



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

# Public Notice

Section 408 Request ID #: 408-SWF-2022-0045

Date issued: October 11, 2023

Close of comment period: November 10, 2023

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 # 408-SWF-2022-0045, Trailhead II, Shady Lane Multifamily Development, Outfall at Bolm Road

**SUBJECT:** Request for a Section 408 permission to alter the Boggy Creek Channel Improvement Project, 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 welcome. Issuance of this notice does not imply USACE endorsement of the proposed alteration as described.

**REQUESTER:** Garrett Swaldi, Stonelake Capital Partners

**LOCATION:** East of Intersection of Bolm Road and Shady Lane

**NON-FEDERAL SPONSOR:** City of Austin

**LOCATION MAP(S)/DRAWING(S):** Attached figures

**DESCRIPTION OF THE PROPOSED ALTERATION:** The proposed alteration within the Boggy Creek Channel Improvement Project includes the construction of a single stormwater outfall to serve a new multifamily development. The new multifamily development is located at the intersection of Bolm Road and Shady Lane, which is outside of the Boggy Creek Channel Improvement Project. The proposed stormwater outfall within the Boggy Creek Channel Improvement Project would be constructed under the existing Bolm Road bridge and installed within the bridge abutment, which is in City of Austin right-of-way. The proposed concrete outfall is 48 by 24 inches wide and would be approximately 15-feet from the edge of the bridge. Stormwater would be collected from the new multifamily development and flow through a storm drain line which would end at the proposed outfall.

**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 USACE technical 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 USACE technical 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.*** The USACE technical review team will determine if the Section 408 request is in compliance with the National Environmental Policy Act (NEPA) and other applicable federal environmental and cultural resources compliance requirements.

**STATUS OF REVIEW:** The USACE technical review team has determined the following based on the Section 408 request submittal.

**1. *Impacts to the Usefulness of the USACE Project.*** The USACE technical review team has reviewed the proposed alteration for impacts to the Boggy Creek Channel Improvement Project and initial review indicates there would be no adverse hydrologic and hydraulic impacts resulting from the proposed alteration. No levees are affected by the proposed alteration.

**2. *Threatened and Endangered species.*** The USACE technical review team has reviewed an official list of species protected under the Endangered Species Act and 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.

**3. *Historic, Cultural, and Archaeological Resources.*** The USACE technical review team has reviewed the proposed alteration for impacts to cultural resources. Based on this review, the USACE determined that the undertaking shall have no effect to historic properties in accordance with 36 CFR 800.4(d)(1). The USACE is consulting on this determination with the Texas State Historic Preservation Officer and appropriate federally recognized tribes.

