



**US Army Corps  
of Engineers** ®  
Fort Worth District

# Public Notice

Section 408 Request ID #: 408-SWF-2019-0012

Date issued: April 9, 2020

Close of comment period: May 9, 2020

USACE Point of Contact: Jason Story

## **REQUEST TO ALTER A U.S. ARMY CORPS OF ENGINEERS FEDERALLY AUTHORIZED CIVIL WORKS PROJECT UNDER 33 USC 408 (SECTION 408)**

**TITLE:** Section 408 Request ID # 408-SWF-2019-0012, San Pedro Creek Phase 3

**SUBJECT:** Request for a Section 408 permission to alter the San Antonio Channel Improvement Project (SACIP), a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project. Written comments are being solicited from anyone having an interest in this proposed alteration. Comments will become part of the USACE administrative record and will be considered in determining whether to approve the proposed alteration. Comments supporting, opposing, or identifying concerns that may be considered by the USACE in its decision process are all welcome. Issuance of this notice does not imply USACE endorsement of the proposed alteration as described.

**REQUESTER:** San Antonio River Authority.

**LOCATION:** The proposed project is located on San Pedro Creek in Bexar County, in the City of San Antonio.

**NON-FEDERAL SPONSOR:** San Antonio River Authority.

**LOCATION MAP(S)/DRAWING(S):** Attached figures 1-1 and 1-2.

**DESCRIPTION OF THE PROPOSED ALTERATION:** The proposed alteration consists of activities within the SACIP. The alteration would modify the SACIP within and along an approximately 0.6 mile section of San Pedro Creek beginning at Camp Street and continuing downstream to the confluence with Alazan-Apache Creek, near Interstate Highway 35. The alteration is known as Phase 3 of the larger San Pedro Creek Improvements Project. Phases 1 and 2 of the San Pedro Creek Improvements Project, which are located from Camp Street upstream to the San Pedro Creek Tunnel Inlet, were authorized under a separate Section 408 permission in 2016. The Phase 3 project would create a linear park with increased channel capacity, and includes: landscaping, riparian and aquatic ecosystem restoration, concrete trails, two bridge replacements, utility relocations, and a crest gate.

**REGULATORY AUTHORITY:** This request will be reviewed pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408). A requester has the responsibility to acquire other authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

**EVALUATION:** The decision whether to grant the request for the alteration under Section 408 is based on several factors which are outlined in Engineer Circular 1165-2-220. The benefits which reasonably may be expected to accrue from the proposed alteration must be balanced against its reasonably foreseeable detriments. Review of the proposed alteration will be reviewed by a USACE technical review team considering the following factors:

**1. *Impacts to the Usefulness of the USACE Project Determination.*** The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs.

**2. *Injurious to the Public Interest Determination.*** The review team will determine the probable impacts of the proposed alteration, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation.

**3. *Environmental Compliance.*** A decision on a Section 408 request is a federal action subject to the National Environmental Policy Act (NEPA) and other applicable federal environmental and cultural resources compliance requirements.

**THREATENED AND ENDANGERED SPECIES:** The USACE has reviewed an official list of species protected under the Endangered Species Act, and our initial review indicates the proposed alteration would have no effect to species listed by the United States Fish and Wildlife Service as threatened or endangered within the action area for the Section 408 jurisdiction.

**HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES:** The USACE has reviewed the proposed alteration for impacts to historic properties, including the results of intensive cultural resources investigations conducted in 2013 throughout the project area of potential effects (APE), which identified no historic properties and received concurrence from the Texas Historical Commission on August 20, 2014. Based on this review, the USACE has determined that there are **No Historic Properties Present or Affected** within the APE. However, given the abundance of significant cultural resources in the vicinity of the project, the USACE has determined that cultural resources monitoring during construction is appropriate. A Memorandum of Agreement

(MOA) among the USACE, the Texas State Historic Preservation Officer, and the San Antonio River Authority was executed on December 16, 2016, which provides stipulations for construction monitoring and procedures regarding inadvertent discoveries for Phases 1 and 2 of the project. The Signatories of the MOA propose to amend the existing agreement to include Phase 3, which begins at Camp Street and extends to the confluence with Alazan-Apache Creek, near Interstate Highway 35. The draft amendment to the MOA is attached for comment.

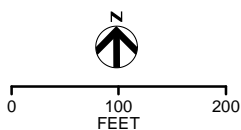
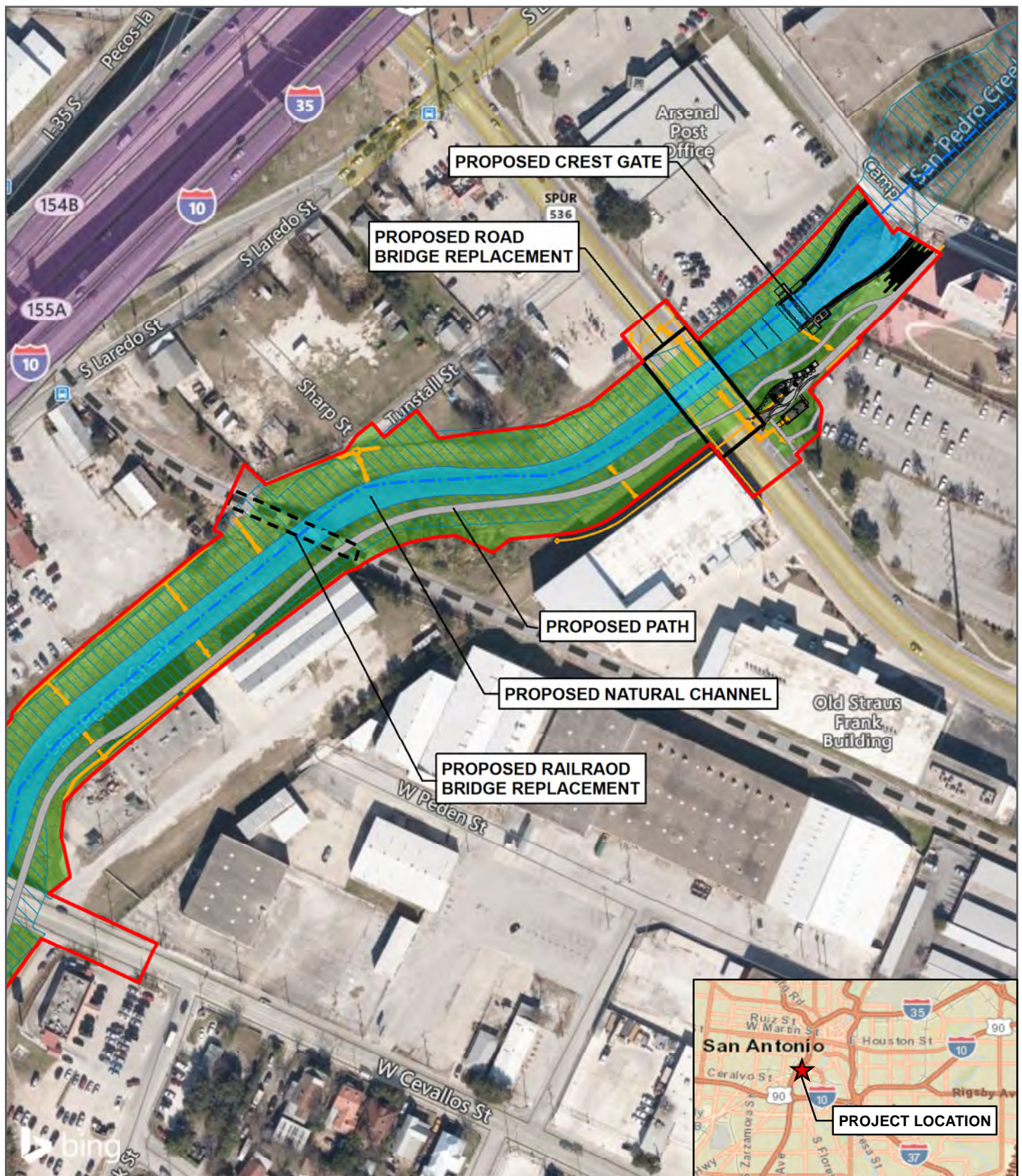
**SOLICITATION OF COMMENTS:** The USACE is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized tribes; and other interested parties in order to consider and evaluate the impacts of the proposed alteration. Comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permission for this proposed alteration.

Materials submitted as part of the Section 408 request become part of the public record and are available to the public under the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Fort Worth District, U.S. Army Corps of Engineers, Office of Counsel.

It is presumed that all parties receiving this notice will wish to respond to this public notice, therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed alteration as described herein.

**CLOSE OF COMMENT PERIOD:** Written comments on the proposed alteration must reach this office on or before the close of the comment period. Comments must reference the Section 408 Request ID # and project name. Comments and requests for additional information should be submitted to CESWF-PEC-CI, ATTN: Mr. Jason Story, P.O. Box 17300, Fort Worth, TX 76102-0300. Email inquiries should be directed to [jason.e.story@usace.army.mil](mailto:jason.e.story@usace.army.mil). Telephone inquiries should be directed to Mr. Jason Story, at (817) 886-1852. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available. For more information on Section 408, visit the Fort Worth District Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>.





- PROJECT AREA
- PROPOSED ROAD BRIDGE
- PROPOSED RAILROAD BRIDGE
- PROPOSED WALL / STRUCTURE
- PROPOSED PATH
- SAN PEDRO CREEK
- PROPOSED CHANNEL
- PROPOSED UTILITY
- USACE SAN ANTONIO CHANNEL IMPROVEMENTS PROJECT
- PROPOSED PLANTING AREA



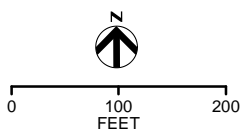
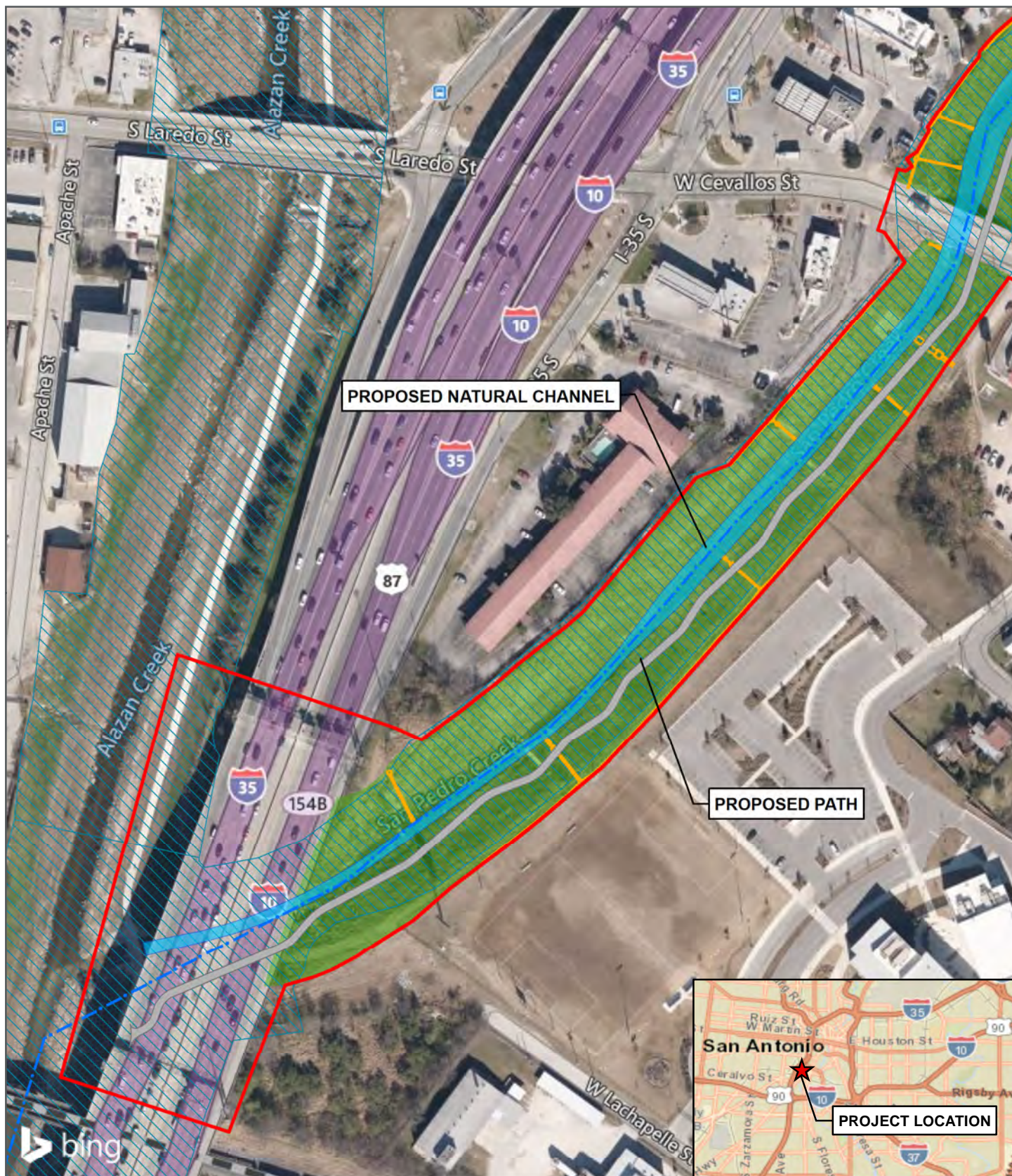
## PROJECT OVERVIEW

