acre tract, for the northeast corner of the herein described tract;

(17) Thence S. 30°33'09" E., with the east line of said 77-foot wide drainage right-of-way and the west line of said Lots 6 and 7, Block 11, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 1.209 acres (52,671 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

SAWS Parcel: P13-081 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 4 of 7

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS
REGISTERED
GREGORIO LOPEZ, JR.
5272
PROFESSIONAL
LAND SURVEYOR

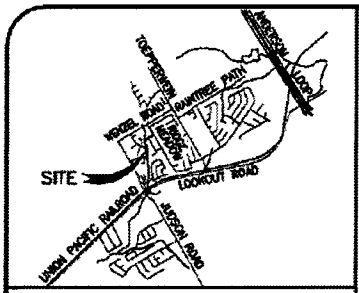
Gregorio Lopez, Jr.

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas

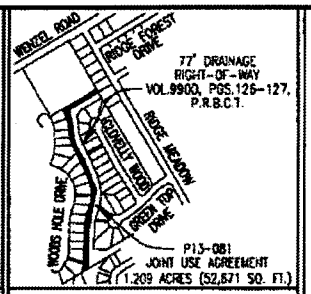
Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Saws Parcel: P13-081

Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511



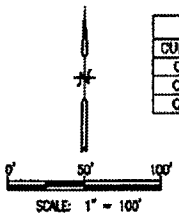
LOCATION MAP NOT TO SCALE

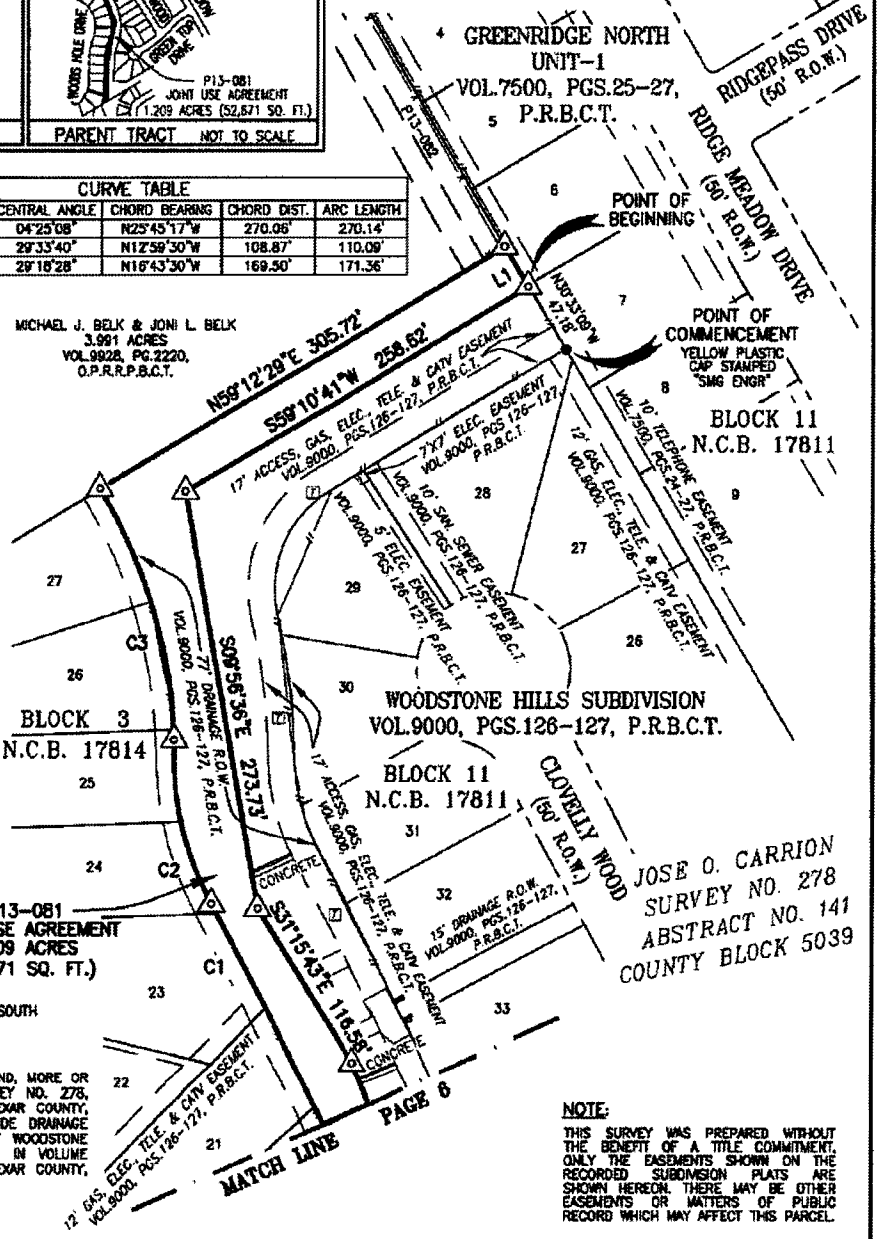


PARENT TRACT NOT TO SCALE

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S30°33'08"E	30.00'

CURVE TABLE					
CURVE	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD DIST.	ARC LENGTH
C1	3502.60'	04°25'08"	N25°45'17"W	270.06'	270.14'
C2	213.36'	29°33'40"	N12°59'30"W	108.87'	110.09'
C3	335.00'	29°18'28"	N16°43'30"W	169.50'	171.36'





LEGEND	
●	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
△	CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
	POWER POLE
	GUY ANCHOR
	SIGN
—OHE—	OVERHEAD ELECTRIC
—x—	BARBED WIRE FENCE
—oo—	CHAIN LINK FENCE
—//—	WOOD FENCE
— — —	EXISTING R.O.W
▬	PROPOSED PARCEL
P.R.B.C.T.	PLAT RECORDS OF BEXAR COUNTY, TEXAS
O.R.B.C.T.	DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T.	OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS

BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:
A 1.209 ACRE (52,671 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 77-FOOT WIDE DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF WOODSTONE HILLS SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9000, PAGES 126-127, PLAT RECORDS OF BEXAR COUNTY, TEXAS.

NOTE:
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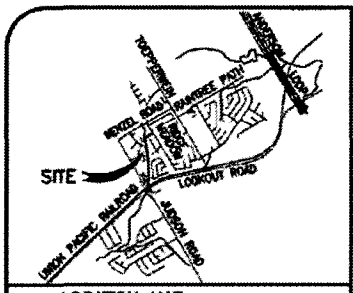
PREPARED BY:

BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00

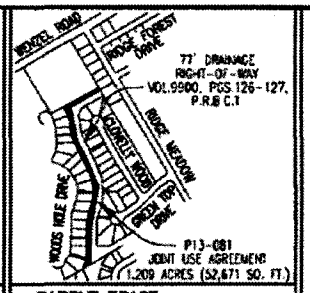
JOB NO.: S-5342

Sawa Parcel: P13-081

Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511



LOCATION MAP NOT TO SCALE



PARENT TRACT NOT TO SCALE

LINE TABLE		
LINE	BEARING	DISTANCE
L2	N20°03'51"E	37.69'

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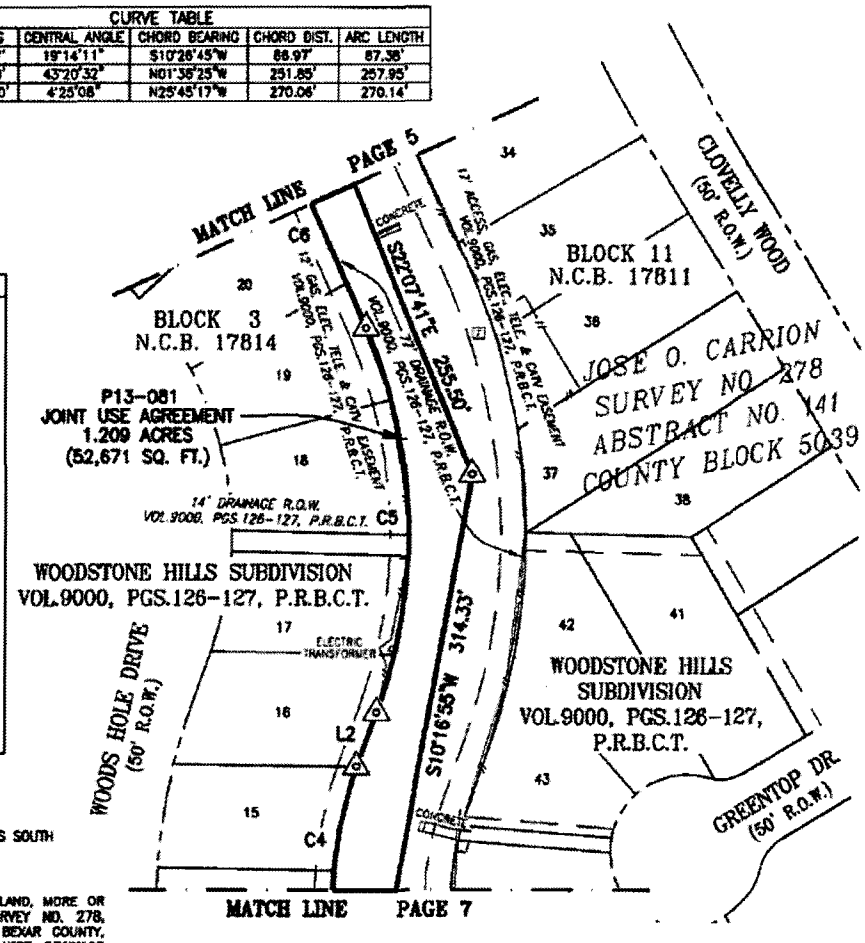
CURVE TABLE					
CURVE	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD DIST.	ARC LENGTH
C4	260.27'	19°14'11"	S10°26'45"W	86.97'	87.38'
C5	341.00'	43°20'32"	N01°36'25"W	251.85'	257.95'
C6	3902.60'	4°25'08"	N25°45'17"W	270.06'	270.14'

0' 50' 100'
SCALE: 1" = 100'

LEGEND	
●	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
△	CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
	POWER POLE
	GUY ANCHOR
	SIGN
—ONE—	OVERHEAD ELECTRIC
—X—	BARBED WIRE FENCE
—OO—	CHAIN LINK FENCE
—//—	WOOD FENCE
- - - -	EXISTING R.O.W
▬▬▬	PROPOSED PARCEL
P.R.B.C.T.	PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T.	DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T.	OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS



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San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00

PAGE 6 OF 7

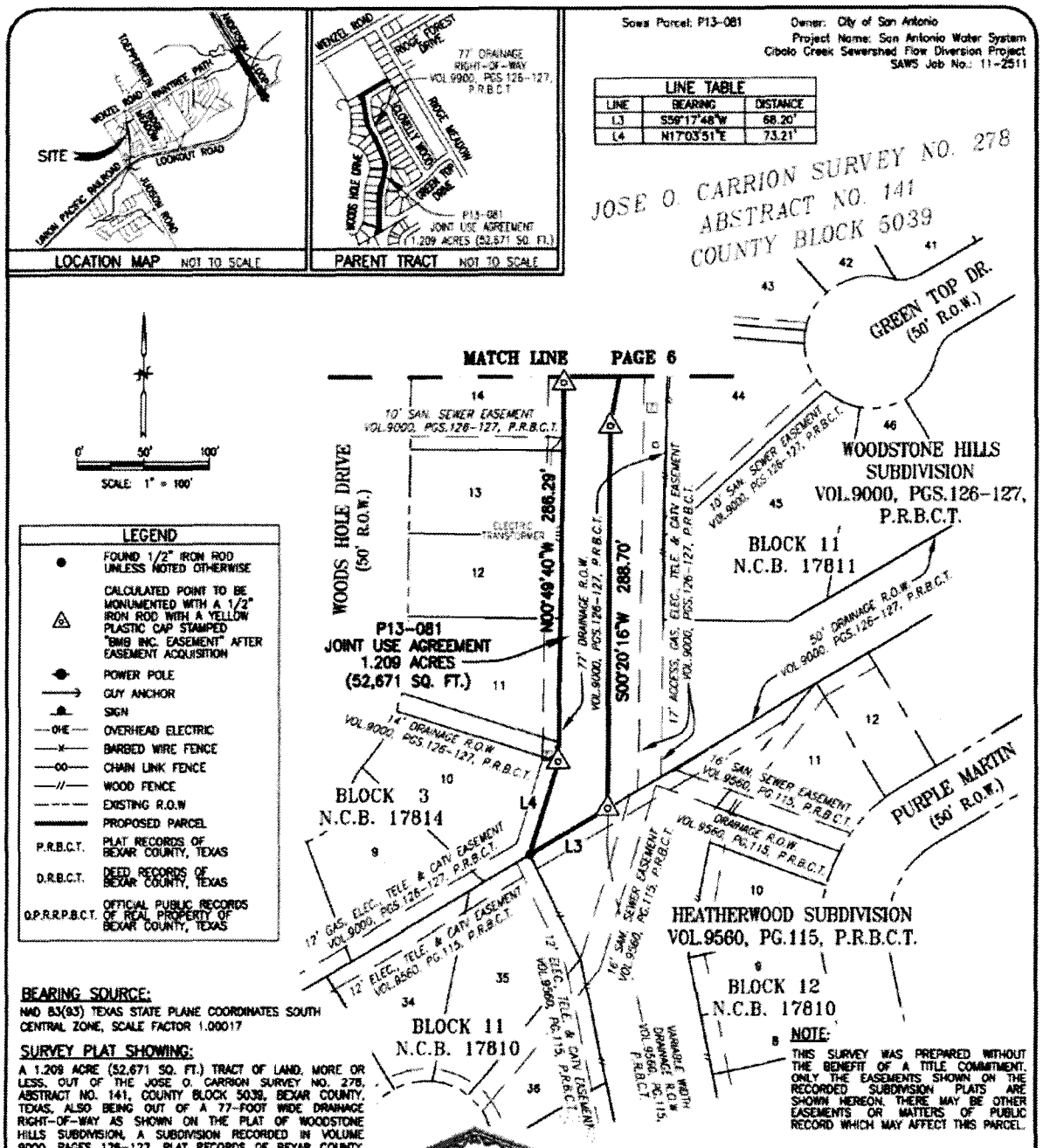
JOB NO.: S-5342

Sawa Parcel: P13-081

Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511

LINE TABLE		
LINE	BEARING	DISTANCE
L3	S59°17'48"W	68.20'
L4	N17°03'51"E	73.21'

JOSE O. CARRION SURVEY NO. 278
ABSTRACT NO. 141
COUNTY BLOCK 5039



LEGEND

●	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
△	CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
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—OHE—	OVERHEAD ELECTRIC
—x—	BARBED WIRE FENCE
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—//—	WOOD FENCE
	EXISTING R.O.W
	PROPOSED PARCEL
P.R.B.C.T.	PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T.	DEED RECORDS OF BEXAR COUNTY, TEXAS
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STATE OF TEXAS REGISTERED GREGORIO LOPEZ, JR. 5272 PROFESSIONAL LAND SURVEYOR

STATE OF TEXAS }
COUNTY OF BEXAR }

THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.

THIS 10TH DAY OF MAY, 20 13 A.D.

