

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL,
SIGNED ORDINANCE ADOPTED BY THE CITY COUNCIL.**

ORDINANCE

CLOSING, VACATING AND ABANDONING TWO IMPROVED ALLEYS (0.138 ACRES) LOCATED WITHIN A BLOCK BORDERED BY BROADWAY, BROOKLYN, AVENUE B AND 8TH STREET, IN COUNCIL DISTRICT 1, AS REQUESTED BY CBMB PROPERTIES, L.L.C., AND ACCEPTING AN IN-KIND CONTRIBUTION OF APPROXIMATELY \$300,000.00 TOWARDS THE VALUE OF THE CLOSURE FEE.

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WHEREAS, CBMB Properties, L.L.C. (Petitioner) is requesting the closure, vacation and abandonment of two improved alley public Rights-of-Way totaling 0.138 acres and located in NCB 447 and bordered by Broadway, Brooklyn, Avenue B, and 8th Street; and

WHEREAS, Petitioner owns or has agreement from the abutting property owners to redevelop the block with the construction of a new commercial development that will include outdoor public amenities for the community; and

WHEREAS, the new development will consist of a six-story building having approximately 141,000 square feet of commercial space and one level of subsurface parking; and

WHEREAS, the City Planning Commission recommended approval of this request at its June 13, 2018 regular meeting; and

WHEREAS, in accordance with Chapter 37 of the Municipal Code, signs were placed at the proposed alley closures and letters were sent to property owners identified with a 500 foot radius to provide notice and public hearing dates of the proposed closures; 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. As an exercise of its discretion, the City Council authorizes the closure, vacation, and abandonment of the two Rights-of-Way segments identified in Section 2 of this Ordinance. The City Manager or her designee, severally, are authorized and directed to execute and deliver all necessary documents and to do all other things conducive to effectuate this closure, abandonment, and vacation.

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

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

| <u>Address</u> | <u>Description</u> | <u>Owner Listed by Bexar Appraisal District</u> |
|-------------------|---|---|
| 203 W 8th St. | NCB 447 Blk 2 Lots 7, 9, 11 ARB A15 A16 | Cavender Braodway Properties & CBMB Properties, L.L.C. |
| 702 Avenue B | NCB 447 Blk 2 Lot 12 | Cavender Braodway Properties & CBMB Properties, L.L.C. |
| 418 Brooklyn Ave. | NCB 447 Blk 2 Lot 10 | Cavender Braodway Properties & CBMB Properties, L.L.C. |
| 414 Brooklyn Ave. | NCB 447 Blk 2 Lot 8 | Midtown SA LLC |
| 701 Broadway St. | NCB 447 Blk 2 Lot 6 & S 5 ft of W 65 ft of 5 | CBMB Properties, L.L.C. |
| 705 Broadway St. | NCB 447 Blk 2 Lot 5 Exc SW 5 ft of NW 65 ft | CBMB Properties, L.L.C. |
| 709 Broadway St. | NCB 447 Blk 2 Lot 4 | CBMB Properties, L.L.C. |
| 711 Broadway St. | NCB 447 Blk 2 Lots 1, 2 & 3 | CBMB Properties, L.L.C. |

The listing above is made solely to facilitate indexing of 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. All presently existing drainage, water, recycled 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 accessed, used, repaired, enlarged, upgraded, replaced and maintained in the ordinary course of business. Any person wanting removal or relocation of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Rights-of-Way segments without first reaching an agreement with a utility having lines or facilities in the segments 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 Rights-of-Way segments based on a claim that the Rights-of-Way segments are a public Right-of-Way. All existing drainage rights in the Rights-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 or alley Right-of-Way. Neither does this Ordinance create new easement rights.

SECTION 5. The Rights-of-Way segments exist by easement. The underlying fee ownership of the Rights-of-Way segments 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 the 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 6. This property is within the City of San Antonio Inner City Reinvestment/Infill Policy (ICRIP) area. Per that policy, which has been approved by the City Council, the fee established for the closure of the two alley Rights-of-Way, \$202,500.00, is reduced by 75% due to the anticipated project investment of \$50 million or greater. The revised closure fee for the two alley Rights-of-Way segments is \$50,625.00. However, the closures allow Petitioner to provide approximately \$300,000.00 of improvements within the publically accessible alley that will include outdoor public amenities for the community. This amount shall be considered an in-kind contribution towards the value of the closure fee. Therefore, at City Council's discretion and approval, the City shall not collect fees associated with the closing, vacating and abandoning of the two improved alleys.

SECTION 7. 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 8. There is no fiscal impact.

SECTION 9. This Ordinance is effective immediately upon its passage by eight affirmative votes; otherwise it is effective on the tenth day after passage.

PASSED AND APPROVED this ___ day of _____, 2018.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

ATTACHMENT I

DRAFT

Attachment II

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