

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

ORDINANCE

AUTHORIZING THE CLOSURE, VACATION AND ABANDONMENT OF AN UNIMPROVED 2.842 ACRE 100-FOOT WIDE PUBLIC RIGHT OF WAY BETWEEN MEDINA BASE ROAD AND SW MILITARY DRIVE, AS REQUESTED BY JULIO GONZALEZ, ESTELA GONZALEZ AND JULIO GONZALEZ JR, FOR A FEE OF \$50,857.00, LOCATED IN CITY COUNCIL DISTRICT 4.

* * * * *

WHEREAS, Julio Gonzalez, Estela Gonzalez and Julio Gonzalez Jr. (Petitioners) are requesting the closure, vacation and abandonment of an unimproved 2.842 acre (123,798 square feet) 100-foot wide Public Right of Way located between Medina Base Road and SW Military Drive, as shown on attached **Exhibit “A”**; and

WHEREAS, Petitioners plan to assemble its abutting properties with the closure and sell the property for future development; and

WHEREAS, the City of San Antonio received no opposition to the closures during the canvassing process and all the abutting property owners consented to the closure; and

WHEREAS, the City of San Antonio’s Planning Commission recommended approval at the May 9, 2018 regular meeting; 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 rights-of-way (“Right-of-Way Segments”) are not, or are no longer, essential to the safe and efficient flow of traffic in the area in which the rights of way are located. As an exercise of its authority, the City Council hereby authorizes the closure, vacation, and abandonment of the rights-of-way (“Right-of-Way Segments”) identified in Section 2 immediately below.

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

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

<i>Address:</i>	<i>Description:</i>	<i>Owner Listed by Bexar Appraisal District</i>

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. 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 or alley.

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 \$50,857.00 in fees, which includes the assessed value of \$50,757.00 unimproved Public Right of Way plus \$100.00 for administrative costs; and
- B. The letter of agreement dated February 15, 2018, signed and agreed to February 26, 2018 and attached as **Exhibit C**.

The certificate of closure should be substantially in the form of **Exhibit D**.

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 Segments exist by easement. The underlying fee ownership of the Right-of-Way Segments by the adjacent lot owners are now unburdened by the rights closed, vacated, and abandoned.

SECTION 8. 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.

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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 **th** day of June, 2018.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

DRAFT

EXHIBIT A

DRAFT

METES AND BOUNDS

Being 2.842 acres of land, more or less, out of the M.F. Rodriguez Survey No. 4, Abstract 16, and being that same property described in the Affidavit recorded in Volume 9779, Page 2268, Deed Records, Bexar County, Texas, said 2.842 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for the westernmost northeast corner of this 2.842 acres, same being the northeast corner of the Julio Gonzales, et al remainder of 21.280 acres and on the South Right-of-Way line S.W. Military Drive (Loop 13), same also being the **POINT OF BEGINNING**;

THENCE along the South Right-of-Way line of said S.W. Military Drive, North 89 degrees 56 minutes 37 seconds East (called North 89 degrees 54 minutes 00 seconds East), a distance of 100.02 feet to a 1/2 inch iron rod set for the easternmost northeast corner of this 2.842 acres, same being the northwest corner of the Julio Gonzales, et al 1.108 acres (Volume 6884, Page 2040);

THENCE along a non-tangent curve to the right having a radius of 831.31 feet, an arc length of 595.99 feet (called 596.05 feet), a chord length of 583.31 feet, a chord bearing of South 21 degrees 25 minutes 56 seconds West, and a delta angle of 41 degrees 04 minutes 37 seconds (called 41 degrees 04 minutes 51 seconds) to a 1/2 inch iron rod set for the point of tangency, same being on the northwest Right-of-Way line of F.M. Hwy. 2536 (Old Pearsall Rd.);

THENCE along the northwest Right-of-Way line of said F.M. Hwy. 2536 the following courses and distances:

South 47 degrees 42 minutes 08 seconds West (called South 47 degrees 39 minutes 31 seconds West), a distance of 166.04 feet to a 1/2 inch iron rod set for the point of curvature of a curve to the right;