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas

JOB NO.: S-5342

PREPARED BY:

BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00

PAGE 7 OF 7

SAWS Parcel: P13-086 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 4

EXHIBIT "A"

FIELD NOTES
for a 0.378 of an Acre (16,466 SQ. FT.)
Joint Use Agreement

BEING A 0.378 OF AN ACRE (16,466 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE MARIA OCON SURVEY NO. 279, ABSTRACT NO. 864, COUNTY BLOCK 5042, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. DESCRIBED IN EXHIBIT "A" IN A DEED WITHOUT WARRANTY DATED DECEMBER 15, 2004 TO THE CITY OF SAN ANTONIO, RECORDED IN VOLUME 11149, PAGE 1132, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS; SAID 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. BEING OUT OF RAINTREE SUBDIVISION, UNIT 10, A SUBDIVISION RECORDED IN VOLUME 9551, PAGES 40-42, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.378 OF AN ACRE (16,466 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod at the monumented northeast corner of said 7.318 acre variable width drainage right-of-way and the southeast corner of a 105.2599 acre tract called "Tract A" as described in a Special Warranty Deed dated January 1, 2000 conveying an undivided one-half interest to Texas Dorado Properties, Ltd., recorded in Volume 8278, Page 937, Official Public Records of Real Property of Bexar County, Texas; said 105.2599 acre tract also described in a Special Warranty Deed dated January 1, 2000 conveying an undivided one-half interest to Southern Acres Properties, Ltd., recorded in Volume 8278, Page 944, Official Public Records of Real Property of Bexar County, Texas;

Thence S. 59°49'43" W., with the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, a distance of 1.88 feet to a calculated point, for the northeast corner and **POINT OF BEGINNING** of the herein described tract, said point being 60.00 feet from and at right angles to the center line of the existing railroad tracks;

(1) Thence S. 08°09'36" W., with the west right-of-way line of Union Pacific Railroad and the east line of said 7.318 acre variable width drainage right-of-way, a distance of 286.27 feet to a calculated point, said point being 60.00 feet from and at right angles to the center line of the existing railroad tracks;

Thence, across said 7.318 acre variable width drainage right-of-way, the following eight courses numbered (2) through (9):

(2) S. 46°38'18" W., a distance of 205.12 feet to a calculated point;

(3) S. 08°30'31" W., a distance of 56.70 feet to a calculated point on the northwest line of a 15-foot wide sanitary sewer easement recorded in Volume 3920, Page 1704, Official Public Records of Real Property of Bexar County, Texas, for an angle point;

(4) S. 46°38'18" W., with the northwest line of said 15-foot wide sanitary sewer easement, a distance of 30.03 feet to a calculated point at the intersection of the northwest line of said 15-foot wide sanitary sewer easement, with the northeast line of a 16-foot wide sanitary sewer easement recorded in Volume 9551, Pages 40-42, Plat Records of Bexar County, for the most southerly corner of the herein described tract, from said point, a found ½" iron rod at an interior corner of said 7.318 acre variable width drainage right-of-way, and the east corner of Lot 33, Block 16, N.C.B. 16587 of said Raintree Subdivision, Unit 10, bears S. 46°38'18" W., 52.72 feet;

(5) N. 41°31'28" W., with the northeast line of said 16-foot wide sanitary sewer easement, a distance of 14.95 feet to a calculated point;

(6) N. 08°30'31" E., a distance of 81.09 feet to a calculated point;

(7) N. 46°38'18" E., a distance of 205.02 feet to a calculated point;

(8) N. 08°09'36" E., a distance of 230.90 feet to a calculated point;

(9) N. 19°24'26" E., a distance of 25.64 feet to a calculated point on the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, for the northwest corner of the herein described tract, from said point, a found ½" iron rod with a yellow plastic cap stamped "VICKREY PROP. COR.", at the northwest corner of said 7.318 acre variable width drainage right-of-way and the northeast corner of Lot 32, Block 16, N.C.B. 16587 of said Raintree Subdivision, Unit 10, bears S. 59°49'43" W., 219.83 feet;

(10) Thence N. 59°49'43" E., with the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, a distance of 31.87 feet to the **POINT OF BEGINNING** and containing 0.378 of an acre (16,466 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

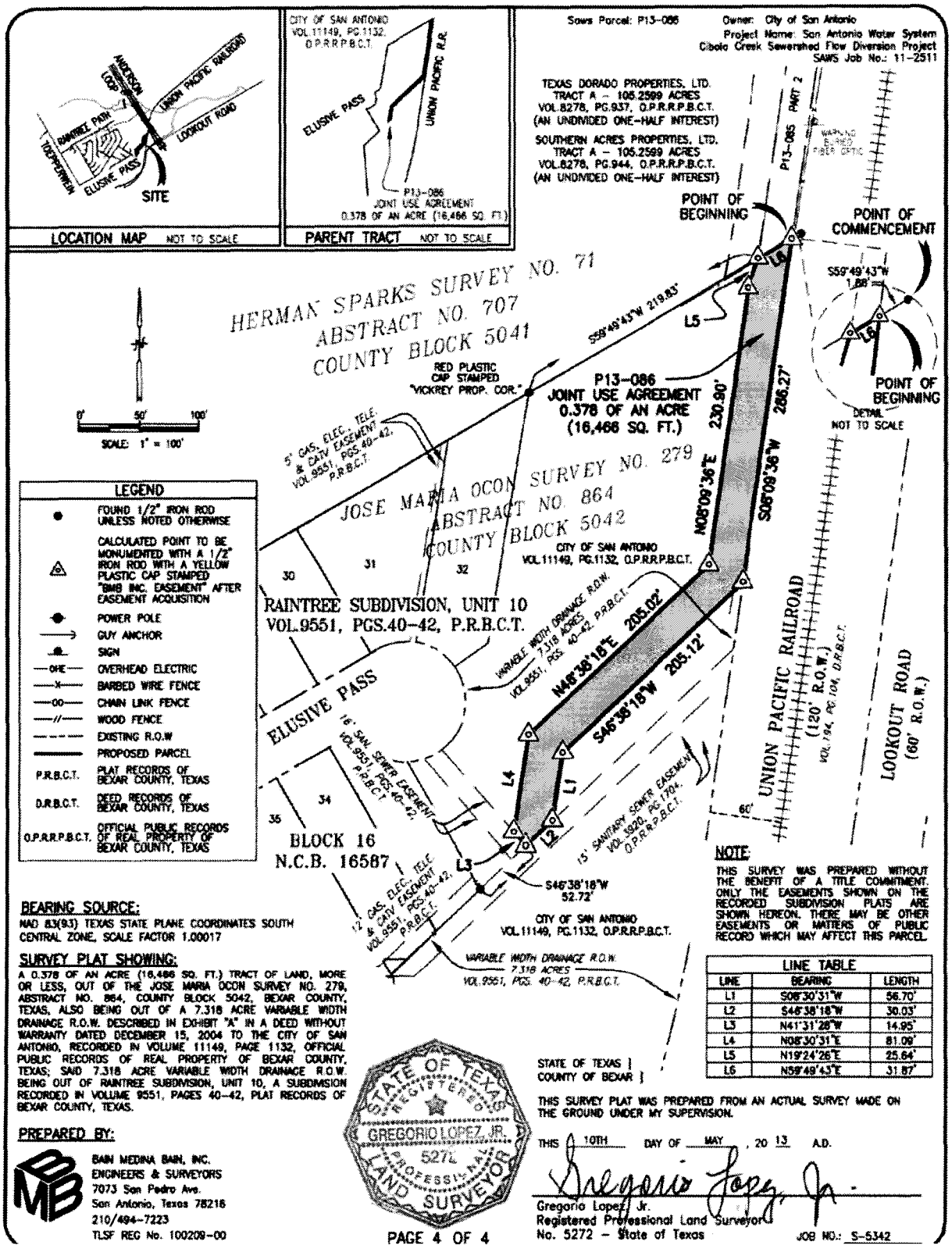
WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS
REGISTERED
GREGORIO LOPEZ JR.
5272
PROFESSIONAL
LAND SURVEYOR

Gregorio Lopez, Jr.

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas



Attachment II

Reciprocal Joint Use Agreement

(Cibolo Creek JUA (P13-079))

Table of Contents

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1. Pertinent Information.

Authorizing Ordinance:

SP No.:

Joint User: San Antonio Water System

Address: 2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)

City: City of San Antonio

Address: City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)

Term: Indefinite duration subject to rights of termination set out in this agreement.

Premises: 0.171 acre out of a variable width drainage right of way as shown on the plat of the Heatherwood Subdivision, recorded in Volume 9560, Page 115 of the Deed and Plat Records of Bexar County, Texas.

Scope of Permission: Installation, construction, reconstruction, realignment,

inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of approximately 215 feet of 15-inch sewer main and two manholes, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto.

Consideration: The reciprocal options, covenants, rights and interest City and San Antonio Water System grant each other under this agreement.

Defined Terms: As used herein, "City" shall refer to the City of San Antonio and "Joint User" shall refer to the San Antonio Water System.

2. Permission.

2.01. City acknowledges that Joint User's activities, if within the Scope of Permission and conforming to the terms and conditions of this Agreement, do not, as of the date of execution of this Permission set forth below, unreasonably interfere with the use by the City. The Permission is non-exclusive. This instrument does not create an easement, but only a license defined by the terms of this instrument. City will coordinate with Joint User any access or use that could affect Joint User's infrastructure within the Premises.

2.02. City will not construct permanent improvements over the Premises that would unreasonably interfere with Joint User's use within the Scope of Permission.

2.03. This Permission does not exempt Joint User from rules of general applicability governing activities within the Scope of Permission or from getting permits required generally for activities within the Scope of Permission.

2.04. City does not guarantee title to or exclusive rights in the Premises. Joint User accepts the Premises at Joint User's risk regarding title matters. The Permission granted by this instrument bears only upon such rights as City may have in the Premises. Persons other than City may have rights in some or all of the Premises. City does not give permission to trespass on or otherwise affect or impair other's rights.

3. Construction, Maintenance, and Operations.

3.01. **Costs**. Joint User is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed by Joint User in the Premises.

3.02. **Installation and Maintenance.** All pipes must be buried to a depth satisfactory to City. In determining proper depth, City may consider expected future as well as present uses of the Premises. If another governmental or other regulatory body prescribes a depth, that depth will be satisfactory to the City. Joint User must maintain all improvements constructed or installed by Joint User. In so doing, Joint User must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations. Without limiting the foregoing, Joint User must assure that nothing it does causes the Premises to fail to comply with any aspect of the Unified Development Code relating to drainage.

3.03. **No Power to Bind**. Joint User cannot bind or permit another to bind City for payment of money or for any other obligation.

3.04. **Contractors and Subcontractors**. Joint User must promptly pay anyone who could file a mechanics' or materialmen's lien on the Premises, unless there is a good faith dispute about the right to payment. If any such lien is filed, Joint User shall pay or bond around such claim within 30 days after Joint User's notice of the lien, failing which, City may treat it as an event of default and terminate this Permission as provided in Section 6 below entitled "Termination." Joint User remains obligated to clear the lien without cost to City even after termination.

3.05 **Restoration**. If Joint User buries any pipes, promptly upon covering the pipes, Joint User must restore the original contours and vegetation disturbed by the burial to a condition substantially equivalent to their pre-existing condition, substantial equivalence to be determined by City. If an area has a natural appearance, Joint User must restore that natural appearance unless City otherwise agrees in writing. City's determination of natural appearance controls.

3.06 **Conditions.** Joint User agrees to the following conditions.

(a) Archaeological compliance with Federal, State and Local law.

(b) Project shall comply with City of San Antonio "Tree Ordinance" set forth in Sec. 35-523 of the City of San Antonio Unified Development Code.

(c) Restore at least 80% of vegetation growth on disturbed areas. Joint User shall comply with TCEQ regulations regarding manholes located in the 100 year flood plain.

4. Insurance.

Both parties are political subdivisions of the State of Texas. As such they are subject to, and comply with the applicable provisions of, the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

5. Indemnity.

5.01. For so long as San Antonio Water System is part of the City, it need not indemnify under this contract. Subject to the indemnity provisions below when they apply, each party is liable for its own actions, the actions of its employees, and the actions of others acting on its behalf under this agreement.

5.02. If San Antonio Water System ceases to be part of the City or if this agreement is assigned to another, San Antonio Water System or its assignee must indemnify as provided in this article. **These definitions apply to the indemnity provisions of this Contract:**

5.02.01"Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract. A claim is an Indemnified Claim even if the person alleged to be at fault is not a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death. Indemnified Claims also

include claims in which an Indemnitee shares liability with the Indemnitor.

5.02.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

5.02.03. "Indemnitor" means San Antonio Water System.

5.03. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

5.04. If one or more Indemnitees are finally adjudged to bear fault outside the scope of this indemnity, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability for such fault. But despite allegations that one or more Indemnitees bear such fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication and all appeals have been exhausted. An Indemnitee may but need not waive appeals. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to bear fault outside the scope of this indemnity and must continue to indemnify other Indemnitees if claims are still asserted against them.

5.05. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

5.06. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

5.07. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

5.08. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed

settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

5.09. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

5.10. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees, collectively, and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

6. Termination.

6.01. City may terminate this Permission at any time before expiration by giving Joint User 365 days written notice, but only if City Council passes a resolution finding that Joint User's use of the Premises has, or in the future may reasonably be expected to, interfere with use of the Premises. City shall use good faith efforts to notify Joint User at least ten (10) days in advance of any such public meeting at which such resolution will be considered by City Council. City will consider Joint User's request for more than 365 days within which to remove and relocate its infrastructure.

6.02. Upon expiration or termination, all rights and privileges cease, and Joint User must promptly cease use of the Premises. If City terminates, City will then reimburse San Antonio Water System for the reasonable costs of (A) removing existing facilities permitted by this agreement, (B) acquiring a new location for the facilities, and (C) installing replacement facilities in the new location.

6.03. Improvements or appurtenances not removed within 90 days after termination of the Permission, whether by expiration or otherwise, become the property of City. City, may without liability to Joint User, dispose of such property at a public or private sale, without notice to Joint User.

6.04. Joint User may terminate this Agreement at any time by abandoning its use of the Premises and delivering notice to City. Notice must be delivered at least 30 calendar days prior to abandonment.

6.05. If a Memorandum of Permission substantially in the form of **Exhibit B** is recorded in the real property records of the county in which the Premises are located and if the City Council or San Antonio Water System Board of Trustees does not terminate this agreement according to the terms of this article, upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns. Joint User is responsible for recording fees.

7. Assignment.

7.01. This Permission cannot be assigned by San Antonio Water System except to a certificated utility provider succeeding to San Antonio Water System's wastewater utility in the area in which the Premises are located.

7.02. This Permission cannot be assigned by City except to storm water utility succeeding to City's utility in the area in which the Premises are located.

7.03. Subject to the City's rights of termination set out in Section 6.01 above, if City sells the property of which the Premises are a part, and San Antonio Water System is an agency or a part of the City at the time of the sale, City will reserve a perpetual easement for San Antonio Water System for the use permitted herein, without additional cost to San Antonio Water System.

8. Condemnation.
If the Premises are taken, in whole or in part, by eminent domain not for the benefit of the City, then this Permission, at the option of the City, ceases on the date title to the land so taken or transferred vests in the condemning authority. San Antonio Water System waives all rights to any condemnation proceeds, unless San Antonio Water System is an agency or other part of the City. If San Antonio Water System remains an agency or other part of the City, the parties will equitably allocate the proceeds.

9. Taxes.
City is a governmental entity and does not expect to pay taxes. San Antonio Water System is responsible for taxes arising from its use of the Premises under this agreement, if San Antonio Water System loses its tax-exempt status, or if taxes are otherwise owing for any reason. In no case will City ever be responsible for taxes, local, state, or federal, if any, that may be assessed against San Antonio Water System.

10. Appropriations.
All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for an obligation arising under this agreement, the City cannot be required to fulfill the obligation.

11. Dispute Resolution.
11.01. As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

11.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

11.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

11.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

11.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by

all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

11.06. Mediator fees must be borne equally.

11.07. The parties need not mediate before going to court to seek emergency injunctive relief.

12. Miscellaneous Provisions.

12.01. **Relationship Limited.** This instrument creates only the relationship of City and Joint User as applicable. The parties are not principal and agent, partners, joint venturers, or participants in any common enterprise.

