

AN ORDINANCE      2016-12-01-0898

**AUTHORIZING THE PLANNING DIRECTOR TO EXECUTE DEVELOPMENT AGREEMENTS BETWEEN THE CITY OF SAN ANTONIO AND TWO OWNERS OF PROPERTY WITHIN THE US 281 NORTH CORRIDOR ANNEXATION BOUNDARY TO GUARANTEE CONTINUED EXTRATERRITORIAL STATUS OF PROPERTIES WHICH ARE APPRAISED FOR AD VALOREM TAX PURPOSES AS AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER USE FOR A PERIOD OF 10 YEARS.**

**WHEREAS**, the City of San Antonio is initiating annexation for the area known as the "US 281 North Corridor Annexation Area" for full purposes, (see attached EXHIBIT A for map); 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**, notices and agreements were sent to property owners by certified mail and notarized agreements to be returned to the Planning and Community Development Department, postmarked no later than September 2, 2015, or hand delivered to 1400 S. Flores no later than September 4, 2015 (see attached EXHIBIT B for Agreement and EXHIBIT C for List); and

**WHEREAS**, the development agreements will guarantee the continued extraterritorial status of The properties which are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and property owners within the proposed Annexation area; and

**WHEREAS**, Section 43.035 authorizes the development agreements to extend regulations and planning authority of the city that do not interfere with the use of the area for agriculture, wildlife management or timber use and if the landowner declines to make the agreement or is nonresponsive, the city may annex the property; and

**WHEREAS**, the San Antonio Planning Commission held a public hearing on October 12, 2016 allowing all interested citizens to be heard; and

**WHEREAS**, the City Council finds that the best interest of the City of San Antonio would be served by approving the Development Agreements in Lieu of Annexation with various property owners; **NOW THEREFORE**,

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

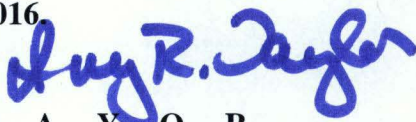
**SECTION 1:** The City Council approves the Development Agreement In Lieu of Annexation between the City of San Antonio and two property owners, a copy of the list of property owners is attached hereto and incorporated herein, as Exhibit "C."

LEF AMENDED  
12/01/16  
Item No. 4A

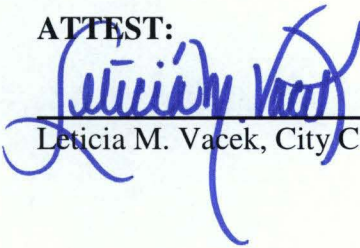
**SECTION 2:** The City Manager and her designees are hereby authorized and directed to execute the Agreement and to take any actions necessary to implement this ordinance, including but not limited to the execution of appropriate documents.

**SECTION 3:** This ordinance shall be effective from and after **December 31, 2016.**

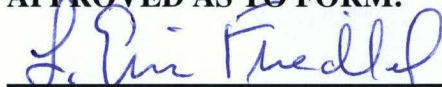
**PASSED AND APPROVED on this 1st day of December 2016.**

  
M A Y O R  
Ivy Taylor

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
City Attorney

for

<b>Agenda Item:</b>	4A ( in consent vote: 4A, 4B, 4C, 4D, 4E )						
<b>Date:</b>	12/01/2016						
<b>Time:</b>	10:41:59 AM						
<b>Vote Type:</b>	Motion to Appr w Cond						
<b>Description:</b>	An Ordinance allowing Development Agreements between the City of San Antonio and six owners of property appraised for ad valorem tax purposes as agricultural, wildlife management or timber use and removal from the US 281 Commercial Corridor Full Purpose Annexation Areas to guarantee continued extraterritorial status for a period of 10 years. [Peter Zaroni, Deputy City Manager; Bridgett White, Director, Planning and Community Development]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		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			x	
Michael Gallagher	District 10		x				x

