

RESOLUTION # 2013-04



STATE OF TEXAS § IN THE COMMISSIONERS COURT  
COUNTY OF COMAL §

REQUESTING THE U.S. ARMY CORP OF ENGINEERS TO GRANT COMAL COUNTY ROAD EASEMENTS FOR CAUSEWAY ROAD AND A PORTION OF POTTERS CREEK ROAD

WHEREAS, the United States Army Corp of Engineers ("USACE") operates the Canyon Dam and Reservoir in Comal County, Texas; and

WHEREAS, Causeway Road and a portion of Potters Creek Road (attached hereto as Exhibit "A") traverses land owned by the USACE near Canyon Reservoir; and

WHEREAS, the USACE granted an easement (attached hereto as Exhibit "B") to Ottmar Pape on November 5, 1962, for the construction, use and maintenance of a portion of Causeway Road; and

WHEREAS, Causeway Road has not been maintained for some time and is currently in a state of disrepair; and

WHEREAS, the USACE is not able to maintain Causeway Road due to federal budget constraints; and

WHEREAS, Causeway Road provides the only means of vehicular access to the County maintained roads in Canyon Lake Island Subdivision and the private roads in Kings Point Subdivision; and

WHEREAS, the Comal County Commissioners Court desires to maintain Causeway Road and a portion of Potters Creek Road, and accept said roads into the Comal County Unit Road System in order to provide safe access for the citizens of Comal County traveling to Canyon Lake Island Subdivision and Kings Point Subdivision.

NOW, THEREFORE, BE IT RESOLVED that the Comal County Commissioners Court requests that the United States Army Corp of Engineers terminate the existing easement related to Causeway Road and grant Comal County road easements for Causeway Road and a portion of Potters Creek Road.

RESOLVED THIS 14TH DAY OF FEBRUARY, 2013.

ABSENT  
SHERMAN KRAUSE, COUNTY JUDGE

*Donna Eccleston*  
DONNA ECCLESTON  
COUNTY COMMISSIONER, PCT. #1

ABSENT  
SCOTT HAAG  
COUNTY COMMISSIONER, PCT. #2

*Kevin Webb*  
KEVIN WEBB  
COUNTY COMMISSIONER, PCT. #3

*Jan Kennady*  
JAN KENNADY *ACTING JUDGE*  
COUNTY COMMISSIONER, PCT. #4

ATTEST: *Joy Streater*  
JOY STREATER, COUNTY CLERK





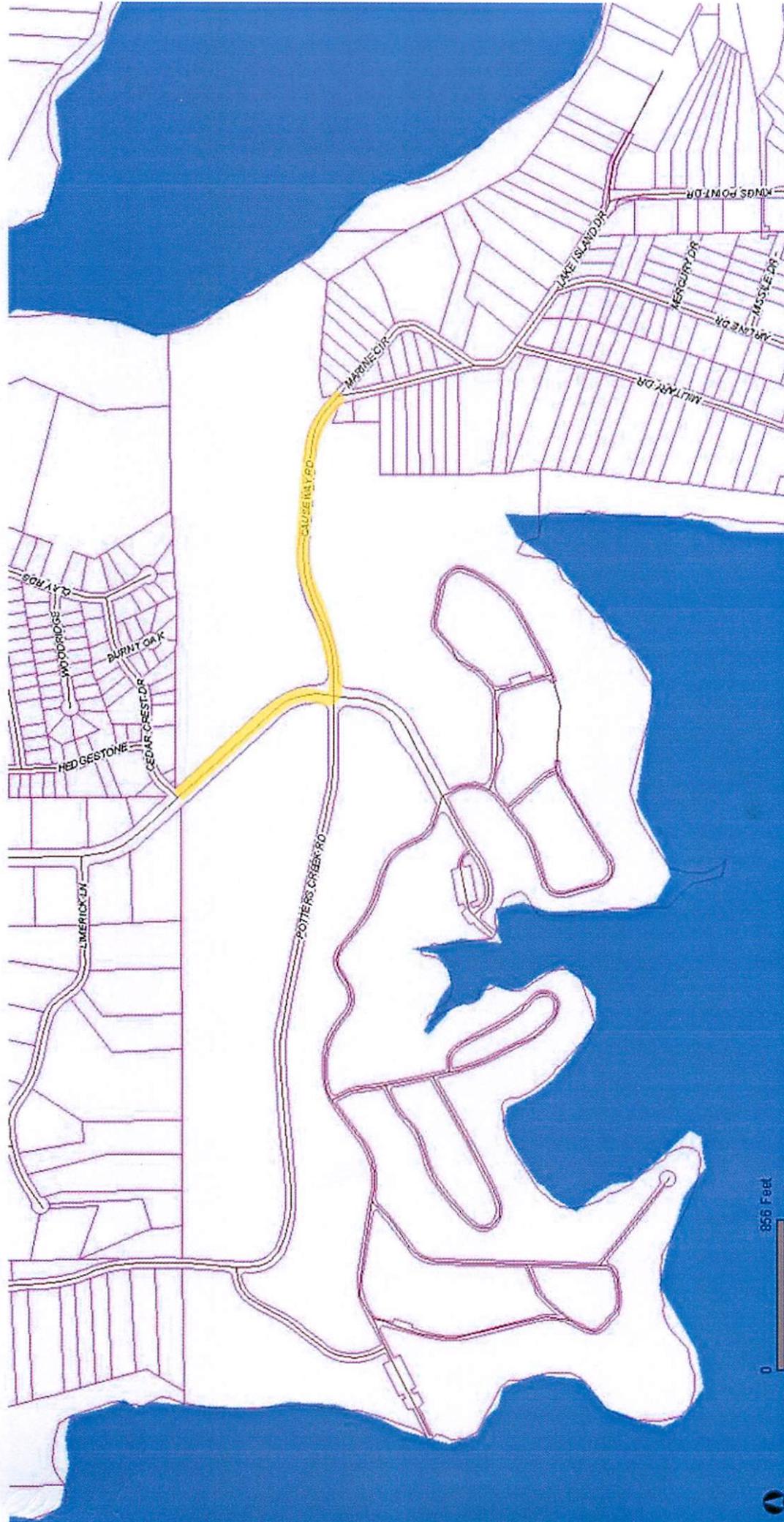
REPORT NUMBER: [illegible]