12.02. **Nondiscrimination**. Joint User must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

12.03. **Release From Liability/Notice of Sale**. If City transfers ownership of the Premises, City shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer. If San Antonio Water System is the beneficial owner of fee title of the Premises and transfers ownership of the Premises, San Antonio Water System shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer.

12.04. **Consent/Approval of City.** As to any matter hereunder in which City's consent is required, the consent may be granted by the Director, Capital Improvements Management Services Department, City of San Antonio, as designee of the City Manager, without council action, unless the City Charter requires City Council action.

12.05. **Severability**. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

12.06. **Successors**. This Permission inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

12.07. **Integration**. **This Written Permission Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties**.

12.08. **Modification**. This Permission may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

12.09. **Third Party Beneficiaries**. This Permission is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

12.10. **Notices**. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

12.11. **Captions**. Paragraph captions in this Permission are for ease of reference only and do not affect the interpretation hereof.

12.12. **Counterparts**. This Permission may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Permission, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

12.13. **Further Assurances**. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties as contained in this Permission.

13. Public Information.
City and San Antonio Water System acknowledge that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands.

San Antonio Water System, an agency of the City of San Antonio	**City of San Antonio,** a Texas municipal corporation
By:_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____
Date:_____	Date:_____

Approved As To Form:

_____
City Attorney

Exhibit A

SAWS Parcel: P13-079 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 3

EXHIBIT "A"

FIELD NOTES
for a 0.171 of an Acre (7,461 SQ. FT.)
Joint Use Agreement

BEING A 0.171 OF AN ACRE (7,461 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.171 OF AN ACRE (7,461 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a calculated point on the south right-of-way line of Chickadee Lane, a 70-foot wide right-of-way, and the north line of said variable width drainage right-of-way, for the northwest corner of the herein described tract;

(1) Thence N. 59°16'05" E., with the south right-of-way line of Chickadee Lane and the north line of said variable width drainage right-of-way, a distance of 35.01 feet to a calculated point, for the northeast corner of the herein described tract, from said point, a found ½" iron rod at the northeast corner of said variable width drainage right-of-way and the northwest corner of Lot 61, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, bears N. 59°16'05" E., 0.31 feet, N. 61°15'12" E., 39.14 feet, and N. 63°14'18" E., 15.15 feet;

Thence Southeasterly, across said variable width drainage right-of-way, the following two courses numbered (2) and (3):

(2) S. 29°38'46" E., a distance of 38.61 feet to a calculated point;

(3) S. 17°21'30" E., a distance of 174.76 feet to a calculated point on the north right-of-way line of Union Pacific Railroad, a varying width right-of-way, and the south line of said variable width drainage right-of-way, for the southeast corner of the herein described tract, from said point, a found ½" iron rod at the southwest corner of Lot 59, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, bears a chord of N. 61°02'53" E., 66.10 feet;

(4) Thence, with the north right-of-way line of Union Pacific Railroad and the south line of said variable width drainage right-of-way, along a curve to the left having a radius of 3066.00 feet, a central angle of 00°40'13", a chord which bears

S. 60°05'44" W., 35.86 feet, and an arc distance of 35.87 feet to a calculated point at the southwest corner of said variable width drainage right-of-way and the southeast corner of Lot 62, Block 12, N.C.B. 17810 of said Heatherwood Subdivision, for the southwest corner of the herein described tract;

Thence Northwesterly, with the west line of said variable width drainage right-of-way and the east line of said Lot 62, Block 12, the following two courses numbered (5) and (6):

(5) N. 17°21'30" W., a distance of 178.78 feet to a found ½" iron rod, for an angle point;

(6) N. 29°38'12" W., a distance of 34.18 feet to the **POINT OF BEGINNING** and containing 0.171 of an acre (7,461 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS REGISTERED GREGORIO LOPEZ, JR. 5272 PROFESSIONAL LAND SURVEYOR

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas

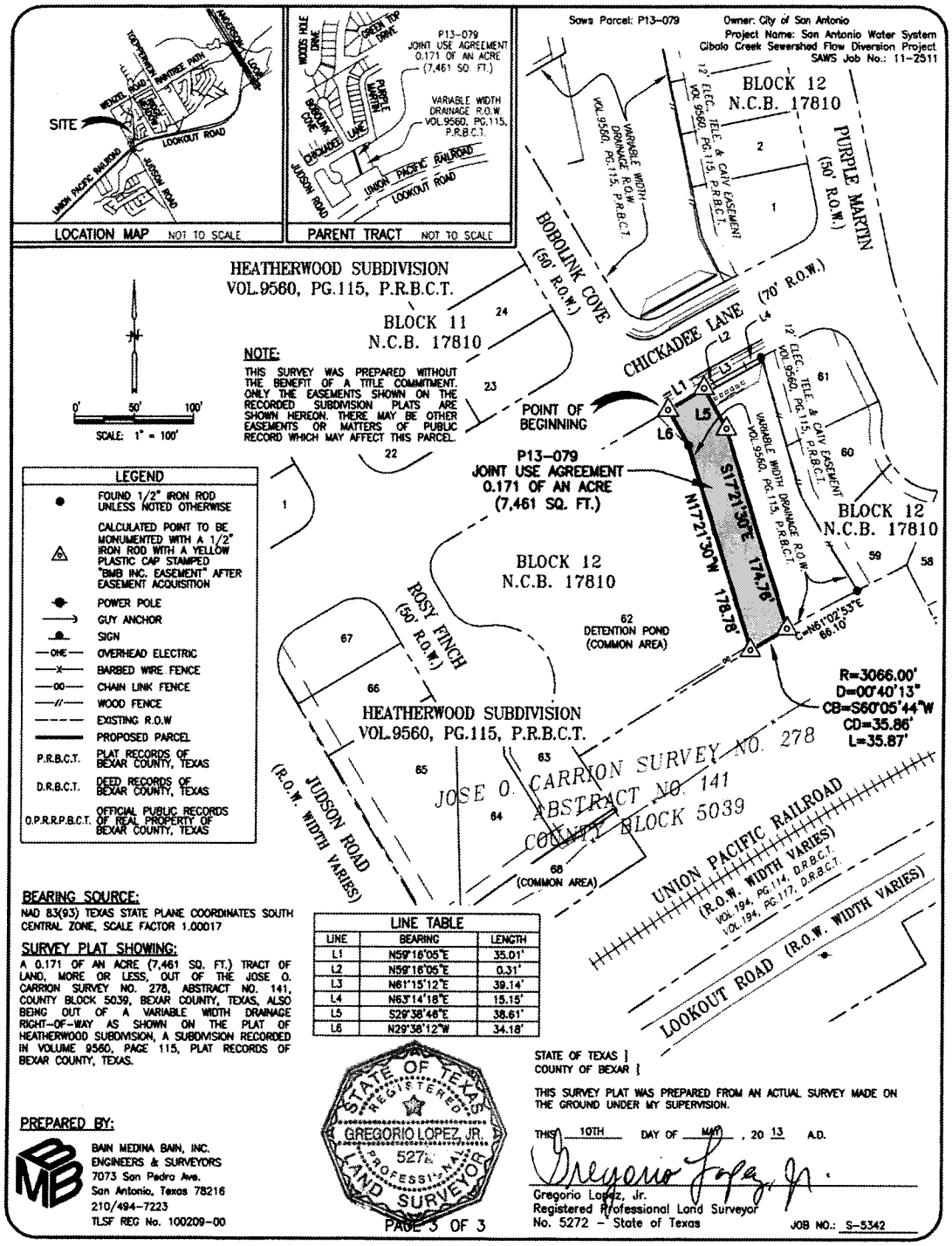
Saws Parcel: P13-079
Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511
LOCATION MAP NOT TO SCALE
SITE
LOOKOUT ROAD
UNION PACIFIC RAILROAD
JUDSON ROAD
PARENT TRACT NOT TO SCALE
P13-079
JOINT USE AGREEMENT
0.171 OF AN ACRE
(7,461 SQ. FT.)
VARIABLE WIDTH DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
BLOCK 12
N.C.B. 17810
PURPLE MARTIN (50' R.O.W.)
BOBOLINK COVE (50' R.O.W.)
CHICKADEE LANE (70' R.O.W.)
HEATHERWOOD SUBDIVISION
VOL.9560, PG.115, P.R.B.C.T.
BLOCK 11
N.C.B. 17810
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.
SCALE: 1" = 100'
POINT OF BEGINNING
P13-079
JOINT USE AGREEMENT
0.171 OF AN ACRE
(7,461 SQ. FT.)
S17°21'30"E 174.76'
N17°21'30"W 178.78'
C=N61°02'53"E 66.10'
R=3066.00'
D=00°40'13"
CB=S60°05'44"W
CD=35.86'
L=35.87'
BLOCK 12
N.C.B. 17810
62
DETENTION POND
(COMMON AREA)
ROSY FINCH (50' R.O.W.)
HEATHERWOOD SUBDIVISION
VOL.9560, PG.115, P.R.B.C.T.
JUDSON ROAD (R.O.W. WIDTH VARIES)
JOSE O. CARRION SURVEY NO. 278
ABSTRACT NO. 141
COUNTY BLOCK 5039
UNION PACIFIC RAILROAD
(R.O.W. WIDTH VARIES)
VOL.194, PG.114, D.R.B.C.T.
VOL.194, PG.117, D.R.B.C.T.
LOOKOUT ROAD (R.O.W. WIDTH VARIES)
LEGEND
FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
POWER POLE
GUY ANCHOR
SIGN
OVERHEAD ELECTRIC
BARBED WIRE FENCE
CHAIN LINK FENCE
WOOD FENCE
EXISTING R.O.W
PROPOSED PARCEL
P.R.B.C.T. PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T. DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017
SURVEY PLAT SHOWING:
A 0.171 OF AN ACRE (7,461 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS.
LINE TABLE
LINE | BEARING | LENGTH
L1 | N59°16'05"E | 35.01'
L2 | N59°16'05"E | 0.31'
L3 | N61°15'12"E | 39.14'
L4 | N63°14'18"E | 15.15'
L5 | S29°38'46"E | 38.61'
L6 | N29°38'12"W | 34.18'
STATE OF TEXAS REGISTERED GREGORIO LOPEZ JR. 5272 PROFESSIONAL LAND SURVEYOR
PREPARED BY:
BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00
STATE OF TEXAS }
COUNTY OF BEXAR }
THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.
THIS 10TH DAY OF MAY, 20 13 A.D.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas
JOB NO.: S-5342
PAGE 3 OF 3

Exhibit B

Recordable Memorandum of Permission

(Reciprocal Joint Use Agreement)

Effective Date:	The effective date of the Authorizing Ordinance
Authorizing Ordinance:	
City (Exhibit A) /Joint User A:	San Antonio Water System
Address:	2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)
City (Exhibit B) /Joint UserB:	City of San Antonio
Address:	City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)
Term:	Indefinite duration subject to rights of termination set out in this agreement.
Premises:	
Scope of Permission:	For Joint User A: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a sewer easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto. For Joint User B: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a drainage easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto
Defined Terms:	As used herein, "City" and "Joint User" shall refer to each of the City of San Antonio and the San Antonio Water System, severally.

City has given permission to Joint User according to the Scope of Permission on the Premises according to the terms of a Reciprocal Joint Use Agreement (////) effective as of the Effective Date. The terms and conditions of the permission may be ascertained by referring to the Reciprocal Joint Use Agreement.

If the Reciprocal Joint Use Agreement has not been terminated upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns.

This memorandum is executed and recorded under paragraph 6.05 of the Reciprocal Joint Use Agreement.

In Witness Whereof, the parties have caused their representatives to set their hands:

City of San Antonio, a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

San Antonio Water System

_____

_____

_____

Date:_____

Draft. This is only to show the agreed form of the final instrument. This example is neither ready nor suitable to be signed.

Approved As To Form:

_____
City Attorney

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of the City of San Antonio, a Texas municipal corporation, in the capacity therein stated and on behalf of that entity.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of San Antonio Water System, an agency of the City of San Antonio, in the capacity therein stated and on behalf of that agency.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

Reciprocal Joint Use Agreement

(Cibolo Creek JUA (P13-080))

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1. Pertinent Information.

Authorizing Ordinance:

SP No.:

Joint User: San Antonio Water System

Address: 2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)

City: City of San Antonio

Address: City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)

Term: Indefinite duration subject to rights of termination set out in this agreement.

Premises: 0.481 acre out of a variable width drainage right of way as shown on the plat of the Heatherwood Subdivision, recorded in Volume 9560, Page 115 of the Deed and Plat Records of Bexar County, Texas.

Scope of Permission: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of approximately 575 feet of 15-inch sewer main and three manholes, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto.

Consideration: The reciprocal options, covenants, rights and interest City and San Antonio Water System grant each other under this agreement.

Defined Terms: As used herein, "City" shall refer to the City of San Antonio and "Joint User" shall refer to the San Antonio Water System.

2. Permission.

2.01. City acknowledges that Joint User's activities, if within the Scope of Permission and conforming to the terms and conditions of this Agreement, do not, as of the date of execution of this Permission set forth below, unreasonably interfere with the use by the City. The Permission is non-exclusive. This instrument does not create an easement, but only a license defined by the terms of this instrument. City will coordinate with Joint User any access or use that could affect Joint User's infrastructure within the Premises.

2.02. City will not construct permanent improvements over the Premises that would unreasonably interfere with Joint User's use within the Scope of Permission.

2.03. This Permission does not exempt Joint User from rules of general applicability governing activities within the Scope of Permission or from getting permits required generally for activities within the Scope of Permission.

2.04. City does not guarantee title to or exclusive rights in the Premises. Joint User accepts the Premises at Joint User's risk regarding title matters. The Permission granted by this instrument bears only upon such rights as City may have in the Premises. Persons other than City may have rights in some or all of the Premises. City does not give permission to trespass on or otherwise affect or impair other's rights.

3. Construction, Maintenance, and Operations.

3.01. **Costs**. Joint User is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed by Joint User in the Premises.

3.02. **Installation and Maintenance.** All pipes must be buried to a depth satisfactory to City. In determining proper depth, City may consider expected future as well as present uses of the Premises. If another governmental or other regulatory body prescribes a depth, that depth will be satisfactory to the City. Joint User must maintain all improvements constructed or installed by Joint User. In so doing, Joint User must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations. Without limiting the foregoing, Joint User must assure that nothing it does causes the Premises to fail to comply with any aspect of the Unified Development Code relating to drainage.

3.03. **No Power to Bind**. Joint User cannot bind or permit another to bind City for payment of money or for any other obligation.

3.04. **Contractors and Subcontractors**. Joint User must promptly pay anyone who could file a mechanics' or materialmen's lien on the Premises, unless there is a good faith dispute about the right to payment. If any such lien is filed, Joint User shall pay or bond around such claim within 30 days after Joint User's notice of the lien, failing which, City may treat it as an event of default and terminate this Permission as provided in Section 6 below entitled "Termination." Joint User remains obligated to clear the lien without cost to City even after termination.

3.05 **Restoration**. If Joint User buries any pipes, promptly upon covering the pipes, Joint User must restore the original contours and vegetation disturbed by the burial to a condition substantially equivalent to their pre-existing condition, substantial equivalence to be determined

by City. If an area has a natural appearance, Joint User must restore that natural appearance unless City otherwise agrees in writing. City's determination of natural appearance controls.

3.06 **Conditions.** Joint User agrees to the following conditions.

(a) Archaeological compliance with Federal, State and Local law.

(b) Project shall comply with City of San Antonio "Tree Ordinance" set forth in Sec. 35-523 of the City of San Antonio Unified Development Code.

(c) Restore at least 80% of vegetation growth on disturbed areas. Joint User shall comply with TCEQ regulations regarding manholes located in the 100 year flood plain.