### SAN PEDRO CREEK IMPROVEMENTS PROJECT PHASE 3

MAR 2020

FIGURE 1-1





- PROJECT AREA
- PROPOSED ROAD BRIDGE
- PROPOSED RAILROAD BRIDGE
- PROPOSED WALL / STRUCTURE
- PROPOSED PATH
- SAN PEDRO CREEK
- PROPOSED CHANNEL
- PROPOSED UTILITY
- USACE SAN ANTONIO CHANNEL IMPROVEMENTS PROJECT
- PROPOSED PLANTING AREA



## PROJECT OVERVIEW

SAN PEDRO CREEK  
IMPROVEMENTS PROJECT  
PHASE 3

MAR 2020

FIGURE 1-2



**AMENDMENT TO  
MEMORANDUM OF AGREEMENT  
AMONG  
THE U. S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**WHEREAS**, the Agreement was executed on December 16, 2016; and

**WHEREAS**, the San Antonio River Authority (SARA) proposes to expand the area of potential effects (APE) for the undertaking to include planned reconstruction and restoration of the southernmost portion of San Pedro Creek between Camp Street and its confluence with Alazán-Apache Creek; and

**WHEREAS**, the expanded APE has undergone previous cultural resources survey, found no historic properties present, and received concurrence on these findings from the Texas State Historic Preservation Officer (SHPO) on August 20, 2014; and

**WHEREAS**, the U.S. Army Corps of Engineers, Fort Worth District (USACE) will send a copy of this executed amendment to the Advisory Council for Historic Preservation;

**NOW, THEREFORE**, in accordance with Stipulation X of the Agreement, USACE, the SHPO, and SARA agree to amend the Agreement as follows:

Stipulations of this Agreement and any subsequent amendments shall apply to all project related activities taking place within USACE authority under Section 408, and Section 404 of the Clean Water Act.

As shown in Attachment A of this amendment, the revised APE includes areas which may be directly or indirectly affected by proposed reconstruction and restoration activities between Camp Street and the confluence of San Pedro and Alazan-Apache Creeks. The areas in Appendix A to this Amendment are in addition to the areas shown in Appendix A of the MOA.

Amend Stipulation VIII: Duration. The language in Stipulation VIII of the MOA shall be deleted and replaced with the following:

“This Agreement will be null and void if its terms are not carried out within ten (10) years from the date of the execution of this amendment. Prior to such time, USACE and the other signatories may reconsider the terms of this Agreement and amend in accordance with Stipulation X.”

**AMENDMENT TO  
MEMORANDUM OF AGREEMENT  
AMONG  
THE U. S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**SIGNATORY:**

U.S. Army Corps of Engineers, Fort Worth District

\_\_\_\_\_  
Colonel Kenneth R. Reed

\_\_\_\_\_  
Date \_\_\_\_\_

**AMENDMENT TO  
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THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**SIGNATORY:**

Texas State Historic Preservation Officer

\_\_\_\_\_  
Mark Wolfe, Texas State Historic Preservation Officer

\_\_\_\_\_  
Date \_\_\_\_\_



**AMENDMENT TO  
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THE U. S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**SIGNATORY:**

San Antonio River Authority

\_\_\_\_\_  
Suzanne Scott, General Manager

Date \_\_\_\_\_

**AMENDMENT TO  
MEMORANDUM OF AGREEMENT  
AMONG  
THE U. S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

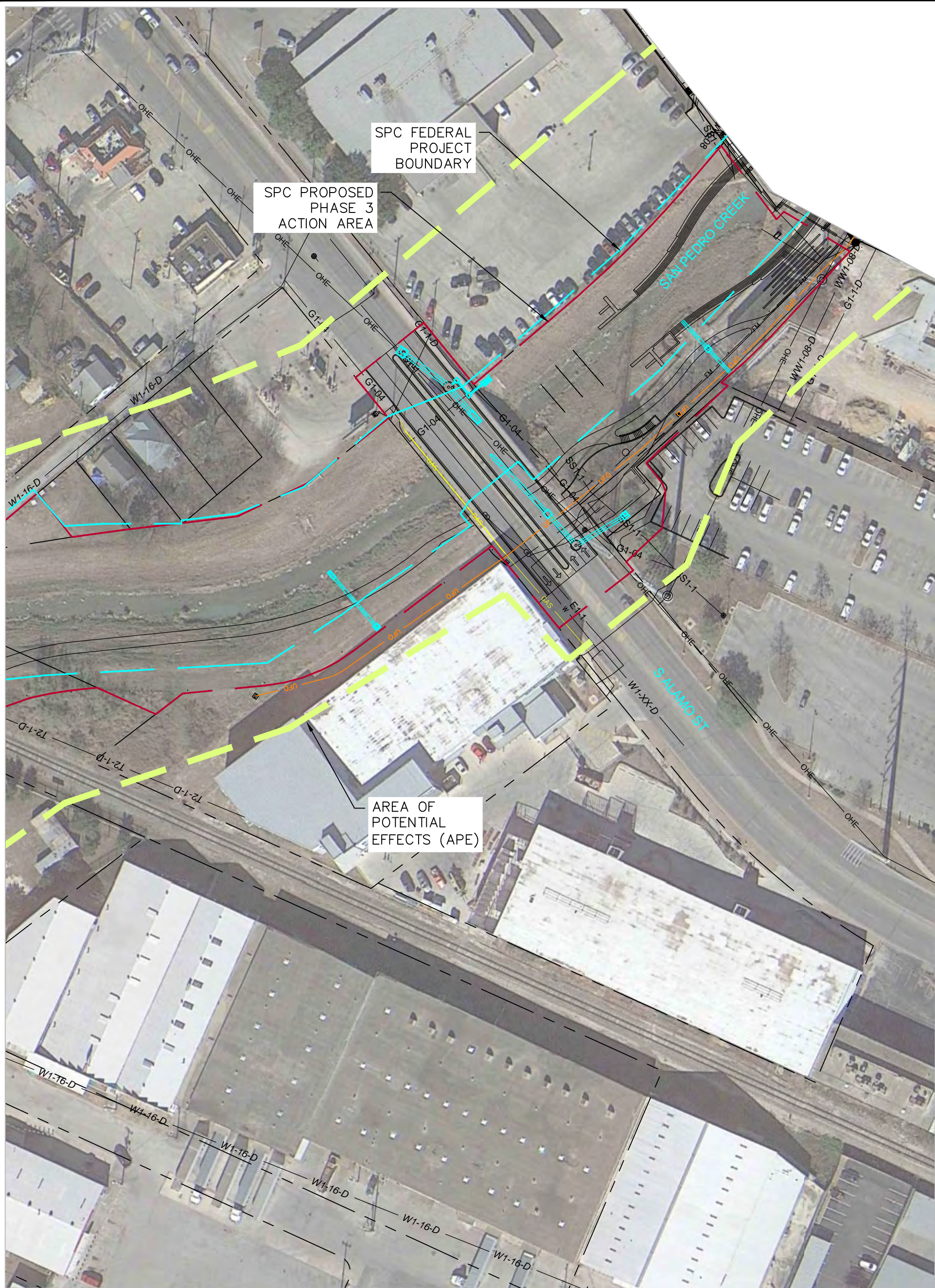
**CONCURRING PARTY:**

City of San Antonio, Office of Historic Preservation

\_\_\_\_\_  
Date \_\_\_\_\_

**ATTACHMENT A  
OF THE AMENDMENT TO  
MEMORANDUM OF AGREEMENT  
AMONG  
THE U. S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER, AND  
THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

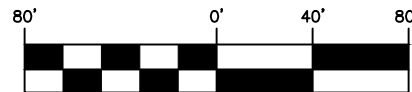




NOTE:  
1. PROPERTY LINES AND EASEMENT LINES ARE APPROXIMATE.



SCALE: 1"=80'



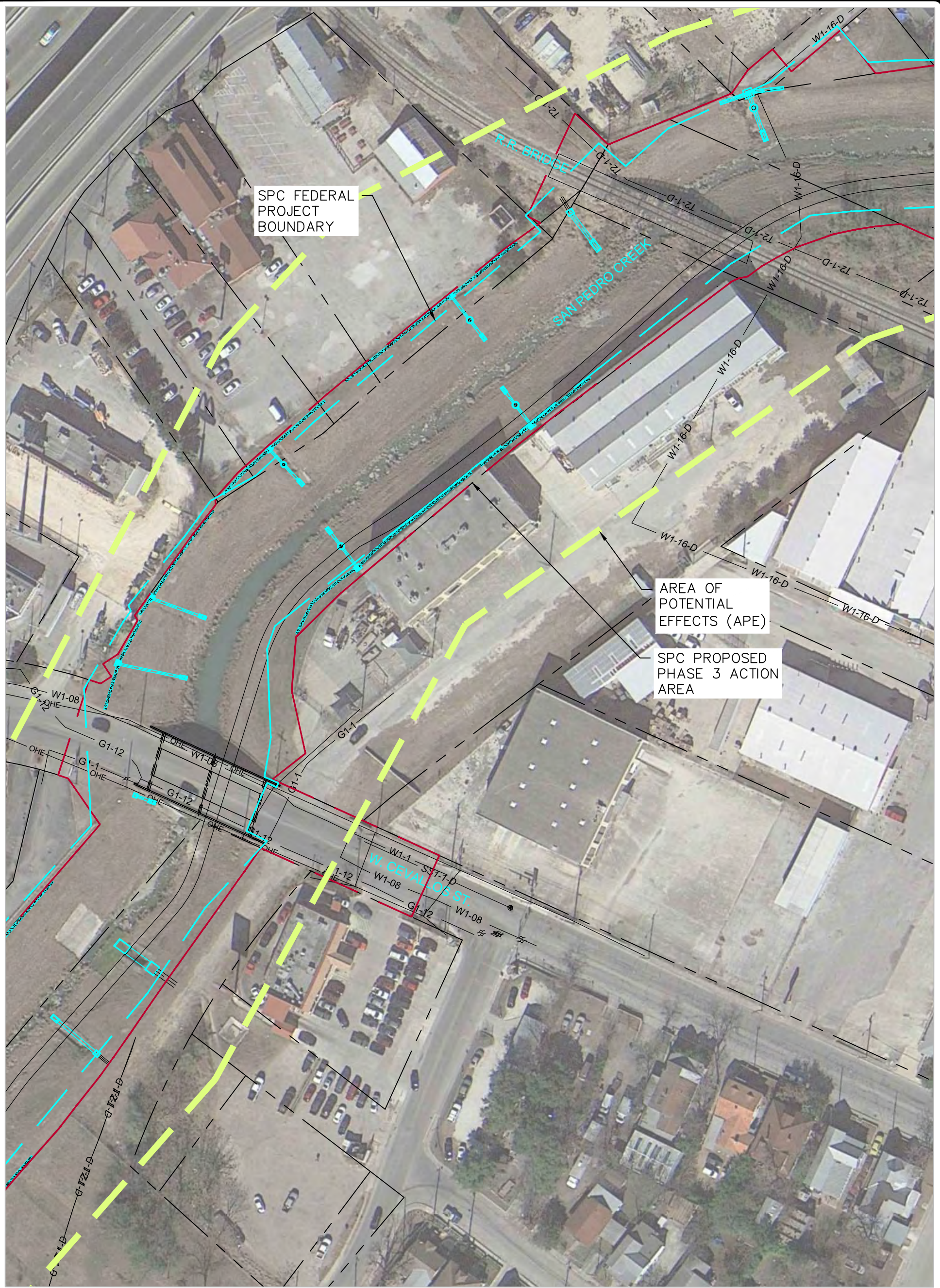
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DATE MAR 2020  
DESIGNER \_\_\_\_\_  
CHECKED \_\_\_\_\_ DRAWN JM  
SHEET 1 OF 5

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-1

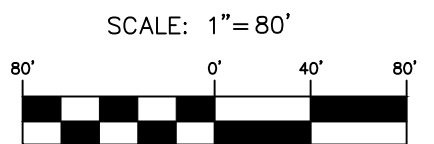
**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP #10 | SAN ANTONIO, TX 78215 | 210.375.0000  
TYPE FIRM REGISTRATION #410 | TPLS FIRM REGISTRATION #10000000





NOTE:  
1. PROPERTY LINES AND EASEMENT LINES ARE APPROXIMATE.



