

RESOLUTION NO.
RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENTS
BETWEEN THE CITY OF SAN ANTONIO AND MULTIPLE OWNERS
OF PROPERTY WITHIN THE US 281 NORTH CORRIDOR
ANNEXATION BOUNDARY TO GUARANTEE CONTINUED
EXTRATERRITORIAL STATUS OF PROPERTIES WHICH ARE
APPRAISED FOR AD VALOREM TAX PURPOSES AS
AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER USE FOR
A PERIOD OF 10 YEARS.

WHEREAS, the City of San Antonio is considering a proposed US 281 North Corridor annexation; and

WHEREAS, the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property in the proposed area that is appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

WHEREAS, the properties that meet the qualifications to be offered a development agreement (Exhibit A) are designated as agriculture or wildlife management use or as timber land and depicted in the map as Exhibit B and the individual properties are identified in Exhibit C. Exhibit A, Exhibit B and Exhibit C are attached and incorporated herein for all purposes; and

WHEREAS, Section 123A of the Charter of the City of San Antonio requires that the Planning Commission shall make a recommendation to City Council on proposed annexation; and

WHEREAS, the San Antonio Planning Commission held a public hearing on October 12, 2016 regarding the Development Agreement, attached as Exhibit C and incorporated herein for all purposes, guaranteeing the continued extraterritorial status of such property; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this agreement to the Master Plan and found the agreement to be consistent with City policies, plans and regulations; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The San Antonio Planning Commission recommends to City Council approval of the Development Agreements guaranteeing the continued extraterritorial status of the properties that are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners eligible to receive a development agreement for non-annexation.

PASSED AND APPROVED ON THIS 12th DAY OF October 2016.

Attest:

Approved:

Executive Secretary
San Antonio Planning Commission

Marcello Diego Martinez, Chair
San Antonio Planning Commission

Exhibit A

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE REAL PROPERTY RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

**DEVELOPMENT AGREEMENT
TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172**

THIS AGREEMENT is made and effective upon passage of the Annexation Program Phase I Ordinance to be considered by City Council, by and between the City of San Antonio, Texas, a home rule municipal corporation of the State of Texas located within _____ County, Texas (hereinafter referred to as "City") and, _____, hereinafter called "the Owner," whether one or more natural persons or other legal entities, and is as follows:

WHEREAS, the Owner's property, hereinafter called "the Property," is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;

WHEREAS, the Texas Local Government Code § 43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

WHEREAS, the City has notified the Owner of its intent to annex the Property and has offered to enter into an agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

WHEREAS, the City desires that any development of the property be in conformance with the City's Comprehensive plan; and

WHEREAS, the Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property:

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. Identification of the Property. The Property is described as the property owned by the Owner within the boundaries of the area, and more particularly described as _____ which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

2. Continuation of Extraterritorial Status. The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this agreement is effective, the Property is not subdivided, the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this agreement. This provision does not prohibit annexation with the consent of the Owner.

3. Annexation Upon Subdivision or Change of Use. This agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and/or subdivides or develops the Property in any manner that would require a plat of the subdivision or a related development document including any permit required by Chapter 34 or Chapter 35 of the San Antonio City Code or any permit required by SAWS or CPS Energy to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such as garages and carports where the total combined floor area of all accessory structures does not exceed 2500 feet, and an accessory dwelling (either attached or detached) that does not exceed 1200 square feet in living area.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property as described in this section, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner. Any plat or related development document shall be consistent with the City of San Antonio's adopted Land Use Plan.

4. Term. This Agreement shall terminate 10 years after the effective date of this Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the Texas Local Government Code, whichever comes first. Upon termination the City may annex the Property, either in whole or in part or for full or limited purposes, and such annexation shall be deemed to be with the consent of the Owner.

City and owner may extend the term of this agreement by mutual consent, in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance.

5. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of the applicable county and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

6. Notice of Sale of the Property. Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

7. Form and Delivery of Notice. Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:

Bridgett White, Director
Department of Planning and Community Development
City of San Antonio
PO Box 839966
San Antonio, Texas 78283-3966

OWNERS' CONTACT:

Print Name: _____

Address: _____

City/State/Zip Code: _____

Facsimile Number: _____

8. Enforcement. This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

9. Pursuant to Chapter 43.035(e) Tex. Loc. Gov. Code, this Agreement is not a permit for purposes of Chapter 245 Tex. Loc. Gov. Code.

10. Provisions Severable. If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

11. Governmental Powers. It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

12. Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

13. Modification of Agreement. This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.

14. Governing Law and Venue. Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement effective as of the date first set forth above.

CITY OF SAN ANTONIO

By: _____

Date: _____

Name: Bridgett White, Director
Dept. of Planning and Community Development

The Owner

By: _____

(signature)

Print Name: _____

Title: _____

Date: _____

State of Texas
County of Bexar

This instrument was acknowledged before me on the _____ day of _____, by Bridgett White, Director of the Department of Planning and Community Development with the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

Notary Public, State of Texas
(Personalized Seal)

(Print Name of Notary Public here)

State of Texas
County of _____

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, the Owner within the District.

Notary Public, State of Texas
(Personalized Seal)

(Print Name of Notary Public here)

My commission expires the ____ day of ____, ____.

My commission expires the ____ day of ____, ____.

After Recording Return to:
Nina Nixon-Méndez, Planning Administrator
City of San Antonio
Department of Planning and Community Development
P.O. Box 839966
San Antonio, TX 78283-3966

Exhibit B

Map of Properties

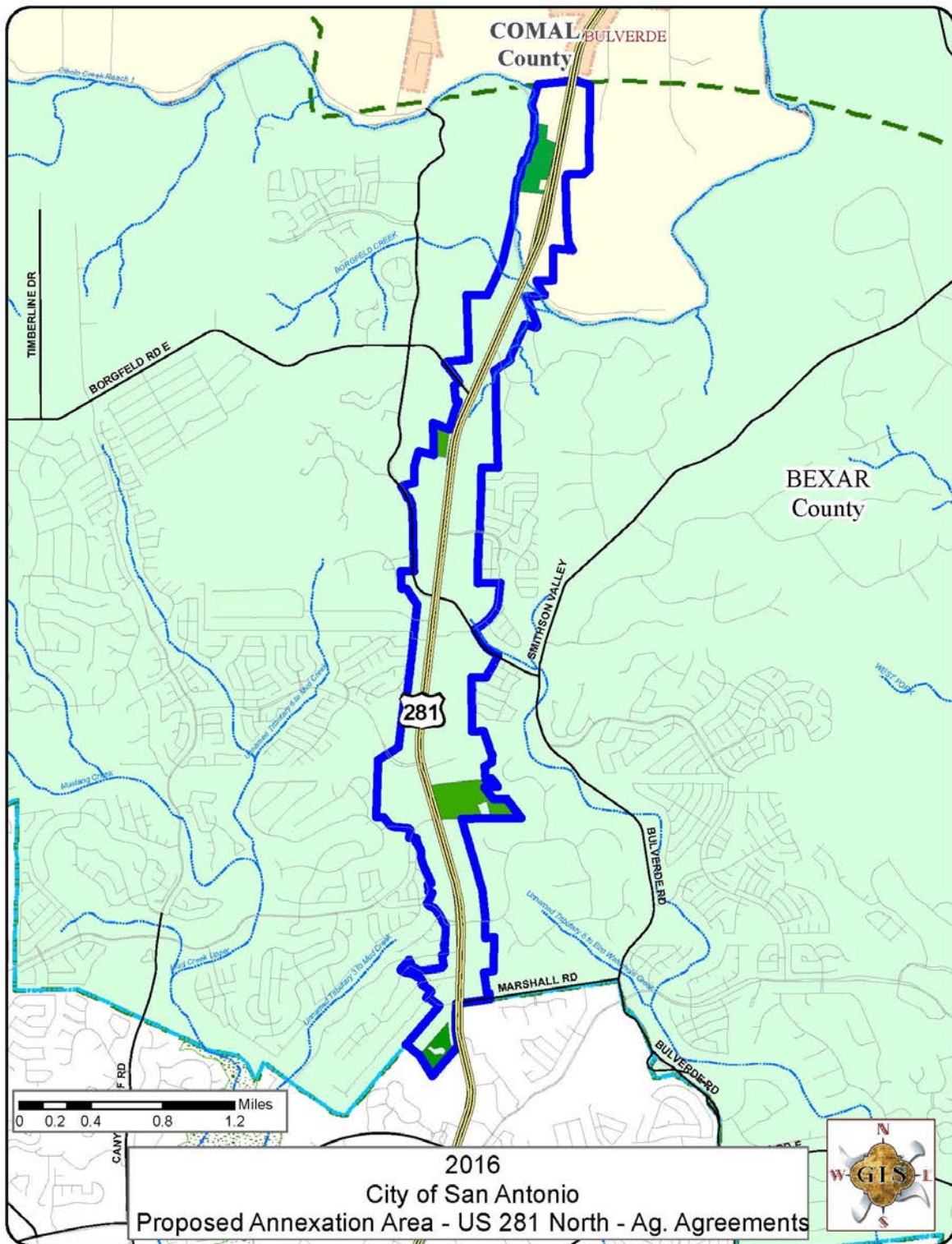


Exhibit C

List of Properties

Owner Name	Address	County	Property ID	Legal Description
T L C JOINT VENTURE LLP % Clark Wirth, Lisa Wirth Brown and Ferdinand Leo Wirth III	N HWY 281	Comal	91075864	A-206 SUR-192 G HERRERA, ACRES 14.698, (PART OF 17.568 AC TRACT)
T L C JOINT VENTURE LLP % Clark Wirth, Lisa Wirth Brown and Ferdinand Leo Wirth III	N HWY 281	Comal	91075220	A-174 SUR-194 A GAYTAN, ACRES 0.5, (PART OF 11.661 AC TRACT)
T L C JOINT VENTURE LLP % Clark Wirth, Lisa Wirth Brown and Ferdinand Leo Wirth III	N HWY 281	Comal	91073372	A- 27 SUR-195 L BULVERDA, ACRES 11.161
T L C JOINT VENTURE LLP % Clark Wirth, Lisa Wirth Brown and Ferdinand Leo Wirth III	N HWY 281	Comal	91075219	A-174 SUR-194 A GAYTAN, ACRES 2.87
HERLINDA CANTU FAMILY LP % David G. Cantu	23211 N US HWY 281	Bexar	268849	15.99 acres out of 19.20 acres CB 4900 P-12B,P-12E,P-12F AB5 54 CB 4924 P-1C, P-1F AB5 633 described by metes and bounds in Attachment 1
AB CIRCLE C LTD % Anthony Constanzo	25390 N US HWY 281	Bexar	268798	CB 4900 P-4, 4C, P-5 & P-6A CB 4926 P-3, P-3C, P-4 & P-5 REFER TO: 04900-000-0046
Z LG PROPERTIES LTD	27685 N US HWY 281	Bexar	266744	CB 4864 P-1D (2.1903 AC) & P-1E (6.4167 AC) ABS 266 NEW ACCT PER CR#20843 AND JUDGEMENT 2006ED0011 FOR 2009.



FIELD NOTES FOR 15.999 ACRES

OUT OF A 19.20 ACRE TRACT IN THE NAME OF HERLINDA CANTU FAMILY, LP AND RECORDED IN PAGE 15875, PAGE 81 OF THE REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS, BEING OUT OF THE WILLIAM BRISBIN SURVEY NO. 89 1/2, ABSTRACT NUMBER 54, COUNTY BLOCK 4900, AND THE EUGENE DE LA ROCHE SURVEY NUMBER 95, ABSTRACT NUMBER 633, COUNTY BLOCK 4924, BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: At a found ½" iron rod on the west right of way line of U.S. Hwy. 281 (public right of way width varies), the north corner of a 0.23 acre tract in the name of State of Texas as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, the southeast corner of the aforementioned 19.20 acre tract and of this tract, said iron rod having Texas State Plane Grid Coordinates of N=13,786,971.22 and E=2,143,089.70;

THENCE: South 40°07'06" West 231.43' to a found ½" iron rod, the north corner of a 49.78 acre tract in the name of Crosswinds I Partnership, Ltd. as recorded in Volume 13268, Page 1612 of the Real Property Records of Bexar County, Texas;

THENCE: With the north line of the 49.783 acre tract, the following:

South 40°31'08" West 214.39' to a found ½" iron rod, an angle point;

South 41°18'29" West 266.40' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 40°44'03" West 283.54' to a found ½" iron rod, an angle point;

South 40°53'21" West 180.00' to a found ½" iron rod, the south corner of the 19.20 acre tract and of this tract;

North 32°09'16" West 717.03' to a found ½" iron rod, the south corner of a 19.98 acre tract in the name of C-5 Holdings, LLC as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, the west corner of the 19.20 acre tract and of this tract;

THENCE: North 40°52'16" East 1283.41' with the east line of the 19.98 acre tract to a found ½" iron rod, an angle point;

THENCE: North 79°54'13" East 28.80' with the east line of the 19.98 acre tract to a set ½" iron rod stamped "GIBBONS", the northwest corner of a 3.2008 acre tract surveyed this day, the north corner hereof;

THENCE: With the west line of the 3.2008 acre tract, the following:

South 00°01'03" East 65.86' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 01°48'30" East 105.67' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 03°14'20" East 109.16' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 07°01'28" East 107.61' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 07°37'57" East 100.32' to a set ½" iron rod stamped "GIBBONS", an angle point;

15.999 ACRE TRACT
PAGE 2 OF 3

South 07°17'19" East 72.21' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 12°40'07" East 47.00' to a set ½" iron rod stamped "GIBBONS", an angle point;

South 13°15'45" East 94.66' to a set ½" iron rod stamped "GIBBONS", the southwest corner of the 3.2008 acre tract, a re-entry corner hereof;

THENCE: North 76°44'15" East 200.00' to a set ½" iron rod on the aforementioned west right of way line of U.S. Hwy. 281, the southeast corner of the 3.2008 acre tract;

THENCE: South 13°15'45" East 6.36' with the west right of way line of U.S. Hwy. 281 to a found ½" iron rod, an angle point;

THENCE: South 11°42'20" East 35.72' to the POINT OF BEGINNING of this tract and containing 15.999 acres (696,906 square feet) SAVE AND EXCEPT a 1.230 Acre Tract recorded in Volume 11323, Page 238 and a 0.593 Acre Tract recorded in Volume 5237, Page 490 of the Real Property Records of Bexar County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING: At a found ½" iron rod on the west right of way line of U.S. Hwy. 281 (public right of way width varies), the north corner of a 0.23 acre tract in the name of State of Texas as recorded in Volume 11073, Page 1805 of the Real Property Records of Bexar County, Texas, the southeast corner of the aforementioned 19.20 acre tract, said iron rod having Texas State Plane Grid Coordinates of N=13,786,971.22 and E=2,143,089.70; thence South 66°21'50" West 563.10' to a found ½" iron rod marking the southeast corner and POINT OF BEGINING of the 1.230 acre tract;

THENCE: South 78°33'27" West 178.54' to a found ½" iron rod, an angle point;

THENCE: North 48°41'31" West 276.59' to a found ½" iron rod, the west corner of the 1.230 acre tract;

THENCE: North 41°18'29" East 115.54' to a found ½" iron rod, the north corner of the 1.230 acre tract;

THENCE: South 48°41'31" East 151.78' to a found ½" iron rod, an angle point;

THENCE: North 78°33'27" East 162.11' to a found ½" iron rod on the west line of the aforementioned 0.593 acre tract, the north corner of the 1.230 acre tract, a re-entry corner hereof;

THENCE: North 11°26'33" West 9.34' to a found ½" iron rod, the northwest corner of the 0.593 acre tract;

THENCE: North 59°47'47" East 24.16' to a found ½" iron rod, an angle point;

THENCE: North 83°22'32" East 30.29' to a found ½" iron rod, an angle point;

THENCE: South 79°20'04" East 13.29' to a found ½" iron rod, an angle point;

THENCE: South 68°28'15" East 34.60' to a found ½" iron rod, an angle point;

THENCE: South 52°52'15" East 58.10' to a found ½" iron rod, an angle point;

THENCE: South 32°23'40" East 59.53' to a found ½" iron rod, the beginning of a curve to the right;

THENCE: With the curve to the right, having a radius of 27.95', a delta of 71°10'23", an arc length of 34.72' and a chord bearing South 03°11'44" West to a found ½" iron rod;

THENCE: South 38°47'09" West 55.64' to a found ½" iron rod, an angle point;

THENCE: South 50°36'18" West 42.91' to a found ½" iron rod, an angle point;

15.999 ACRE TRACT
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THENCE: South 74°42'59" West 65.38' to a found ½" iron rod, the southwest corner of the aforementioned 0.593 acre tract;

THENCE: North 11°26'33" West 30.64' to the POINT OF BEGINNING of the SAVE AND EXCEPT parcel;

THESE FIELD NOTES TOGETHER WITH A SURVEY MAP WERE PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND BY EMPLOYEES OF GIBBONS SURVEYING & MAPPING, INC. WHO WERE WORKING UNDER MY SUPERVISION AND DIRECTION.

Gary A. Gibbons

Gary A. Gibbons, R.P.L.S. #4716
GIBBONS SURVEYING & MAPPING, INC.
Date: September 24, 2015
Job No.: 14-4600
Doc I.D.: 16 acres Hwy 281
GAG/ps



GIBBONS SURVEYING & MAPPING, INC.
150 West Rhapsody Drive, San Antonio, TX 78216
(210) 366-4600 www.GibbonsSurveying.com
TBPLS Firm No. 10119900

A Boundary Survey of:

TRACT 1, a 3,2008 acre tract and TRACT 2, a 15,989 acre tract out of a 19,20 acre tract recorded in Volume 15875, Page 81 of the Real Property Records of Bexar County, Texas, being out of the William Brisson Survey Number 606, and the Number 24, 15875, 4800 and the Number De La Rocha Survey Number 85, Abstract Number 633, County Block 4924, Bexar County, Texas.



Scale: 1" = 100'



I, *James A. Williams*, being duly sworn, depose and say that I am a duly Licensed Professional Surveyor in the State of Texas, and that I am the author of the foregoing survey, and that the same was made by me or under my direct supervision and in accordance with the laws and rules of the State of Texas, and that the same is a true and correct copy of the original survey as the same appears in my office.

Witness my hand and seal of office this 15th day of January, 2015, at San Antonio, Texas.



www.CadmusSurveying.com

Texas Board of Land Surveying Form No. 12719-9000

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