Exhibit A  
AMENDED Map Showing location of Ag Agreements

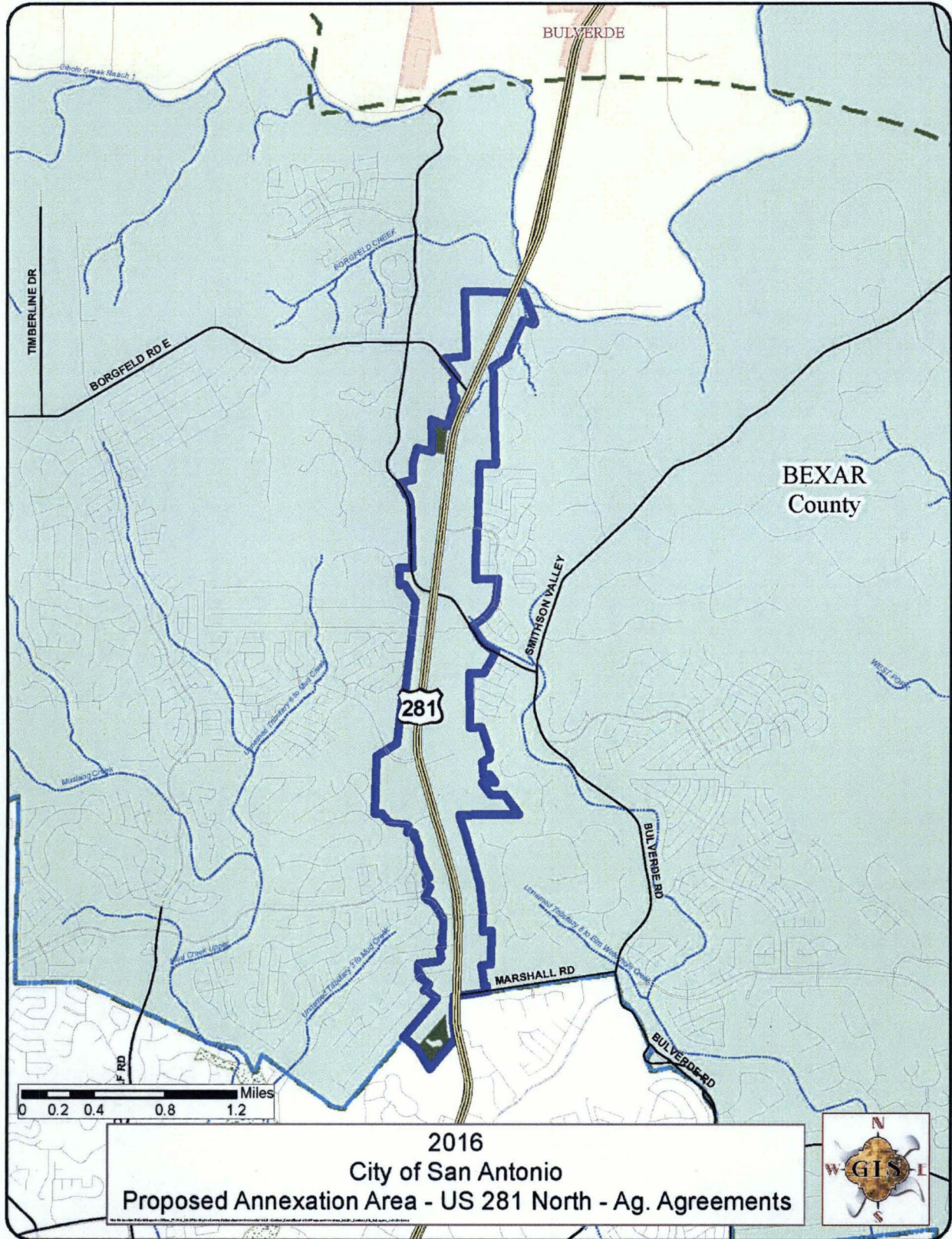


Exhibit B

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 Owner(s)," 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 as \_\_\_\_\_ 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

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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.

**4. Term.** This Agreement shall terminate 10 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:  
\_\_\_\_\_

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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.** Pursuant to Chapter 43.035(e) Tex. Loc. Gov. Code, this Agreement is not a permit for purposes of 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.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

**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**

**The Owner(s)**

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

(signature)

Name: Bridgett White, Director  
Dept. of Planning and Community Development

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**State of Texas  
County of Bexar**

**State of Texas  
County of \_\_\_\_\_**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, by Bridgett White, Interim Director, Department of Planning and Community Development with the City of San

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

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Antonio, a Texas municipal corporation, on behalf of  
said corporation.

\_\_\_\_\_  
Notary Public, State of Texas  
Personalized Seal)

\_\_\_\_\_  
Notary Public, State of Texas  
Personalized Seal)

\_\_\_\_\_  
(Print Name of Notary Public here)

\_\_\_\_\_  
(Print Name of Notary Public here)

My commission expires the \_\_\_\_ day of \_\_\_\_, \_\_\_\_.

