

AN ORDINANCE 2014 - 09 - 04 - 0648

CLOSING, VACATING, AND ABANDONING AN IMPROVED PORTION OF S. MAIN STREET ADJACENT TO NCB 100 WITH CONDITIONS, BOUNDED BY DOLOROSA STREET TO THE NORTH AND EAST NUEVA/WEST NUEVA TO THE SOUTH, IN COUNCIL DISTRICT 1, AS REQUESTED BY BEXAR COUNTY; AND WAIVING ASSOCIATED FEES.

* * * * *

WHEREAS, Bexar County wishes to address multiple existing security challenges posed by the court system operations; and

WHEREAS, Bexar County will continue to allow emergency services to have unobstructed access through the area and will provide an easement for public access; **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”) described in Section 2 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. Conditions of the closure, vacation, and abandonment are set out below in section 5 of this Ordinance.

SECTION 2. The detailed description of the Right-of-Way Segment is set forth on **Attachment I**. Attachment I is incorporated into this ordinance for all purposes as if it were fully set forth. All properties abutting the Right-of-Way Segment being closed, vacated and abandoned are owned by Bexar County, who is requesting the closure.

SECTION 3. 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 4. The following are conditions of the closure, vacation, and abandonment:

1. City's receipt of the fee set out below in the funding section of this Ordinance;
2. An easement is properly executed and recorded in substantially the same form as **Attachment III**.

If these conditions have not been met within a year of the passing of this Ordinance, this Ordinance is void. Bexar County may present evidence to the City Manager or her designee at any time that the required conditions have been met. If the City Manager is satisfied with the evidence, the City Manager or the Manager's designee may sign a certificate stating that the Ordinance did not become void in the relevant period, which may be filed in the real property records of the county. If Bexar County fails to timely complete or comply with the conditions, the City of San Antonio may at any time after the one year period re-enter the Property and reinstate the public right of way by filing in the Bexar County real property records a Notice of Re-Entry.

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, including executing an Abandonment of Street Dedication in substantially the same form as **Attachment II** and acceptance of the dedicated easement.

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. The City Manager or her designee is authorized to execute and record an Abandonment of Street Dedication document, a sample of which is attached as Attachment II, provided such document has been reviewed for content and form by the City Attorney's Office.


SECTION 7. There is no fiscal language associated with this ordinance at this time.

SECTION 8. The requirements of Section 37-11 of the City Code for fee reduction are waived. There is no fee for this street closure. Disposition of this property must be coordinated through the city's Finance Department as necessary to assure the removal of these assets into the City's financial records and to record the proper accounting transactions.

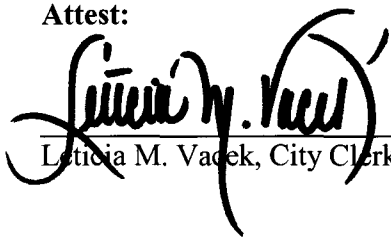
SECTION 9. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, 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 4th day of September, 2014.

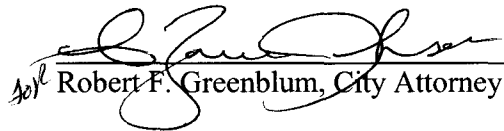

M A Y O R
Ivy R. Taylor

Attest:



Leticia M. Vacek, City Clerk

Approved As To Form:



Robert F. Greenblum, City Attorney

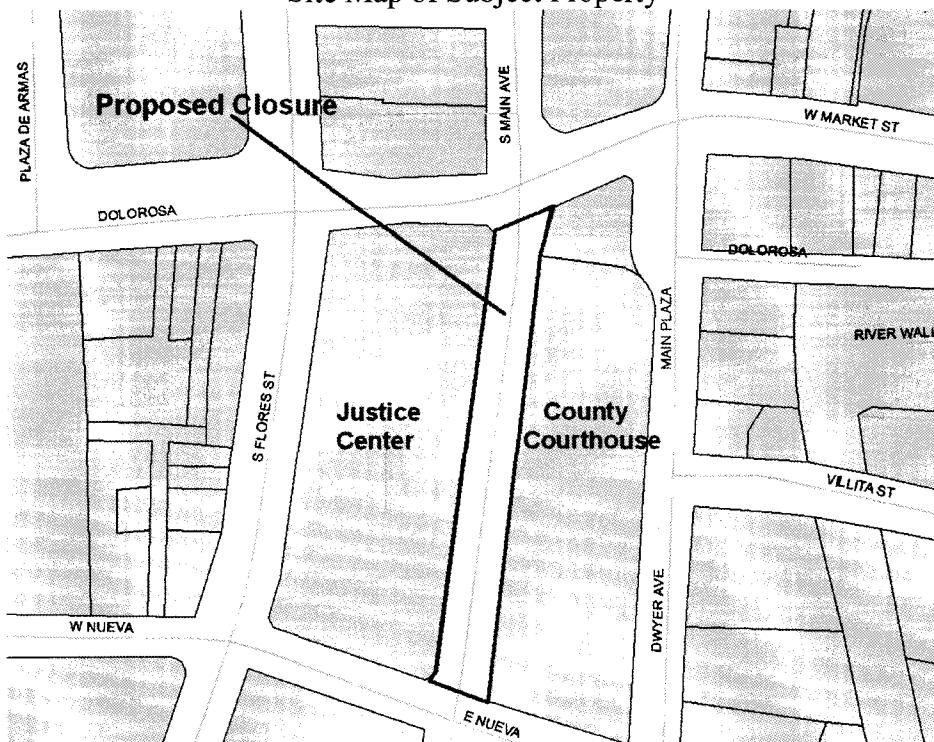
Agenda Item:	14 (in consent vote: 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16A, 16B, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28A, 28B, 28C)
Date:	09/04/2014
Time:	09:32:40 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the closure, vacation, and abandonment of an improved portion of S. Main Street Public Right of Way, bounded by Dolorosa Street to the north and E. Nueva and W. Nueva Street to the south, in Council District 1, as requested by Bexar County. [Peter Zanoni, Deputy City Manager; Mike Etienne, Director, EastPoint & Real Estate Services Office]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				
Keith Toney	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				
Mari Aguirre-Rodriguez	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x				