JOB NO. 8134-01  
DATE MAR 2020  
DESIGNER \_\_\_\_\_  
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SHEET 2 OF 5

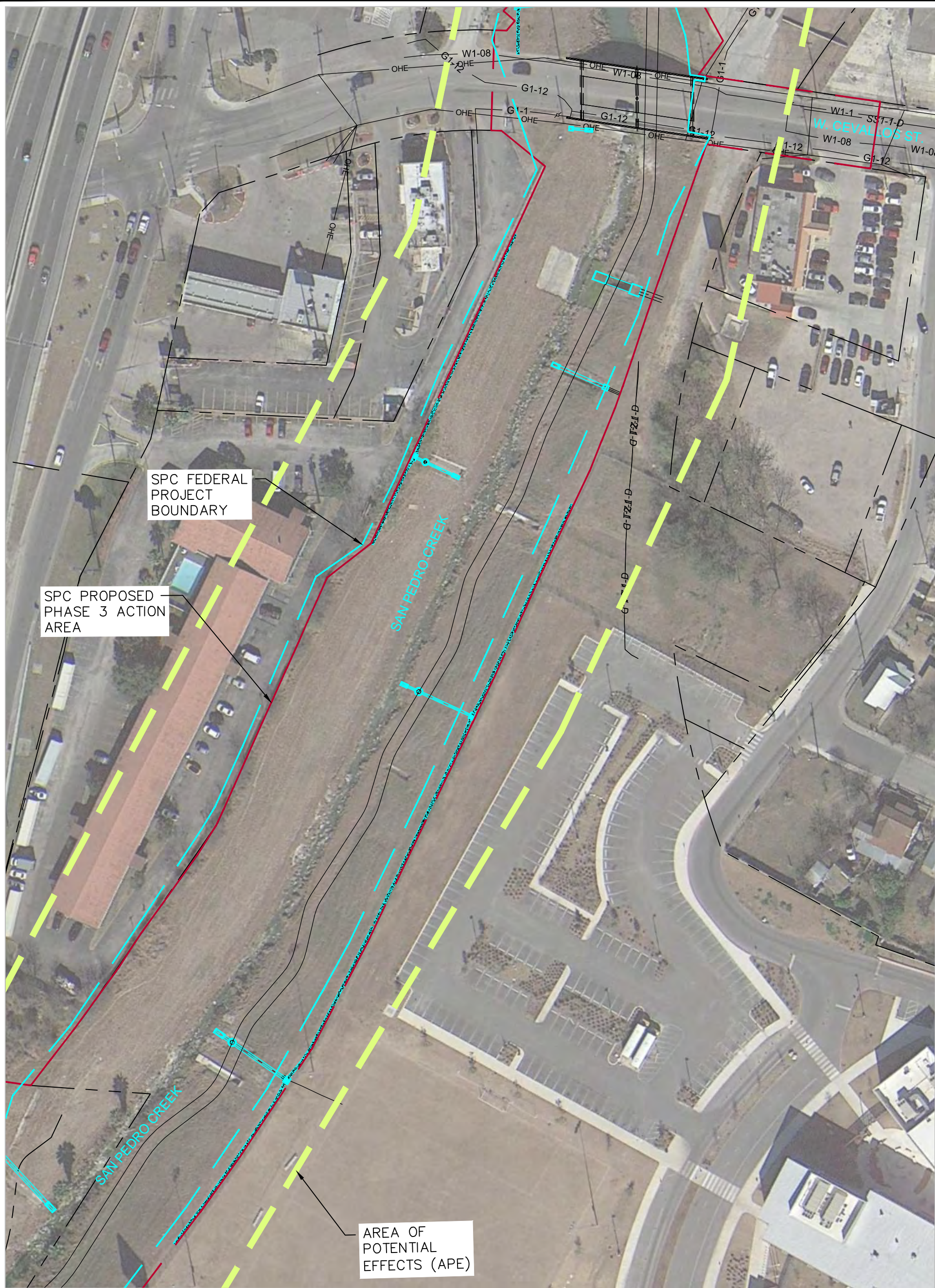
**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-2



**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78212 | 210.375.3000  
TYPE FIRM REGISTRATION #470 | TRPLS FIRM REGISTRATION #1000000

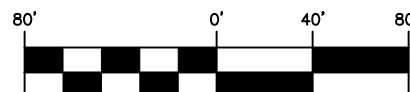




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SCALE: 1"=80'



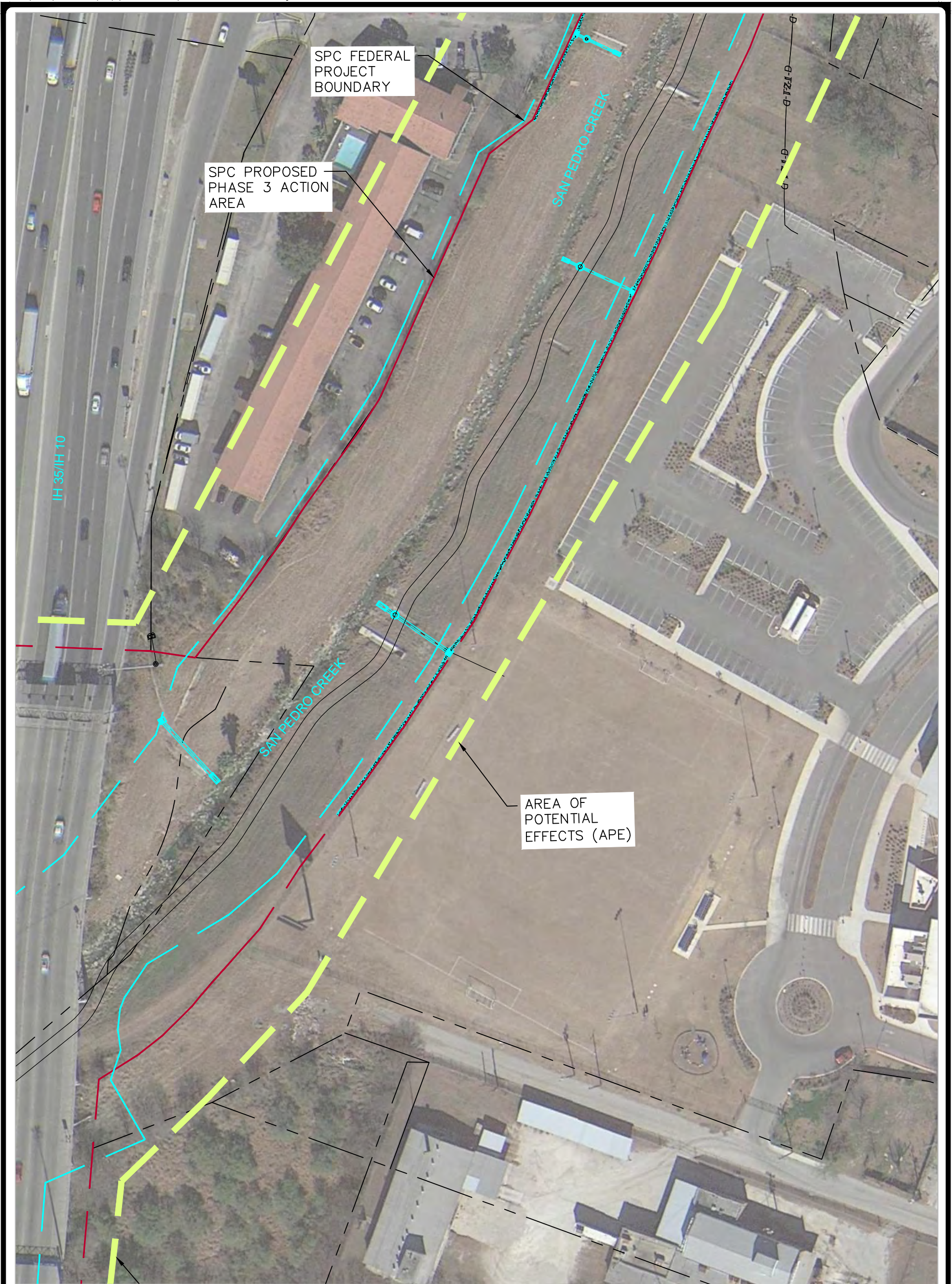
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DATE MAR 2020  
DESIGNER \_\_\_\_\_  
CHECKED \_\_\_\_\_ DRAWN JM  
SHEET 3 OF 5

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-3

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.3000  
TREE FIRM REGISTRATION #170 | TREES FIRM REGISTRATION #1000000





NOTE:  
1. PROPERTY LINES AND EASEMENT LINES ARE APPROXIMATE.

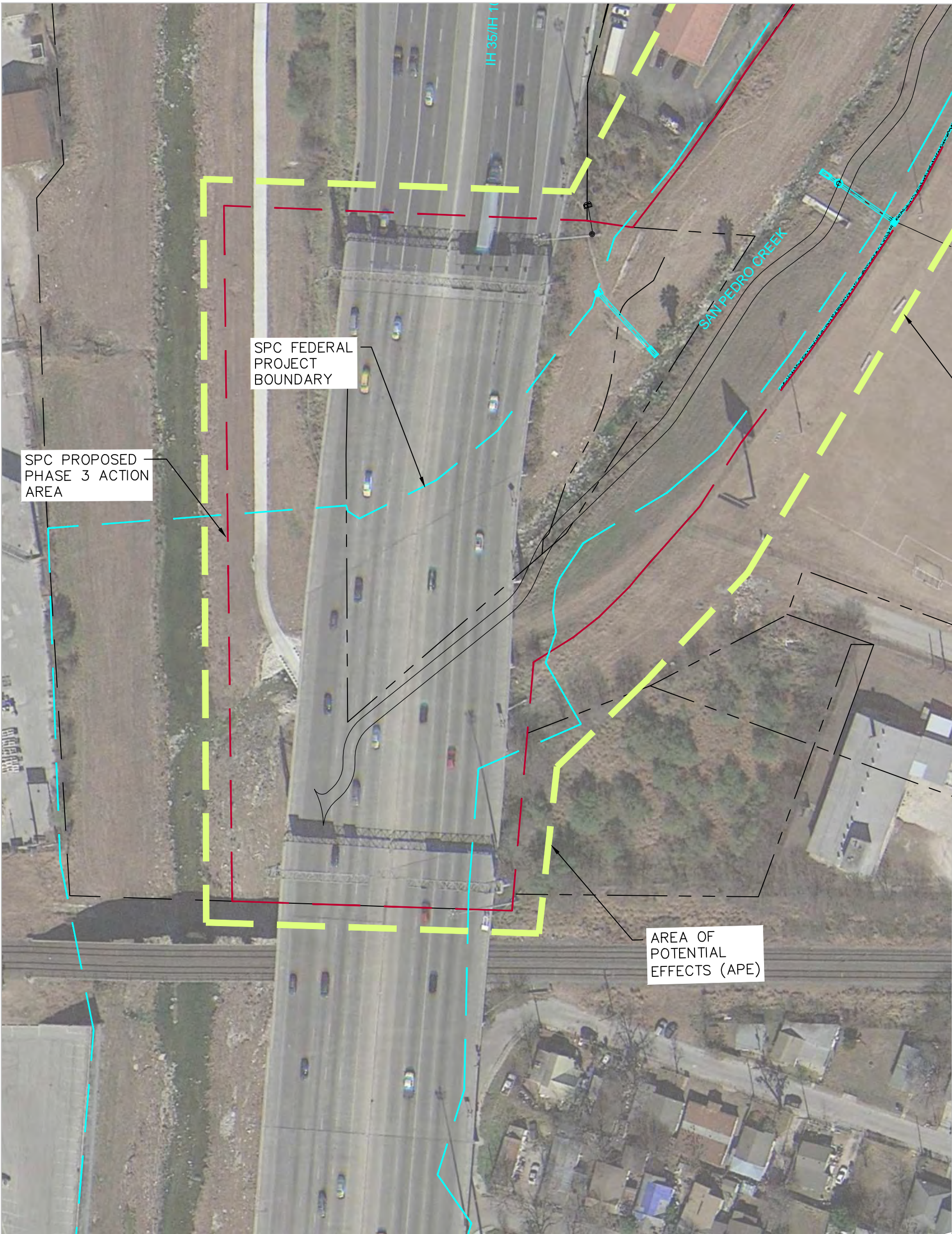


JOB NO. 8134-01  
DATE MAR 2020  
DESIGNER  
CHECKED DRAWN JM  
SHEET 4 OF 5

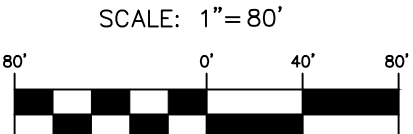
**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-4

**PAPE-DAWSON**  
**ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
3000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TYPE FIRM REGISTRATION #4390 | TEXAS FIRM REGISTRATION #100000000





NOTE:  
1. PROPERTY LINES AND EASEMENT LINES ARE APPROXIMATE.