DATE: [illegible]

[illegible text]



Exhibit A – A portion of Potters Creek Rd, the intersection of Potters Creek Rd/Causeway Rd,  
and all of Causeway Rd.



Comal County - 2013 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

DEPARTMENT OF THE ARMY  
EASEMENT FOR ROAD OR STREET

ON Canyon Reservoir, Tract No. 402, Contract No. DA-41-443-CIV-20-62-600

THE SECRETARY OF THE ARMY, under and by virtue of the authority vested in him by Title 10, United States Code, Section 2605 hereby grants to Section 2 of the Act of Congress approved 29 June 1938 (52 Stat 804; 33 U.S.C. 558b), as made applicable to flood control by Section 3 of the Act of 11 August 1939 (53 Stat 1414; 33 U.S.C. 558b-1), generally known as the Exchange of Land Act, grants to Othmar Pape and wife, Loui E. Pape, and assigns, also known as Othmar Pape

hereinafter designated as the grantees, an easement for a right-of-way for a road or street over, across, in, and upon lands of the United States described as follows:

Attached Exhibit A

as shown in red on Exhibit B attached hereto and made a part hereof.

THIS EASEMENT is granted subject to the following provisions and conditions:

1. The construction, use, and maintenance of said road or street, including culverts and other drainage facilities, shall be performed without cost or expense to the United States, under the general supervision and subject to the approval of the officer having immediate jurisdiction over said premises.
2. The grantees shall at all times maintain said road or street in good condition and shall promptly make all repairs thereto needed to preserve a smooth-surface highway.
3. Any property of the United States damaged or destroyed by the grantee incident to the use and occupation of the said premises shall be promptly repaired or replaced by the grantees to the satisfaction of the said officer, or in lieu of such repair or replacement the grantee shall, if so required by said officer, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damages to or destruction of Government property.
4. The use and occupation of said lands of the United States for the purposes authorized by this instrument shall be subject to such rules and regulations as the said officer may prescribe from time to time in order to properly protect the interests of the United States.
5. The United States shall in no case be liable for any damages or injuries to the said road or street which may be caused by or result from any operations undertaken by the Government, and no claim or right to compensation shall accrue from such damages or injuries.

6. The United States reserves the right to make such connections between the road or street hereby authorized and roads and streets on said lands as the Chief of Engineers may from time to time consider necessary, and also reserves to itself rights-of-way for all purposes across, over, and/or under the right-of-way hereby granted; provided, however, that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the grantee of said right-of-way for highway purposes.

7. It is to be understood that this instrument is effective only insofar as the rights of the United States in the property over which the said road or street is to be extended are concerned, and that the grantee shall obtain such permission as may be necessary on account of any other existing rights.

8. All or any part of such right-of-way herein granted may be terminated by the Secretary of the Army for failure to comply with any or all of the terms or conditions of this grant, or for non-use for a two-year period or abandonment of rights granted herein.

9. It is understood that the provisions of Conditions Nos. 1 and 5, supra, shall not abrogate or interfere with any agreements or commitments made or entered into between the grantee and any other agency of the United States with regard to financial aid to the grantee in connection with the construction, maintenance, or repair of the road or street described herein.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the said premises, nor for damages to the property of the grantee, or for injuries to the person of the grantee (if an individual), nor for damages to the property or injuries to the person of the grantee's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to governmental activities, and the grantee shall hold the United States harmless from any and all such claims.

11. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of said road or street.

12. The roadway shall be constructed according to the plans and specifications set out on the map attached hereto and made a part hereof and designated as Exhibit "B".