My commission expires the \_\_\_\_ day of \_\_\_\_,  
\_\_\_\_\_.

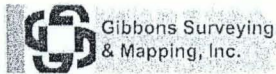
After Recording Return to:  
Nina Nixon-Méndez, Planning Administrator  
City of San Antonio  
Department of Planning and Community Development  
P.O. Box 839966  
San Antonio, TX 78283-3966



Exhibit C  
**AMENDED** List of Properties – Development Agreements  
US 281 North Corridor

	Owner Name	Property Address	County	Property ID	Legal Description
1	HERLINDA CANTU FAMILY LP % David G. Cantu	23211 N US HWY 281	BEXAR	268849	15.99 acres out of 19.20 acres CB 4900 P-12B, P-12E, P-12F ABS 54 CB 4924 P-1C, P-1F ABS 633 described by metes and bounds in Attachment 1
2	2LG PROPERTIES LTD	27685 N US HWY 281	BEXAR	266744	CB 4864 P-1D (2.1903 AC) & P-1E (6.3997 AC) ABS 266

Attachment 1



FIELD NOTES FOR 15.999 ACRES

OUT OF A 19.20 ACRE TRACT IN THE NAME OF HERLINDA CANTU FAMILY, LP AND RECORDED IN PAGE 15875, PAGE 81 OF THE REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS, BEING OUT OF THE WILLIAM BRISBIN SURVEY NO. 89 1/2, ABSTRACT NUMBER 54, COUNTY BLOCK 4900, AND THE EUGENE DE LA ROCHE SURVEY NUMBER 95, ABSTRACT NUMBER 633, COUNTY BLOCK 4924, BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

- BEGINNING: At a set 1/2" iron rod stamped "GIBBONS" on the southeast line of the aforementioned 19.20 acre tract having Texas State Plane Grid Coordinates of N=13,786,876.83 and E=2,143,010.16, said point being the southwest corner of a proposed 2.1967 acre TxDOT right of way dedication known as Parcel 8, being South 40°07'06" West (bearings are based on GPS observations, datum is NAD '83) 123.43' from a found 1/2" iron rod on the west right of way line of U.S. Hwy. 281 (public right of way width varies), marking the north corner of a 0.23 acre tract in the name of State of Texas as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, and the southeast corner of the aforementioned 19.20 acre tract and of this tract;
- THENCE: South 40°07'06" West 108.00' to a found 1/2" iron rod, the north corner of a 49.78 acre tract in the name of Crosswinds I Partnership, Ltd. as recorded in Volume 13268, Page 1612 of the Real Property Records of Bexar County, Texas;
- THENCE: With the north line of the 49.783 acre tract, the southeast line of the 19.20 acre tract, the following:
- South 40°31'08" West 214.39' to a found 1/2" iron rod, an angle point;
- South 41°18'29" West 266.40' to a set 1/2" iron rod stamped "GIBBONS", an angle point;
- South 40°44'03" West 283.54' to a found 1/2" iron rod, an angle point;
- South 40°53'21" West 180.00' to a found 1/2" iron rod, the south corner of the 19.20 acre tract and of this tract;
- THENCE: With the northeast line of the 49.78 acre tract and the southwest line of the 19.20 acre tract North 32°09'16" West 717.03' to a found 1/2" iron rod, the south corner of a 19.98 acre tract in the name of C-5 Holdings, LLC as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, the west corner of the 19.20 acre tract and of this tract;
- THENCE: North 40°52'16" East 1283.41' with the east line of the 19.98 acre tract and the northwest line of the 19.20 acre tract to a found 1/2" iron rod, an angle point;
- THENCE: North 79°54'13" East 13.18' with the east line of the 19.98 acre tract to a set 1/2" iron rod stamped "GIBBONS", the northwest corner of a 3.2008 acre tract surveyed this day, the north corner hereof;
- THENCE: Crossing the 19.20 acre tract with the west line of the 3.2008 acre tract, the following:
- South 08°39'08" West 636.17' to a set 1/2" iron rod stamped "GIBBONS", the northwest corner of a proposed TxDOT Drain Easement;

15.999 ACRE TRACT  
PAGE 2 OF 3

South 01°24'57" West 60.00' to a set ½" iron rod stamped "GIBBONS", the southwest corner of the TxDOT Easement;

South 88°35'03" East 100.00' to a set ½" iron rod stamped "GIBBONS", the southeast corner of the TxDOT Easement, being on the west line of the aforementioned 2.1967 acre TxDOT right of way dedication;

