

AN ORDINANCE **2016-11-10-0879**

PROVIDING FOR DEVELOPMENT AGREEMENTS BETWEEN THE CITY OF SAN ANTONIO AND SEVEN PROPERTY OWNERS OF PROPERTY APPRAISED FOR AD VALOREM TAX PURPOSES AS AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER USE AND REMOVAL FROM THE SOUTH SAN ANTONIO LIMITED PURPOSE ANNEXATION AREAS 1 THROUGH 4 TO GUARANTEE CONTINUED EXTRATERRITORIAL STATUS FOR A PERIOD OF 7 YEARS.

* * * * *

WHEREAS, the City of San Antonio is considering a proposed South San Antonio (Areas 1-4) annexation; and

WHEREAS, the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property in the proposed area that is appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

WHEREAS, the properties that meet the qualifications to be offered a development agreement (**ATTACHMENT A**) are designated as agriculture or wildlife management use or as timber land and depicted in the map as **ATTACHMENT B** and the individual properties are identified in **ATTACHMENT C**. **ATTACHMENT A**, **ATTACHMENT B** and **ATTACHMENT C** are attached and incorporated herein for all purposes; and

WHEREAS, Section 123A of the Charter of the City of San Antonio requires that the Planning Commission shall make a recommendation to City Council on proposed annexation; and

WHEREAS, the San Antonio Planning Commission held a public hearing on October 26, 2016 regarding the Development Agreement, attached as **ATTACHMENT A** and incorporated herein for all purposes, guaranteeing the continued extraterritorial status of such property; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this agreement to the Master Plan and found the agreement to be consistent with City policies, plans and regulations; and **NOW THEREFORE**,

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

SECTION 1. The City Council approves the Development Agreement In Lieu of Annexation between the City of San Antonio and various property owners, a copy of the list of property owners is attached hereto and incorporated herein, as **ATTACHMENT "C."**

SECTION 2. The City Manager and her designees are hereby authorized and directed to execute the Agreement and to take any actions necessary to implement this ordinance, including but not limited to the execution of appropriate documents.

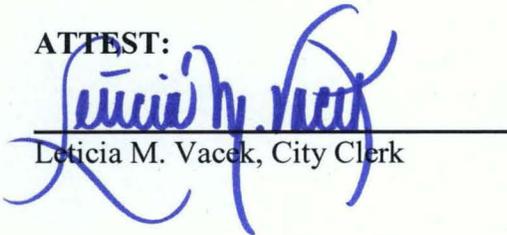
SECTION 3. This Ordinance shall be effective December 31, 2016.

PASSED AND APPROVED on this 10th day of November, 2016.



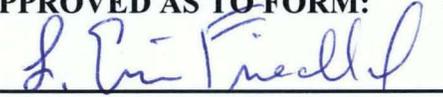
M A Y O R
Ivy Taylor

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



for City Attorney

Agenda Item:	4A (in consent vote: 4A, 4B, 4C, 4D, 4E, 4F, 4G)						
Date:	11/10/2016						
Time:	12:01:17 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance allowing Development Agreements between the City of San Antonio and seven owners of property appraised for ad valorem tax purposes as agricultural, wildlife management or timber use and removal from the South San Antonio Limited Purpose Annexation Areas 1 through 4 to guarantee continued extraterritorial status for a period of 7 years. [Peter Zanoni, Deputy City Manager; Bridgett White, Director, Planning and Community Development]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x			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				

ATTACHMENT A

Development Agreement

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE REAL PROPERTY RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

DEVELOPMENT AGREEMENT TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172

THIS AGREEMENT is made and effective upon passage of the Annexation Program Phase I Ordinance to be considered by City Council, by and between the City of San Antonio, Texas, a home rule municipal corporation of the State of Texas located within Bexar County, Texas (hereinafter referred to as "City") and, _____, hereinafter called "the Owners," whether one or more natural persons or other legal entities, and is as follows:

WHEREAS, the Owner's property, hereinafter called "the Property," is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;

WHEREAS, the Texas Local Government Code § 43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

WHEREAS, the City has notified the Owner of its intent to annex the Property and has offered to enter into an agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

WHEREAS, the City desires that any development of the property be in conformance with the City's Comprehensive plan; and

WHEREAS, the Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property:

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. Identification of the Property. The Property is described as the property owned by the Owner within the boundaries of the area, and more particularly described _____ which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

2. Continuation of Extraterritorial Status. The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this agreement is effective, the Property is not subdivided, the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this agreement. This provision does not prohibit annexation with the consent of the Owner.

