

AN ORDINANCE 2013-11-07-0751

**CLOSING, VACATING, AND ABANDONING A 0.64 ACRE UNIMPROVED PORTION OF 38TH STREET BETWEEN COMMERCE STREET AND PHARIS STREET (NCB 8244 AND NCB 8245) IN COUNCIL DISTRICT 6 AS REQUESTED BY IDEA PUBLIC SCHOOLS.**

\* \* \* \* \*

**WHEREAS**, the Right-of-Way Segment, as defined below, is not improved.

**WHEREAS**, the Right-of-Way Segment is overgrown and subject to dumping.

**WHEREAS**, the Right-of-Way Segment is not being maintained by the City of San Antonio.

**WHEREAS**, the Right-of-Way Segment does not show signs of being used regularly as a path of travel.

**WHEREAS**, it is in the interests of the public that the City of San Antonio be relieved of the obligation maintain the Right-of-Way Segment.

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

**SECTION 1.** Subject to the reservation below, the City finds the following right-of-way (“Right-of-Way Segment”) is no longer essential to the safe and efficient flow of traffic in the area in which the right of way is located. As an exercise of its discretion, the City Council closes, vacates, and abandons the Right-of-Way Segment. A condition of the closure, vacation, and abandonment is City’s receipt of the fee set out below in the funding section of this Ordinance. The Right-of-Way Segment is identified below.

That portion of 38<sup>th</sup> Street described generally as extending southward from the south right-of-way line of Commerce to the north right-of-way line of Pharis and consisting of two tracts, one north of Zarzamora Creek and one south.

**SECTION 2.** A picture of the Right-of-Way Segment is set forth at **Attachment I**. The detailed description of the north Right-of-Way Segment is set forth on **Attachment II**. The detailed description of the south Right-of-Way Segment is set forth on **Attachment III**. Attachments I, II, and III are incorporated into this ordinance for all purposes as if they were fully set forth. Attachments II and III control over any discrepancy between it and Attachment I.

**SECTION 3.** The properties abutting the Right-of-Way Segment are:

<i>Address:</i>	<i>Description:</i>	<i>Owner Listed by Bexar Appraisal District:</i>
247 Joe Blanks Street	Lot 18, Block 6, NCB 12960	Josefina Lopez
246 Pharis	Lot 1, Block 6, NCB 12960	Olga Hernandez
Joe Blanks Street	SE irregular 450.2 feet. Block 3, NCB 8244	IDEA Public Schools
243 Pharis	Lot 2, Block 7, NCB 12961	Salomon & Maria Silva
W. Commerce Street	S irregular 337.07 feet of Lot 4C, Block 4. NCB 8245	Boyd Watkins
39 <sup>th</sup> Street	S 447. 01 feet of the E 206.6 feet, Block 3, NCB 8244	City of San Antonio
W. Commerce Street	S irregular 399.23 & N irregular 499.23 of Lot 4C & E irregular 312 of Lot 3 & E I44 157.94 of 4B, Block 4, NCB 8245	City of San Antonio
W. Commerce Street	W TRI 104.67 X 105.3 feet of Lot 4C NON ADJ RMNS. Block 4, NCB 8245	Boyd Watkins
38 <sup>th</sup> Street	NCB 8245 BLK 4 LOT W IRR 252.82 FT OF 3	IDEA Public Schools
W. Commerce Street	NCB 8245 BLK 4 LOT W IRR 375.19 FT OF LOT 4B	IDEA Public Schools
39 <sup>th</sup> Street	NCB 8244 BLK 3 LOT E 119. 66 FT OF N 525.95 OF BLK	IDEA Public Schools

The listing above is made solely to facilitate indexing this Ordinance in the real property records. If the listing is inaccurate or not comprehensive, it does not affect the validity of the closure.

**SECTION 4.** All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and facilities, if any, may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Right-of-Way Segment without first reaching an agreement with a utility having lines or facilities in the segment does so at his own risk. After the date of this Ordinance, no utility may add additional utility lines or facilities in the Right-of-Way Segment based on a claim that the Right-of-Way Segment is public right of way. All existing drainage rights in the Right-of-Way Segment are retained by the City. This closure does not give up

any right arising other than from the plat or other instrument creating the public street or alley right of way. Neither does this Ordinance create new easement rights.

**SECTION 5.** The City Manager or her designee, severally, are authorized and directed to execute and deliver all documents and to do all other things conducive to reflect this closure, abandonment, and vacation.