THENCE: South 13°35'33" East 94.51' with the dedication line to the POINT OF BEGINNING of this tract SAVE AND EXCEPT a 1.230 Acre Tract recorded in Volume 11323, Page 238 and a 0.593 Acre Tract recorded in Volume 5237, Page 490 of the Real Property Records of Bexar County, Texas and containing 15.999 acres (696,906 square feet)

The SAVE AND EXCEPT tract being more particularly described by metes and bounds as follows:

COMMENCING: At a found ½" iron rod on the west right of way line of U.S. Hwy. 281 (public right of way width varies), the north corner of a 0.23 acre tract in the name of State of Texas as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, the southeast corner of the aforementioned 19.20 acre tract, said iron rod having Texas State Plane Grid Coordinates of N=13,786,971.22 and E=2,143,089.70; thence South 66°21'50" West 563.10' to a found ½" iron rod marking the southeast corner and POINT OF BEGINNING of the 1.230 acre tract;

THENCE: South 78°33'27" West 178.54' to a found ½" iron rod, an angle point;

THENCE: North 48°41'31" West 276.59' to a found ½" iron rod, the west corner of the 1.230 acre tract;

THENCE: North 41°18'29" East 115.54' to a found ½" iron rod, the north corner of the 1.230 acre tract;

THENCE: South 48°41'31" East 151.78' to a found ½" iron rod, an angle point;

THENCE: North 78°33'27" East 162.11' to a found ½" iron rod on the west line of the aforementioned 0.593 acre tract, the north corner of the 1.230 acre tract, a re-entry corner hereof;

THENCE: North 11°26'33" West 9.34' to a found ½" iron rod, the northwest corner of the 0.593 acre tract;

THENCE: North 59°47'47" East 24.16' to a found ½" iron rod, an angle point;

THENCE: North 83°22'32" East 30.29' to a found ½" iron rod, an angle point;

THENCE: South 79°20'04" East 13.29' to a found ½" iron rod, an angle point;

THENCE: South 68°28'15" East 34.60' to a found ½" iron rod, an angle point;

THENCE: South 52°52'15" East 58.10' to a found ½" iron rod, an angle point;

THENCE: South 32°23'40" East 59.53' to a found ½" iron rod, the beginning of a curve to the right;

THENCE: With the curve to the right, having a radius of 27.95', a delta of 71°10'23", an arc length of 34.72' and a chord bearing South 03°11'44" West to a found ½" iron rod;

THENCE: South 38°47'09" West 55.64' to a found ½" iron rod, an angle point;

THENCE: South 50°36'18" West 42.91' to a found ½" iron rod, an angle point;

15.999 ACRE TRACT  
PAGE 3 OF 3

THENCE: South 74°42'59" West 65.38' to a found ½" iron rod, the southwest corner of the  
aforementioned 0.593 acre tract;

THENCE: North 11°26'33" West 30.64' to the POINT OF BEGINNING of the SAVE AND EXCEPT  
parcel;

THESE FIELD NOTES TOGETHER WITH A SURVEY MAP WERE PREPARED FROM AN ACTUAL SURVEY MADE ON THE  
GROUND BY EMPLOYEES OF GIBBONS SURVEYING & MAPPING, INC. WHO WERE WORKING UNDER MY SUPERVISION AND  
DIRECTION.