4. Insurance.
Both parties are political subdivisions of the State of Texas. As such they are subject to, and comply with the applicable provisions of, the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

5. Indemnity.
5.01. For so long as San Antonio Water System is part of the City, it need not indemnify under this contract. Subject to the indemnity provisions below when they apply, each party is liable for its own actions, the actions of its employees, and the actions of others acting on its behalf under this agreement.

5.02. If San Antonio Water System ceases to be part of the City or if this agreement is assigned to another, San Antonio Water System or its assignee must indemnify as provided in this article. **These definitions apply to the indemnity provisions of this Contract:**

5.02.01"Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract. A claim is an Indemnified Claim even if the person alleged to be at fault is not a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death. Indemnified Claims also include claims in which an Indemnitee shares liability with the Indemnitor.

5.02.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

5.02.03. "Indemnitor" means San Antonio Water System.

5.03. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

5.04. If one or more Indemnitees are finally adjudged to bear fault outside the scope of this indemnity, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability for such fault. But despite allegations that one or more Indemnitees bear such fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication and all appeals have been exhausted. An Indemnitee may but need not waive appeals. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to bear fault outside the scope of this indemnity and must continue to indemnify other Indemnitees if claims are still asserted against them.

5.05. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

5.06. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

5.07. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

5.08. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

5.09. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

5.10. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees, collectively, and 95% by the Indemnitor. Indemnitor need look only to the

City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

6. Termination.

6.01. City may terminate this Permission at any time before expiration by giving Joint User 365 days written notice, but only if City Council passes a resolution finding that Joint User's use of the Premises has, or in the future may reasonably be expected to, interfere with use of the Premises. City shall use good faith efforts to notify Joint User at least ten (10) days in advance of any such public meeting at which such resolution will be considered by City Council. City will consider Joint User's request for more than 365 days within which to remove and relocate its infrastructure.

6.02. Upon expiration or termination, all rights and privileges cease, and Joint User must promptly cease use of the Premises. If City terminates, City will then reimburse San Antonio Water System for the reasonable costs of (A) removing existing facilities permitted by this agreement, (B) acquiring a new location for the facilities, and (C) installing replacement facilities in the new location.

6.03. Improvements or appurtenances not removed within 90 days after termination of the Permission, whether by expiration or otherwise, become the property of City. City, may without liability to Joint User, dispose of such property at a public or private sale, without notice to Joint User.

6.04. Joint User may terminate this Agreement at any time by abandoning its use of the Premises and delivering notice to City. Notice must be delivered at least 30 calendar days prior to abandonment.

6.05. If a Memorandum of Permission substantially in the form of **Exhibit B** is recorded in the real property records of the county in which the Premises are located and if the City Council or San Antonio Water System Board of Trustees does not terminate this agreement according to the terms of this article, upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns. Joint User is responsible for recording fees.

7. Assignment.

7.01. This Permission cannot be assigned by San Antonio Water System except to a certificated utility provider succeeding to San Antonio Water System's wastewater utility in the area in which the Premises are located.

7.02. This Permission cannot be assigned by City except to storm water utility succeeding to City's utility in the area in which the Premises are located.

7.03. Subject to the City's rights of termination set out in Section 6.01 above, if City sells the property of which the Premises are a part, and San Antonio Water System is an agency or a part of the City at the time of the sale, City will reserve a perpetual easement for San Antonio Water System for the use permitted herein, without additional cost to San Antonio Water System.

8. Condemnation.

If the Premises are taken, in whole or in part, by eminent domain not for the benefit of the City, then this Permission, at the option of the City, ceases on the date title to the land so taken or

transferred vests in the condemning authority. San Antonio Water System waives all rights to any condemnation proceeds, unless San Antonio Water System is an agency or other part of the City. If San Antonio Water System remains an agency or other part of the City, the parties will equitably allocate the proceeds.

9. Taxes.
City is a governmental entity and does not expect to pay taxes. San Antonio Water System is responsible for taxes arising from its use of the Premises under this agreement, if San Antonio Water System loses its tax-exempt status, or if taxes are otherwise owing for any reason. In no case will City ever be responsible for taxes, local, state, or federal, if any, that may be assessed against San Antonio Water System.

10. Appropriations.
All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for an obligation arising under this agreement, the City cannot be required to fulfill the obligation.

11. Dispute Resolution.

11.01. As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

11.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

11.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

11.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

11.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

11.06. Mediator fees must be borne equally.

11.07. The parties need not mediate before going to court to seek emergency injunctive relief.

12. Miscellaneous Provisions.

12.01. **Relationship Limited.** This instrument creates only the relationship of City and Joint User as applicable. The parties are not principal and agent, partners, joint venturers, or participants in any common enterprise.

12.02. **Nondiscrimination**. Joint User must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

12.03. **Release From Liability/Notice of Sale**. If City transfers ownership of the Premises, City shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer. If San Antonio Water System is the beneficial owner of fee title of the Premises and transfers ownership of the Premises, San Antonio Water System shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer.

12.04. **Consent/Approval of City.** As to any matter hereunder in which City's consent is required, the consent may be granted by the Director, Capital Improvements Management Services Department, City of San Antonio, as designee of the City Manager, without council action, unless the City Charter requires City Council action.

12.05. **Severability**. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

12.06. **Successors**. This Permission inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

12.07. **Integration. This Written Permission Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties**.

12.08. **Modification**. This Permission may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

12.09. **Third Party Beneficiaries**. This Permission is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

12.10. **Notices**. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

12.11. **Captions**. Paragraph captions in this Permission are for ease of reference only and do not affect the interpretation hereof.

12.12. **Counterparts**. This Permission may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Permission, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

12.13. **Further Assurances**. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties as contained in this Permission.

13. Public Information.
City and San Antonio Water System acknowledge that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands.

San Antonio Water System, an agency of the City of San Antonio	**City of San Antonio,** a Texas municipal corporation
By:_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____
Date:_____	Date:_____

Approved As To Form:

_____
City Attorney

Exhibit A

SAWS Parcel: P13-080 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511

EXHIBIT "A"

FIELD NOTES
for a 0.481 of an Acre (20,969 SQ. FT.)
Joint Use Agreement

BEING A 0.481 OF AN ACRE (20,969 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.481 OF AN ACRE (20,969 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a calculated point on a 25-foot radius curve return at the intersection of the north right-of-way line of Chickadee Lane, a 70-foot wide right-of-way, with the east right-of-way line of Bobolink Cove, a 50-foot wide right-of-way, and the south line of said variable width drainage right-of-way, for the southeast corner of the herein described tract;

Thence Northwesterly, with the east right-of-way line of Bobolink Cove, and the south and west lines of said variable width drainage right-of-way, the following two courses numbered (1) and (2):

(1) Along a curve to the right having a radius of 25.00 feet, a central angle of 88°29'02", a chord which bears N. 74°58'26" W., 34.88 feet, and an arc distance of 38.61 feet to a calculated point, at the point of tangency;

(2) N. 30°43'55" W., a distance of 47.41 feet to a calculated point, for the southwest corner of the herein described tract;

Thence Northerly, across said variable width drainage right-of-way, the following two courses numbered (3) and (4):

(3) N. 07°18'33" W., a distance of 109.18 feet to a calculated point, for an angle point;

(4) N. 11°51'17" W., a distance of 60.64 feet to a calculated point on a northwest line of said variable width drainage right-of-way and the southeast line of Lot 38, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for a corner of the herein described tract;

Thence Northerly, with the northwest and west lines of said variable width drainage right-of-way and the southeast and east lines of said Block 11, N.C.B. 17810, the following three courses numbered (5) through (7):

(5) N. 59°20'03" E., a distance of 5.28 feet to a found ½" iron rod at an interior corner of said variable width drainage right-of-way and the southeast corner of said Lot 38, Block 11, N.C.B. 17810, for an angle point;

(6) N. 11°43'30" W., a distance of 243.44 feet to a found ½" iron rod at an interior corner of said variable width drainage right-of-way, the north corner of Lot 36, Block 11, N.C.B. 17810 of said Heatherwood Subdivision and the east corner Lot 35, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for an angle point;

(7) N. 26°10'51" W., a distance of 87.46 feet to a found ½" iron rod at the northwest corner of said variable width drainage right-of-way, the northeast corner of said Lot 35, Block 11, the southwest corner of a 77-foot wide drainage right-of-way out of Woodstone Hills Subdivision, a subdivision recorded in Volume 9000, Pages 126-127, Plat Records of Bexar County, Texas, and the southeast corner of Lot 10, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, for the northwest corner of the herein described tract;

(8) Thence N. 59°17'48" E., with the northwest line of said variable width drainage right-of-way and the southeast line of said 77-foot wide drainage right-of-way, a distance of 68.20 feet to a calculated point, for the northeast corner of the herein described tract;

Thence Southerly, across said variable width drainage right-of-way, the following four courses numbered (9) through (12):

(9) S. 00°20'16" W., a distance of 35.99 feet to a calculated point;

(10) S. 11°42'06" E., a distance of 315.11 feet to a calculated point;

(11) S. 07°19'43" E., a distance of 185.42 feet to a calculated point;

(12) S. 26°42'12" E., a distance of 48.51 feet to the **POINT OF BEGINNING** and containing 0.481 of an acre (20,969 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS
REGISTERED
GREGORIO LOPEZ, JR.
5272
PROFESSIONAL
LAND SURVEYOR

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas

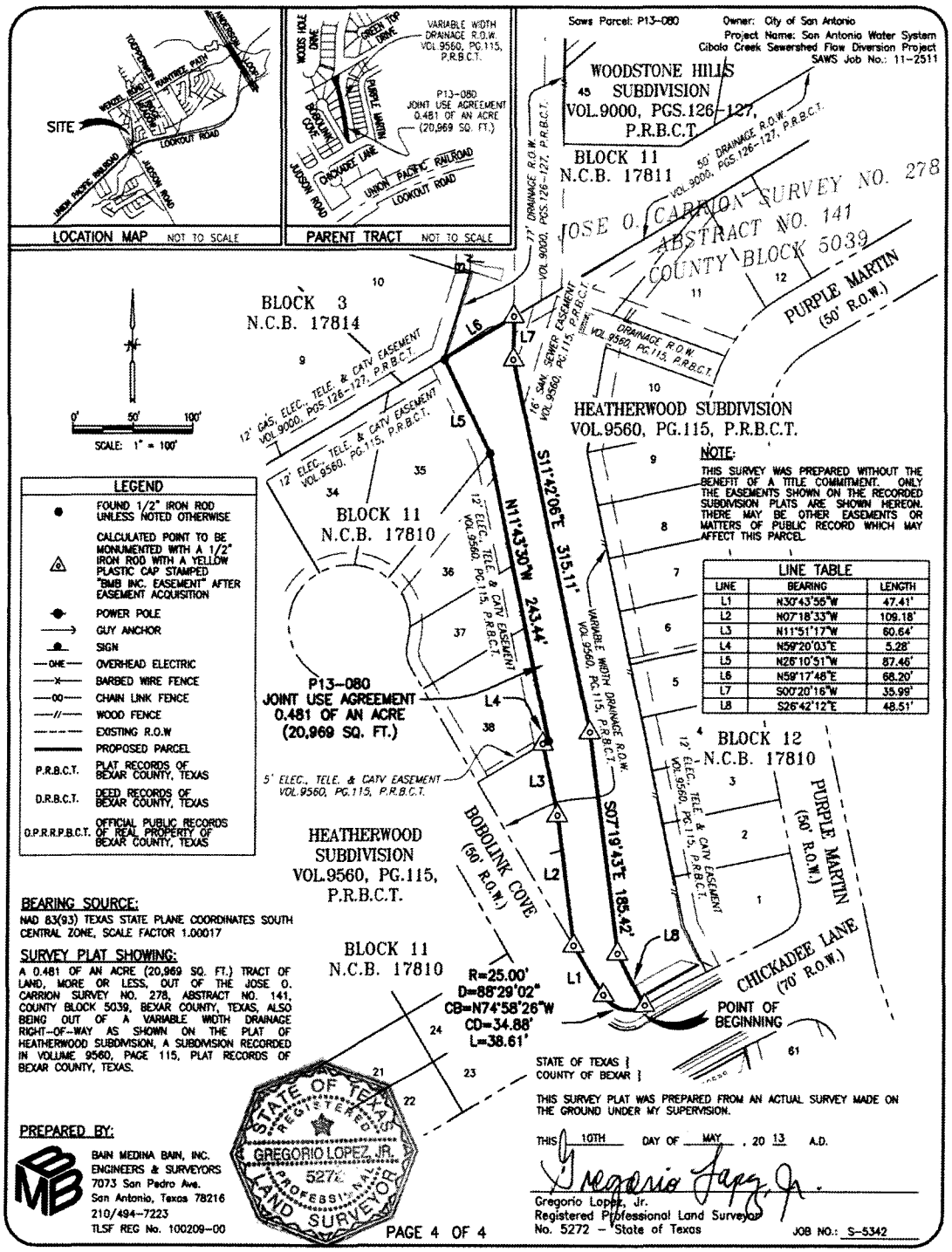
Sawa Parcel: P13-080
Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511
LOCATION MAP NOT TO SCALE
SITE
LOOKOUT ROAD
UNION PACIFIC RAILROAD
JUDSON ROAD
PARENT TRACT NOT TO SCALE
VARIABLE WIDTH DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
P13-080 JOINT USE AGREEMENT 0.481 OF AN ACRE (20,969 SQ. FT.)
WOODS HOLE DRIVE
GREEN TOP DRIVE
PURPLE MARTIN
BOBOLINK COVE
CHICKADEE LANE
WOODSTONE HILLS SUBDIVISION VOL.9000, PGS.126-127, P.R.B.C.T.
BLOCK 11 N.C.B. 17811
JOSE O. CARRION SURVEY NO. 278
ABSTRACT NO. 141
COUNTY BLOCK 5039
BLOCK 3 N.C.B. 17814
HEATHERWOOD SUBDIVISION VOL.9560, PG.115, P.R.B.C.T.
BLOCK 11 N.C.B. 17810
BLOCK 12 N.C.B. 17810
PURPLE MARTIN (50' R.O.W.)
CHICKADEE LANE (70' R.O.W.)
BOBOLINK COVE (50' R.O.W.)
SCALE: 1" = 100'
S11°42'06"E 315.11'
N11°43'30"W 243.44'
S07°19'43"E 185.42'
R=25.00'
D=88°29'02"
CB=N74°58'26"W
CD=34.88'
L=38.61'
POINT OF BEGINNING
5' ELEC., TELE. & CATV EASEMENT VOL.9560, PG.115, P.R.B.C.T.
12' GAS, ELEC., TELE. & CATV EASEMENT VOL.9000, PGS.126-127, P.R.B.C.T.
12' ELEC., TELE. & CATV EASEMENT VOL.9560, PG.115, P.R.B.C.T.
16' SAN. SEWER EASEMENT VOL.9560, PG.115, P.R.B.C.T.
DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
50' DRAINAGE R.O.W. VOL.9000, PGS.126-127, P.R.B.C.T.
17' DRAINAGE R.O.W. VOL.9000, PGS.126-127, P.R.B.C.T.
VARIABLE WIDTH DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
LEGEND
FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
POWER POLE
GUY ANCHOR
SIGN
OVERHEAD ELECTRIC
BARBED WIRE FENCE
CHAIN LINK FENCE
WOOD FENCE
EXISTING R.O.W
PROPOSED PARCEL
P.R.B.C.T. PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T. DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.
LINE TABLE
LINE | BEARING | LENGTH
L1 | N30°43'55"W | 47.41'
L2 | N07°18'33"W | 109.18'
L3 | N11°51'17"W | 60.64'
L4 | N59°20'03"E | 5.28'
L5 | N26°10'51"W | 87.46'
L6 | N59°17'48"E | 68.20'
L7 | S00°20'16"W | 35.99'
L8 | S26°42'12"E | 48.51'
BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017
SURVEY PLAT SHOWING:
A 0.481 OF AN ACRE (20,969 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A VARIABLE WIDTH DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF HEATHERWOOD SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9560, PAGE 115, PLAT RECORDS OF BEXAR COUNTY, TEXAS.
PREPARED BY:
BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00
STATE OF TEXAS REGISTERED GREGORIO LOPEZ JR. 5272 PROFESSIONAL LAND SURVEYOR
PAGE 4 OF 4
STATE OF TEXAS }
COUNTY OF BEXAR }
THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.
THIS 10TH DAY OF MAY, 20 13 A.D.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas
JOB NO.: S-5342

Exhibit B

Recordable Memorandum of Permission

(Reciprocal Joint Use Agreement)

Effective Date:	The effective date of the Authorizing Ordinance
Authorizing Ordinance:	
City (Exhibit A) /Joint User A:	San Antonio Water System
Address:	2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)
City (Exhibit B) /Joint UserB:	City of San Antonio
Address:	City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)
Term:	Indefinite duration subject to rights of termination set out in this agreement.
Premises:	
Scope of Permission:	For Joint User A: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a sewer easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto. For Joint User B: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a drainage easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto
Defined Terms:	As used herein, "City" and "Joint User" shall refer to each of the City of San Antonio and the San Antonio Water System, severally.