**SECTION 6.** The Right-of-Way Segment exists by easement. The underlying fee ownership of the Right-of-Way Segment by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned. For purposes of future conveyance and to better reflect their ownership generally, owners of the adjacent property should replat. No such replat impairs the rights retained by City above, unless in the course of replatting, the owner, at its own expense, otherwise provides for those rights according to platting rules of general applicability.

**SECTION 7.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 240000000060 and General Ledger 4903101.

**SECTION 8.** The disposition of surplus property must be coordinated through the city's Finance Department to assure the removal of these assets out of the City's financial records and to record the proper accounting transactions.

**SECTION 9.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 10.** This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

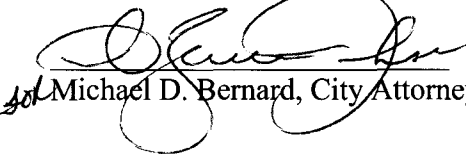
**PASSED AND APPROVED** this 7<sup>th</sup> day of November, 2013.

  
MAYOR  
Julian Castro

Attest:

  
Leticia M. Vaccik, City Clerk

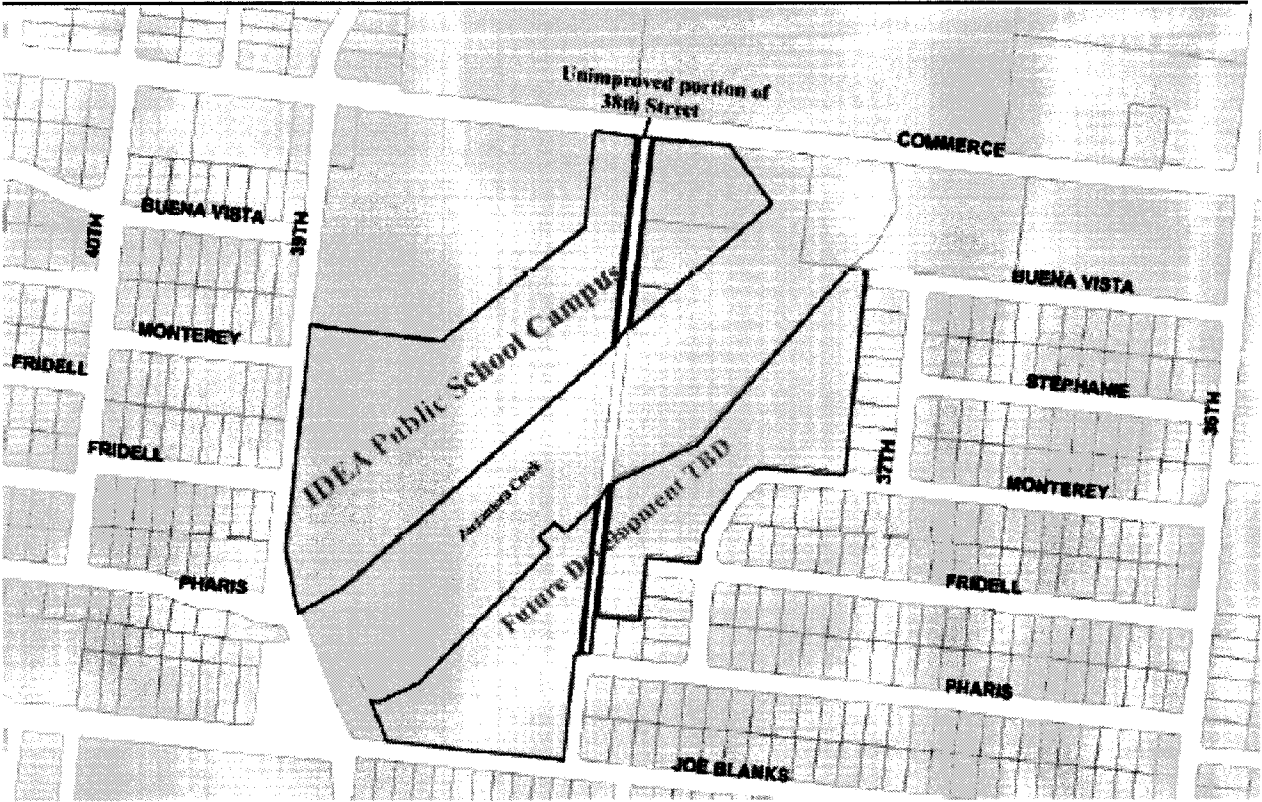
Approved As To Form:

  
Michael D. Bernard, City Attorney

<b>Agenda Item:</b>	19 ( in consent vote: 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, , , 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35 )
<b>Date:</b>	11/07/2013
<b>Time:</b>	11:18:38 AM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	An Ordinance closing, vacating, and abandoning a 0.64 acre unimproved portion of 38th Street between Commerce Street and Pharis Street (NCB 8244 and NCB 8245) in Council District 6 as requested by IDEA Public Schools. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Capital Improvements Management Services]
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			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				
Carlton Soules	District 10		x				

# Attachment I



## Attachment II

### 0.35 of an Acre

Field notes of a 0.35 of an acre, 30.0 foot wide strip of land situated in the City of San Antonio, Bexar County, Texas and being a portion of Southwest 38th Street being more particularly described by metes and bounds as follows: Note: All iron pins set are ½" rebar with a yellow plastic cap stamped Baker Surveying.

**Beginning** at a 1/2" iron pin set in the south Right-of-Way line of Commerce Street at the southwest intersection of the west Right-of-Way line of SW 38th Street for the northeast corner of a 9.27 acre tract of land, called Tract A, previously surveyed by Baker Surveying, Inc. on February 19, 2013 and the northwest corner of this tract, from which a 1/2" iron pin set for a northwest corner of Tract A, bears N 84° 14' 21" W. 103.92 feet.

Thence S 84° 14' 21" E. 30.00 feet with the south Right-of-Way line of Commerce Street, the north line of this tract and crossing the Right-of-Way of SW 38th Street to a 5/8" iron pin found in the east Right-of-Way line of SW 38th Street at the southeast intersection with the south Right-of-Way line of Commerce Street for the northeast corner of this tract and the northwest corner of a 2.43 acre tract of land, called Tract B, previously surveyed by Baker Surveying, Inc. on February 19, 2013.

Thence S 05° 58' 08" W. 485.56 feet with the east Right-of-Way line of SW 38th Street, this tract and the west line of Tract B to a 1/2" iron pin found in the northwest line of a 6.5271 acre tract of land as conveyed to the City of San Antonio of record in Volume 3973, Page 1509, Official Public Records of Bexar County, Texas for the south corner of Tract B and the east corner of this tract.

Thence S 45° 59' 13" W. 46.65 feet with the northwest line of the 6.5271 acre tract, the southeast line of this tract and crossing the Right-of-Way line of SW 38th Street to a 1/2" iron pin set in the west Right-of-Way line of SW 38th Street for the south corner of this tract and the east corner of Tract A.

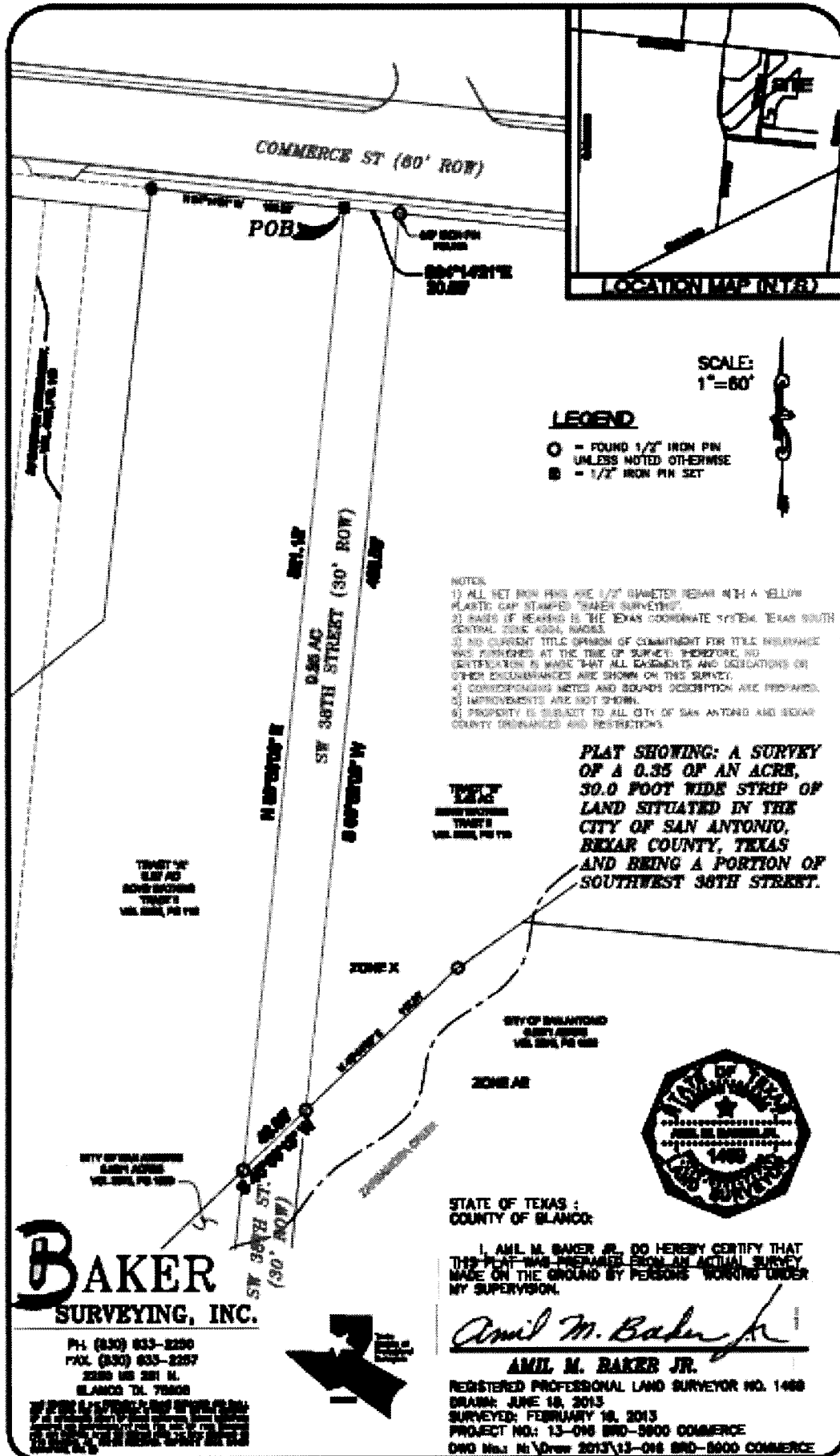
Thence N 05° 58' 08" E. 521.18 feet with the west Right-of-Way line of SW 38th Street, this tract and the east line of Tract A to the **Place of Beginning** and containing 0.35 of an acre of land according to a survey on the ground on February 19, 2013 and drawn on June 18, 2013 by Baker Surveying Inc.

