

ORDINANCE 2018-08-02-0547

AUTHORIZING THE CLOSURE, VACATION, AND ABANDONMENT OF 0.1230 OF AN ACRE OF IMPROVED 14.8-FOOT WIDE ALLEY PUBLIC RIGHT OF WAY, LOCATED BETWEEN HOWARD AND N. MAIN STREETS WITHIN NEW CITY BLOCK 379, IN COUNCIL DISTRICT 1, AS REQUESTED BY FLORESVILLE/181 LESSEE INCORPORATED, FOR A FEE OF \$70,744.00.

* * * * *

WHEREAS, Floresville/181 Lessee Incorporated (Petitioner) is requesting the closure, vacation and abandonment of a 0.1230 of an acre (5,359 square feet) improved 14.8-foot wide public alley located between Howard and N. Main Streets; and

WHEREAS, there was no opposition to the closure from City Departments or utilities during the canvassing process and the abutting owner, Braverman Family Limited Partnership, has agreed to the closure; and

WHEREAS, upon approval, Petitioner plans to assemble its abutting properties with the proposed closure to upgrade the existing parking lot. In order to provide an efficient layout for the surface parking lot, the alley which bisects the property needs to be vacated, allowing Petitioner to take full advantage of the entire lot rather than having two separate parking lots divided by the alley; and

WHEREAS, City procedures for the sale or disposition of City-owned or controlled real property have been followed, including payment of a \$70,744.00 fee, which includes the assessed value of the 14.8-foot wide improved public alley in the amount of \$70,500.00 plus \$244.00 for administrative costs and, most recently, Planning Commission recommended approval at its regular meeting on May 23, 2018; and

WHEREAS, City Council authorization is now necessary; **NOW THEREFORE:**

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

SECTION 1. The City finds that the subject right-of-way (“Right-of-Way Segment”) is not 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 authority, the City Council hereby authorizes the closure, vacation, and abandonment of the right-of-way (“Right-of-Way Segment”) identified in Section 2 immediately below.

SECTION 2. The detailed description of the Right-of-Way Segment is set forth on **Attachment I**. Maps and pictures of the Right-of-Way Segment are set forth on **Attachment II**. Both Attachments are incorporated into this Ordinance as if fully set forth herein. Attachment I controls over any discrepancy between it and Attachment II.

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>
1207 N Main Ave. San Antonio, Texas 78212	NCB 379 BLK 9 LOT 13	Braverman Family Limited Partnership
Howard St. San Antonio, Texas 78212	NCB 379 BLK 9 LOT 4 THRU 6 & W 36 FT of 3	Floresville / 181 Lessee Incorporated
120 Cypress Trl San Antonio, Texas 78256	NCB 379 BLK 9 Lot 7 THRU 12	Floresville / 181 Lessee Incorporated

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 impact validity of the closure.

SECTION 4. Reservation of Utility Rights. 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 or her 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 Segments 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 right of way.

SECTION 5. The City Council authorizes closure, vacation, and abandonment of the affected right of way by filing a certificate of closure executed by the Director of the Transportation & Capital Improvements Department subject to the following:

- A. City’s receipt of \$70,744.00 in fees, which includes the assessed value of the 14.8-foot wide improved public alley in the amount of \$70,500.00 and \$244.00 for administrative costs; and
- B. The letter of agreement dated April 5, 2018, signed and agreed to April 25, 2018 and attached as **Attachment III**.

The certificate of closure should be substantially in the form of **Attachment IV**.

SECTION 6. 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 7. The Right-of-Way Segment exists by easement. The underlying fee ownership of the Right-of-Way Segment by the adjacent lot owners are now unburdened by the rights closed, vacated, and abandoned.

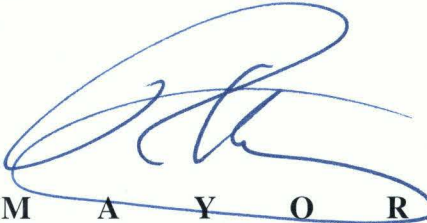
SECTION 8. Petitioner shall pay \$70,744.00 to the City of San Antonio. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 223000000253 and General Ledger 4903101.

SECTION 9. The disposition of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets into the City's financial records and to record the proper accounting transactions.

SECTION 10. 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 Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.


SECTION 11. This Ordinance shall become effective immediately upon its passage by eight affirmative votes; otherwise it shall become effective on the tenth day after passage thereof.

PASSED and APPROVED this 2nd day of August, 2018.



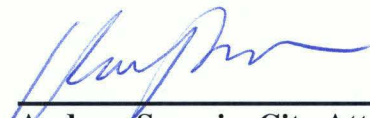
M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	13 (in consent vote: 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24)						
Date:	08/02/2018						
Time:	09:26:28 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance approving the closure, vacation and abandonment of an improved 14.8-foot wide alley located between Howard Street and N. Main Street as requested by Floresville/181 Lessee Incorporated, for a fee of \$70,744.00. [Peter Zaroni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
William Cruz Shaw	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

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ATTACHMENT I



0.1230 Acres
(5,359 Sq. Ft.)
2223-10670 exh 1.dwg

FN NO. 2223-10670-exh 1
March 27, 2018
JOB NO. 2223-10670

FIELD NOTE DESCRIPTION – 14.8 FOOT ALLEY

Being 0.1230 acres situated in the City of San Antonio, Bexar County, Texas and being all of a called 14.8 feet wide alley within New City Block 379, extending from N. Main Avenue on the East to Howard Street on the West; said 0.1230 acres being more particularly described by metes and bounds as follows with all bearings being referenced to the North American Datum of 1983, Texas State Plane Coordinate System, South Central Zone:

Beginning, at a found PK Nail on the West right-of-way line of N. Main Avenue (R.O.W. varies) for the Northeast corner of said 14.8 feet wide alley and also being the Southeast corner of a 1.281-acre tract known as Lots 7-12, Block 9, New City Block 379, as conveyed to Floresville/181 Lessee Incorporated, also known as Tract II, as recorded in Volume 13411, Page 2042 of the Official Public Records of Bexar County, Texas;

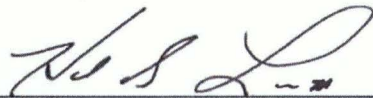
Thence, S 00° 58' 37" W, 15.90 feet, to a found 1/2-inch iron rod for the Southeast corner of the herein described tract;

Thence, S 89° 44' 05" W, at 7.2 feet, passing the Northeast corner of Lot 13, Block 9, New City Block 379, North Main Plaza, recorded in Volume 9536, Page 195 of the Deed and Plat Records of Bexar County, Texas, as conveyed to Braverman Family Limited Partnership in Volume 15868, Page 511 of the Official Public Records of Bexar County, Texas; at 131.28 feet, passing the Northwest corner of said Lot 13 and the Northeast corner of a called 0.770 acre tract, being the West 36' of Lot 3 and Lots 4-6, Block 9, New City Block 379, known as Tract I as conveyed to Floresville/181 Lessee Incorporated as recorded in Volume 13411, Page 2042 of the Official Public Records of Bexar County, Texas; in all a distance of 347.88 feet, to a found PK Nail on the East right-of-way line of Howard Street (55.6' R.O.W.), for the Southwest corner of the herein described tract;

Thence, N 03° 13' 53" W, 14.89 feet, along the East right-of-way line of Howard Street, to a found PK nail at the Southwest corner of said Tract II, for the Northwest corner of the herein described tract;

Thence, N 89° 33' 59" E, 348.99 feet, along the South line of said Tract II and the North line of said called 14.8 feet wide alley, to the **Point of Beginning**, containing 0.1230 acres (5,359 square feet) of land, more or less.

Note: Survey plat of even date to accompany this Field Note Description.

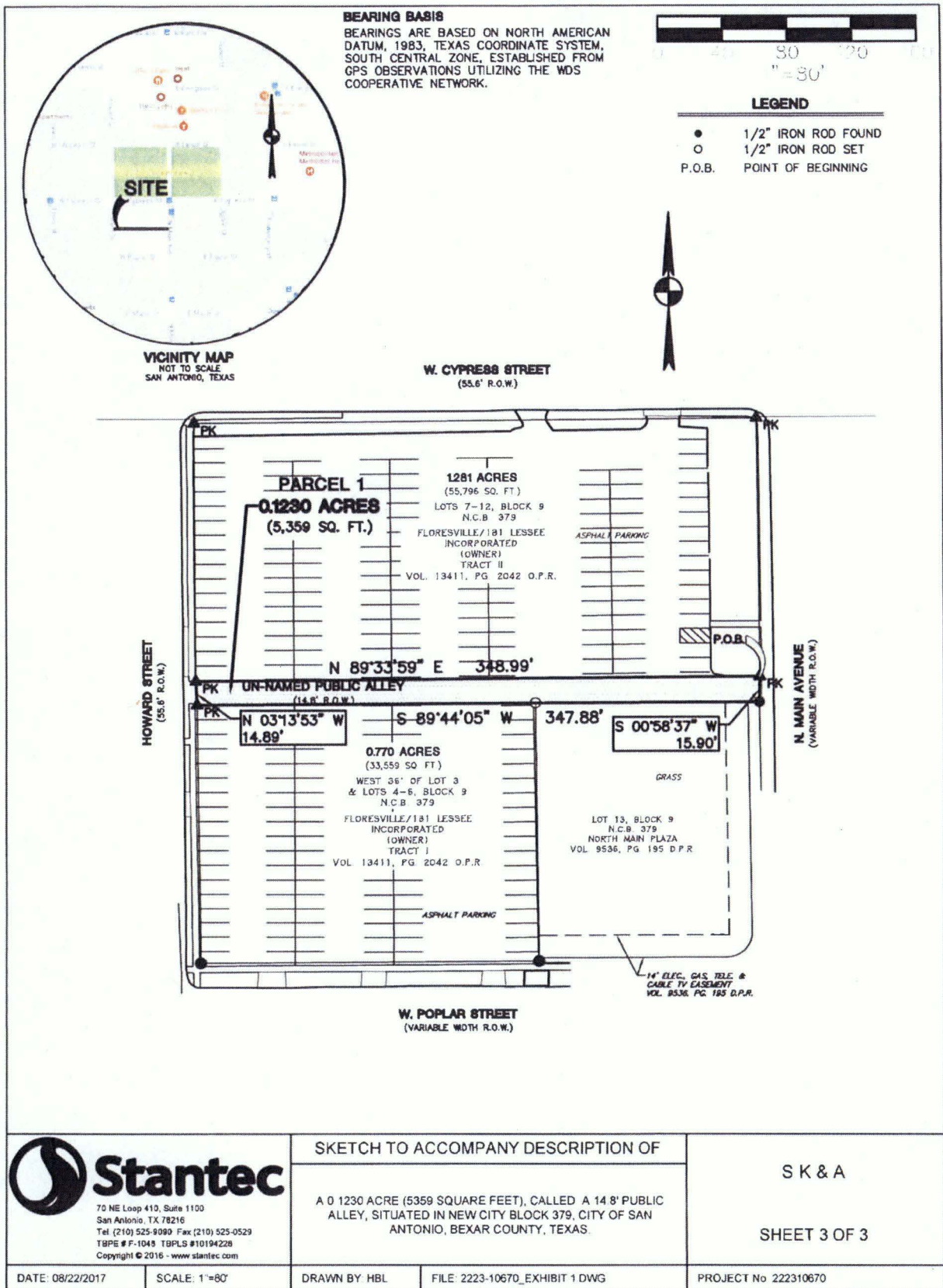


3/27/18

DATE

Hal B. Lane III
Registered Professional Land
Surveyor Texas Registration Number
4690 Stantec Consulting Services,
Inc.
70 NE Loop 410, Suite
1100 San Antonio, Texas
78216 210/525-9090
TBPLS Firm No.: 10194228





SKETCH TO ACCOMPANY DESCRIPTION OF

A 0.1230 ACRE (5359 SQUARE FEET), CALLED A 14.8' PUBLIC ALLEY, SITUATED IN NEW CITY BLOCK 379, CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

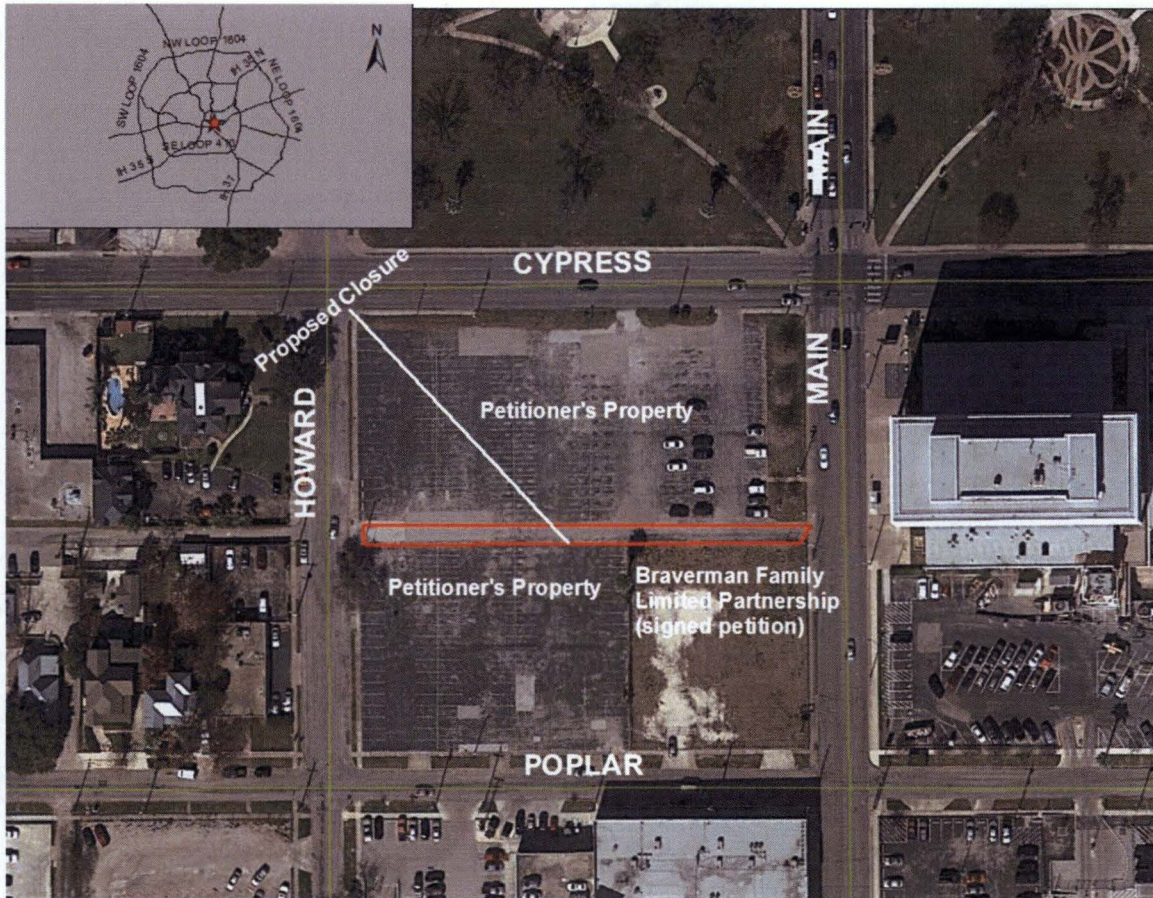
SK & A

SHEET 3 OF 3

DATE: 08/22/2017	SCALE: 1"=80'	DRAWN BY: HBL	FILE: 2223-10670_EXHIBIT 1 DWG	PROJECT No: 222310670
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ATTACHMENT II



Aerial Map of Proposed Closure



Map of Proposed Closure

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ATTACHMENT III



CITY OF SAN ANTONIO
TRANSPORTATION & CAPITAL IMPROVEMENTS
P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

April 5, 2018

Floresville/181 Lessee Incorporated
C/o Stanec Consulting Services Inc.
Attn: Mark Johnson, PE
70 NE Loop 410, Suite 1100
San Antonio, Texas 78216

S.P. No. 2079 – Request to close, vacate and abandon an improved 14.8-foot wide alley adjacent to NCB 379 located between Howard and N. Main Streets

Dear Mr. Johnson:

With reference to the captioned project, please be advised that the City of San Antonio has now completed the canvassing process and will recommend approval of this request subject to the following conditions:

DEVELOPMENT SERVICES DEPARTMENT: Provided proper permits are obtained. (See applicable UDC Sections: 35-506, 35-515, 35-523, 35-477 and 35-B123

The site must be platted, as applicable, with the Unified Development Code, per section 35-430. Please note there are platting exceptions that may apply, please see the enclosed information Bulletin: <https://webapps1.sanantonio.gov/dsdocumentscentral/upload/IB531.pdf>.

DEPARTMENT OF TRANSPORTATION & CAPITAL IMPROVEMENTS (TCI): Environmental Services: It is the Petitioner's responsibility to conduct the due diligence process (environmental assessments) for this area. The City does not warrant that environmental impacts are not to be encountered when disturbing the land. The City shall not bear any financial burden related to environmental impacts (if any) encountered during the disturbance of the land. If environmental impacts are encountered, it is the Petitioner's responsibility to notify the City and the appropriate regulatory agencies of the issue. Right of Way: Contact and confirm with all utilities that there are no conflicts.

The closure, vacation and abandonment of this Public Right of Way will be authorized by a City Ordinance in accordance with current policies relevant to street/alley closures. The closure will not release rights relating to drainage, water and wastewater lines, electric transmission and distribution lines, gas lines, communication lines of all types, or any other rights except for the right of the public to travel on the subject tract. The City will expressly reserve all rights not released. Petitioner agrees to conform by all applicable local (city and/or county), state and federal governing laws.

Petitioner asserts that all evidence of ownership of property abutting the Public Right of Way proposed to be closed, vacated and abandoned by the City of San Antonio is true and correct. The petitioner acknowledges that this property will be accepted in its "as is" condition. Petitioner must take the property subject to all easement rights for existing overhead, surface, or subsurface utilities within the Public Right of Way proposed to be closed, including but not limited to: electrical, water, sewer, telephone, cable, fiber optic conduit, etc. and allow access to any such utilities or may seek the relocation of a specific utility with express permission and coordination of the respective owner of the utility at the sole expense of the petitioner. Petitioner understands that further coordination will be needed with the affected utility agencies to ensure their operations are not impacted.

The total fee established for this public right of way closure is \$70,744.00, which includes the assessed value of \$70,500.00 plus \$144.00 for the posting of two (2) signs notifying the public of the proposed alley closure and \$100.00 for the recording fees. The total fee will be due and payable to the City of San Antonio prior to City Council consideration.

This Letter of Agreement is being offered by City of San Antonio only to the petitioner named below and will expire thirty (30) days after date of issuance unless a specific extension is requested by the petitioner and granted by the City.

If you concur with the above mentioned conditions, please countersign this letter in the space provided below and return it to the undersigned. Upon receipt of this executed Letter of Agreement, a check payable to the City of San Antonio in the amount of \$70,744.00, Form 1295 and a Discretionary Contracts Disclosure Form (to be completed on the <http://www.sanantonio.gov/atty/ethics/forms.asp> website link then printed and signed), we will continue processing your request.


Sincerely,



Steve Hodges
Real Estate Manager

AGREED AS TO TERMS AND CONDITIONS:

Floresville/181 Lessee Incorporated,
a Texas corporation

By: 
Todd A. Piland, Vice President

Date: April 25, 2018

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ATTACHMENT IV

STATE OF TEXAS §
§
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

Street Closing Certificate

Authorizing Ordinance:

Affected Right of Way:

Consideration: \$10 in hand paid and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

Predicate Facts:

The City Council has previously declared the Affected Right of Way to be surplus and has authorized closure, vacation, and abandonment of the Affected Right of Way on the occurrence of certain conditions precedent.

The conditions precedent to closure, vacation, and abandonment have been satisfied.

Closure, Vacation, and Abandonment:

1. Under the authority of the Authorizing Ordinance, the Affected Right of Way is hereby closed, vacated and abandoned.
2. This certificate does not release any public rights in the Affected Right of Way for drainage, water and wastewater lines, electric transmission lines, communication lines of all types, or any other rights except for the right of the public to travel on the Affected Right of Way.
3. This Certificate is effective on the date it is filed in the Official Records of Real Property of Bexar County, Texas.

In Witness Whereof, the parties have caused their representatives to set their hands.

**City of San Antonio, Texas,
A Texas municipal corporation**

By: _____

**Printed
Name:** _____

Title: _____

Date: _____

Approved As To Form:

City Attorney

STATE OF TEXAS §

COUNTY OF BEXAR §

This instrument was acknowledged before me on this the _____ day of _____, 2018, by _____, of the **CITY OF SAN ANTONIO**, a Texas municipal corporation, in the capacity therein stated and on behalf of said entity.

Notary Public, State of Texas

My Commission
expires: _____

**AFTER RECORDING
PLEASE RETURN TO:**

**City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966
Bexar County**