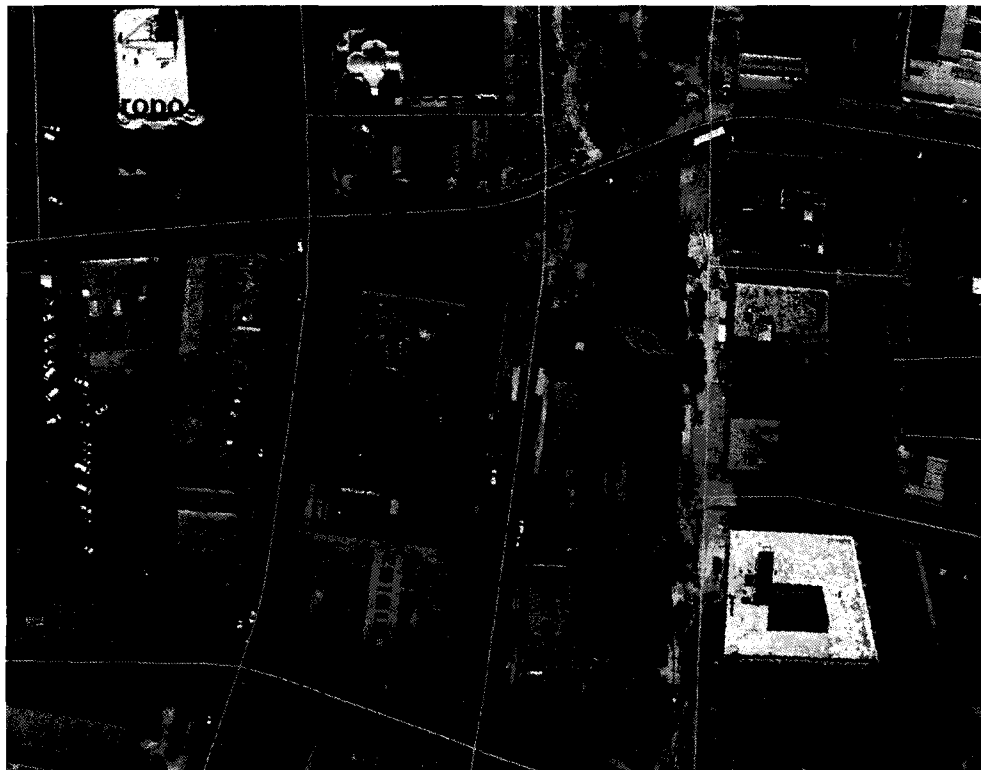
Attachment I



Site Map of Subject Property



Map of Property



Aerial Map of Property



LEGAL DESCRIPTION

Being a portion of Main Street between Nueva Street and Dolorosa Street, having 0.55 acres (24191 sq. ft.) as recorded by Instrument in Volume 979, Page 411, of the Deed and Plats Records of Bexar County, Texas;

COMMENCING, at a PK Nail with washer set at the Northeast corner of Bexar County Justice Center as recorded in Volume 9602. Page 44, Deeds and Plats Records of Bexar County, and being at the intersection of South right of way line of Dolorosa Street and the West right of way line of Main Street for the POINT OF BEGINNING of the tract herein described;

THENCE, S 77°11'44" E, along the projected South right of way line of Dolorosa Street a distance of 47.51 feet to a PK Nail with washer set at the East right of line of said Main Street for the Northeast corner of the tract herein described;

THENCE, S 12°47'16" W, along the East right of way line of said Main Street a distance of 402.30 feet to a point for a corner of the tract herein described;

THENCE, N 77°12'44" W, continuing along the East right of way line of said of said Main Street a distance of 4.00 feet to a point for a corner of the tract herein described;

THENCE, S 12°47'16" W, continuing along the East right of way line of said Main Street a distance of 22.00 feet to a point for a corner of the tract herein described;

THENCE, N 77°12'44" W, continuing along the East right of way line of said Main Street a distance of 3.00 feet to a point for a corner of the tract herein described;

THENCE, S 12°47'16" W, continuing along the East right of way line of said Main Street a distance of 62.00 feet to a point for a corner of the tract herein described;

THENCE, S 77°12'44" E, continuing along the East right of way line of said Main Street, a distance of 3.00 feet to a point for a corner of the tract herein described;

THENCE, S 12°47'16" W, continuing along the East right of way line of said Main Street a distance of 8.50 feet to a point for a corner of the tract herein described;

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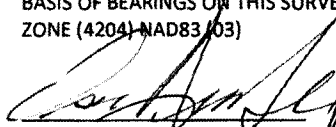
THENCE, S 12°47'16" W, continuing along the East right of way line of said Main Street a distance of 30.75 feet to a point at the intersection of the North right of way line of Nueva Street and the East right of way line of Main Street for the Southwest corner of the tract herein described;

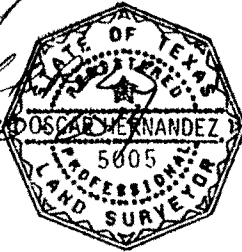
THENCE, N 65°47'44" W, along the projected North right of way line of Nueva Street a distance of 53.25 feet to a PK Nail with washer set at the intersection of the North right of way line of Nueva Street and the West right of way line of Main Street for a corner of the tract herein described;