13. The roadway and right-of-way shall be maintained and kept in good state of repair at the expense of the vendor and shall at all times be open to the general public without charge.

14. The Government reserves the right to inundate the roadway when necessary for the operation and maintenance of the Canyon Reservoir Project and Othmar Pape and wife, Lon E. Pape, their heirs, executors or assigns, shall have no claim for damages to the roadway to be constructed, caused by the flooding and operation of the Canyon Dam and Reservoir.

15. Paragraphs 12, 13, 14 and 15 were added before execution of this instrument. This easement is not subject to Title 10, United States Code, Section 2862.

IN WITNESS WHEREOF I have hereunto set my hand this 5<sup>th</sup> day of November 1962, by direction of the Assistant Secretary of the Army.

U. S. GOVERNMENT PRINTING OFFICE 16-75845-1

*Don H. Drago*  
DON H. DRAGOO  
LT Col Major, GS  
Mil Const and Real  
Property, OASA (I&L)

APPROVED:

*Bruce Waitz*  
BRUCE WAITZ

A tract of land situated in the County of Comal, State of Texas, being part of the Michael W. Potter Survey (A-452), and being a strip of land of varying widths on each side of the following described center line:

**FROM** the corner common to the Anton Elmer Survey (A-144) and the A. Bremer Survey (A-67), situated in the east boundary line of said Potter Survey, south  $37^{\circ}30'$  west, 1587 feet to the point of beginning, said point of beginning being situated in the common line between a 118.00 acre tract of land acquired by the United States of America from Geneva M. Kilgore Lanier, et vir, by deed dated 6 February 1961, and recorded in Vol. 122 at Page 444 of the Deed Records of Comal County, Texas, and being designated as Tract No. 404 for Canyon Reservoir, and a 0.08 acre tract of land over which a perpetual flowage easement was acquired by the United States of America from Thomas G. McClure, et ux, by deed dated 13 March 1961, and recorded in Vol. 123 at page 239 of the Deed Records of Comal County, Texas, and being designated as Tract No. 406E-2 for Canyon Reservoir, said point of beginning also being the northern terminus of the center line of an easement and right-of-way acquired by Othmar Pape and wife, Loni Pape from T. G. McClure and wife, Rosalie McClure, and more particularly described in Judgment Cause No. 5686 styled Othmar Pape, et ux, vs. Annis Pearl Barnes, et al, in the 22nd Judicial District Court of Comal County, Texas, dated 14 November 1961, and recorded in Vol. 126 at pages 320-324 of the Deed Records of Comal County, Texas, and being located south  $83^{\circ}20'$  west, 90 feet from the easternmost northeast corner of said Thomas G. McClure property; said point also being situated in the center line of a proposed road;

**THENCE** along the center line for said proposed road as follows: along the arc of a  $10^{\circ}$  curve on center line (radius = 573.69 feet; tangent distance = 182.26 feet; central angle =  $35^{\circ}15'$ ) to the left, approximately 899 feet to a point;

**THENCE** north  $84^{\circ}45'$  west, 596 feet, more or less, to a point in the east right-of-way line of an existing road for the end of this center line;

The outer limits of this easement described as follows:

**BEGINNING** at the same point as the above described center line;

**THENCE** along the common line between said Tracts Nos. 404 and 406E-2; south  $83^{\circ}20'$  west, 53 feet to a point for the corner common to said Tract No. 406E-2, and a 410.0 acre tract of land acquired by the United States of America from Thomas G. McClure, et ux, by deed dated 13 March 1961, and recorded in Vol. 123 at page 285 of the Deed Records of Comal County, Texas, and being designated as Tract No. 406 for Canyon Reservoir;

Exhibit A

THENCE along the common line between said Tracts Nos. 406 and 406E-2, south, 30 feet to a point in the southerly right-of-way line for aforesaid proposed road;

THENCE along the southerly right-of-way line for said proposed road as follows: north  $79^{\circ}12'$  west, 660 feet to a point;

THENCE north  $76^{\circ}49'$  west, 174 feet to a point in the east right-of-way line for an existing road;

THENCE departing from the southerly right-of-way line for said proposed road, along the east right-of-way line for said existing road, in a northerly direction, at 30 feet passing the center line of said proposed road, in all 60 feet to a point in the northerly right-of-way line for said proposed road;

THENCE along the northerly right-of-way line for said proposed road as follows: north  $78^{\circ}45'$  east, 188 feet to a point;

THENCE south  $85^{\circ}13'$  east, 603 feet to a point;

THENCE south  $46^{\circ}07'$  east, 237 feet to a point in the common line between said Tract No. 404 and the T. C. McClure property;

THENCE departing from the northerly right-of-way line for said proposed road, along the common line between said Tract No. 404 on the right, and said T. C. McClure property and aforesaid Tract No. 406E-2 on the left, south  $83^{\circ}20'$  west, 83 feet to the point of beginning, containing 3.18 acres, more or less.