Along said curve to the right having a radius of 831.31 feet, an arc length of 560.70 feet, a chord length of 550.13 feet, a chord bearing of South 72 degrees 45 minutes 22 seconds West, and a delta angle of 38 degrees 38 minutes 40 seconds to a 1/2 inch iron rod set for the lower southwest corner of this 2.842 acres, same being the northwest corner of the Douglas M. Jones part of 4.283 acres (Volume 8007, Page 128 and on the North Right-of-Way line of Medina Base Rd., same also being the North corner of the City of San Antonio 0.407 acres (Volume 4390, Page 1374));

THENCE along the North Right-of-Way line of said Medina Base Rd., North 02 degrees 04 minutes 42 seconds East (called North 02 degrees 02 minutes 05 seconds East), a distance of 100.00 feet to a 1/2 inch iron rod set for the upper southwest corner of this 2.842 acres, same being on the southeast line of said Gonzales remainder of 21.280 acres;

THENCE along a curve to the left having a radius of 731.31 feet, an arc length of 1162.20 feet (called 1162.26 feet), a chord length of 1043.70 feet, a chord bearing of North 46 degrees 33 minutes 04 seconds East, and a delta angle of 91 degrees 03 minutes 17 seconds (called 91 degrees 03 minutes 33 seconds) to the **POINT OF BEGINNING** and containing 2.842 acres of land, more or less.

This description is based on the Standard Land Survey and plat made by Mark J. Ewald, #5095, Registered Professional Land Surveyor on July 11, 2017.

I hereby certify that this description was prepared from an actual survey made on the ground under my supervision and are true and correct to the best of my knowledge and belief. Said survey plat is hereby attached and made a part hereof. Bearings shown hereon are based on actual GPS observations, Texas State Plane Coordinates, South Central Zone, Grid.