City has given permission to Joint User according to the Scope of Permission on the Premises according to the terms of a Reciprocal Joint Use Agreement (////) effective as of the Effective Date. The terms and conditions of the permission may be ascertained by referring to the Reciprocal Joint Use Agreement.

If the Reciprocal Joint Use Agreement has not been terminated upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns.

This memorandum is executed and recorded under paragraph 6.05 of the Reciprocal Joint Use Agreement.

In Witness Whereof, the parties have caused their representatives to set their hands:

City of San Antonio, a Texas municipal corporation

San Antonio Water System

Draft. This is only to show the agreed form of the final instrument. This example is neither ready nor suitable to be signed.

By:_____

Printed Name:_____

Title:_____

Date:_____

Date:_____

Approved As To Form:

_____
City Attorney

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of the City of San Antonio, a Texas municipal corporation, in the capacity therein stated and on behalf of that entity.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of San Antonio Water System, an agency of the City of San Antonio, in the capacity therein stated and on behalf of that agency.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

Reciprocal Joint Use Agreement

(Cibolo Creek JUA (P13-081))

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1. Pertinent Information.

Authorizing Ordinance:

SP No.:

Joint User: San Antonio Water System

Address: 2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)

City: City of San Antonio

Address: City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)

Term: Indefinite duration subject to rights of termination set out in this agreement.

Premises: 1.209 acre out of a 77' wide drainage right of way as shown on the plat of the Woodstone Hills Subdivision, recorded in Volume 9000, Page 126 of the Deed and Plat Records of Bexar County, Texas.

Scope of Permission: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of approximately 1540 feet of 15-inch sewer main and six manholes, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto.

Consideration: The reciprocal options, covenants, rights and interest City and San Antonio Water System grant each other under this agreement.

Defined Terms: As used herein, "City" shall refer to the City of San Antonio and "Joint User" shall refer to the San Antonio Water System.

2. Permission.

2.01. City acknowledges that Joint User's activities, if within the Scope of Permission and conforming to the terms and conditions of this Agreement, do not, as of the date of execution of this Permission set forth below, unreasonably interfere with the use by the City. The Permission is non-exclusive. This instrument does not create an easement, but only a license defined by the terms of this instrument. City will coordinate with Joint User any access or use that could affect Joint User's infrastructure within the Premises.

2.02. City will not construct permanent improvements over the Premises that would unreasonably interfere with Joint User's use within the Scope of Permission.

2.03. This Permission does not exempt Joint User from rules of general applicability governing activities within the Scope of Permission or from getting permits required generally for activities within the Scope of Permission.

2.04. City does not guarantee title to or exclusive rights in the Premises. Joint User accepts the Premises at Joint User's risk regarding title matters. The Permission granted by this instrument bears only upon such rights as City may have in the Premises. Persons other than City may have rights in some or all of the Premises. City does not give permission to trespass on or otherwise affect or impair other's rights.

3. Construction, Maintenance, and Operations.

3.01. **Costs**. Joint User is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed by Joint User in the Premises.

3.02. **Installation and Maintenance.** All pipes must be buried to a depth satisfactory to City. In determining proper depth, City may consider expected future as well as present uses of the Premises. If another governmental or other regulatory body prescribes a depth, that depth will be satisfactory to the City. Joint User must maintain all improvements constructed or installed by Joint User. In so doing, Joint User must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations. Without limiting the foregoing, Joint User must assure that nothing it does causes the Premises to fail to comply with any aspect of the Unified Development Code relating to drainage.

3.03. **No Power to Bind**. Joint User cannot bind or permit another to bind City for payment of money or for any other obligation.

3.04. **Contractors and Subcontractors**. Joint User must promptly pay anyone who could file a mechanics' or materialmen's lien on the Premises, unless there is a good faith dispute about the right to payment. If any such lien is filed, Joint User shall pay or bond around such claim within 30 days after Joint User's notice of the lien, failing which, City may treat it as an event of default and terminate this Permission as provided in Section 6 below entitled "Termination." Joint User remains obligated to clear the lien without cost to City even after termination.

3.05 **Restoration**. If Joint User buries any pipes, promptly upon covering the pipes, Joint User must restore the original contours and vegetation disturbed by the burial to a condition substantially equivalent to their pre-existing condition, substantial equivalence to be determined

by City. If an area has a natural appearance, Joint User must restore that natural appearance unless City otherwise agrees in writing. City's determination of natural appearance controls.

3.06 **Conditions.** Joint User agrees to the following conditions.

(a) Archaeological compliance with Federal, State and Local law.

(d) Project shall comply with City of San Antonio "Tree Ordinance" set forth in Sec. 35-523 of the City of San Antonio Unified Development Code.

(b) Restore at least 80% of vegetation growth on disturbed areas. Joint User shall comply with TCEQ regulations regarding manholes located in the 100 year flood plain.

4. Insurance.

Both parties are political subdivisions of the State of Texas. As such they are subject to, and comply with the applicable provisions of, the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

5. Indemnity.

5.01. For so long as San Antonio Water System is part of the City, it need not indemnify under this contract. Subject to the indemnity provisions below when they apply, each party is liable for its own actions, the actions of its employees, and the actions of others acting on its behalf under this agreement.

5.02. If San Antonio Water System ceases to be part of the City or if this agreement is assigned to another, San Antonio Water System or its assignee must indemnify as provided in this article. **These definitions apply to the indemnity provisions of this Contract:**

5.02.01"Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract. A claim is an Indemnified Claim even if the person alleged to be at fault is not a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death. Indemnified Claims also include claims in which an Indemnitee shares liability with the Indemnitor.

5.02.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

5.02.03. "Indemnitor" means San Antonio Water System.

5.03. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

5.04. If one or more Indemnitees are finally adjudged to bear fault outside the scope of this indemnity, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability for such fault. But despite allegations that one or more Indemnitees bear such fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication and all appeals have been exhausted. An Indemnitee may but need not waive appeals. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to bear fault outside the scope of this indemnity and must continue to indemnify other Indemnitees if claims are still asserted against them.

5.05. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

5.06. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

5.07. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

5.08. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

5.09. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

5.10. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees, collectively, and 95% by the Indemnitor. Indemnitor need look only to the

City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

6. Termination.

6.01. City may terminate this Permission at any time before expiration by giving Joint User 365 days written notice, but only if City Council passes a resolution finding that Joint User's use of the Premises has, or in the future may reasonably be expected to, interfere with use of the Premises. City shall use good faith efforts to notify Joint User at least ten (10) days in advance of any such public meeting at which such resolution will be considered by City Council. City will consider Joint User's request for more than 365 days within which to remove and relocate its infrastructure.

6.02. Upon expiration or termination, all rights and privileges cease, and Joint User must promptly cease use of the Premises. If City terminates, City will then reimburse San Antonio Water System for the reasonable costs of (A) removing existing facilities permitted by this agreement, (B) acquiring a new location for the facilities, and (C) installing replacement facilities in the new location.

6.03. Improvements or appurtenances not removed within 90 days after termination of the Permission, whether by expiration or otherwise, become the property of City. City, may without liability to Joint User, dispose of such property at a public or private sale, without notice to Joint User.

6.04. Joint User may terminate this Agreement at any time by abandoning its use of the Premises and delivering notice to City. Notice must be delivered at least 30 calendar days prior to abandonment.

6.05. If a Memorandum of Permission substantially in the form of **Exhibit B** is recorded in the real property records of the county in which the Premises are located and if the City Council or San Antonio Water System Board of Trustees does not terminate this agreement according to the terms of this article, upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns. Joint User is responsible for recording fees.

7. Assignment.

7.01. This Permission cannot be assigned by San Antonio Water System except to a certificated utility provider succeeding to San Antonio Water System's wastewater utility in the area in which the Premises are located.

7.02. This Permission cannot be assigned by City except to storm water utility succeeding to City's utility in the area in which the Premises are located.

7.03. Subject to the City's rights of termination set out in Section 6.01 above, if City sells the property of which the Premises are a part, and San Antonio Water System is an agency or a part of the City at the time of the sale, City will reserve a perpetual easement for San Antonio Water System for the use permitted herein, without additional cost to San Antonio Water System.

8. Condemnation.

If the Premises are taken, in whole or in part, by eminent domain not for the benefit of the City, then this Permission, at the option of the City, ceases on the date title to the land so taken or

transferred vests in the condemning authority. San Antonio Water System waives all rights to any condemnation proceeds, unless San Antonio Water System is an agency or other part of the City. If San Antonio Water System remains an agency or other part of the City, the parties will equitably allocate the proceeds.

9. Taxes.

City is a governmental entity and does not expect to pay taxes. San Antonio Water System is responsible for taxes arising from its use of the Premises under this agreement, if San Antonio Water System loses its tax-exempt status, or if taxes are otherwise owing for any reason. In no case will City ever be responsible for taxes, local, state, or federal, if any, that may be assessed against San Antonio Water System.

10. Appropriations.

All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for an obligation arising under this agreement, the City cannot be required to fulfill the obligation.

11. Dispute Resolution.

11.01. As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

11.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

11.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

11.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

11.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

11.06. Mediator fees must be borne equally.

11.07. The parties need not mediate before going to court to seek emergency injunctive relief.

12. Miscellaneous Provisions.

12.01. **Relationship Limited.** This instrument creates only the relationship of City and Joint User as applicable. The parties are not principal and agent, partners, joint venturers, or participants in any common enterprise.

12.02. **Nondiscrimination**. Joint User must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

12.03. **Release From Liability/Notice of Sale**. If City transfers ownership of the Premises, City shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer. If San Antonio Water System is the beneficial owner of fee title of the Premises and transfers ownership of the Premises, San Antonio Water System shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer.

12.04. **Consent/Approval of City.** As to any matter hereunder in which City's consent is required, the consent may be granted by the Director, Capital Improvements Management Services Department, City of San Antonio, as designee of the City Manager, without council action, unless the City Charter requires City Council action.

12.05. **Severability**. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

12.06. **Successors**. This Permission inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

12.07. **Integration. This Written Permission Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties**.

12.08. **Modification**. This Permission may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

12.09. **Third Party Beneficiaries**. This Permission is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

12.10. **Notices**. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

12.11. **Captions**. Paragraph captions in this Permission are for ease of reference only and do not affect the interpretation hereof.

12.12. **Counterparts**. This Permission may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the

number of counterparts, they constitute only one agreement. In making proof of this Permission, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

12.13. **Further Assurances**. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties as contained in this Permission.

13. Public Information.
City and San Antonio Water System acknowledge that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands.

San Antonio Water System, an agency of the City of San Antonio

By:_____

Printed Name:_____

Title:_____

Date:_____

City of San Antonio, a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

Approved As To Form:

_____
City Attorney

Exhibit A

SAWS Parcel: P13-081 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 7

EXHIBIT "A"

FIELD NOTES
for a 1.209 Acre (52,671 SQ. FT.)
Joint Use Agreement

BEING A 1.209 ACRE (52,671 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 77-FOOT WIDE DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF WOODSTONE HILLS SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9000, PAGES 126-127, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 1.209 ACRE (52,671 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod with a yellow plastic cap stamped "SMG ENGR", on the west line of Lot 7, Block 11, N.C.B. 17811, Greenridge North Unit-1, a subdivision recorded in Volume 7500, Pages 25-27, Plat Records of Bexar County, Texas, at the southeast corner of said 77-foot wide drainage right-of-way and the northeast corner of Lot 28, Block 11, N.C.B. 17811 of said Woodstone Hills Subdivision;

Thence N. 30°33'09" W., with the west line of said Lot 7, Block 11, N.C.B. 17811 and the east line of said 77-foot wide drainage right-of-way, a distance of 47.18 feet to a calculated point, for a corner and **POINT OF BEGINNING** of the herein described tract;

Thence Southerly, across said 77-foot wide drainage right-of-way, the following six courses numbered (1) through (6):

(1) S. 59°10'41" W., a distance of 258.62 feet to a calculated point;

(2) S. 09°56'36" E., a distance of 273.73 feet to a calculated point;

(3) S. 31°15'43" E., a distance of 116.58 feet to a calculated point;

(4) S. 22°07'41" E., a distance of 255.50 feet to a calculated point;

(5) S. 10°16'55" W., a distance of 314.33 feet to a calculated point;

(6) S. 00°20'16" W., a distance of 288.70 feet to a calculated point on the south line of said 77-foot wide drainage right-of-way and the north line of a variable width

drainage right-of-way out of Heatherwood Subdivision, a subdivision recorded in Volume 9560, Page 115, Plat Records of Bexar County, Texas, for the southeast corner of the herein described tract;

(7) Thence S. 59°17'48" W., with the south line of said 77-foot wide drainage right-of-way and the north line of said variable width drainage right-of-way, a distance of 68.20 feet to a found ½" iron rod at the southwest corner of said 77-foot wide drainage right-of-way, the northwest corner of said variable width drainage right-of-way, the southeast corner of Lot 10, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision and the northeast corner of Lot 35, Block 11, N.C.B. 17810 of said Heatherwood Subdivision, for the southwest corner of the herein described tract;

Thence Northerly, with the west line of said 77-foot wide drainage right-of-way and the east line of Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, the following eight courses numbered (8) through (15):

(8) N. 17°03'51" E., a distance of 73.21 feet to a calculated point;

(9) N. 00°49'40" E., a distance of 286.29 feet to a calculated point at the point of curvature of a curve to the right;

(10) Along said curve to the right having a radius of 260.27 feet, a central angle of 19°14'11", a chord which bears, N. 10°26'45" E., 86.97 feet, and an arc distance of 87.38 feet to a calculated point at the point of tangency;

(11) N. 20°03'51" E., a distance of 37.69 feet to a calculated point at the point of curvature of a curve to the left;

(12) Along said curve to the left having a radius of 341.00 feet, a central angle of 43°20'32", a chord which bears, N. 01°36'25" W., 251.85 feet, and an arc distance of 257.95 feet to a calculated point at the point of reverse curvature;

(13) Along a curve to the right having a radius of 3502.60 feet, a central angle of 04°25'08", a chord which bears, N. 25°45'17" W., 270.06 feet, and an arc distance of 270.14 feet to a calculated point at the point of reverse curvature;

(14) Along a curve to the left having a radius of 213.38 feet, a central angle of 29°33'40", a chord which bears, N. 12°59'30" W., 108.87 feet, and an arc distance of 110.09 feet to a calculated point at the point of reverse curvature;