JOB NO. 8134-01  
DATE MAR 2020  
DESIGNER  
CHECKED DRAWN JM  
SHEET 5 OF 5

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-5

**PAPE-DAWSON ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
3000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TYPE FIRM REGISTRATION #4390 | TOLPS FIRM REGISTRATION #100000000



**MEMORANDUM OF AGREEMENT  
AMONG  
THE FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER,  
AND THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**WHEREAS**, the United States Army Corps of Engineers, Fort Worth District (Corps) has jurisdiction over the channel of San Pedro Creek under 33 USC Section 408, and the San Antonio River Authority (SARA), the sponsor, will obtain permission from the Corps to initiate phased planned improvements related to flood control measures on San Pedro Creek, Bexar County, Texas (the Undertaking); and

**WHEREAS**, the Undertaking will result in SARA initiating three phases of reconstruction and restoration of portions of San Pedro Creek: Columbus to Cesar Chavez streets, Cesar Chavez to Guadalupe streets and Guadalupe to Camp streets; and

**WHEREAS**, as a result of the phased planned improvements, the bed of San Pedro Creek will be widened and deepened in some areas, portions of the banks will be modified, and the channel itself will be realigned to restore the creek to a more natural condition; and

**WHEREAS**, in consultation with the Texas State Historic Preservation Officer (SHPO), the Corps has defined the Undertaking's Area of Potential Effect (APE) to be the area shown on the attached Exhibit A; and

**WHEREAS**, the Corps has determined, and the SHPO has concurred, pursuant to 36 CFR part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), that the Undertaking shall have an adverse effect on a series of historic resources within and around the Main and Military Plaza Historic District that are eligible for listing on the National Register of Historic Places (NRHP), including segments of the stone masonry retaining walls, pedestrian and vehicular bridges (W. Salinas Street, W. Houston Street, W. Nueva Street and W. Graham Avenue), four small supply bridges (three at Houston and Commerce and one at Commerce and Dolorosa Street), and a building at 323 West Commerce Street, San Antonio, Texas; and

**WHEREAS**, the Main and Military Plaza Historic District is an area rich in archaeological deposits spanning the entire cultural sequence of the region, and the Corps has determined and the SHPO has concurred that the Undertaking may also have an adverse effect on hitherto unidentified archeological deposits within the APE; and

**WHEREAS**, the Corps has consulted with the SARA and the SHPO regarding the effects of the Undertaking, and has invited the SARA and the SHPO to sign this Memorandum of Agreement (MOA) as signatory parties; and



**WHEREAS**, the Corps has sought public involvement through a series of public meetings held by the SARA and through dissemination of materials relating to the cultural impacts of the Undertaking on its official website and has afforded the public an opportunity to comment on the Undertaking and its effects; and

**WHEREAS**, in accordance with 36 CFR Section 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation and the Council has chosen not to participate in the consultation pursuant to 36 CFR Section 800.6(a)(1)(iii); and

**NOW, THEREFORE**, the Corps, the SHPO and the SARA agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effects of the Undertaking on historic properties that are potentially eligible for listing on the National Register of Historic Places.

## **STIPULATIONS**

The Corps shall ensure the following measures are carried out:

### **I. HISTORIC AMERICAN ENGINEERING SURVEY AND HISTORIC AMERICAN BUILDING SURVEY DOCUMENTATION**

- A. The SARA shall retain a Technical Expert to undertake the Historic American Engineering Survey (HAER) documentation of selected stone masonry retaining walls (Exhibit B), the pedestrian and vehicular bridges and footbridges, and the Historic American Buildings Survey (HABS) documentation of the building at 323 W. Commerce St. The Technical Expert will meet the Secretary of the Interior's Professional Qualifications Standards at 36 CFR Part 61.
- B. The SARA's Technical Expert will focus the documentation of the stone masonry retaining walls on segments that exemplify changes in construction technique, stone work or any other transition in construction styles that may be reflective of distinct construction episodes and time periods. The documentation will conform to the Secretary of the Interior's Standards for Level II Architectural and Engineering Documentation. The documentation shall meet standards for the Historic American Buildings Survey (HABS) or the Historic American Engineering Record (HAER) program of the National Park Service (NPS). The outline format for engineering structures shall be used to document masonry retaining walls and bridges.
- C. The SARA shall submit the draft documentation via email to the Corps and the SHPO for up to a 30-day review and comment period. No response within 30 days from receipt of the email from either signatory will constitute acceptance. Once the documentation is accepted by both signatories, the activities impacting these resources may commence by the SARA. The dispute resolution process under Stipulation IX of this MOA shall apply to resolve any dispute regarding the documentation.

- D. Archival copies of the final documentation shall be given to the SHPO, the San Antonio Conservation Society, the University of Texas at San Antonio and offered to the NPS for inclusion in the HAER collection. Should the documentation not be accepted by the NPS, the original photographic negatives shall reside with the SHPO.

## **II. TEMPORARY STABILIZATION FOR ELIGIBLE STONE MASONRY RETAINING WALLS**

- A. Prior to the start of the construction, the SARA will complete a temporary stabilization plan for those segments of the National Register-eligible stone masonry walls of San Pedro Creek that will not be adversely affected by the proposed Undertaking to protect these features during the construction. Temporary stabilization shall meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- B. The SARA will submit the said temporary stabilization plan to the SHPO and Corps for review and approval. The SHPO will provide the SARA with written acceptance, rejection, or required revisions of the plan within 30 days of receipt. The SARA shall revise the temporary stabilization plan to reflect any recommendations of the SHPO.

## **III. RESTORATION OF STRUCTURALLY COMPROMISED STONE MASONRY RETAINING WALLS**

- A. Prior to the start of construction, the SARA will complete a plan for the restoration of those portions of the eligible stone masonry walls that are structurally compromised and will not be adversely affected by the Undertaking. The structural stabilization plan shall meet the Secretary of the Interior's Standards for Restoration of Historic Properties.
- B. Prior to the start of construction, the SARA will submit a plan that contains measures for the permanent stabilization and the structural restoration of National Register eligible wall segments to the SHPO for review and approval. The restoration plans shall meet the Secretary of the Interior's Standards for Restoration of Historic Properties.
- C. The SHPO will provide the SARA with written acceptance, rejection, or required revisions of the restoration plan within 30 days of receipt. The SARA shall revise the draft restoration plan to reflect any recommendations of the SHPO.
- D. The varied conditions of the eligible historic resources along the project APE will require novel approaches that may not have been anticipated in the original construction, stabilization and restoration plans. Therefore, and in concurrence with the signatory parties to this MOA, the construction, stabilization and reconstruction plans may be amended as necessary to meet unforeseen field conditions that emerge during the construction, with the review and approval of the SHPO and the Corps pursuant to the procedure set out in Stipulation X.

#### **IV. SHPO REVIEW OF DETAILED PLANS FOR EACH PHASE OF CONSTRUCTION**

The Undertaking results in SARA's plan to complete work in three phases: Columbus to Cesar Chavez streets, Cesar Chavez to Guadalupe streets and Guadalupe to Camp streets. For each phase of construction, the SARA will provide detailed construction plans to the SHPO as they are developed for their review of potential impacts to historic properties. The SHPO will provide comments on potential impacts to the SARA within 30 days of receipt.

#### **V. CONSTRUCTION MONITORING**

- A. The SARA will retain an Archeological Technical Expert who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology to develop a detailed construction monitoring protocol.
- B. The SARA, through its Archeological Technical Expert, will submit the construction monitoring protocol to the SHPO as part of the Texas Antiquities Committee construction monitoring permit application. The SARA will submit the construction monitoring protocol to the Corps for review and approval. The Corps will provide the SARA with written acceptance, rejection, or required revisions of the construction monitoring protocol within 30 days of receipt. The SARA shall revise the construction monitoring protocol to reflect any recommendations of the Corps.
- C. The SHPO will issue an Archeological Construction Monitoring Permit upon the acceptance of the permit application and the therein-contained construction monitoring protocol.
- D. Construction of the Undertaking shall not commence until the SARA obtains the Archeological Construction Monitoring Permit.

#### **VI. UNANTICIPATED DISCOVERIES**

- A. In the event unanticipated cultural resources are discovered during demolition and construction activities, the SARA shall immediately stop work in the area of discovery and notify the Corps, the City of San Antonio (COSA) Office of Historic Preservation and the SHPO. The Corps shall initiate review and assessment of the discovery for eligibility to the NRHP. If eligible for the NRHP, a determination of effect and potential avoidance and mitigation measures shall be developed and provided to signatories of this MOA for a thirty day review.
- B. In the event that the eligibility status of the unanticipated finds is not immediately evident and requires additional research, the SARA's Archeological Technical Expert shall submit to the Corps and the SHPO the appropriate request for an amendment to the Archeological Construction Monitoring Permit, pursuant to Stipulation X below, to allow for the investigation of unanticipated finds that may occur during construction.

- C. The SHPO shall issue an NRHP eligibility testing permit or amend the existing Archeological Construction Monitoring Permit to allow for the expedited investigation of such finds to ensure minimal delays to construction schedules.

## **VII. MONITORING AND REPORTING**

Each year following the execution of this MOA or until the construction, stabilization and restoration listed in Stipulations II and III have been completed or this MOA is terminated, the SARA shall provide all signatories to this agreement a written summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received relating to the Corps' efforts to carry out the terms of this MOA. Failure to provide a summary report may be considered noncompliance with the terms of this MOA pursuant to Stipulation X below.

## **VIII. DURATION**

This MOA will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the MOA and amend in accordance with Stipulation X below.

## **IX. DISPUTE RESOLUTION**

Should any signatory to this agreement object in writing at any time to any actions proposed, or the manner in which the terms of this MOA are implemented, the Corps shall consult with the objecting signatory(ies) to resolve the objection. If the Corps determines, within 30 days of receipt of an objection, that such objection(s) cannot be resolved, the Corps will:

A. Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise the Corps on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the signatories to the MOA, will be taken into account by the Corps in reaching a final decision regarding the dispute.

B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the Corps may render a decision regarding the dispute. In reaching its decision, the Corps will take into account all comments regarding the dispute from the signatories to the MOA.

C. The Corps' responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. The Corps will notify all signatories of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. The Corps' decision will be final.



## **X. AMENDMENTS AND NONCOMPLIANCE**

If any signatory to this MOA determines that the terms will not or cannot be carried out or that an amendment to its terms must be made, that signatory shall immediately consult with the other signatories to develop an amendment to this MOA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation XI below.

## **XI. TERMINATION**

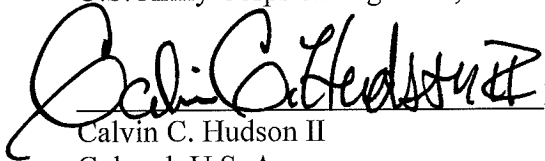
If this MOA is not amended following the consultation set out in Stipulation X, it may be terminated by any signatory upon written notification to the other signatories. Within 30 days following termination, the Corps shall notify the signatories if it will initiate consultation to execute a new MOA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly. If this MOA is terminated, compliance with 36 CFR 800 will be required.