**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 to consider and evaluate the impacts of the proposed alteration.

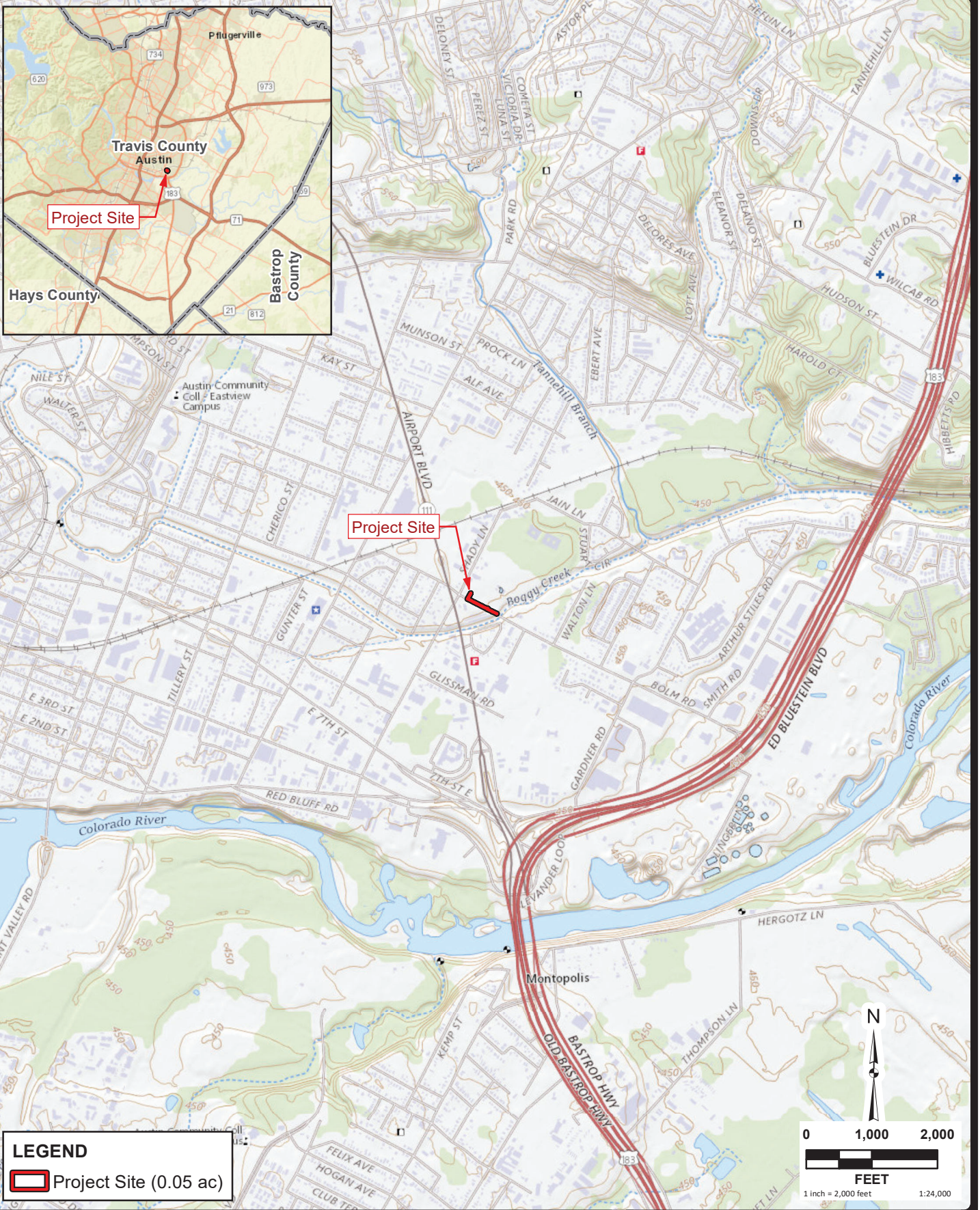
Materials submitted as part of the Section 408 request become part of the public record and are available to the public under the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Fort Worth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

Comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permission for this proposed alteration. 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. Submit comments and requests for additional information to [CESWF-408@usace.army.mil](mailto:CESWF-408@usace.army.mil). Telephone inquiries may be directed to Mr. Jason Story, Section 408 Coordinator 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/>.

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Date: May 05, 2023 11:13:11 AM User: wolsky  
 File: pape-dawson.com/us/pdf/Projects/51079-02/ENV/Section\_408/Application/Exhibit51079-02\_Ex01\_LocationMap.mxd



**LEGEND**

Project Site (0.05 ac)

N

0      1,000      2,000

FEET

1 inch = 2,000 feet      1:24,000

JOB NO.	51079-02
DATE	May 2023
DRAWN	RW
CHECKED	VC
SHEET	EXHIBIT 1

**Trailhead II (Shady Lane Multifamily) -  
 SWF-2022-00590, 408-SWF-2022-0045**

**Section 408 Application**

**LOCATION MAP**

**Pape-Dawson  
 ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
 TEXAS ENGINEERING FIRM #470 | TEXAS SURVEYING FIRM #10028800

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**LEGEND**

Project Site (0.05 ac)