(15) Along a curve to the right having a radius of 335.00 feet, a central angle of 29°18'28", a chord which bears, N. 16°43'30" W., 169.50 feet, and an arc distance of 171.36 feet to a calculated point on the south line of a 3.991 acre tract described in a Warranty Deed with Vendor's Lien dated March 31, 2003 to Michael J. Belk

and Joni L. Belk, recorded in Volume 9928, Page 2220, Official Public Records of Real Property of Bexar County, Texas, at the northwest corner of said 77-foot wide drainage right-of-way and the northeast corner of Lot 27, Block 3, N.C.B. 17814 of said Woodstone Hills Subdivision, for the northwest corner of the herein described tract;

(16) Thence N. 59°12'29" E., with the north line of said 77-foot wide drainage right-of-way and the south line of said 3.991 acre tract, a distance of 305.72 feet to a calculated point on the west line of Lot 6, Block 11, N.C.B. 17811 of said Greenridge North Unit-1, at the northeast corner of said 77-foot wide drainage right-of-way and the southeast corner of said 3.991 acre tract, for the northeast corner of the herein described tract;

(17) Thence S. 30°33'09" E., with the east line of said 77-foot wide drainage right-of-way and the west line of said Lots 6 and 7, Block 11, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 1.209 acres (52,671 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

SAWS Parcel: P13-081 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

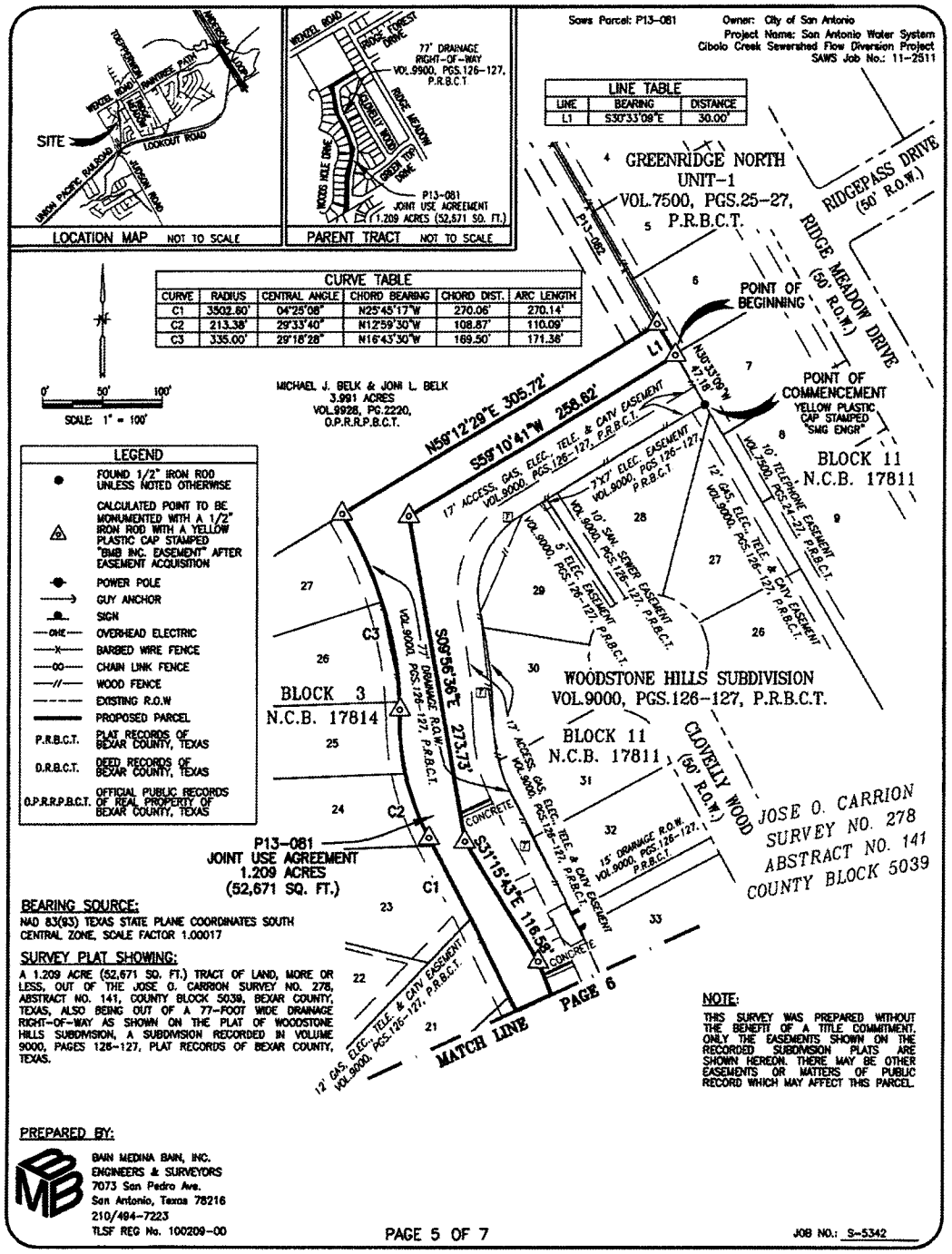
WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

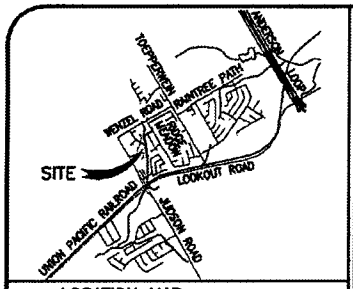
STATE OF TEXAS REGISTERED GREGORIO LOPEZ, JR. 5272 PROFESSIONAL LAND SURVEYOR

Gregorio Lopez, Jr.

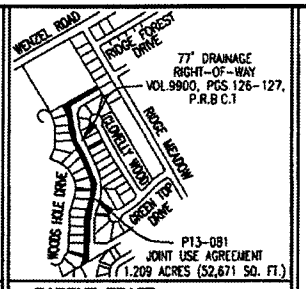
Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas


Saws Parcel: P13-081
Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511
LOCATION MAP NOT TO SCALE
SITE
PARENT TRACT NOT TO SCALE
77' DRAINAGE RIGHT-OF-WAY VOL.9900, PGS.126-127, P.R.B.C.T.
P13-081 JOINT USE AGREEMENT 1.209 ACRES (52,671 SQ. FT.)
LINE TABLE
LINE | BEARING | DISTANCE
L1 | S30°33'09"E | 30.00'
CURVE TABLE
CURVE | RADIUS | CENTRAL ANGLE | CHORD BEARING | CHORD DIST. | ARC LENGTH
C1 | 3502.60' | 04°25'08" | N25°45'17"W | 270.06' | 270.14'
C2 | 213.38' | 29°33'40" | N12°59'30"W | 108.87' | 110.09'
C3 | 335.00' | 29°18'28" | N16°43'30"W | 169.50' | 171.36'
SCALE: 1" = 100'
GREENRIDGE NORTH UNIT-1 VOL.7500, PGS.25-27, P.R.B.C.T.
RIDGEPASS DRIVE (50' R.O.W.)
RIDGE MEADOW DRIVE (50' R.O.W.)
POINT OF BEGINNING
POINT OF COMMENCEMENT YELLOW PLASTIC CAP STAMPED "SMG ENGR"
MICHAEL J. BELK & JONI L. BELK 3.991 ACRES VOL.9928, PG.2220, O.P.R.R.P.B.C.T.
N59°12'29"E 305.72'
S59°10'41"W 258.62'
N30°33'09"W 47.18'
S06°56'36"E 273.73'
S31°15'43"E 116.59'
BLOCK 11 N.C.B. 17811
BLOCK 3 N.C.B. 17814
WOODSTONE HILLS SUBDIVISION VOL.9000, PGS.126-127, P.R.B.C.T.
CLOVELLY WOOD (50' R.O.W.)
JOSE O. CARRION SURVEY NO. 278 ABSTRACT NO. 141 COUNTY BLOCK 5039
P13-081 JOINT USE AGREEMENT 1.209 ACRES (52,671 SQ. FT.)
MATCH LINE PAGE 6
LEGEND
FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
POWER POLE
GUY ANCHOR
SIGN
OVERHEAD ELECTRIC
BARBED WIRE FENCE
CHAIN LINK FENCE
WOOD FENCE
EXISTING R.O.W
PROPOSED PARCEL
P.R.B.C.T. PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T. DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017
SURVEY PLAT SHOWING:
A 1.209 ACRE (52,671 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 77-FOOT WIDE DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF WOODSTONE HILLS SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9000, PAGES 126-127, PLAT RECORDS OF BEXAR COUNTY, TEXAS.
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.
PREPARED BY:
BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00
PAGE 5 OF 7
JOB NO.: S-5342



LOCATION MAP NOT TO SCALE



PARENT TRACT NOT TO SCALE

Saws Parcel: P13-081

Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511

LINE TABLE		
LINE	BEARING	DISTANCE
L2	N20°03'51"E	37.69'

NOTE:

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.

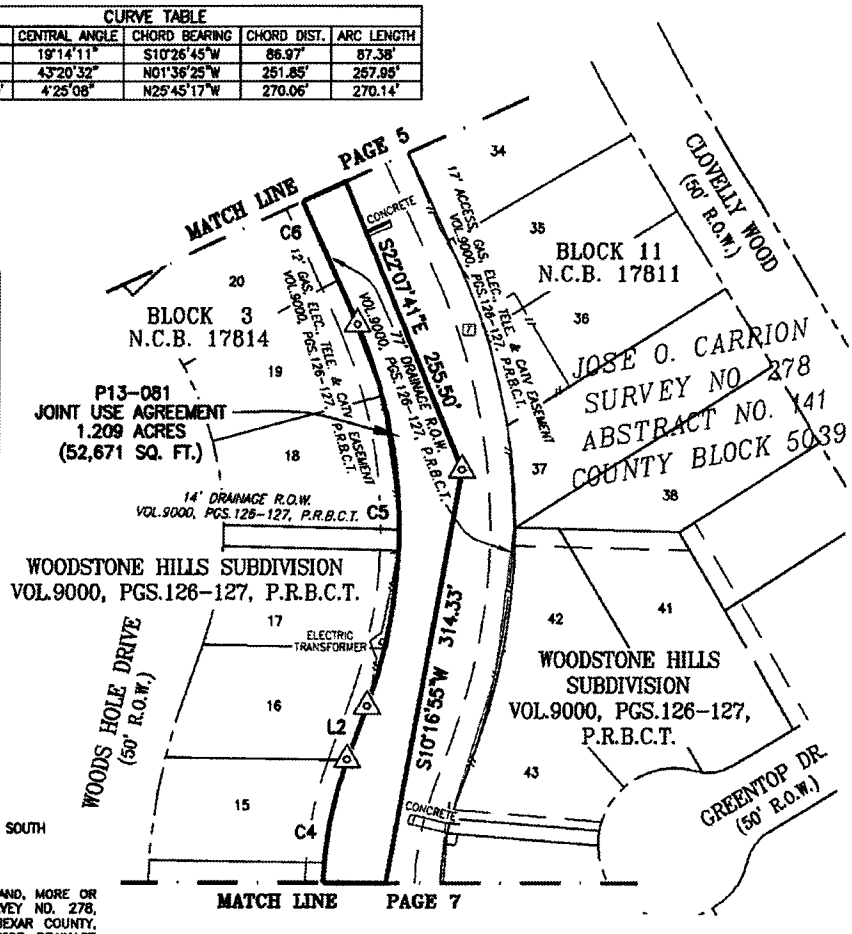
CURVE TABLE					
CURVE	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD DIST.	ARC LENGTH
C4	260.27'	19°14'11"	S10°26'45"W	86.97'	87.38'
C5	341.00'	43°20'32"	N01°36'25"W	251.85'	257.95'
C6	3502.60'	4°25'08"	N25°45'17"W	270.06'	270.14'

N

0' 50' 100'

SCALE: 1" = 100'

LEGEND	
●	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
△	CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
	POWER POLE
	GUY ANCHOR
	SIGN
—OHE—	OVERHEAD ELECTRIC
—X—	BARBED WIRE FENCE
—OO—	CHAIN LINK FENCE
—//—	WOOD FENCE
	EXISTING R.O.W
	PROPOSED PARCEL
P.R.B.C.T.	PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T.	DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T.	OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS



BEARING SOURCE:

NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:

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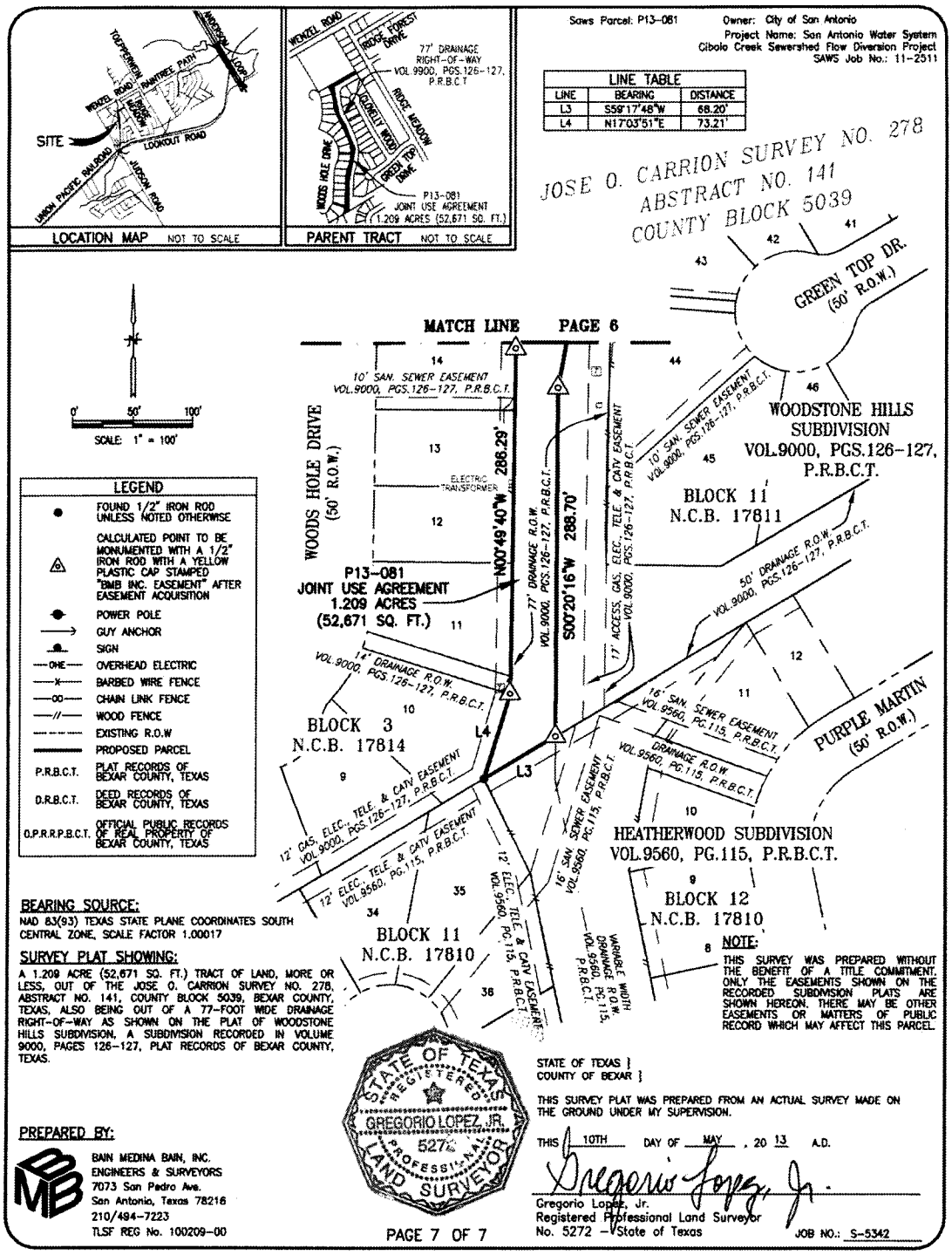
Saws Parcel: P13-081
Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511
LINE TABLE
LINE | BEARING | DISTANCE
L3 | S59°17'48"W | 68.20'
L4 | N17°03'51"E | 73.21'
LOCATION MAP NOT TO SCALE
SITE
LOOKOUT ROAD
WOHLFEL ROAD
PARENT TRACT NOT TO SCALE
77' DRAINAGE RIGHT-OF-WAY VOL 9900, PGS.126-127, P.R.B.C.T
P13-081 JOINT USE AGREEMENT (1.209 ACRES (52,671 SQ. FT.)
JOSE O. CARRION SURVEY NO. 278
ABSTRACT NO. 141
COUNTY BLOCK 5039
GREEN TOP DR. (50' R.O.W.)
MATCH LINE PAGE 6
WOODS HOLE DRIVE (50' R.O.W.)
10' SAN. SEWER EASEMENT VOL.9000, PGS.126-127, P.R.B.C.T.
ELECTRIC TRANSFORMER
N00°49'40"W 286.29'
S00°20'16"W 288.70'
77' DRAINAGE R.O.W. VOL.9000, PGS.126-127, P.R.B.C.T.
17' ACCESS, GAS, ELEC., TELE. & CATV EASEMENT VOL.9000, PGS.126-127, P.R.B.C.T.
WOODSTONE HILLS SUBDIVISION VOL.9000, PGS.126-127, P.R.B.C.T.
BLOCK 11 N.C.B. 17811
P13-081 JOINT USE AGREEMENT 1.209 ACRES (52,671 SQ. FT.)
14' DRAINAGE R.O.W. VOL.9000, PGS.126-127, P.R.B.C.T.
50' DRAINAGE R.O.W. VOL.9000, PGS.126-127, P.R.B.C.T.
BLOCK 3 N.C.B. 17814
16' SAN. SEWER EASEMENT VOL.9560, PG.115, P.R.B.C.T.
DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
PURPLE MARTIN (50' R.O.W.)
12' GAS, ELEC., TELE. & CATV EASEMENT VOL.9000, PGS.126-127, P.R.B.C.T.
12' ELEC., TELE. & CATV EASEMENT VOL.9560, PG.115, P.R.B.C.T.
HEATHERWOOD SUBDIVISION VOL.9560, PG.115, P.R.B.C.T.
BLOCK 12 N.C.B. 17810
BLOCK 11 N.C.B. 17810
VARIABLE WIDTH DRAINAGE R.O.W. VOL.9560, PG.115, P.R.B.C.T.
SCALE: 1" = 100'
LEGEND
FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
POWER POLE
GUY ANCHOR
SIGN
OVERHEAD ELECTRIC
BARBED WIRE FENCE
CHAIN LINK FENCE
WOOD FENCE
EXISTING R.O.W
PROPOSED PARCEL
P.R.B.C.T. PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T. DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017
SURVEY PLAT SHOWING:
A 1.209 ACRE (52,671 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE O. CARRION SURVEY NO. 278, ABSTRACT NO. 141, COUNTY BLOCK 5039, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 77-FOOT WIDE DRAINAGE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF WOODSTONE HILLS SUBDIVISION, A SUBDIVISION RECORDED IN VOLUME 9000, PAGES 126-127, PLAT RECORDS OF BEXAR COUNTY, TEXAS.
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.
STATE OF TEXAS
REGISTERED
GREGORIO LOPEZ, JR.
5272
PROFESSIONAL
LAND SURVEYOR
STATE OF TEXAS }
COUNTY OF BEXAR }
THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.
THIS 10TH DAY OF MAY, 20 13 A.D.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas
JOB NO.: S-5342
PREPARED BY:
BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00
PAGE 7 OF 7