**EXECUTION** of this MOA by the Corps, the SHPO and the SARA, the submission of documentation and filing of this MOA with the Council pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to the Corps' approval of this Undertaking, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

**MEMORANDUM OF AGREEMENT  
AMONG  
THE FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER  
AND THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE  
SAN PEDRO CREEK IMPROVEMENTS PROJECT, SAN ANTONIO, BEXAR  
COUNTY, TEXAS**

**SIGNATORY:**

U.S. Army Corps of Engineers, Fort Worth District

 Date 16 DEC 16

Calvin C. Hudson II  
Colonel, U.S. Army  
District Engineer

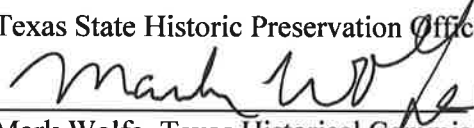
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**MEMORANDUM OF AGREEMENT**

**AMONG  
THE FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER  
AND THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE  
SAN PEDRO CREEK IMPROVEMENTS PROJECT, SAN ANTONIO, BEXAR  
COUNTY, TEXAS**

**SIGNATORY:**

Texas State Historic Preservation Officer

 Date 12/16/16  
Mark Wolfe, Texas Historical Commission, State Historic Preservation Officer

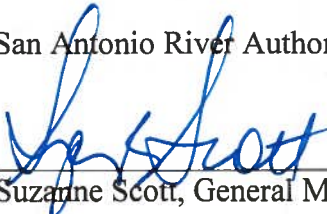
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**MEMORANDUM OF AGREEMENT**

**AMONG  
THE FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER  
AND THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE  
SAN PEDRO CREEK IMPROVEMENTS PROJECT, SAN ANTONIO, BEXAR  
COUNTY, TEXAS**

**SIGNATORY:**

San Antonio River Authority

  
\_\_\_\_\_  
Suzanne Scott, General Manager

Date 12/15/16

Note: End of signature pages.



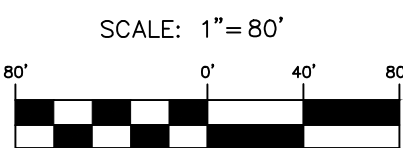
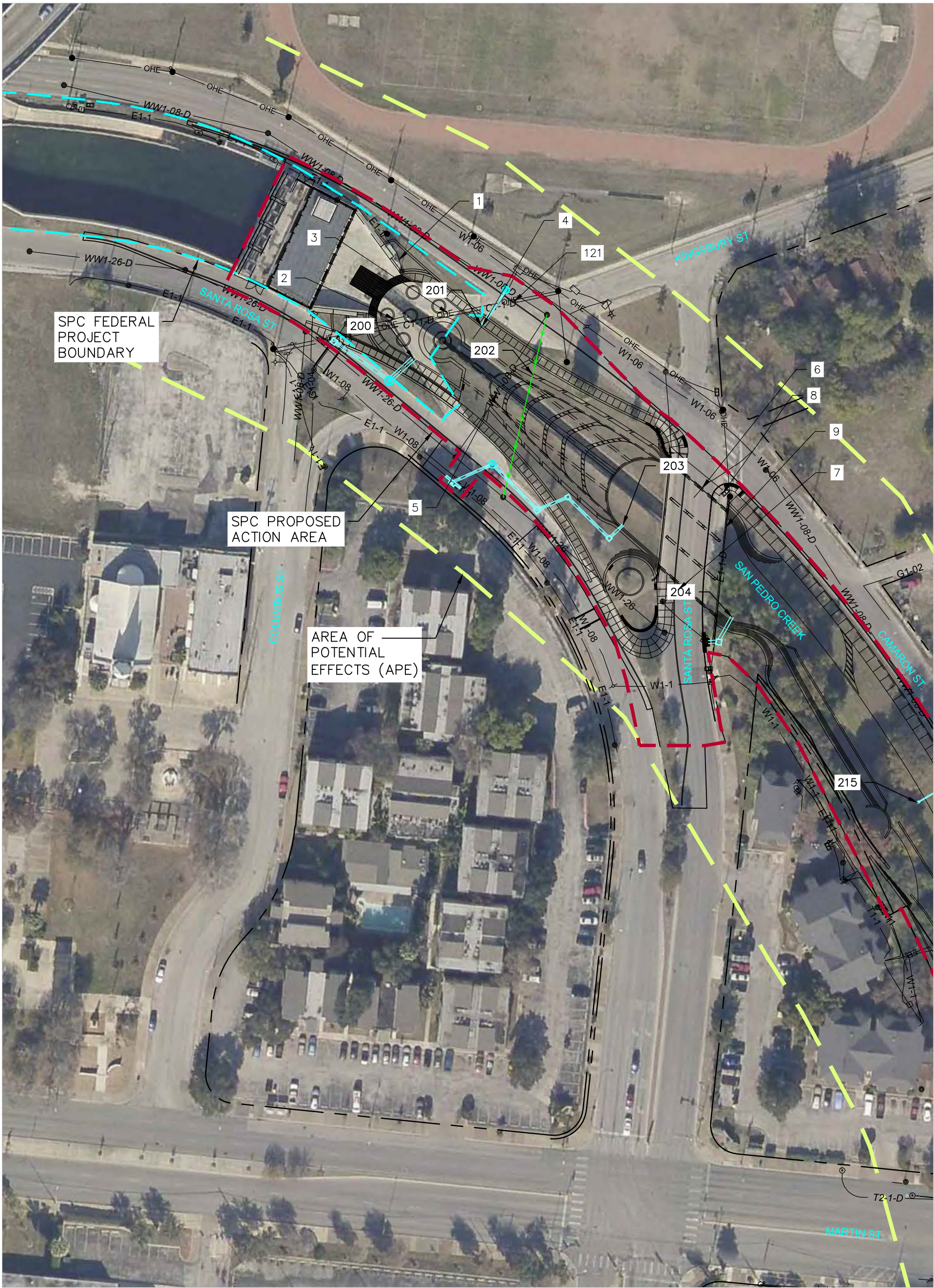
**MEMORANDUM OF AGREEMENT  
AMONG  
THE FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS,  
THE TEXAS STATE HISTORIC PRESERVATION OFFICER  
AND THE SAN ANTONIO RIVER AUTHORITY  
REGARDING THE SAN PEDRO CREEK IMPROVEMENTS PROJECT,  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

**EXHIBIT A**

**AREA OF POTENTIAL EFFECT**

**A series of 12 drawings defining the undertaking's Area of Potential Effect**





JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 1 of 8

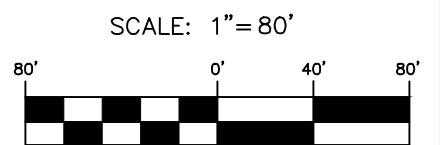
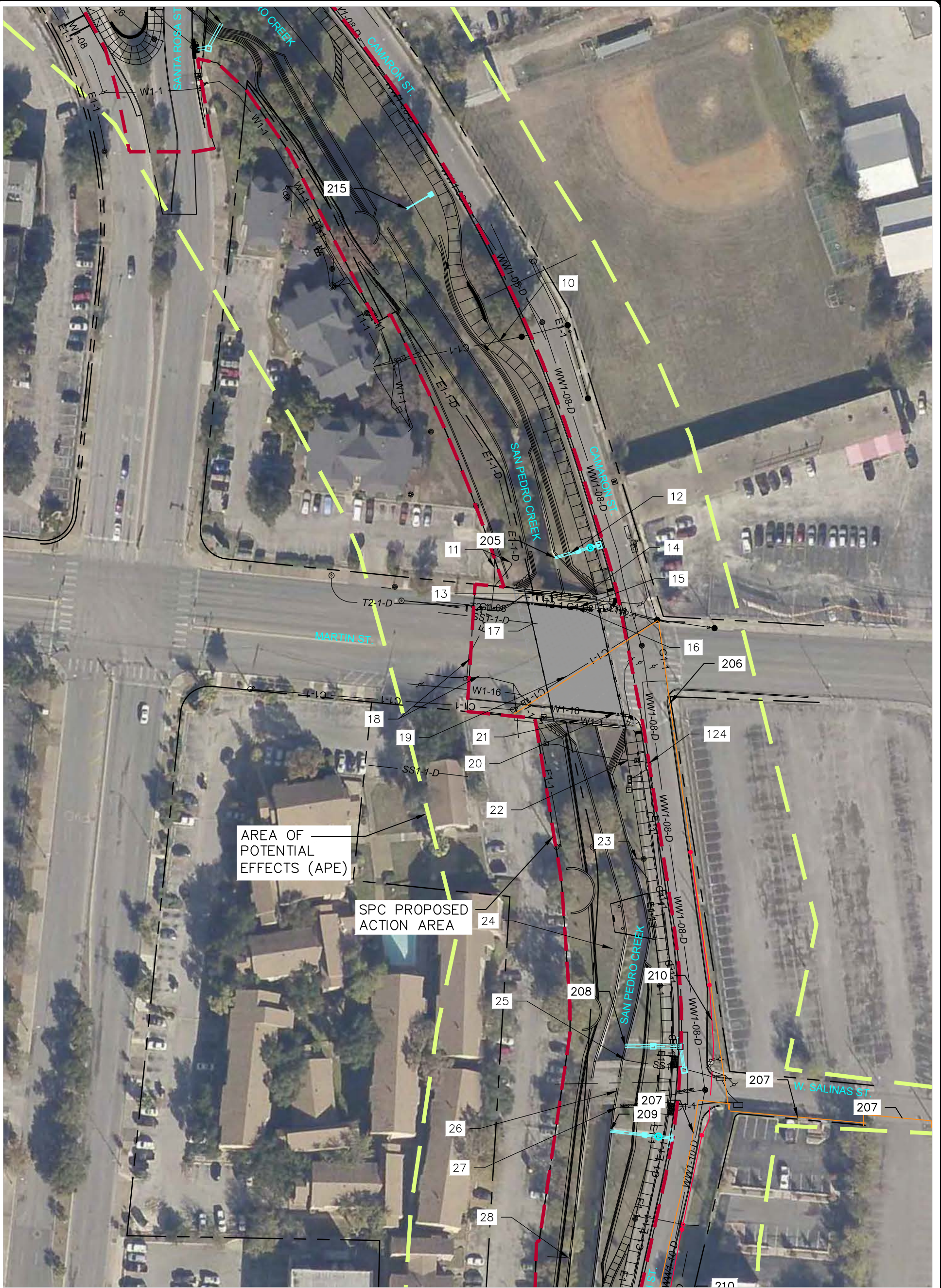
# SAN PEDRO CREEK IMPROVEMENTS

## SAN ANTONIO, TEXAS

### EXHIBIT 1-1

**PAPE-DAWSON ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78202 | 210.339.0000  
TYPE FIRM REGISTRATION #420 | TYPE FIRM REGISTRATION #10000000





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DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 2 of 8

# SAN PEDRO CREEK IMPROVEMENTS

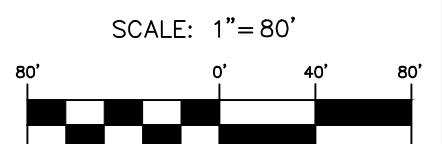
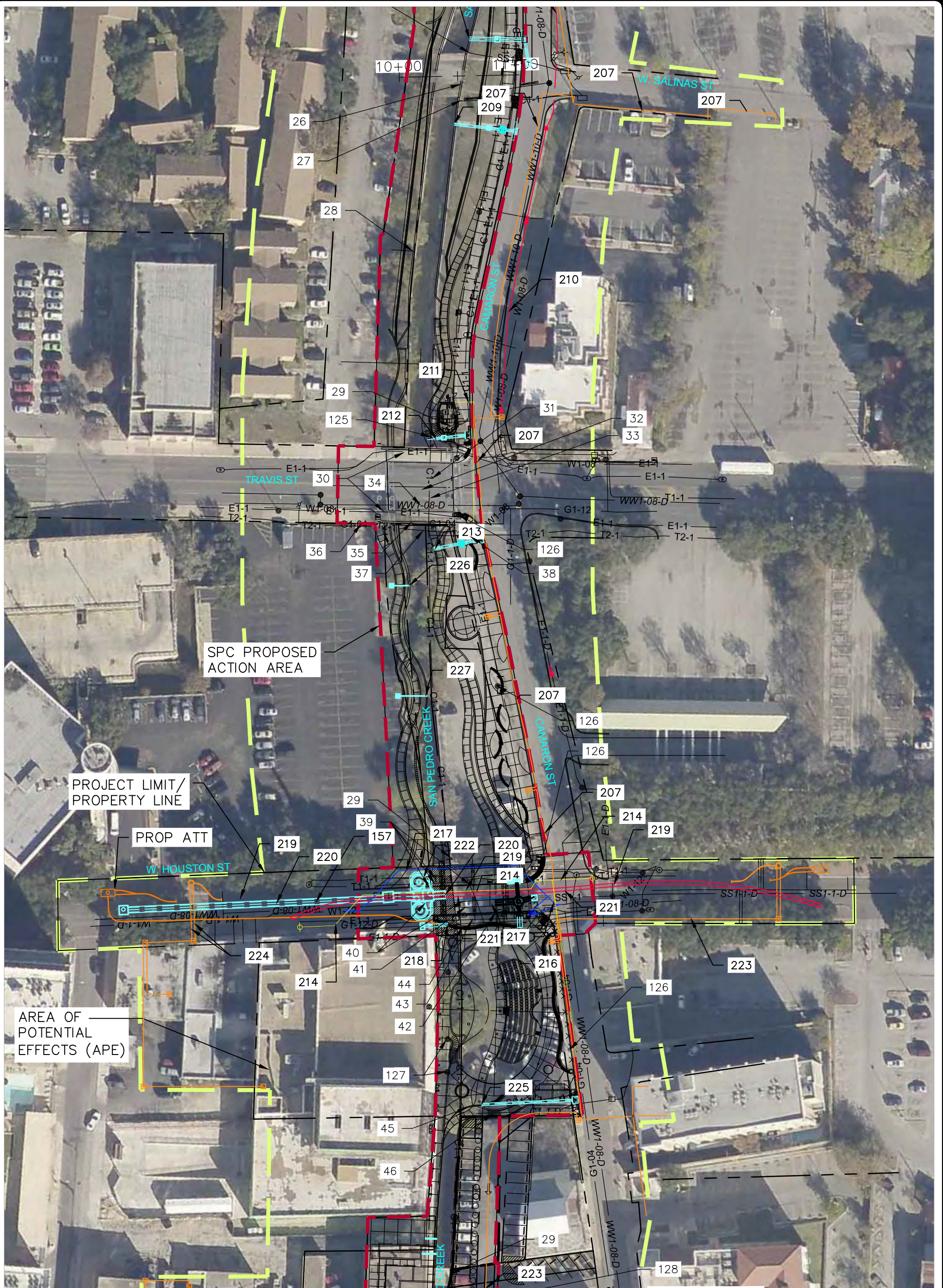
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SAN ANTONIO, TEXAS  
EXHIBIT 1-2