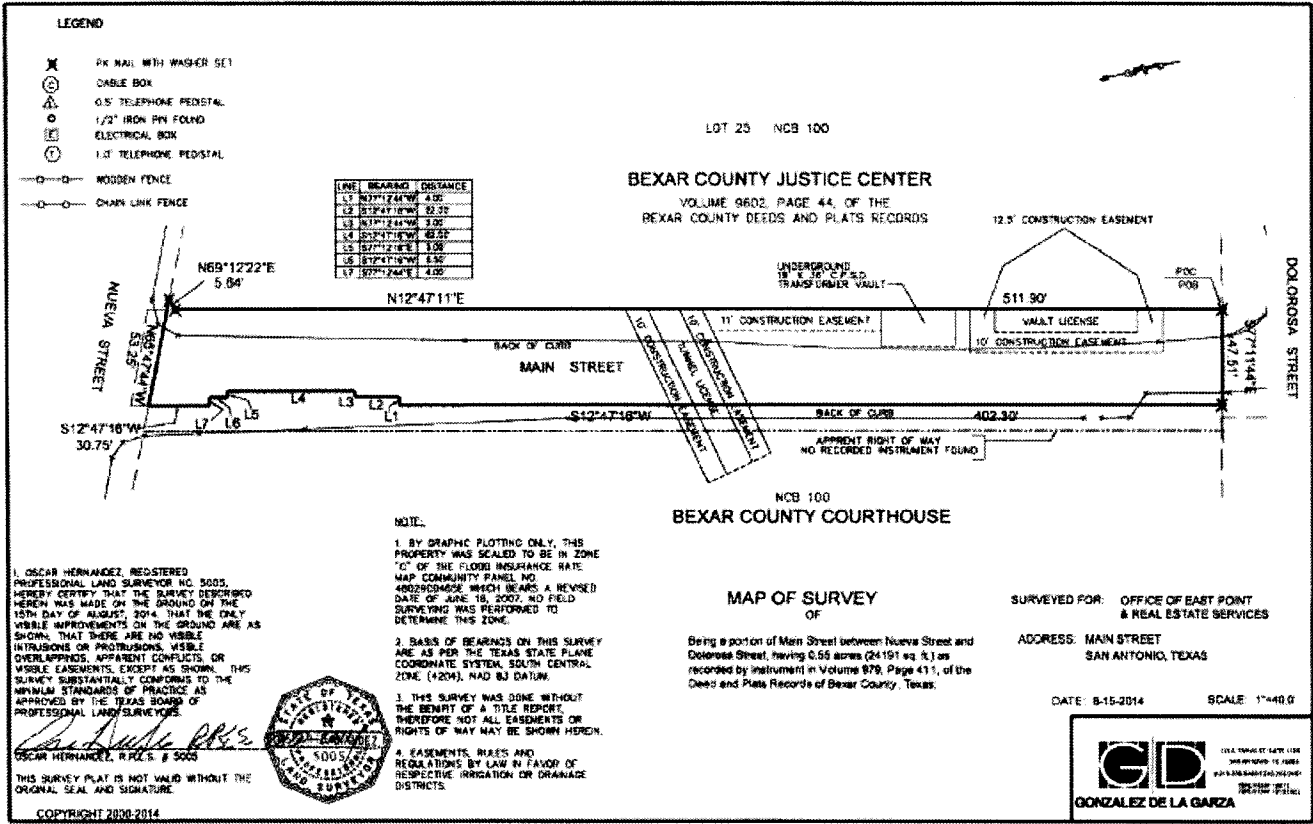
THENCE, N 69°12'22" E, continuing along the West right of way line of said Main Street a distance of 5.64 feet to a PK Nail with washer set for a corner of the tract herein described;

THENCE, N 12°47'11" E, continuing along the West right of way line of said Main Street a distance of 511.90 feet to POINT OF BEGINNING; CONTAINING an area of 24191 square feet, 0.55 acres of land more or less;

BASIS OF BEARINGS ON THIS SURVEY ARE AS PER THE TEXAS STATE PLANE COORDINATE SYSTEM -SOUTH CENTRAL ZONE (4204) NAD83 (03)