Exhibit B

Recordable Memorandum of Permission

(Reciprocal Joint Use Agreement)

Effective Date:	The effective date of the Authorizing Ordinance
Authorizing Ordinance:	
City (Exhibit A) /Joint User A:	San Antonio Water System
Address:	2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)
City (Exhibit B) /Joint UserB:	City of San Antonio
Address:	City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)
Term:	Indefinite duration subject to rights of termination set out in this agreement.
Premises:	
Scope of Permission:	For Joint User A: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a sewer easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto. For Joint User B: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a drainage easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto
Defined Terms:	As used herein, "City" and "Joint User" shall refer to each of the City of San Antonio and the San Antonio Water System, severally.

City has given permission to Joint User according to the Scope of Permission on the Premises according to the terms of a Reciprocal Joint Use Agreement (////) effective as of the Effective Date. The terms and conditions of the permission may be ascertained by referring to the Reciprocal Joint Use Agreement.

If the Reciprocal Joint Use Agreement has not been terminated upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns.

This memorandum is executed and recorded under paragraph 6.05 of the Reciprocal Joint Use Agreement.

In Witness Whereof, the parties have caused their representatives to set their hands:

City of San Antonio, a Texas municipal corporation

San Antonio Water System

Draft. This is only to show the agreed form of the final instrument. This example is neither ready nor suitable to be signed.

By:_____

Printed Name:_____

Title:_____

Date:_____

Date:_____

Approved As To Form:

_____
City Attorney

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of the City of San Antonio, a Texas municipal corporation, in the capacity therein stated and on behalf of that entity.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of San Antonio Water System, an agency of the City of San Antonio, in the capacity therein stated and on behalf of that agency.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

Reciprocal Joint Use Agreement

(Cibolo Creek JUA (P13-086))

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1. Pertinent Information.

Authorizing Ordinance:

SP No.:

Joint User: San Antonio Water System

Address: 2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)

City: City of San Antonio

Address: City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)

Term: Indefinite duration subject to rights of termination set out in this agreement.

Premises: 0.378 acre out of a 7.318 acre variable width drainage right of way within the Raintree Subdivision, Unit 10, recorded in Volume 9551, Page 40 of the Deed and Plat Records of Bexar County, Texas.

Scope of Permission: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair,

addition, removal and replacement of approximately 570 feet of 8-inch sewer main and three manholes, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto.

Consideration: The reciprocal options, covenants, rights and interest City and San Antonio Water System grant each other under this agreement.

Defined Terms: As used herein, "City" shall refer to the City of San Antonio and "Joint User" shall refer to the San Antonio Water System.

2. Permission.

2.01. City acknowledges that Joint User's activities, if within the Scope of Permission and conforming to the terms and conditions of this Agreement, do not, as of the date of execution of this Permission set forth below, unreasonably interfere with the use by the City. The Permission is non-exclusive. This instrument does not create an easement, but only a license defined by the terms of this instrument. City will coordinate with Joint User any access or use that could affect Joint User's infrastructure within the Premises.

2.02. City will not construct permanent improvements over the Premises that would unreasonably interfere with Joint User's use within the Scope of Permission.

2.03. This Permission does not exempt Joint User from rules of general applicability governing activities within the Scope of Permission or from getting permits required generally for activities within the Scope of Permission.

2.04. City does not guarantee title to or exclusive rights in the Premises. Joint User accepts the Premises at Joint User's risk regarding title matters. The Permission granted by this instrument bears only upon such rights as City may have in the Premises. Persons other than City may have rights in some or all of the Premises. City does not give permission to trespass on or otherwise affect or impair other's rights.

3. Construction, Maintenance, and Operations.

3.01. **Costs**. Joint User is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed by Joint User in the Premises.

3.02. **Installation and Maintenance.** All pipes must be buried to a depth satisfactory to City. In determining proper depth, City may consider expected future as well as present uses of the Premises. If another governmental or other regulatory body prescribes a depth, that depth will be satisfactory to the City. Joint User must maintain all improvements constructed or installed by Joint User. In so doing, Joint User must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations. Without limiting the foregoing, Joint User must assure that nothing it does causes the Premises to fail to comply with any aspect of the Unified Development Code relating to drainage.

3.03. **No Power to Bind**. Joint User cannot bind or permit another to bind City for payment of money or for any other obligation.

3.04. **Contractors and Subcontractors**. Joint User must promptly pay anyone who could file a mechanics' or materialmen's lien on the Premises, unless there is a good faith dispute about the right to payment. If any such lien is filed, Joint User shall pay or bond around such claim within 30 days after Joint User's notice of the lien, failing which, City may treat it as an event of default and terminate this Permission as provided in Section 6 below entitled "Termination." Joint User remains obligated to clear the lien without cost to City even after termination.

3.05 **Restoration**. If Joint User buries any pipes, promptly upon covering the pipes, Joint User must restore the original contours and vegetation disturbed by the burial to a condition substantially equivalent to their pre-existing condition, substantial equivalence to be determined by City. If an area has a natural appearance, Joint User must restore that natural appearance unless City otherwise agrees in writing. City's determination of natural appearance controls.

3.06 **Conditions.** Joint User agrees to the following conditions.

(a) Archaeological compliance with Federal, State and Local law.

(e) Project shall comply with City of San Antonio "Tree Ordinance" set forth in Sec. 35-523 of the City of San Antonio Unified Development Code.

(b) Restore at least 80% of vegetation growth on disturbed areas. Joint User shall comply with TCEQ regulations regarding manholes located in the 100 year flood plain.

4. Insurance.
Both parties are political subdivisions of the State of Texas. As such they are subject to, and comply with the applicable provisions of, the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

5. Indemnity.
5.01. For so long as San Antonio Water System is part of the City, it need not indemnify under this contract. Subject to the indemnity provisions below when they apply, each party is liable for its own actions, the actions of its employees, and the actions of others acting on its behalf under this agreement.

5.02. If San Antonio Water System ceases to be part of the City or if this agreement is assigned to another, San Antonio Water System or its assignee must indemnify as provided in this article. **These definitions apply to the indemnity provisions of this Contract:**

5.02.01"Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract. A claim is an Indemnified Claim even if the person alleged to be at fault is not a party to this agreement. Indemnified Claims include attorneys' fees and court

costs and include claims arising from property damage and from personal or bodily injury, including death. Indemnified Claims also include claims in which an Indemnitee shares liability with the Indemnitor.

5.02.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

5.02.03. "Indemnitor" means San Antonio Water System.

5.03. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

5.04. If one or more Indemnitees are finally adjudged to bear fault outside the scope of this indemnity, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability for such fault. But despite allegations that one or more Indemnitees bear such fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication and all appeals have been exhausted. An Indemnitee may but need not waive appeals. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to bear fault outside the scope of this indemnity and must continue to indemnify other Indemnitees if claims are still asserted against them.

5.05. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

5.06. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

5.07. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

5.08. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the

City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

5.09. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

5.10. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees, collectively, and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

6. Termination.

6.01. City may terminate this Permission at any time before expiration by giving Joint User 365 days written notice, but only if City Council passes a resolution finding that Joint User's use of the Premises has, or in the future may reasonably be expected to, interfere with use of the Premises. City shall use good faith efforts to notify Joint User at least ten (10) days in advance of any such public meeting at which such resolution will be considered by City Council. City will consider Joint User's request for more than 365 days within which to remove and relocate its infrastructure.

6.02. Upon expiration or termination, all rights and privileges cease, and Joint User must promptly cease use of the Premises. If City terminates, City will then reimburse San Antonio Water System for the reasonable costs of (A) removing existing facilities permitted by this agreement, (B) acquiring a new location for the facilities, and (C) installing replacement facilities in the new location.

6.03. Improvements or appurtenances not removed within 90 days after termination of the Permission, whether by expiration or otherwise, become the property of City. City, may without liability to Joint User, dispose of such property at a public or private sale, without notice to Joint User.

6.04. Joint User may terminate this Agreement at any time by abandoning its use of the Premises and delivering notice to City. Notice must be delivered at least 30 calendar days prior to abandonment.

6.05. If a Memorandum of Permission substantially in the form of **Exhibit B** is recorded in the real property records of the county in which the Premises are located and if the City Council or San Antonio Water System Board of Trustees does not terminate this agreement according to the terms of this article, upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns. Joint User is responsible for recording fees.

7. Assignment.

7.01. This Permission cannot be assigned by San Antonio Water System except to a certificated utility provider succeeding to San Antonio Water System's wastewater utility in the area in which the Premises are located.

7.02. This Permission cannot be assigned by City except to storm water utility succeeding to City's utility in the area in which the Premises are located.

7.03. Subject to the City's rights of termination set out in Section 6.01 above, if City sells the property of which the Premises are a part, and San Antonio Water System is an agency or a part of the City at the time of the sale, City will reserve a perpetual easement for San Antonio Water System for the use permitted herein, without additional cost to San Antonio Water System.

8. Condemnation.
If the Premises are taken, in whole or in part, by eminent domain not for the benefit of the City, then this Permission, at the option of the City, ceases on the date title to the land so taken or transferred vests in the condemning authority. San Antonio Water System waives all rights to any condemnation proceeds, unless San Antonio Water System is an agency or other part of the City. If San Antonio Water System remains an agency or other part of the City, the parties will equitably allocate the proceeds.

9. Taxes.
City is a governmental entity and does not expect to pay taxes. San Antonio Water System is responsible for taxes arising from its use of the Premises under this agreement, if San Antonio Water System loses its tax-exempt status, or if taxes are otherwise owing for any reason. In no case will City ever be responsible for taxes, local, state, or federal, if any, that may be assessed against San Antonio Water System.

10. Appropriations.
All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. If the City Council fails to appropriate money for an obligation arising under this agreement, the City cannot be required to fulfill the obligation.

11. Dispute Resolution.
11.01. As a condition precedent to bringing any action arising out of or relating to this agreement or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

11.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

11.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

11.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

11.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only

predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

11.06. Mediator fees must be borne equally.

11.07. The parties need not mediate before going to court to seek emergency injunctive relief.

12. Miscellaneous Provisions.

12.01. **Relationship Limited.** This instrument creates only the relationship of City and Joint User as applicable. The parties are not principal and agent, partners, joint venturers, or participants in any common enterprise.

12.02. **Nondiscrimination**. Joint User must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

12.03. **Release From Liability/Notice of Sale**. If City transfers ownership of the Premises, City shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer. If San Antonio Water System is the beneficial owner of fee title of the Premises and transfers ownership of the Premises, San Antonio Water System shall comply with the requirements of this Agreement but will have no liability or obligation relating to the period after transfer.

12.04. **Consent/Approval of City.** As to any matter hereunder in which City's consent is required, the consent may be granted by the Director, Capital Improvements Management Services Department, City of San Antonio, as designee of the City Manager, without council action, unless the City Charter requires City Council action.

12.05. **Severability**. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

12.06. **Successors**. This Permission inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

12.07. **Integration**. **This Written Permission Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties**.

12.08. **Modification**. This Permission may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

12.09. **Third Party Beneficiaries**. This Permission is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

12.10. **Notices**. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

12.11. **Captions**. Paragraph captions in this Permission are for ease of reference only and do not affect the interpretation hereof.

12.12. **Counterparts**. This Permission may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Permission, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

12.13. **Further Assurances**. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties as contained in this Permission.

13. Public Information.
City and San Antonio Water System acknowledge that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

In Witness Whereof, the parties have caused their representatives to set their hands.