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 W LOOP 410 | SAN ANTONIO, TX 78212 | 210.375.9000  
TXE FIRM REGISTRATION #430 | TPES FIRM REGISTRATION #10055000





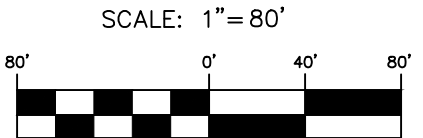
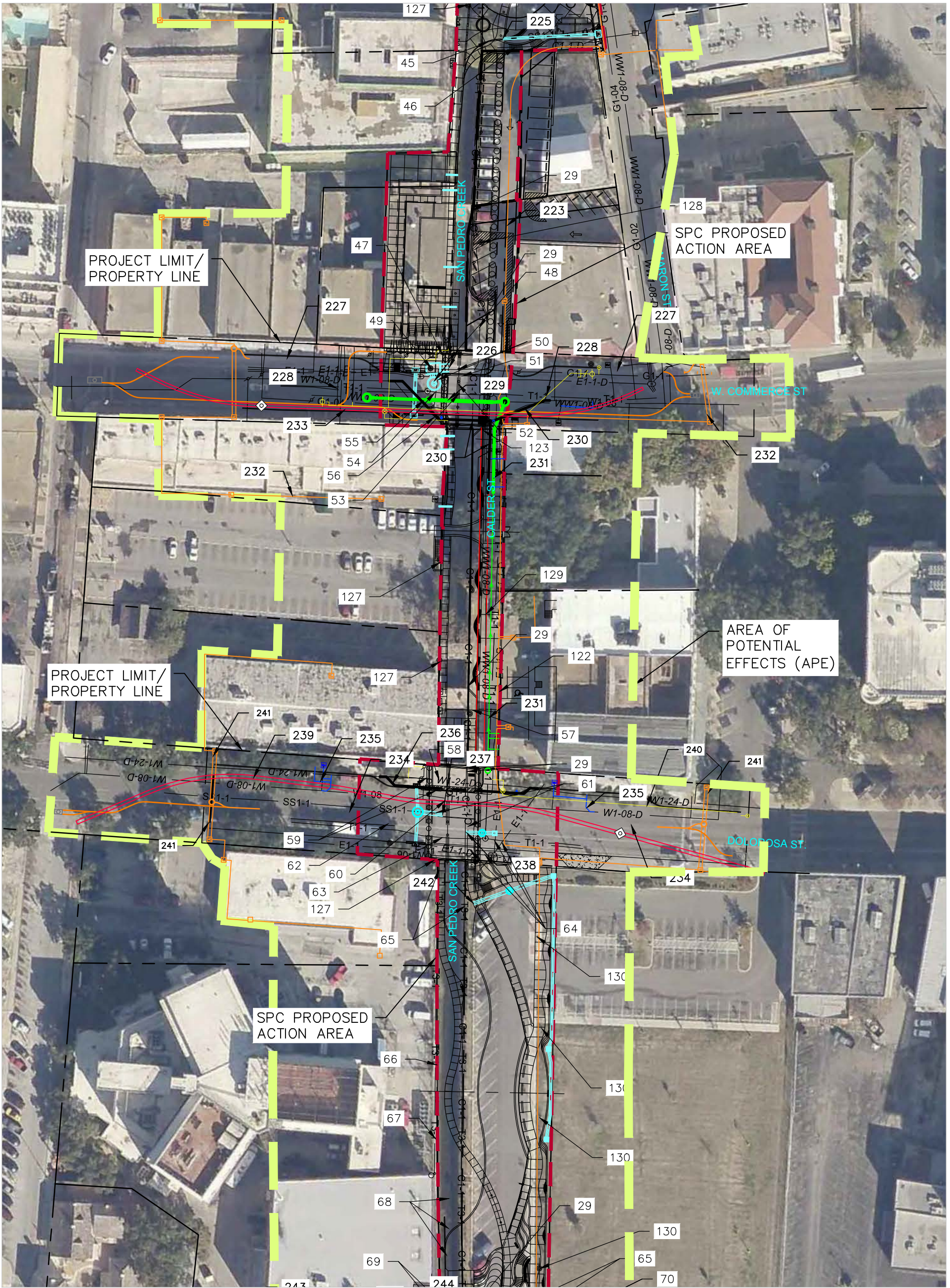
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DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 3 of 8

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-3

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 HW LOOP 410 | SAN ANTONIO, TX 78212 | 210.375.0000  
TYPE FIRM REGISTRATION #470 | TPLS FIRM REGISTRATION #10000000





JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 4 of 8

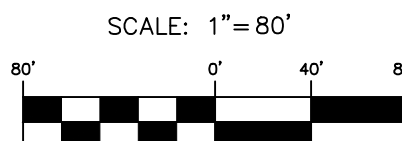
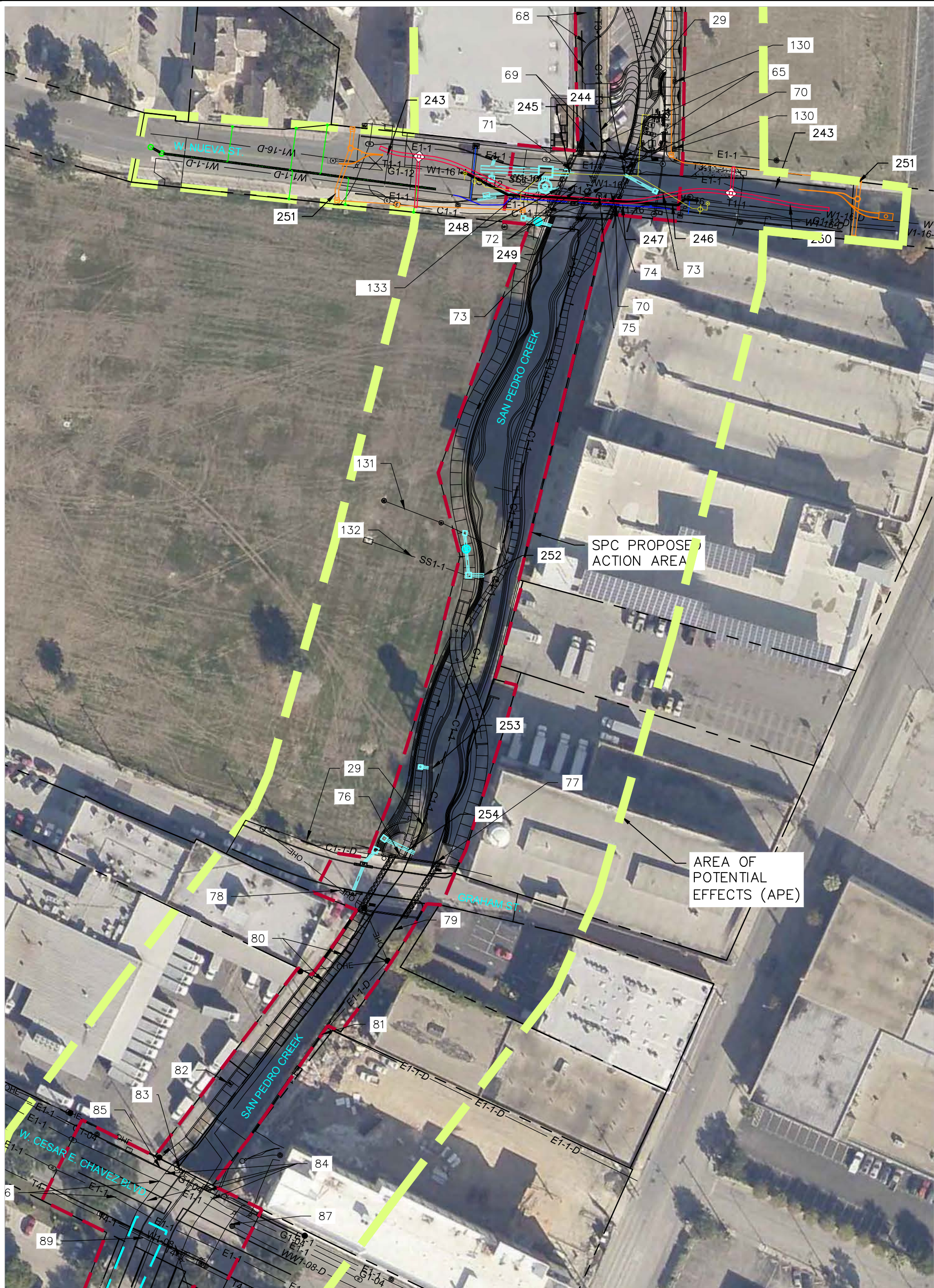
# SAN PEDRO CREEK IMPROVEMENTS

## SAN ANTONIO, TEXAS

### EXHIBIT 1-4

**PAPE-DAWSON**  
**ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP #10 | SAN ANTONIO, TX 78213 | 210.378.9000  
TYPE FIRM REGISTRATION #420 | TDP FIRM REGISTRATION #10000000





JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 5 of 8

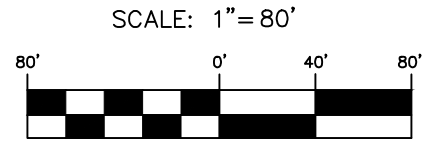
# SAN PEDRO CREEK IMPROVEMENTS

SAN ANTONIO, TEXAS  
EXHIBIT 1-5

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.370.9000  
TPE FIRM REGISTRATION 6470 | TPE+ FIRM REGISTRATION 110000000