3. Annexation Upon Subdivision or Change of Use. This agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and/or subdivides or develops the Property in any manner that would require a plat of the subdivision or a related development document including any permit required by Chapter 34 or Chapter 35 of the San Antonio City Code or any permit required by SAWS or CPS Energy to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such

as garages and carports where the total combined floor area of all accessory structures does not exceed 2500 feet, and an accessory dwelling (either attached or detached) that does not exceed 1200 square feet in living area.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property as described in this section, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner. Any plat or related development document shall be consistent with the City of San Antonio's adopted Land Use Plan.

Owner agrees that any subdivision plat or related development document for the area filed with a governmental entity having jurisdiction over the property will be in conformance with the City's adopted Comprehensive Plan.

The Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in the development of the property under the provisions of Chapter 212 of the Texas Local Government Code or by virtue of any construction that would require a construction related permit under City Code Chapter 6 or Chapter 11 if that permit would be required within the municipal boundaries of the City of San Antonio, Bexar County, Texas.

4. Term. This Agreement shall terminate 7 years after the effective date of this Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the Texas Local Government Code, whichever comes first. Upon termination the City may annex the Property, either in whole or in part or for full or limited purposes, and such annexation shall be deemed to be with the consent of the Owner.

City and owner may extend the term of this agreement by mutual consent, in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance.

5. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of the applicable county and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

6. Notice of Sale of the Property. Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

7. Form and Delivery of Notice. Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:
Bridgett White, Director
Department of Planning and Community Development
City of San Antonio
PO Box 839966
San Antonio, Texas 78283-3966

OWNERS' CONTACT:

Print Name: _____
Address: _____
City/State/Zip Code: _____
Facsimile Number: _____

8. Enforcement. This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

9. This Agreement is not a permit for purposes of Chapter 43.035(e) Tex. Loc. Gov. Code Chapter 245 Tex. Loc. Gov. Code.

10. Provisions Severable. If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

11. Governmental Powers and Immunities. It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers and immunities.

12. Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

13. Modification of Agreement. This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.

14. Governing Law and Venue. Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement effective as of the date first set forth above.

CITY OF SAN ANTONIO

By: _____

Date: _____

Bridgett White, Director
Dept. of Planning and Community Development

The Owners

By: _____

(signature)

Print Name: _____

Title: _____

Date: _____

By: _____

(signature)

Print Name: _____

Title: _____

Date: _____

By: _____

(signature)

Print Name: _____

Title: _____

Date: _____

**State of Texas
County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, _____, by Bridgett White, Interim Director of the Department of Planning and Community Development with the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

**State of Texas
County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, the Owner within the District.

Notary Public, State of Texas
(Personalized Seal)

(Print Name of Notary Public here)

My commission expires the _____ day of _____, _____.