San Antonio Water System, an agency of the City of San Antonio

By:_____

Printed Name:_____

Title:_____

Date:_____

City of San Antonio, a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

Approved As To Form:

_____
City Attorney

Exhibit A

SAWS Parcel: P13-086 Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No: 11-2511
Page 1 of 4

EXHIBIT "A"

FIELD NOTES
for a 0.378 of an Acre (16,466 SQ. FT.)
Joint Use Agreement

BEING A 0.378 OF AN ACRE (16,466 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE MARIA OCON SURVEY NO. 279, ABSTRACT NO. 864, COUNTY BLOCK 5042, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. DESCRIBED IN EXHIBIT "A" IN A DEED WITHOUT WARRANTY DATED DECEMBER 15, 2004 TO THE CITY OF SAN ANTONIO, RECORDED IN VOLUME 11149, PAGE 1132, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS; SAID 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. BEING OUT OF RAINTREE SUBDIVISION, UNIT 10, A SUBDIVISION RECORDED IN VOLUME 9551, PAGES 40-42, PLAT RECORDS OF BEXAR COUNTY, TEXAS; SAID 0.378 OF AN ACRE (16,466 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod at the monumented northeast corner of said 7.318 acre variable width drainage right-of-way and the southeast corner of a 105.2599 acre tract called "Tract A" as described in a Special Warranty Deed dated January 1, 2000 conveying an undivided one-half interest to Texas Dorado Properties, Ltd., recorded in Volume 8278, Page 937, Official Public Records of Real Property of Bexar County, Texas; said 105.2599 acre tract also described in a Special Warranty Deed dated January 1, 2000 conveying an undivided one-half interest to Southern Acres Properties, Ltd., recorded in Volume 8278, Page 944, Official Public Records of Real Property of Bexar County, Texas;

Thence S. 59°49'43" W., with the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, a distance of 1.88 feet to a calculated point, for the northeast corner and **POINT OF BEGINNING** of the herein described tract, said point being 60.00 feet from and at right angles to the center line of the existing railroad tracks;

(1) Thence S. 08°09'36" W., with the west right-of-way line of Union Pacific Railroad and the east line of said 7.318 acre variable width drainage right-of-way, a distance of 286.27 feet to a calculated point, said point being 60.00 feet from and at right angles to the center line of the existing railroad tracks;

Thence, across said 7.318 acre variable width drainage right-of-way, the following eight courses numbered (2) through (9):

(2) S. 46°38'18" W., a distance of 205.12 feet to a calculated point;

(3) S. 08°30'31" W., a distance of 56.70 feet to a calculated point on the northwest line of a 15-foot wide sanitary sewer easement recorded in Volume 3920, Page 1704, Official Public Records of Real Property of Bexar County, Texas, for an angle point;

(4) S. 46°38'18" W., with the northwest line of said 15-foot wide sanitary sewer easement, a distance of 30.03 feet to a calculated point at the intersection of the northwest line of said 15-foot wide sanitary sewer easement, with the northeast line of a 16-foot wide sanitary sewer easement recorded in Volume 9551, Pages 40-42, Plat Records of Bexar County, for the most southerly corner of the herein described tract, from said point, a found ½" iron rod at an interior corner of said 7.318 acre variable width drainage right-of-way, and the east corner of Lot 33, Block 16, N.C.B. 16587 of said Raintree Subdivision, Unit 10, bears S. 46°38'18" W., 52.72 feet;

(5) N. 41°31'28" W., with the northeast line of said 16-foot wide sanitary sewer easement, a distance of 14.95 feet to a calculated point;

(6) N. 08°30'31" E., a distance of 81.09 feet to a calculated point;

(7) N. 46°38'18" E., a distance of 205.02 feet to a calculated point;

(8) N. 08°09'36" E., a distance of 230.90 feet to a calculated point;

(9) N. 19°24'26" E., a distance of 25.64 feet to a calculated point on the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, for the northwest corner of the herein described tract, from said point, a found ½" iron rod with a yellow plastic cap stamped "VICKREY PROP. COR.", at the northwest corner of said 7.318 acre variable width drainage right-of-way and the northeast corner of Lot 32, Block 16, N.C.B. 16587 of said Raintree Subdivision, Unit 10, bears S. 59°49'43" W., 219.83 feet;

(10) Thence N. 59°49'43" E., with the north line of said 7.318 acre variable width drainage right-of-way and the south line of said 105.2599 acre tract, a distance of 31.87 feet to the **POINT OF BEGINNING** and containing 0.378 of an acre (16,466 Square Feet) of land, more or less.

NOTE: All calculated points described herein to be monumented with a ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT" after easement acquisition.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 10th day of May, 2013, A.D.

STATE OF TEXAS
REGISTERED
GREGORIO LOPEZ, JR.
5272
PROFESSIONAL
LAND SURVEYOR

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas

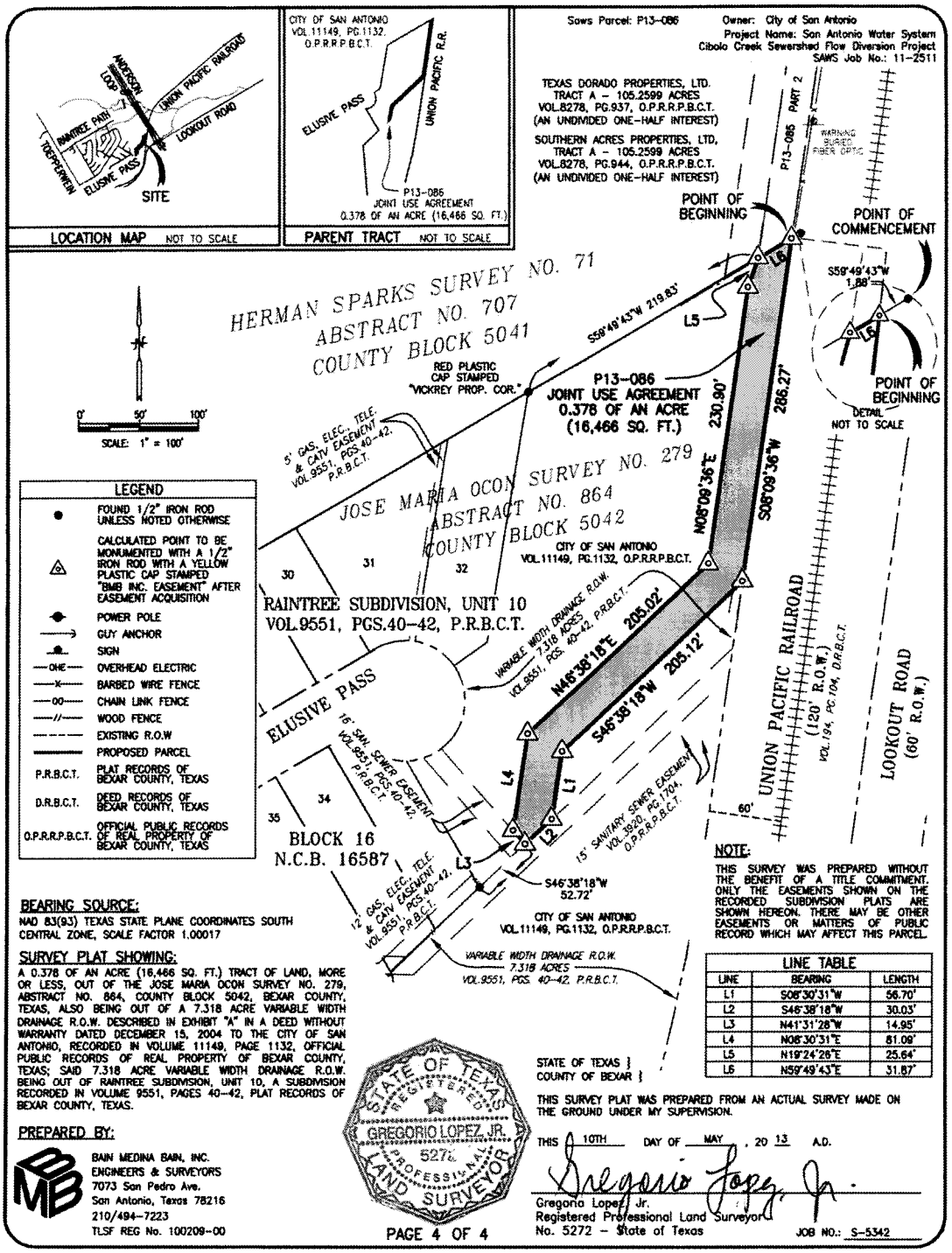
Saws Parcel: P13-086
Owner: City of San Antonio
Project Name: San Antonio Water System
Cibolo Creek Sewershed Flow Diversion Project
SAWS Job No.: 11-2511
LOCATION MAP NOT TO SCALE
SITE
PARENT TRACT NOT TO SCALE
CITY OF SAN ANTONIO VOL.11149, PG.1132, O.P.R.R.P.B.C.T.
ELUSIVE PASS
UNION PACIFIC R.R.
P13-086 JOINT USE AGREEMENT 0.378 OF AN ACRE (16,466 SQ. FT.)
TEXAS DORADO PROPERTIES, LTD. TRACT A – 105.2599 ACRES VOL.8278, PG.937, O.P.R.R.P.B.C.T. (AN UNDIVIDED ONE-HALF INTEREST)
SOUTHERN ACRES PROPERTIES, LTD. TRACT A – 105.2599 ACRES VOL.8278, PG.944, O.P.R.R.P.B.C.T. (AN UNDIVIDED ONE-HALF INTEREST)
P13-085 PART 2
WARNING BURIED FIBER OPTIC
POINT OF BEGINNING
POINT OF COMMENCEMENT
S59°49'43"W 1.88'
DETAIL NOT TO SCALE
HERMAN SPARKS SURVEY NO. 71
ABSTRACT NO. 707
COUNTY BLOCK 5041
S59°49'43"W 219.83'
L5
L6
RED PLASTIC CAP STAMPED "VICKREY PROP. COR."
P13-086 JOINT USE AGREEMENT 0.378 OF AN ACRE (16,466 SQ. FT.)
N08°09'36"E 230.90'
S08°09'36"W 286.27'
SCALE: 1" = 100'
5' GAS, ELEC., TELE. & CATV EASEMENT VOL.9551, PGS.40-42, P.R.B.C.T.
JOSE MARIA OCON SURVEY NO. 279
ABSTRACT NO. 864
COUNTY BLOCK 5042
CITY OF SAN ANTONIO VOL.11149, PG.1132, O.P.R.R.P.B.C.T.
RAINTREE SUBDIVISION, UNIT 10
VOL.9551, PGS.40-42, P.R.B.C.T.
VARIABLE WIDTH DRAINAGE R.O.W. 7.318 ACRES VOL.9551, PGS. 40-42, P.R.B.C.T.
N46°38'18"E 205.02'
S46°38'18"W 205.12'
ELUSIVE PASS
16' SAN. SEWER EASEMENT VOL.9551, PGS.40-42, P.R.B.C.T.
L4
L1
L2
L3
15' SANITARY SEWER EASEMENT VOL.3920, PG.1704, O.P.R.R.P.B.C.T.
UNION PACIFIC RAILROAD (120' R.O.W.) VOL.194, PG.104, D.R.B.C.T.
LOOKOUT ROAD (60' R.O.W.)
60'
BLOCK 16
N.C.B. 16587
12' GAS, ELEC., TELE. & CATV EASEMENT VOL.9551, PGS.40-42, P.R.B.C.T.
S46°38'18"W 52.72'
CITY OF SAN ANTONIO VOL.11149, PG.1132, O.P.R.R.P.B.C.T.
VARIABLE WIDTH DRAINAGE R.O.W. 7.318 ACRES VOL.9551, PGS. 40-42, P.R.B.C.T.
LEGEND
FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
CALCULATED POINT TO BE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BMB INC. EASEMENT" AFTER EASEMENT ACQUISITION
POWER POLE
GUY ANCHOR
SIGN
OVERHEAD ELECTRIC
BARBED WIRE FENCE
CHAIN LINK FENCE
WOOD FENCE
EXISTING R.O.W
PROPOSED PARCEL
P.R.B.C.T. PLAT RECORDS OF BEXAR COUNTY, TEXAS
D.R.B.C.T. DEED RECORDS OF BEXAR COUNTY, TEXAS
O.P.R.R.P.B.C.T. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS
BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017
SURVEY PLAT SHOWING:
A 0.378 OF AN ACRE (16,466 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOSE MARIA OCON SURVEY NO. 279, ABSTRACT NO. 864, COUNTY BLOCK 5042, BEXAR COUNTY, TEXAS, ALSO BEING OUT OF A 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. DESCRIBED IN EXHIBIT "A" IN A DEED WITHOUT WARRANTY DATED DECEMBER 15, 2004 TO THE CITY OF SAN ANTONIO, RECORDED IN VOLUME 11149, PAGE 1132, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BEXAR COUNTY, TEXAS; SAID 7.318 ACRE VARIABLE WIDTH DRAINAGE R.O.W. BEING OUT OF RAINTREE SUBDIVISION, UNIT 10, A SUBDIVISION RECORDED IN VOLUME 9551, PAGES 40-42, PLAT RECORDS OF BEXAR COUNTY, TEXAS.
PREPARED BY:
BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TLSF REG No. 100209-00
STATE OF TEXAS REGISTERED GREGORIO LOPEZ, JR. 5272 PROFESSIONAL LAND SURVEYOR
PAGE 4 OF 4
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. ONLY THE EASEMENTS SHOWN ON THE RECORDED SUBDIVISION PLATS ARE SHOWN HEREON. THERE MAY BE OTHER EASEMENTS OR MATTERS OF PUBLIC RECORD WHICH MAY AFFECT THIS PARCEL.
LINE TABLE
LINE | BEARING | LENGTH
L1 | S08°30'31"W | 56.70'
L2 | S46°38'18"W | 30.03'
L3 | N41°31'28"W | 14.95'
L4 | N08°30'31"E | 81.09'
L5 | N19°24'26"E | 25.64'
L6 | N59°49'43"E | 31.87'
STATE OF TEXAS }
COUNTY OF BEXAR }
THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.
THIS 10TH DAY OF MAY, 20 13 A.D.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas
JOB NO.: S-5342

Exhibit B

Recordable Memorandum of Permission

(Reciprocal Joint Use Agreement)

Effective Date:	The effective date of the Authorizing Ordinance
Authorizing Ordinance:	
City (Exhibit A) /Joint User A:	San Antonio Water System
Address:	2800 Highway 281 North, P.O. Box 2449, San Antonio, Texas 78298-2449 (Attn: Manager Corporate Real Estate)
City (Exhibit B) /Joint UserB:	City of San Antonio
Address:	City Hall, P.O. Box 839966, San Antonio, Texas 3966 (Attention: Director, Capital Improvements Management Services Department)
Term:	Indefinite duration subject to rights of termination set out in this agreement.
Premises:	
Scope of Permission:	For Joint User A: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a sewer easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto. For Joint User B: Installation, construction, reconstruction, realignment, inspection, patrolling, operation, maintenance, repair, addition, removal and replacement of a drainage easement, including all facilities and appurtenances convenient to accomplishing the purpose, and additions and replacements thereto
Defined Terms:	As used herein, "City" and "Joint User" shall refer to each of the City of San Antonio and the San Antonio Water System, severally.

City has given permission to Joint User according to the Scope of Permission on the Premises according to the terms of a Reciprocal Joint Use Agreement (////) effective as of the Effective Date. The terms and conditions of the permission may be ascertained by referring to the Reciprocal Joint Use Agreement.

If the Reciprocal Joint Use Agreement has not been terminated upon City's sale of the Premises, Joint User's rights under this agreement become an easement in gross for the purposes described in the Scope of Permission, for the benefit of Joint User, its successors and assigns.

This memorandum is executed and recorded under paragraph 6.05 of the Reciprocal Joint Use Agreement.

In Witness Whereof, the parties have caused their representatives to set their hands:

City of San Antonio, a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

San Antonio Water System

_____

_____

_____

Date:_____

Draft. This is only to show the agreed form of the final instrument. This example is neither ready nor suitable to be signed.

Approved As To Form:

_____
City Attorney

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of the City of San Antonio, a Texas municipal corporation, in the capacity therein stated and on behalf of that entity.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____

THE STATE OF TEXAS §

COUNTY OF BEXAR ▪

This instrument was acknowledged before me on this date by _____, of San Antonio Water System, an agency of the City of San Antonio, in the capacity therein stated and on behalf of that agency.

Date:_____

_____
Notary Public, State of Texas

My Commission expires:_____