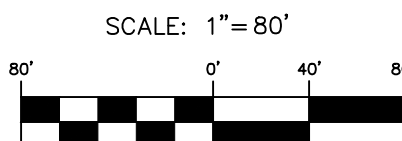
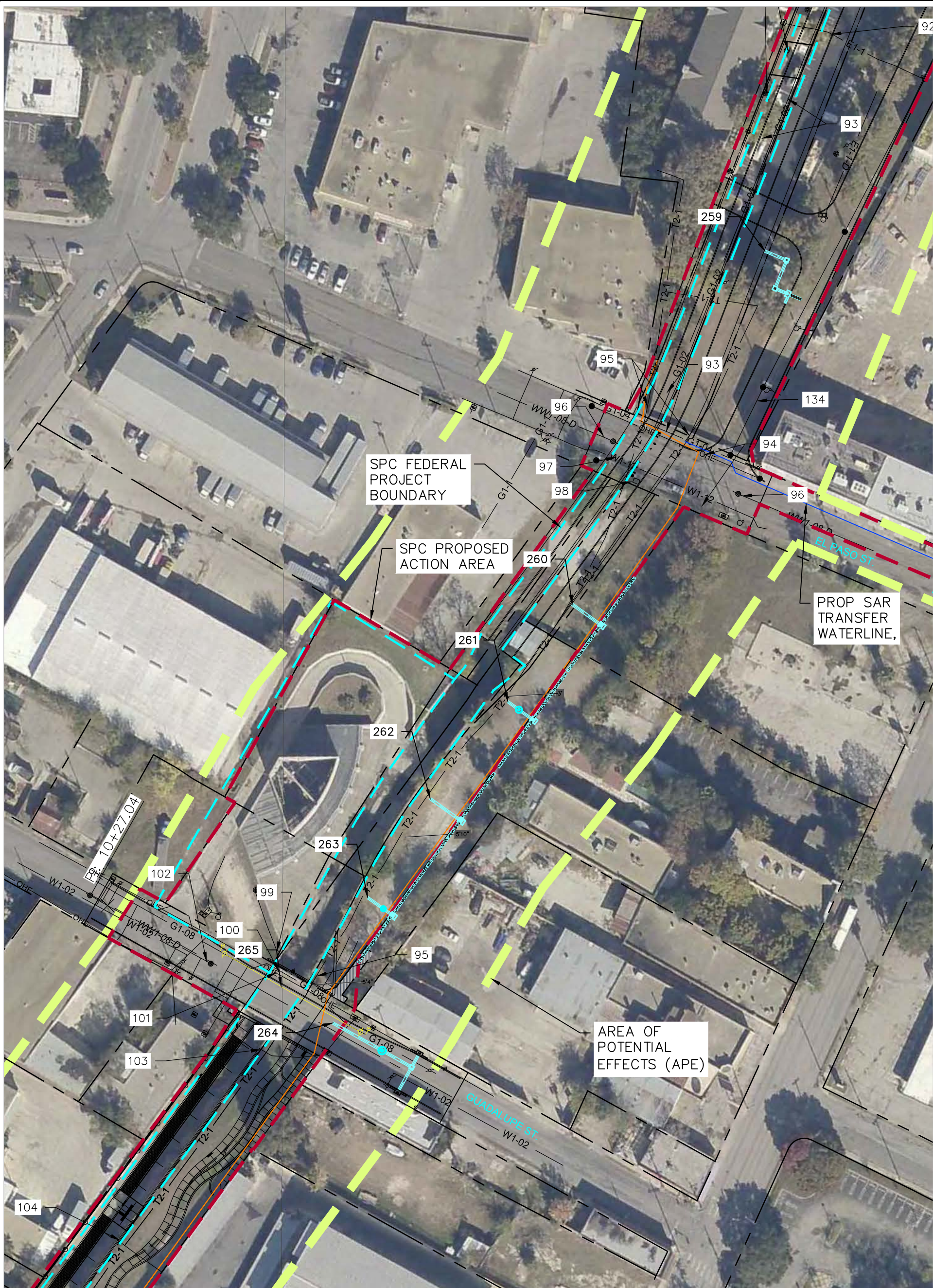


JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 6 of 8

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-6

**PAPE-DAWSON  
ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78212 | 210.328.0000  
TYPE FIRM REGISTRATION #420 | TYPE FIRM REGISTRATION #10000000





JOB NO. 8134-01  
DATE NOV 2016  
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CHECKED SD DRAWN JM  
SHEET 7 of 8

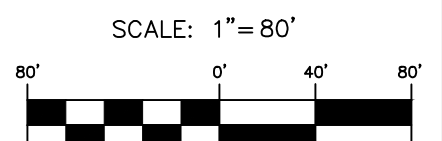
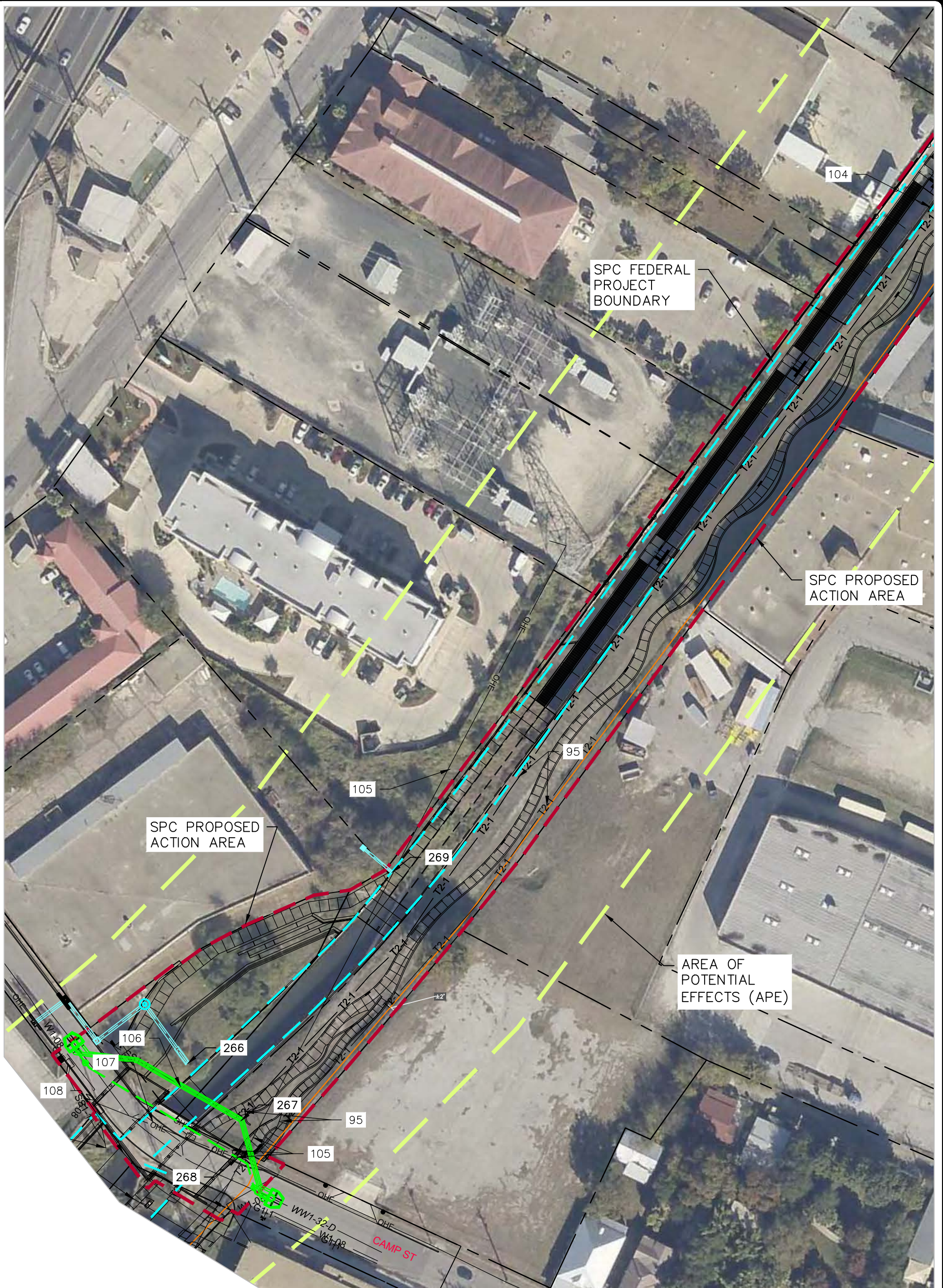
# SAN PEDRO CREEK IMPROVEMENTS

SAN ANTONIO, TEXAS  
EXHIBIT 1-7

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.370.9000  
TPE FIRM REGISTRATION 6470 | TPE+ FIRM REGISTRATION 110000000





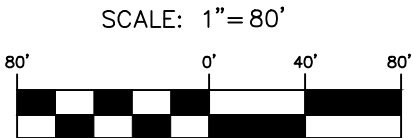
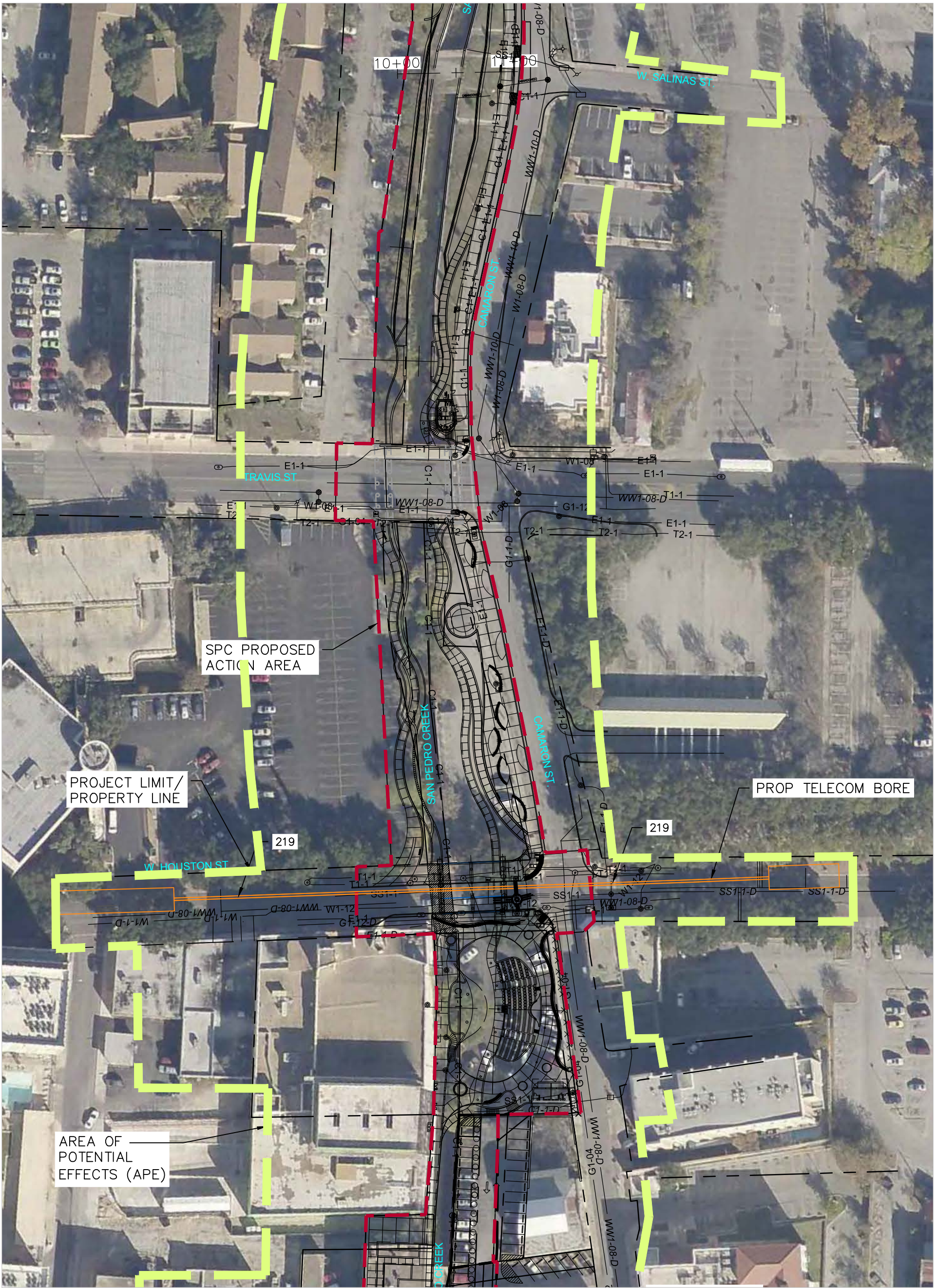
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DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 8 of 8

**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS  
EXHIBIT 1-8

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO • AUSTIN • HOUSTON • FORT WORTH • DALLAS  
2000 NW LOOP 410 • SAN ANTONIO, TX 78213 • 210.375.9000  
TYPE FIRM REGISTRATION #470 • TRIPLE FIRM REGISTRATION #100000000





JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 1 of 3

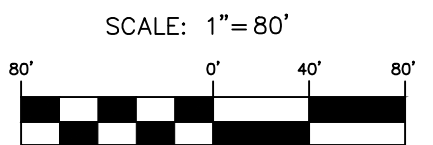
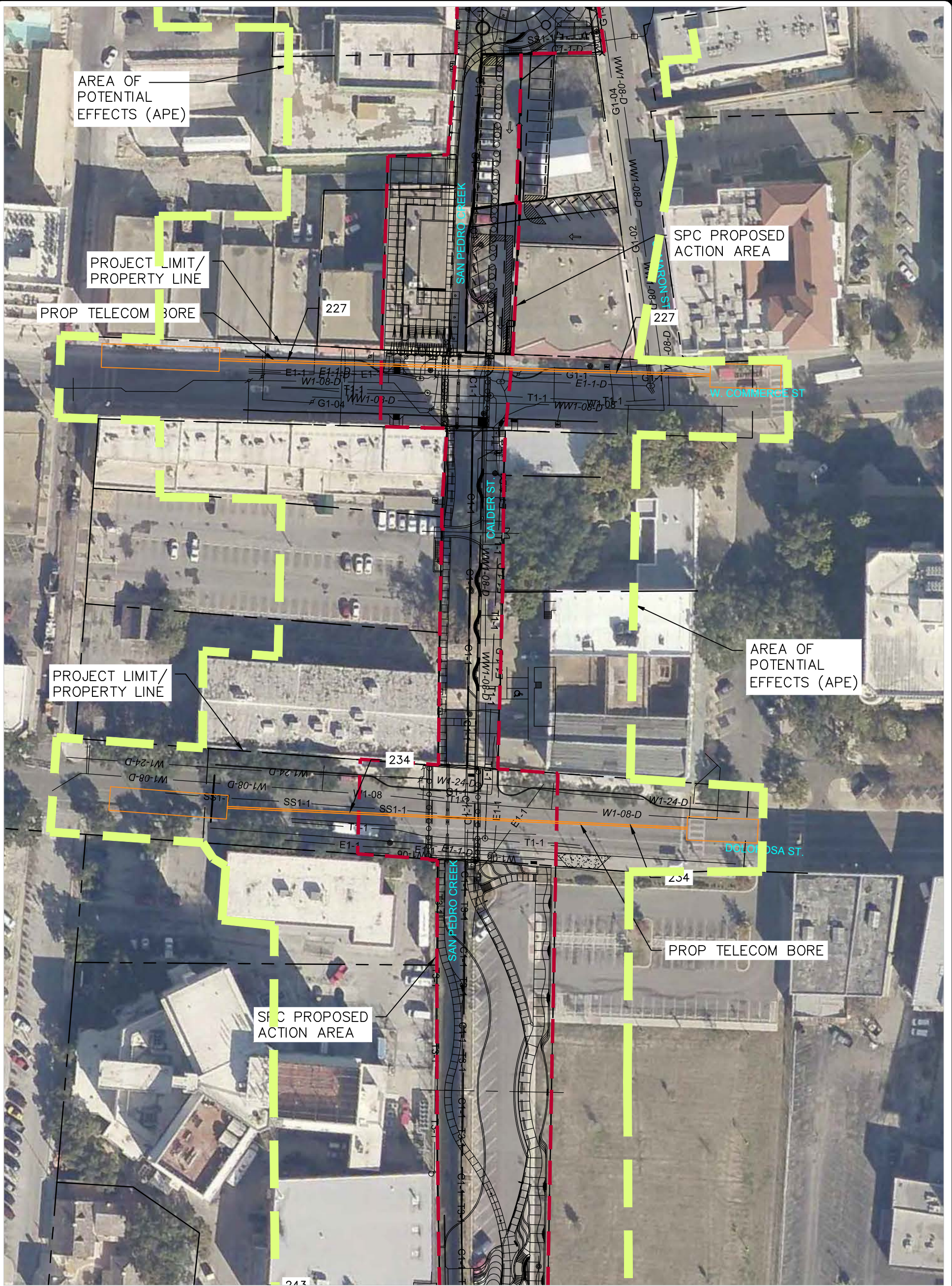
# SAN PEDRO CREEK IMPROVEMENTS

## SAN ANTONIO, TEXAS

### EXHIBIT 2-1

**PAPE-DAWSON**  
**ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.378.9000  
TYPE FIRM REGISTRATION 0420 | TOPIC FIRM REGISTRATION #10000000





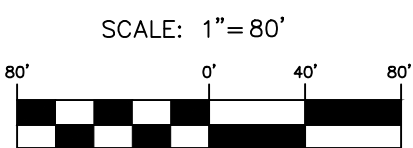
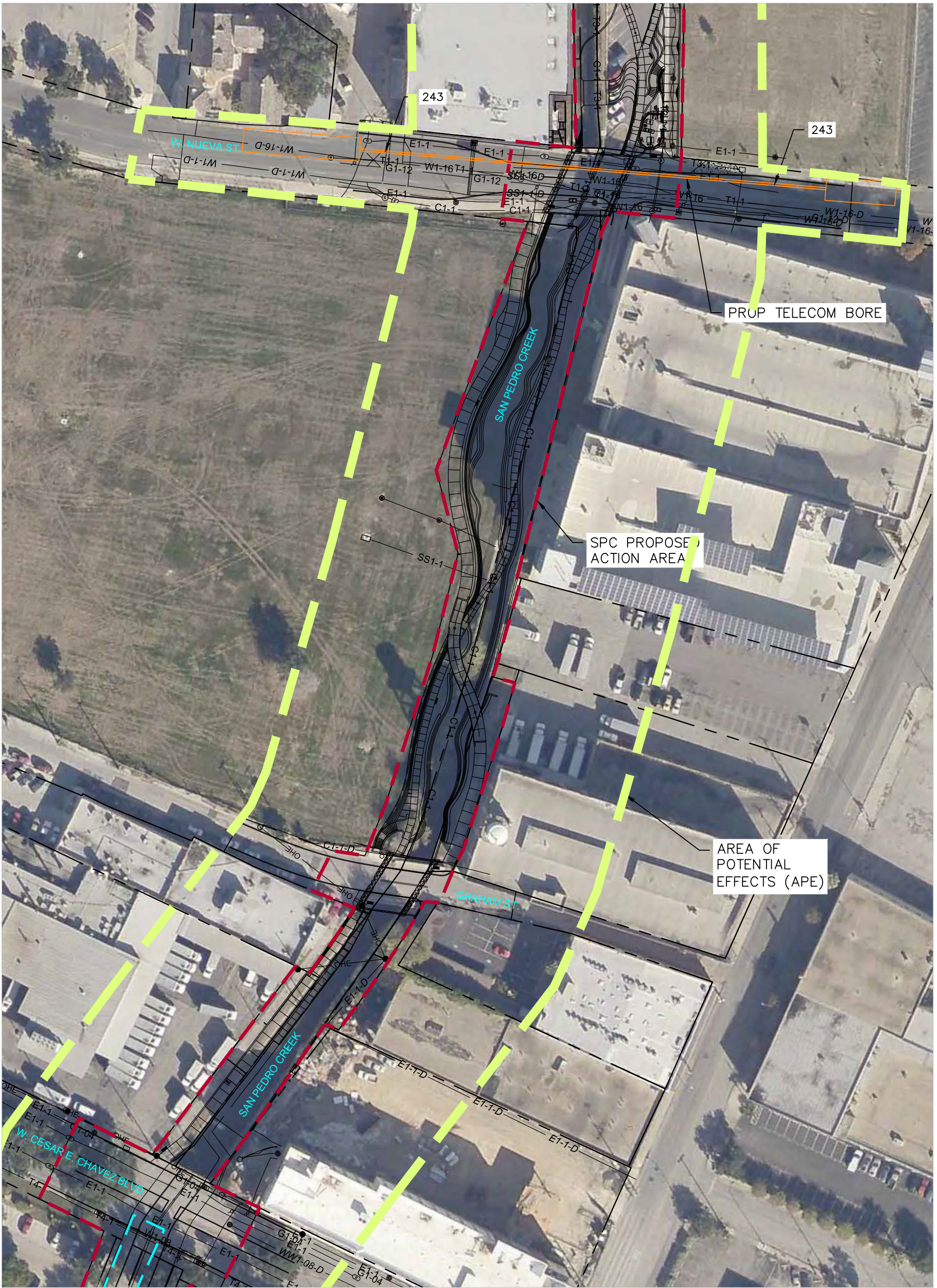
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DATE NOV 2016  
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CHECKED SD DRAWN JM  
SHEET 2 of 3

**SAN PEDRO CREEK IMPROVEMENTS**  
**SAN ANTONIO, TEXAS**  
**EXHIBIT 2-2**

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
3000 HWY 190P #10 | SAN ANTONIO, TX 78213 | 210.375.9000  
TXPE FIRM REGISTRATION #470 | TXPE FIRM REGISTRATION #1000000





JOB NO. 8134-01  
DATE NOV 2016  
DESIGNER SD  
CHECKED SD DRAWN JM  
SHEET 3 of 3

# SAN PEDRO CREEK IMPROVEMENTS

SAN ANTONIO, TEXAS

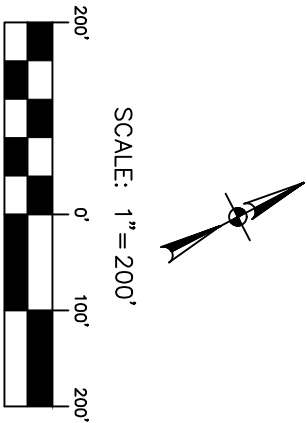
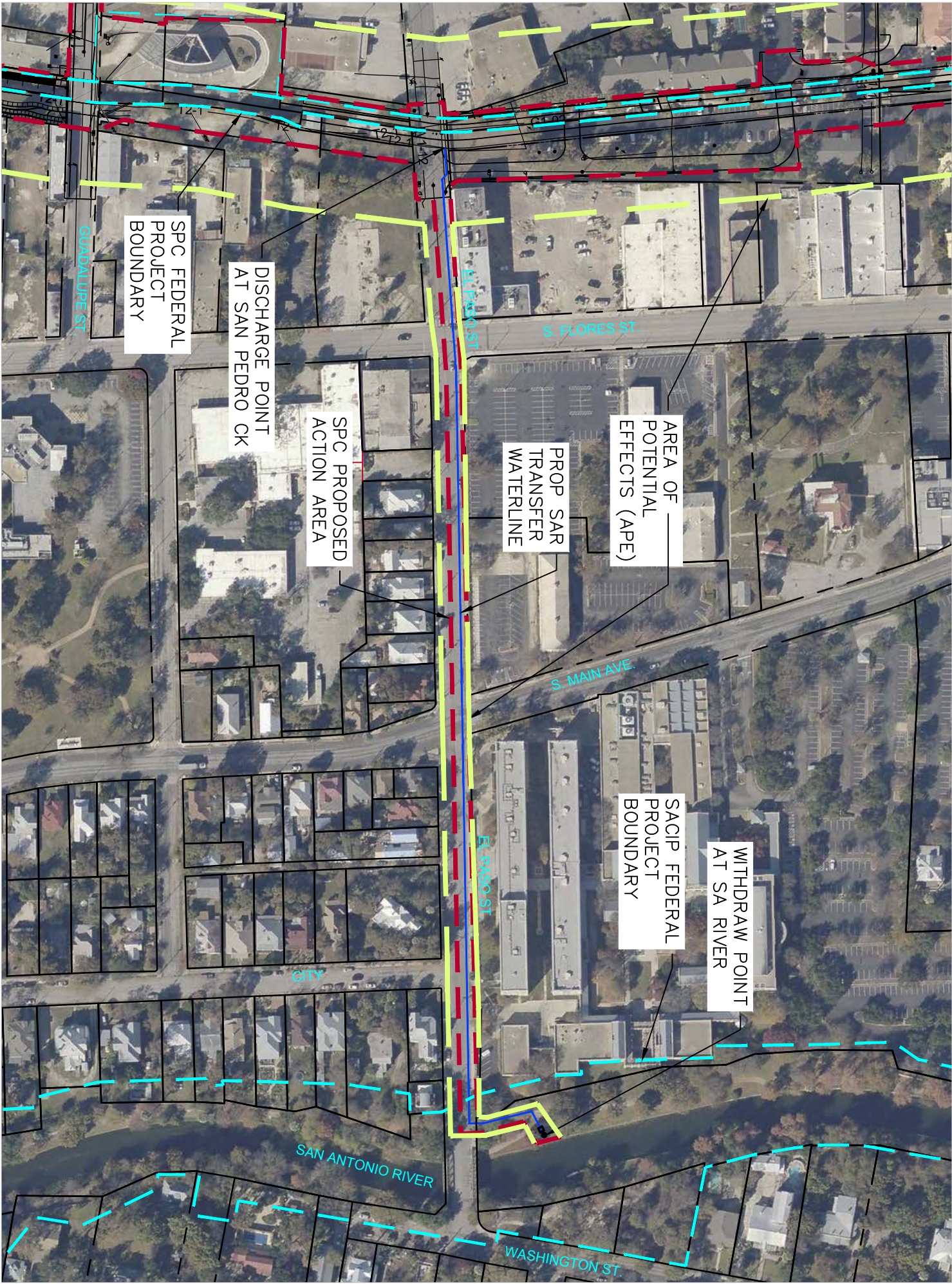
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**PAPE-DAWSON ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 W. LOOP 410 | SAN ANTONIO, TX 78213 | 210.378.9000  
TXPE FIRM REGISTRATION #429 | TDFM FIRM REGISTRATION #10000000



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**SAN PEDRO CREEK IMPROVEMENTS**  
SAN ANTONIO, TEXAS

**EXHIBIT 3 - SAN ANTONIO RIVER WATER TRANSFER LINE**



SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TBPE FIRM REGISTRATION #470 | TBPLS FIRM REGISTRATION #10028800

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