N



0      100      200

FEET

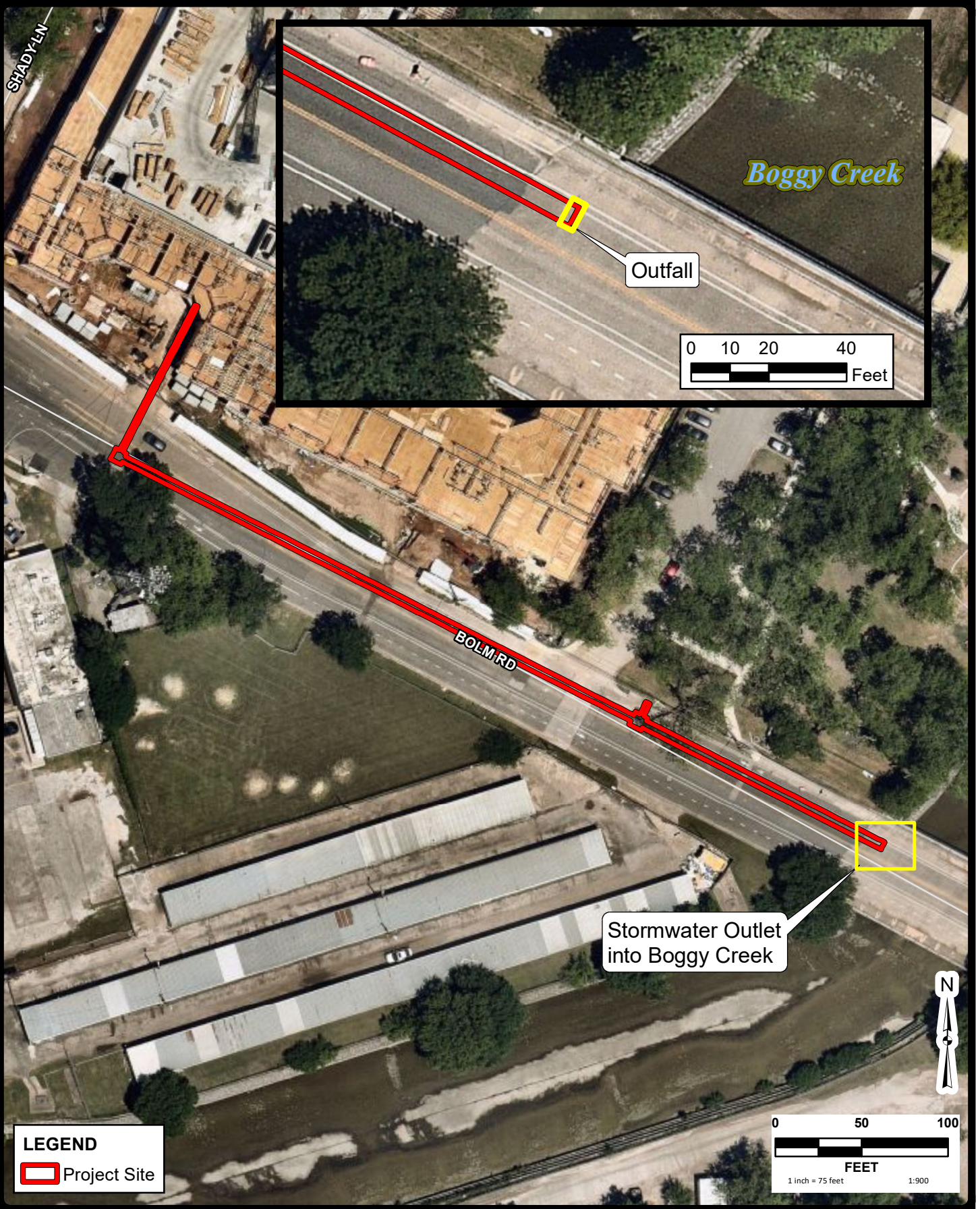
1 inch = 196.42 feet      1:2,357

JOB NO.	51079-02
DATE	May 2023
DRAWN	RW
CHECKED	VC
SHEET	EXHIBIT 2

**Trailhead II (Shady Lane Multifamily) -  
SWF-2022-00590, 408-SWF-2022-0045  
Section 408 Application  
SITE MAP**

**Pape-Dawson  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TEXAS ENGINEERING FIRM #470 | TEXAS SURVEYING FIRM #10028800



**LEGEND**

 Project Site

JOB NO.	51079-02
DATE	Sep 2023
DRAWN	RW
CHECKED	VC
SHEET	EXHIBIT 2A

**Trailhead II (Shady Lane Multifamily) -  
SWF-2022-00590, 408-SWF-2022-0045  
Section 408 Application  
SITE MAP WITH OUTFALL INSET**

**PAPE-DAWSON  
ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.9000  
TEXAS ENGINEERING FIRM #470 | TEXAS SURVEYING FIRM #10028800