Job # 13-016 BRD-5900 COMMERCE  
Accompanying Plat Prepared  
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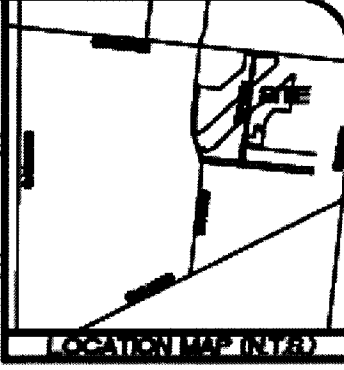


Amil M. Baker, Jr.  
Registered Professional Land Surveyor  
RPLS# - 1469





COMMERCE ST (80' ROW)



SCALE:  
1"=60'

**LEGEND**

- = FOUND 1/2" IRON PIN UNLESS NOTED OTHERWISE
- ⊙ = 1/2" IRON PIN SET

NOTES:  
 1) ALL SET IRON PINS ARE 1/2" DIAMETER REBAR WITH A YELLOW PLASTIC CAP STAMPED "BAKER SURVEYING".  
 2) BASIS OF BEARING IS THE TEXAS COORDINATE SYSTEM, TEXAS SOUTH CENTRAL ZONE 4304, NAD83.  
 3) NO CURRENT TITLE OPINION OF COMMITMENT FOR TITLE INSURANCE WAS FURNISHED AT THE TIME OF SURVEY; THEREFORE, NO IDENTIFICATION IS MADE THAT ALL ENCUMBRANCES AND OBLIGATIONS OR OTHER ENCUMBRANCES ARE SHOWN ON THIS SURVEY.  
 4) CONFORMANCE NOTES AND BOUNDARY DESCRIPTION ARE PROVIDED.  
 5) IMPROVEMENTS ARE NOT SHOWN.  
 6) PROPERTY IS SUBJECT TO ALL CITY OF SAN ANTONIO AND BEXAR COUNTY ORDINANCES AND RESTRICTIONS.

**PLAT SHOWING: A SURVEY OF A 0.35 OF AN ACRE, 30.0 FOOT WIDE STRIP OF LAND SITUATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS AND BEING A PORTION OF SOUTHWEST 38TH STREET.**

TRACT OF 5.17 AC BOUND BY THE TRACT'S VOL. 2094, PG. 108

TRACT 1234 BOUND BY THE TRACT'S VOL. 2094, PG. 108

CITY OF SAN ANTONIO  
 ZONE X  
 VOL. 2094, PG. 108

CITY OF SAN ANTONIO  
 ZONE AB  
 VOL. 2094, PG. 108

CITY OF SAN ANTONIO  
 ZONE AB  
 VOL. 2094, PG. 108



STATE OF TEXAS :  
 COUNTY OF BEXAR:

I, AMIL M. BAKER JR., DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND BY PERSONS WORKING UNDER MY SUPERVISION.

*Amil M. Baker Jr.*  
 AMIL M. BAKER JR.

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1488  
 DRAWN: JUNE 18, 2013  
 SURVEYED: FEBRUARY 18, 2013  
 PROJECT NO.: 13-016 BRD-5900 COMMERCE  
 DND No.: N:\Draw 2013\13-016 BRD-5900 COMMERCE

**BAKER**  
 SURVEYING, INC.

PH: (830) 833-2290  
 FAX: (830) 833-2287  
 2520 W 201 N.  
 BLANCO TX 78608

BAKER SURVEYING, INC. IS AN EQUAL OPPORTUNITY EMPLOYER. WE DO NOT DISCRIMINATE ON THE BASIS OF RACE, GENDER, RELIGION, NATIONAL ORIGIN, ANCESTRY, COLOR, SEX, AGE, OR HANDICAP. WE ARE AN AFFIRMATIVE ACTION EMPLOYER.

Attachment III

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0.29 of an Acre

Field notes of a 0.29 of an acre, 30.0 foot wide strip of land situated in the City of San Antonio, Bexar County, Texas and being a portion of Southwest 38th Street being more particularly described by metes and bounds as follows: Note: All iron pins set are 1/2" rebar with a yellow plastic cap stamped Baker Surveying.

**Beginning** at a 1/2" iron pin set in the north Right-of-Way line of Pharis Street at the northeast intersection with the east Right-of-Way line of SW 38th Street for the southeast corner of this tract and a southwest corner of Lot 1, Block 7, Western Hills Addition, Unit 2 of record in Volume 4600, Pg. 163, Deed and Plat Records of Bexar County, Texas.

Thence N 83° 46' 06" W. 45.05 feet with the north Right-of-Way line Pharis Street, the south line of this tract and crossing the Right-of-Way of SW 38th Street to a 1/2" iron pin set in the west Right-of-Way of SW 38th Street and in the east line of a 4.33 acre tract of land, called Tract C, previously surveyed by Baker Surveying, Inc. on February 19, 2013 for the southwest corner of this tract.

Thence N 06° 01' 50" E. 397.69 feet with the west Right-of-Way line of SW 38th Street, this tract and the east line of Tract C to a 1/2" iron pin set in the southeast line of a 6.5271 acre tract of land as conveyed to the City of San Antonio of record in Volume 3973, Page 1509, Official Public Records of Bexar County, Texas for the north corner of Tract B and the west corner of this tract.

Thence N 45° 21' 18" E. 47.34 feet with the southeast line of the 6.5271 acre tract, the northwest line of this tract and crossing the Right-of-Way line of SW 38th Street to a 1/2" iron pin set in the east Right-of-Way line of SW 38th Street for the north corner of this tract and the west corner of a 5.07 acre tract of land, called Tract D, previously surveyed by Baker Surveying, Inc. on February 19, 2013.

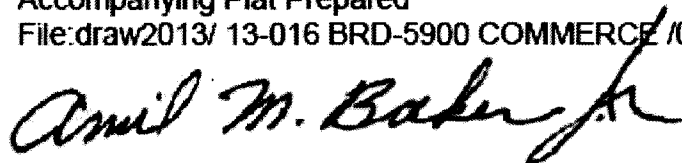
Thence with the east Right-of-Way line of SW 38th Street, this tract, the west line of Tract D and Lot 1, the following calls:

1. S 06° 01' 50" W. 419.47 feet to a 1/2" iron pin set for an angle point and
2. a curve to the left having a radius of 15.00 feet, a delta angle of 90° 10' 50", an arc length of 23.61 feet and a chord that bears S 39° 03' 35" E. 21.25 feet to the **Place of Beginning** and containing 0.29 of an acre of land according to a survey on the ground on February 19, 2013 and drawn on June 18, 2013 by Baker Surveying Inc.

Job # 13-016 BRD-5900 COMMERCE

Accompanying Plat Prepared

File:draw2013/ 13-016 BRD-5900 COMMERCE /0.29AC\_M&B.doc



Amil M. Baker, Jr.  
Register Professional Land Surveyor  
RPLS# - 1469