Oscar Hernandez, R.P.L.S. 8-28
R.P.L.S. Number 5005





AZJ
09/04/2014
Item No. 14

Attachment II

ABANDONMENT OF STREET DEDICATION

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

In the interest of enhanced public safety within the segment of South Main Street between Dolorosa and Nueva streets between the Bexar County Courthouse (Courthouse) and Cadena-Reeves Justice Center (Justice Center), the **CITY OF SAN ANTONIO, TEXAS**, a home rule municipality (“**GRANTOR**”), whose address for notice is _____ San Antonio, Texas 78____, Attention: _____ as the Grantee of a dedication of a public street by Orders of the Bexar County Commissioners Court in 1927 and 1929 recorded at Vol. 979, Page 411 and Vol. 1161, Page 120 respectively in the Deed Records of the Bexar County Clerk (the “Record”), and depicted by metes and bounds descriptions appended hereto and incorporated for all purposes as **Exhibit “A,”(Property)** does hereby ABANDON, RELEASE AND CONVEY all rights title and interest in the dedicated property as dedicated to by that Record to **BEXAR COUNTY, TEXAS**, a political subdivision of the State of Texas, (“**GRANTEE**”) in accordance with Ordinance No. _____, which was approved by the City Council of the City of San Antonio on September 4, 2014 .

Consideration:

It is understood and agreed that in consideration for the Abandonment of the Dedication, Bexar County has incorporated into the design of the Main Street Segment Redevelopment Project (Project) certain amenities requested by Grantor which will allow access to the Property for emergency vehicles, pedestrians and bicyclists when those activities are not in conflict with prisoner transport or other activities that pose a risk or danger to the public. In addition, Grantee will allow access through the Property for Grantor’s officially organized running or bicycling events which will be coordinated by the parties upon written notice by Grantor. Such

consideration shall be captured in an easement dedicated by Grantee to Grantor, in substantially the same form as **Exhibit B**, which shall be recorded in the Deed Records of the Bexar County Clerk per Ordinance No. _____ of the City of San Antonio.

Exceptions and Reservations from Conveyance:

All existing easements for telephone, electric, gas, water and sewer utilities and related infrastructure, including the right to inspect, operate and maintain said utilities in perpetuity. Due to the nature of activities contemplated by Grantee in the Project area, Grantor agrees that any need for future easements or enlargement of existing easements shall be coordinated with Grantee in writing.

GRANTOR covenants and agrees that GRANTOR and GRANTOR'S heirs, representatives, successors and assigns shall at no time erect, place or construct or cause to be erected, placed or constructed in, into, upon, over, across or under any right-of-way granted herein any temporary or permanent structures, except for those activities specifically related to existing easements for electric, gas, water and sewer utilities and that the needs for any future easements shall be coordinated with Grantee. It is further agreed that GRANTEE shall have the exclusive right to conduct the activities the subject of this Abandonment of Dedication unhindered by GRANTOR.

IN WITNESS WHEREOF, this dedication is executed this ____ day of _____, 2014.

CITY OF SAN ANTONIO

By _____

Title _____

GRANTOR

ACCEPTANCE:

By: _____

Nelson W. Wolff
Bexar County Judge

ACKNOWLEDGEMENT

THE STATE OF TEXAS, §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority in and for the City of San Antonio, on this day personally appeared _____ known to or proved to me through _____ (description of identity card or other document) to be the same person whose name is subscribed to the foregoing dedication and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2014.