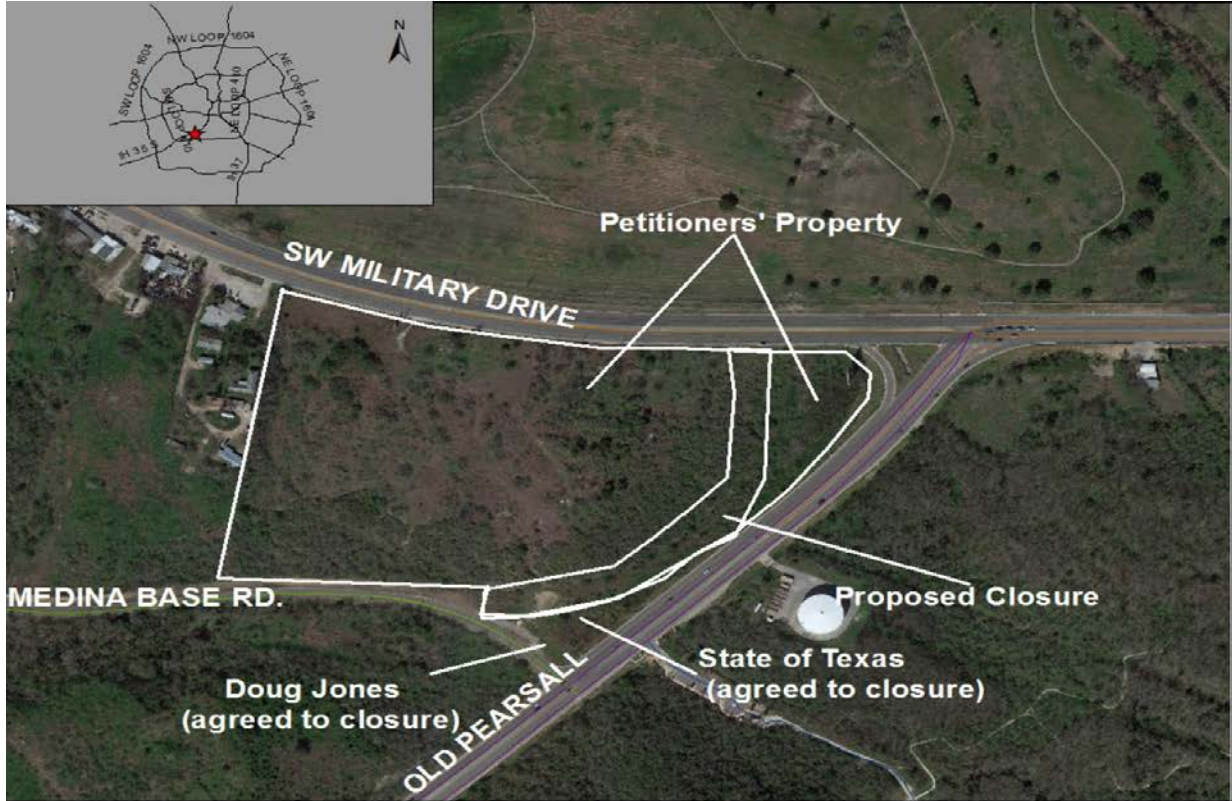


Mark J. Ewald
Registered Professional Land Surveyor
Texas Registration No. 5095
July 11, 2017