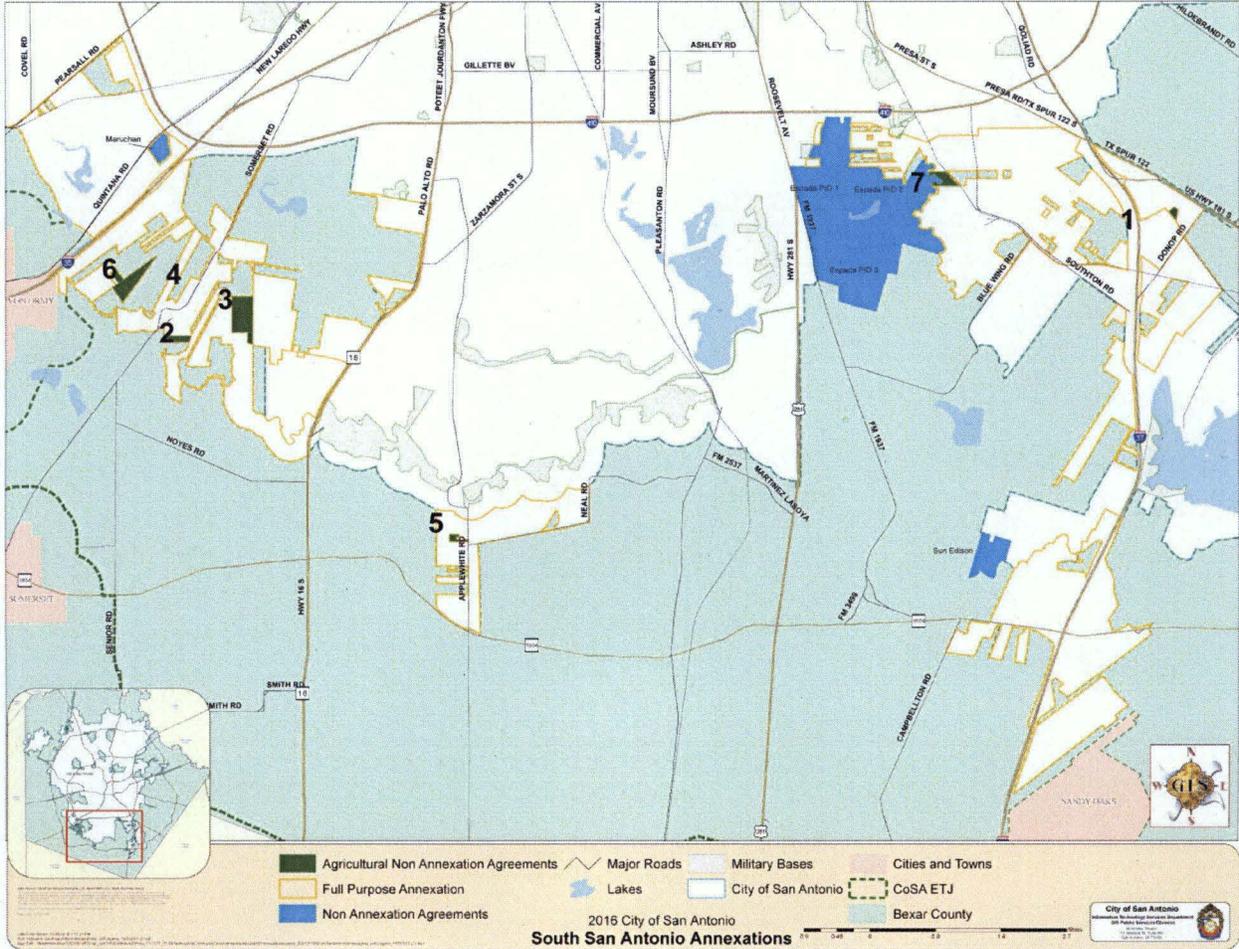
Notary Public, State of Texas
(Personalized Seal)

(Print Name of Notary Public here)

My commission expires the _____ day of _____, _____.

After Recording Return to:
Sidra Schimelpfening, Senior Planner
City of San Antonio
Department of Planning and Community Development
P.O. Box 839966
San Antonio, TX 78283-3966

ATTACHMENT B Map



ATTACHMENT C
List of Properties

	Owner Name	Property Address	County	Property ID	Legal Description
1	BETTIS JODY CARL	OLD CORPUS CHRISTI RD	BEXAR	157684	CB 4007 P-555B ABS 11
2	KELLER FRANCIS	14348 SOMERSET RD	BEXAR	184618	CB 4204 P-8 ABS 579
3	FRIESENHAHN DAVID & LINDA	13886 WATSON RD	BEXAR	189458	CB 4298 P-8C ABS 421 NON-ADJACENT
4	TIMMS C & I REAL ESTATE LP % CHARLES A TIMMS	FISCHER RD	BEXAR	189961	CB 4300 P-1 ABS 614
5	HOYLE BETTY P	18911 APPLEWHIT E RD	BEXAR	1131602	CB 4188 P-1 ABS 163 (3.7); CB 4187 P-1E ABS 169 (6.547 AC) 09)SPLIT PER CR# 20741
6	RAMIREZ EUTIQUO & ANSELMO MENDEZ & HURTADO JUAN	S IH 35	BEXAR	1222600	CB 4301 P-72D ABS 6 2015-NEW PER SPLIT PER DEED 17006/1249 EXE 12-12-14. JF/GIS/2- 20-14 (Described by metes and bounds in Attachment 1)
7	JENKINS FRANCES K % TOM JENKINS	10891 SOUTHTON RD	BEXAR	337197	CB 5161 P-5 ABS 738

Attachment 1

MARTINEZ
Surveying & Mapping Co.
FIRM # 101822-00
8546 Broadway Suite 225
San Antonio, Texas 78217
(210) 829-4244

STATE OF TEXAS
COUNTY OF BEXAR

15.00 ACRE TRACT

All that certain tract or parcel of land containing 15.00 acres in Bexar County, Texas, out of the Francisco R. Hernandez Survey No. 6, Abstract 6, C.B. 4301, being a portion of that certain tract called 215.88 acres described in conveyance to Guy Wyatt Askew, of record in Volume 2142, Page 98-101, Real Property Records of Bexar County, Texas.

BEGINNING: at a 1/2" iron pin found on Southeast line of said 215.88 acre tract and same being the Northwest line of Timms C & I. Real Estate, L.P., 59.42 acre tract, of record in Volume 12984, Page 1925, Real Property Records of Bexar County, Texas, at the South corner of Timms C & I. Real Estate, L.P., 25.00 acre tract, of record in Volume 12984, Page 1925, Real Property Records of Bexar County, Texas, for the East corner of this herein described tract;;

THENCE: South 55 deg. 57 min. 32 sec. West, 714.57 feet to a 1/2" iron pin set with cap on the common line between said 215.88 acre tract and said 59.42 acre tract, for the South corner of this herein described tract;

THENCE: North 36 deg. 03 min. 33 sec. West, 899.60 feet into said 215.88 acre tract to a 1/2" iron pin set with cap, at the West corner of this herein described tract;

THENCE: along with the Northwest line of this herein described tract, the following courses and distances:
North 55 deg. 45 min. 25 sec. East, 546.50 feet to a 1/2" iron pin set with cap and
North 19 deg. 37 min. 03 sec. East, 203.31 feet to a 1/2" iron pin set with cap, on the Southwest line of said 25.00 acre tract, for the North corner of this herein described tract;

THENCE: South 36 deg. 03 min. 33 sec. East, 1022.08 feet to the POINT OF BEGINNING.

Bearing Basis - South 36 deg. 03 min. 33 sec. East- from the Southwest line of a 25.00 acre tract of record in Volume 12984, Page 1925, Real Property Records of Bexar County, Texas.



Reynaldo Martinez Jr.
REYNALDO MARTINEZ JR.
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 5482
W. O. # 14-10-2A (15)
November 18, 2014
(SEE ATTACHED SURVEY PLAT)

MARTINEZ
Surveying & Mapping Co.
FIRM # 101822-00
8546 Broadway Suite 225
San Antonio, Texas 78217
(210) 829-4244

STATE OF TEXAS
COUNTY OF BEXAR

30 FOOT WIDE
INGRESS/EGRESS ROAD
EASEMENT
0.86 ACRE TRACT

All that certain tract or parcel of land containing 0.86 acres in Bexar County, Texas, out of the Francisco R. Hernandez Survey No. 6, Abstract 6, C.B. 4301, being a portion of that certain tract called 215.88 acres described in conveyance to Guy Wyatt Askew, of record in Volume 2142, Page 98-101, Real Property Records of Bexar County, Texas.

- BEGINNING:** at a 1/2" iron pin found on Southeast line of said 215.88 acre tract and same being the Northwest line of Timms C & I. Real Estate, L.P., 59.42 acre tract, of record in Volume 12984, Page 1925, Real Property Records of Bexar County, Texas, at the South corner of Timms C & I. Real Estate, L.P., 25.00 acre tract, of record in Volume 12984, Page 1925, Real Property Records of Bexar County, Texas;
- THENCE:** North 36 deg. 03 min. 33 sec. West, 1022.08 feet to a 1/2" iron pin set with cap on the Southwest line of said 25.00 acre tract at the North corner of Tract A, 5.00 acre tract, surveyed this same day, for the East corner of this herein described tract;
- THENCE:** along with the Northwest line of Tract A, B. & partially along Tract C, (all 5.00 acres, surveyed this same day), the following courses and distances:
South 19 deg. 37 min. 03 sec West, 203.31 feet to a 1/2" iron pin set with cap and
South 55 deg. 45 min. 25 sec. West, 334.38 feet to a 1/2" iron pin set with cap on the Northwest line of Tract "C", 5.00 acre tract, for the South corner of this herein described tract;
- THENCE:** North 34 deg. 14 min. 35 sec. West, 30.00 feet to a 1/2" iron pin set with cap, for the West corner of this herein described tract;

FRANCISCO R. HERNANDEZ SURVEY No. 6, ABSTRACT 6, C.B. 4301

LINE	BEARING	LENGTH
L4	N 19°27'03" E	203.51'
L5	N 34°14'35" W	38.00'
L6	N 52°45'23" E	324.59'
L7	N 19°37'03" E	177.68'
L8	N 33°34'36" E	30.01'



SCALE: 1" = 200'



- PLAT LEGEND**
- 1/2" IRON PIN FOUND
 - 1/2" IRON PIN SET
 - ⊙ "X" SET IN CONG.
 - DENOTES FENCE POST
 - ▲ DENOTES IRVY, S.W.M. MONUMENT
 - DENOTES CHAIN-LINE FENCE LINE
 - DENOTES BARS WIDE FENCE LINE
 - DENOTES WOOD FENCE LINE
 - DENOTES STEEL FENCE LINE
 - DENOTES SEWER LINE

SURVEY PLAT OF

15.00 ACRES IN BEXAR COUNTY, TEXAS, OUT OF THE FRANCISCO R. HERNANDEZ SURVEY NO. 6, ABSTRACT 6, C.B. 4301, BEING A PORTION OF THAT CERTAIN TRACT CALLED 215.88 ACRES DESCRIBED IN CONVEYANCE TO OUY WYATT ASKEW, OF RECORD IN VOLUME 2143, PAGE 99-101, REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS.

TOGETHER WITH A 30 FOOT WIDE INGRESS/EGRESS ROAD EASEMENT CONTAINING 0.86 ACRES IN BEXAR COUNTY, TEXAS, OUT OF THE FRANCISCO R. HERNANDEZ SURVEY NO. 6, ABSTRACT 6, C.B. 4301, BEING A PORTION OF THAT CERTAIN TRACT CALLED 215.88 ACRES DESCRIBED IN CONVEYANCE TO OUY WYATT ASKEW, OF RECORD IN VOLUME 2143, PAGE 99-101, REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS.

(SEE ACCOMPANYING FIELD NOTE DESCRIPTIONS)

NOTES:

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND OTHER MATTERS OF RECORD, (EASEMENTS, EASEMENT LINE, ETC.) WHICH MAY AFFECT THIS TRACT MAY NOT BE SHOWN HEREON.

THIS PROPERTY IS PARTITIONED OUT OF A LARGER TRACT AND THE PROPERTY MAY BE SUBJECT TO SUBDIVISION RULES AND REGULATIONS OF THE CITY AND/OR COUNTY.

BEARINGS BASED - S 39°27'27" E - FROM THE SOUTHWEST CORNER OF A 25.00 ACRE TRACT OF RECORD IN VOLUME 12884, PAGE, 1923, REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS.



MARTINEZ
 SURVEYING AND MAPPING CO.
 FIRM # 101823-00
 8548 BROADWAY SUITE 225
 SAN ANTONIO, TX, 78217
 (214) 829-4244

STATE OF TEXAS
 COUNTY OF BEXAR

I hereby certify that the above plat is true and correct according to an actual survey made on the ground under my supervision and that there are no other easements or encroachments of buildings on adjoining property, and that all buildings are wholly contained on this property and all other claims and that all pins have been located as indicated above on the date on this plat.

This 8th day of OCTOBER, 2014 A.D.

R. Martinez
 REGISTERED PROFESSIONAL
 LAND SURVEYOR No. 5482
 EXPIRES NOV. 15, 2014

JOB No. 14-10-2A