Notary Seal

Notary Public, State of Texas

Notary's Name (Printed)

Exhibit A



LEGAL DESCRIPTION

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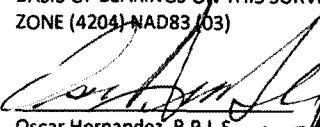
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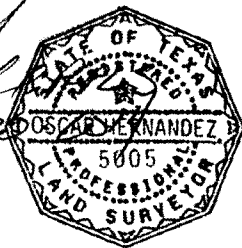
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Oscar Hernandez, R.P.L.S.
R.P.L.S. Number 5005



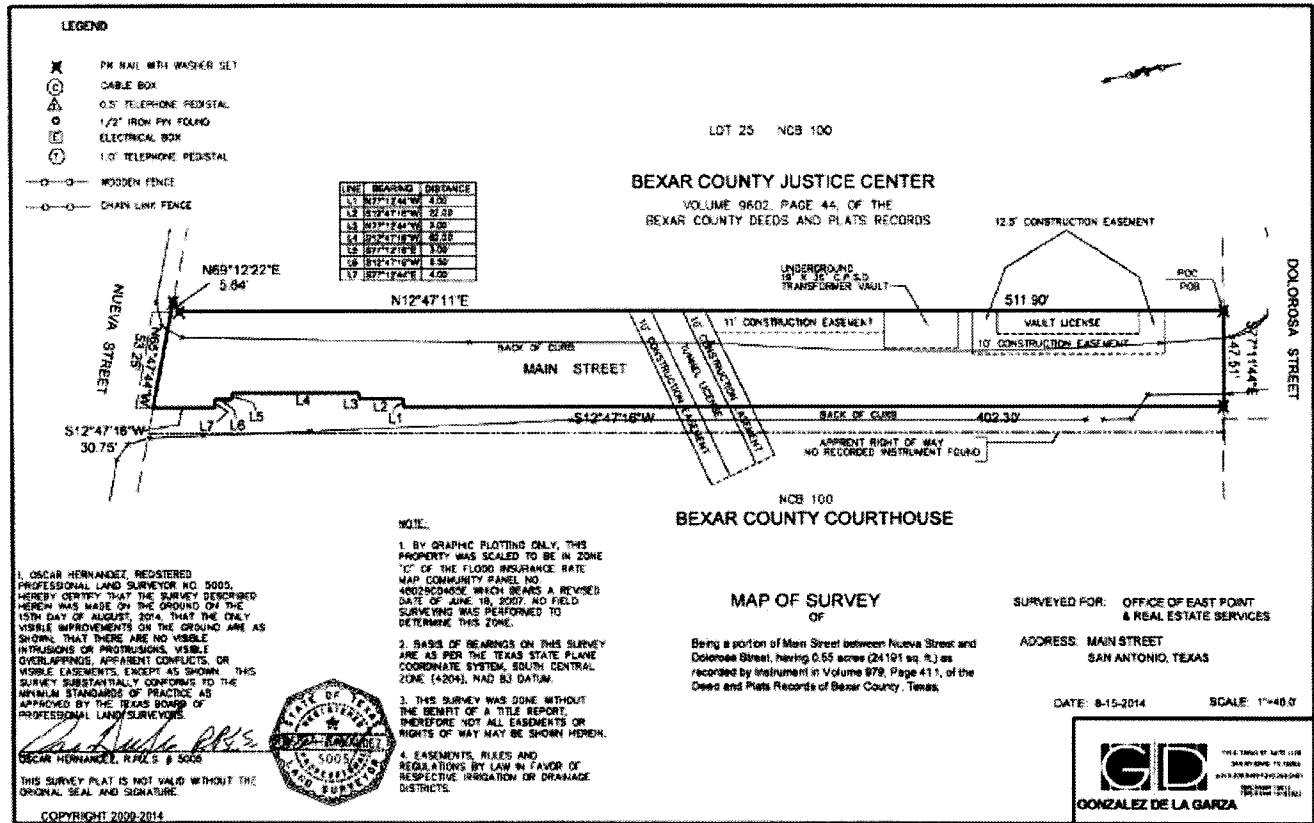


Exhibit B

State of Texas }
 }
County of Bexar }

PUBLIC PEDESTRIAN, BICYCLE AND EMERGENCY VEHICLE EASEMENT

By this instrument Bexar County, (Grantor) in consideration of good and valuable consideration received from the City of San Antonio, a municipal corporation (Grantee) does hereby grant, bargain, sell, and convey to Grantee, its successors and assigns a perpetual irrevocable easement for use as a public pedestrian, bicycle and emergency vehicle pathway over, across, in and through the real property (Property) owned by Grantor located in the County of Bexar and the State of Texas and more particularly described as follows:

Grantor understands and agrees for itself, its successors and assigns not to cause or allow the construction or maintenance of any building or other structure in or upon the area conveyed which would impede the use and access of the area by pedestrians, bicycle traffic or emergency vehicles.