*Gary A. Gibbons*

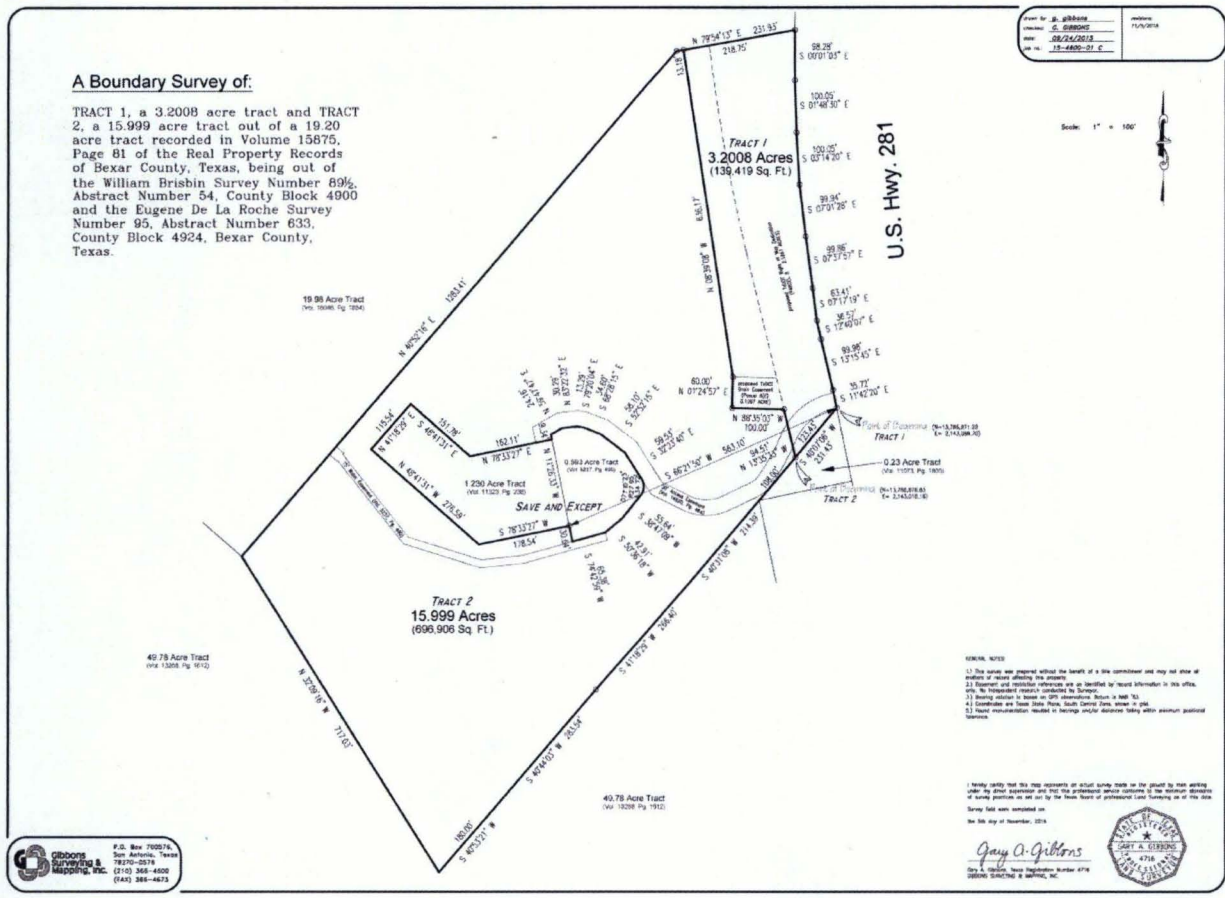
Gary A. Gibbons, R.P.L.S. #4716  
Date: September 24, 2015, revised November 5, 2016  
Job No.: 14-4600  
Doc I.D.: 16 acres Hwy 281  
GAG/ps



**LEF AMENDED**  
**12/01/16**  
**Item No. 4A**

**A Boundary Survey of:**

TRACT 1, a 3.2008 acre tract and TRACT 2, a 15.999 acre tract out of a 19.20 acre tract recorded in Volume 15875, Page 81 of the Real Property Records of Bexar County, Texas, being out of the William Brisbin Survey Number 89½, Abstract Number 54, County Block 4906 and the Eugene De La Roche Survey Number 95, Abstract Number 633, County Block 4924, Bexar County, Texas.



Surveyor: G. Gibbons	License: 15429/2016
Client: S. GIBBONS	
Date: 08/26/2016	
Job No.: 15-4490-21.2	

Scale: 1" = 100'

- GENERAL NOTES**
- 1) This survey was prepared without the benefit of a title commitment and may not show all matters of record affecting this property.
  - 2) Easements and restriction references are as identified or noted hereafter in this office. Any unrecorded easements are not shown.
  - 3) Bearing distances in this survey are not corrected for magnetic declination.
  - 4) Coordinates are Texas State Plane, South Central Zone, NAD 83, Zone 10.
  - 5) Field measurements resulted in bearings and distances being given minimum practical tolerance.

I hereby certify that this map represents an actual survey made on the ground by me or under my direct supervision and that the professional seal contained on this document is a true and correct reproduction of the original seal of the State Board of Professional Land Surveying as of the date hereon.

**Gibbons Surveying & Mapping, Inc.**  
 P.O. Box 700576  
 San Antonio, Texas  
 78270-0576  
 (210) 368-4600  
 (214) 368-4673

**GAY A. GIBBONS**  
 State of Texas, Registered Professional Land Surveyor  
 License No. 15429