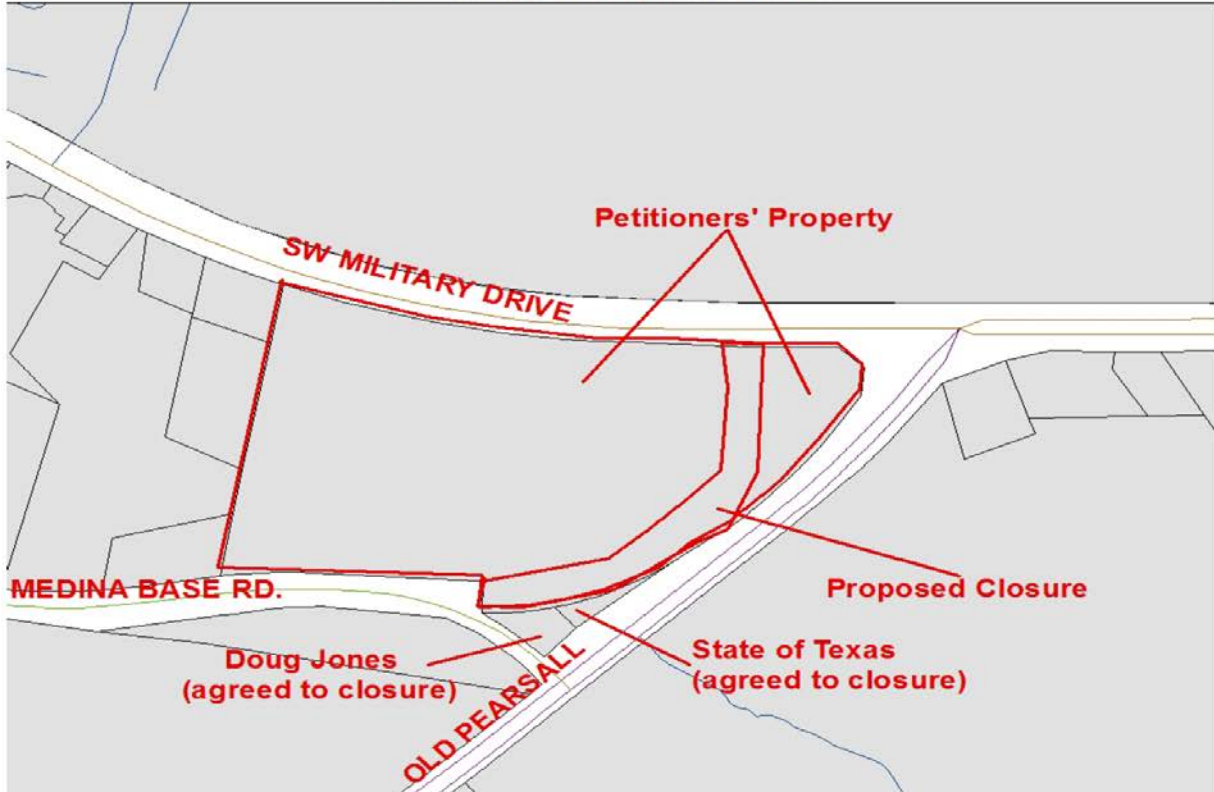


Exhibit B

DRAFT



Aerial Map of Proposed Closure



Map of Proposed Closure

Exhibit C



CITY OF SAN ANTONIO
TRANSPORTATION & CAPITAL IMPROVEMENTS

P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

February 15, 2018

Julio Gonzalez, Estela Gonzalez and Julio Gonzalez Jr.
C/o The Horn Company
Attn: Roy Horn III
15001 Old Bandera Road
Helotes, Texas 78023

S.P. No. 2027 – Julio Gonzalez, Estela Gonzalez and Julio Gonzalez Jr. (Petitioners) are requesting for the City of San Antonio to release an easement located within New City Block 15655

Dear Mr. Horn:

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 the request subject to the following conditions:

DEVELOPMENT SERVICES DEPARTMENT: Provided proper permits are obtained. 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>

CPS Energy: As a condition of closure of this easement, the owner and through the broker will direct any new owner or developer to cooperate with CPS Energy in creating easements for the extension of utilities across the property during the platting process.

DEPARTMENT OF TRANSPORTATION & CAPITAL IMPROVEMENTS (TCI): **Program Management:** Coordinate with TCI Storm Water to make sure there are no drainage easements required. **Storm Water Engineering:** The petitioner must comply with all local (city and/or county), state, and federal regulations prior to the start of any construction and/or improvements to subject property. **Transportation Plan Review:** It is recommended that TxDOT sign off on the petition to release easement as this easement may be needed by TxDOT to realign Old Pearsall Road (FM 2536). **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.

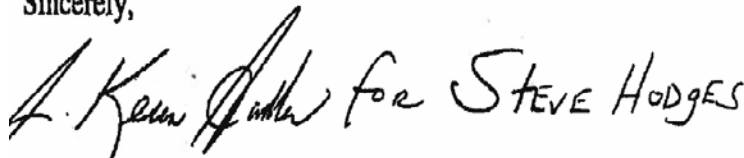
The closure, vacation and abandonment of this Public Right of Way will be authorized by a City Ordinance in accordance with current policies relevant to street/alley closures. The closure will not release rights relating to drainage, water and wastewater lines, electric transmission and distribution 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 fee established for this request is \$50,857.00, which includes the assessed value of the Public Rights of Way of \$50,757.00 plus \$100.00 for the recording fees.

This Letter of Agreement is being offered by City of San Antonio only to the petitioners 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 \$50,857.00, a Contracts Disclosure Form (to be completed on the <http://www.sanantonio.gov/eforms/atty/ContractsDisclosureForm.pdf> website link then printed and signed) and Form 1295 (located at <http://www.ethics.state.tx.us/dfs/1295Certificates.html> and emailed to ethics@sanantonio.gov), we will continue processing your request.

Sincerely,

A handwritten signature in black ink that reads "A. Kevin Smith for STEVE HODGES". The signature is written in a cursive style.

Steve Hodges
Real Estate Manager

AGREED AS TO TERMS AND CONDITIONS:

Julio Gonzalez
By: Julio Gonzalez

Title: Owner
2-26-18

Date:
Estela Gonzalez
By: Estela Gonzalez

Title: Owner
2-26-18

Date:
Julio Gonzalez Jr
By: Julio Gonzalez Jr.

Title: Owner
2-26-18

Date:

EXHIBIT D

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 Rights of Way to be surplus and has authorized closure, vacation, and abandonment of the Affected Rights of Way subject to certain conditions.

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 Rights of Way are hereby closed, vacated and abandoned.
2. This certificate does not release any public rights in the Affected Rights 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 Rights of Way.
3. This Certificate is effective on the date it is filed in the Official Records of Real Property of Bexar County, Texas.

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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**