Grantor further agrees for itself, its heirs, successors and assigns that it shall not cause or allow any act or occurrence or condition of land that disturbs the subjacent or lateral support of the area conveyed and that Grantee shall have the right of reasonable access over any property adjacent to the area conveyed, for the purpose of all such public pedestrian, bicycle and emergency vehicle pathway access and lateral and supporting structures in or on the area conveyed.

Grantor agrees to install appropriate signage designating the area for pedestrian and bicycle use by the general public, as well as maintaining the area for these uses. Grantor will include a 5 foot wide bike lane to continue a north-south route through downtown. Grantor shall provide access for Grantee's organized bicycling or running events upon request by Grantee. Requests for cycling or running event access must be in writing and addressed to the Director Bexar County Facilities and Parks Department, 101 W. Nueva, Ste 900, San Antonio, Texas 78205. Requests for access shall be provided to Grantor a minimum of 60 days prior to the event to allow Grantor sufficient time to plan for an interruption in Grantor's activities within the Property. This time period may be waived or changed if a different time period is agreed to by Grantor and Grantee in writing. Grantee shall be responsible for all activities related to its events including, but not limited to, set-up, the activity itself, security, tear down and clean up and will coordinate these activities with Grantor.

Grantor will provide a minimum of 24 feet of unobstructed emergency access to the Property for emergency vehicles as well as unobstructed access to fire department connections.

Grantor reserves the right to limit access to the Property from time to time for prisoner transport and other activities which may pose a risk or danger to the general public. Grantor shall provide Grantee with prior written notice, including the time and extent of the limited access, prior to

limiting any access for more than 48 hours except in the case of an emergency situation. Notice shall be addressed to **CITY OF SAN ANTONIO**: City Hall, P.O. Box 839966, (Attention: Director, Transportation and Capital Improvements Department), San Antonio, Texas 78283. Grantor shall have exclusive control of access to the Property at these times and will restore access when the risk or danger has passed.

Dated this ____ day of _____, 20__.

In Witness Whereof, Grantor has caused its representative to set its hand:

Bexar County, a political subdivision of the State of Texas

By: _____
NELSON W. WOLFF
Bexar County Judge

Date: _____

Attest:

By: _____
GERARD C. RICKHOFF
County Clerk

APPROVED AS TO FORM:

SUSAN D. REED
Criminal District Attorney
Bexar County, Texas

BY: _____
KATHERINE RAMOS
Assistant District Attorney
Civil Section

The State of Texas }

County of Bexar }

Before me, the undersigned authority, this instrument was this day acknowledged by Nelson W. Wolff, County Judge, of and for Bexar County, a political subdivision of the State of Texas on behalf of that entity in the capacity stated.

Date: _____

Notary Public, State of Texas

My Commission Expires: _____

After Recording, Return To:

Attachment III

State of Texas }
 }
County of Bexar }

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XXX

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Bexar County, a political subdivision of the State of Texas

By: _____
NELSON W. WOLFF
Bexar County Judge

Date: _____

Attest:

By: _____
GERARD C. RICKHOFF
County Clerk

APPROVED AS TO FORM:

SUSAN D. REED
Criminal District Attorney
Bexar County, Texas

BY: _____
KATHERINE RAMOS
Assistant District Attorney
Civil Section

The State of Texas }

County of Bexar }

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Date: _____

Notary Public, State of Texas

My Commission Expires: _____

After Recording, Return To: