

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

AN ORDINANCE

**AUTHORIZING THE CLOSURE, VACATION AND ABANDONMENT
OF A 0.458 OF AN ACRE IMPROVED PORTION OF BRACKENRIDGE
AVENUE AND A 0.069 OF AN ACRE UNIMPROVED 12-FOOT WIDE
ALLEY LOCATED BETWEEN TENDICK STREET AND FORT SAM
HOUSTON IN CITY COUNCIL DISTRICT 2 AS REQUESTED BY
BARTLETT BEXAR, LLC, FOR A FEE OF \$240,759.00.**

* * * * *

WHEREAS, Bartlett Bexar, LLC (Petitioner) is requesting the closure, vacation and abandonment of an improved 0.458 of an acre (19,936 square feet) portion of Brackenridge Avenue public right-of-way and an unimproved 0.069 of an acre (2,987 square feet) 12-foot wide alley public right-of-way located between Tendick Street and Fort Sam Houston, as shown on attached **Attachment I**; and

WHEREAS, Petitioner plans to combine abutting properties with the approved closures for the development of 43 townhomes as shown on Attachment II with construction anticipated to begin in May of 2018 and be completed by December of 2019; and

WHEREAS, the City of San Antonio received no opposition to the closures during the canvassing process, including Joint Base San Antonio, which includes Fort Sam Houston, agreed to the closures; and

WHEREAS, City procedures for the sale or disposition of City-owned or controlled real property have been followed, including collection of \$240,759.00 in fees which includes the assessed value of Brackenridge Avenue Public Right of Way in the amount of \$210,000.00 and \$30,587.00 for the unimproved 12-foot wide alley plus \$172.00 for administrative costs and most recently, Planning Commission approval at the April 25, 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 Segments are set forth on **Attachment I**. Maps and pictures of the Right-of-Way Segments 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 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 \$240,759.00 in fees, which includes the assessed value of Brackenridge Avenue Public Right of Way in the amount of \$210,000.00 and \$30,587.00 for the unimproved 12-foot wide alley plus \$172.00 for administrative costs; and
- B. The letter of agreement dated February 15, 2018, signed and agreed to March 14, 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 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 out of 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 _____ day of May, 2018.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

ATTACHMENT 1

DRAFT

TM
05/10/18
Item No. _____

1856 Lockhill-Seima, Suite 105
San Antonio, Texas 78213
www.mavericklsc.com

Maverick Land Surveying Co.

TBPLS Firm No. 10132700
Phone (210) 342-9455
Fax (210) 342-9524

Date: July 6, 2017
MLS Co. Job No. 54382-04
Revised: Sept. 20, 2017

STATE OF TEXAS
COUNTY OF BEXAR

TRACT A **0.458 ACRES**

DESCRIPTION of a 0.458 acre tract of land within the corporate limits of the City of San Antonio, Bexar County, Texas, being approximately 250 feet of Brackenridge Avenue from Tendick Street west to Fort Sam Houston, Texas Military Reservation as shown by plat of OAKLAND TERRACE dated September 1890, recorded in Volume 72, Pages 506-509, of the Deed Records Bexar County, Texas, in all said 0.458 acre tract being more particularly described as follows:

BEGINNING at a ½ inch iron rod found at the northeast intersection corner of said Tendick Street and Brackenridge Avenue, being the southwest corner of LOT 40, BLOCK 8, NEW CITY BLOCK 1070 said OAKLAND TERRACE for the northeast corner and POINT OF BEGINNING of this tract,

THENCE, along the common north line of said Brackenridge Avenue and south line of LOTS 31-40, said BLOCK 8, North 89° 51' 52" East, 249.14 feet to a US Army monument designated B-102 found on the west line of TRACT A as shown by plat of the RETRACEMENT SURVEY OF THE FORT SAM HOUSTON, TEXAS MILITARY RESERVATION recorded in Volume 9541, pages 104-155, Deed and Plat Records of Bexar County, Texas (reference sheet 3 therein for said west line) and at the southeast corner of said LOT 31 and the northeast corner of this tract;

THENCE, along the west line of said TRACT A, South 00° 13' 20" East, 80.00 feet to a ½ inch iron rod set in place of US Army monument B-103 (not found) for the southeast corner of this tract,

THENCE, along the common south line of said Brackenridge Avenue and the north line of said TRACT A, South 89° 51' 52" West, 249.26 feet to an inaccessible point that falls on top of a concrete footing and underneath a chain-link fence for southwest corner of this tract,

THENCE, across said Brackenridge Avenue, North 00° 08' 08" West (bearing basis as shown by plat recorded in Volume 9652, Page 52, said Deed and Plat Records), at 0.6 feet pass a reference line set on the face of said concrete footing, in all a distance of 80.00 feet to the POINT OF BEGINNING. Area described is shown on a land title survey with same revised date.

CONTAINING in all 19,936 Square Feet or 0.458 Acres of land, more or less.



MAVERICK LAND SURVEYING COMPANY

Jacob W. Oder
Jacob W. Oder, R.P.L.S. Texas No. 5846

TM
05/10/18
Item No. _____

1856 Lockhill-Selma, Suite 105
San Antonio, Texas 78213
www.mavericklsc.com

Maverick
Land Surveying Co.

TBPLS Firm No. 10132700
Phone (210) 342-9455
Fax (210) 342-9524

Date: July 6, 2017
MLS Co. Job No. 54382-03
Revised: Sept. 20, 2017
Revised: Sept. 25, 2017

STATE OF TEXAS
COUNTY OF BEXAR

TRACT B
0.069 ACRES

DESCRIPTION of a 0.069 acre tract of land within the corporate limits of the City of San Antonio, Bexar County, Texas, being the west 250 feet more or less of the twelve (12) foot wide alley across BLOCK 8, NEW CITY BLOCK 1070 as shown by plat of OAKLAND TERRACE dated September 1890, recorded in Volume 72, Pages 506-509, Deed Records, Bexar County, Texas, in all said 0.069 acre tract being more particularly described as follows:

BEGINNING at a ½ inch iron rod found in concrete on the east line of Tendick Street (currently a 57.8 foot wide public right-of-way, being originally 55.6 feet wide as shown by plat of said OAKLAND TERRACE together with a 2.2 foot street dedication along its west line by plat recorded in Volume 4305, Page 228, Deed and Plat Records, Bexar County, Texas) and at the southwest corner of LOT 20, said BLOCK 8 for the northwest corner and POINT OF BEGINNING of this tract,


THENCE, along the common north line of said twelve (12) foot wide alley and south line of LOTS 11-20, said BLOCK 8, North 89° 51' 52" East, 248.87 feet to a ½ inch iron rod found on the west line of TRACT A as shown on by plat of the RETRACEMENT SURVEY OF THE FORT SAM HOUSTON, TEXAS MILITARY RESERVATION recorded in Volume 9541, pages 104-155, said Deed and Plat Records (reference sheet 3 therein for said west line) and at the southeast corner of said LOT 11 and the northeast corner of this tract;

THENCE, along the west line of said TRACT A and across said twelve (12) foot wide alley, South 00° 13' 20" East, 12.00 feet to a ½ inch iron rod found at the northeast corner of LOT 31, said BLOCK 8 and the southeast corner of this tract,

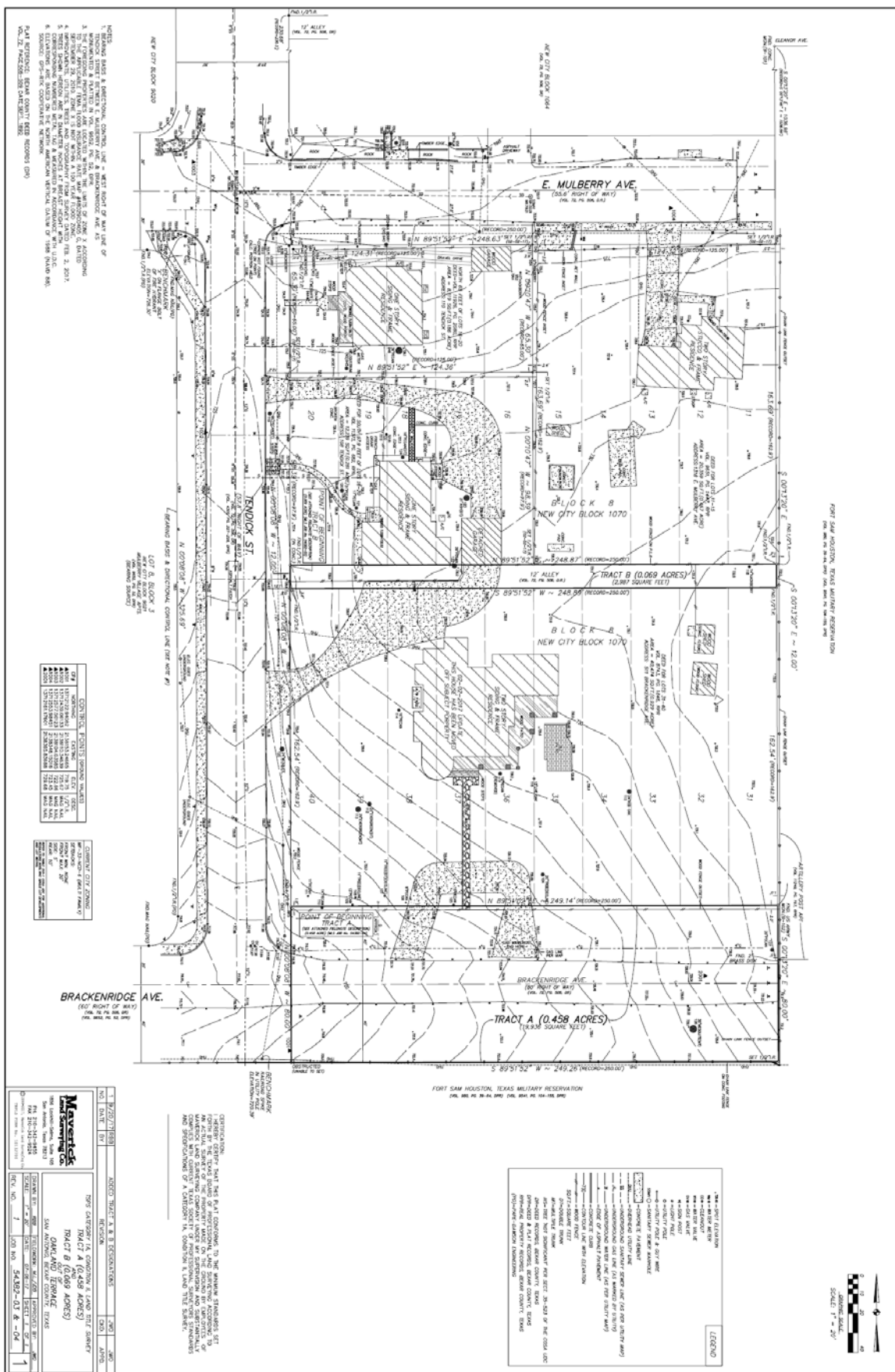
THENCE, along the common south line of said twelve (12) foot wide alley and north line of LOTS 31-40, said BLOCK 8, South 89° 51' 52" West, 248.89 feet to a ½ inch iron rod found on the east line of said Tendick Street, at the northwest corner of said LOT 40 and southwest corner of this tract,

THENCE, along said east line, North 00° 08' 08" West (bearing basis as shown by plat recorded in Volume 9652, Page 52, said Deed and Plat Records), 12.00 feet to the POINT OF BEGINNING. Area described is shown on a land title survey with the same revised date.

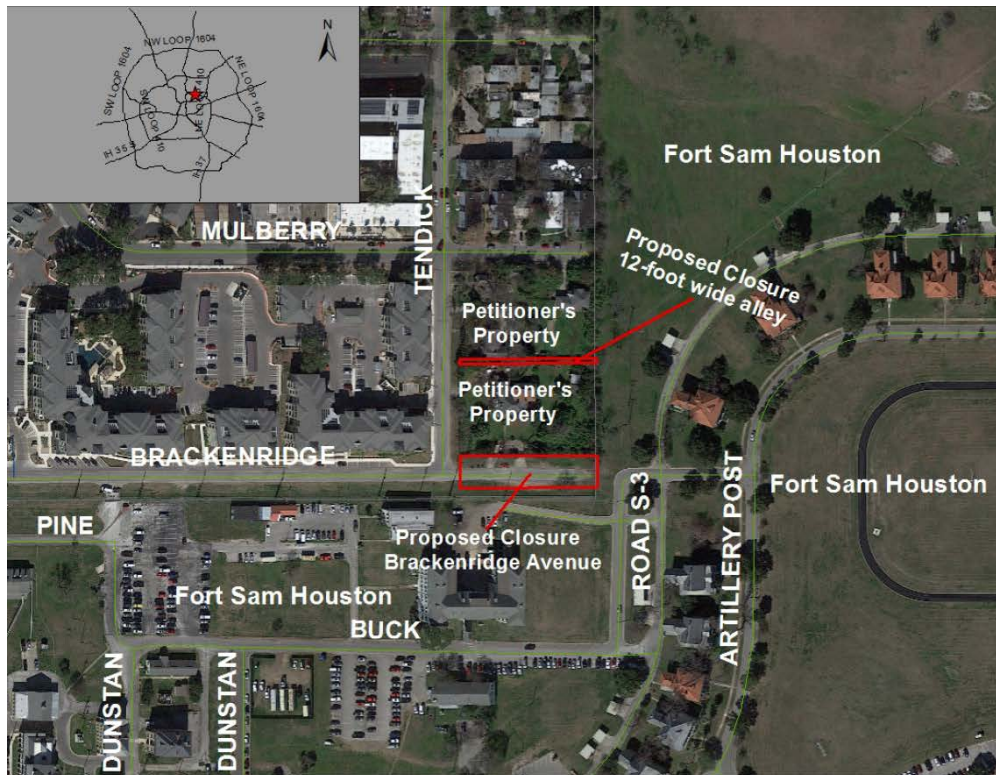
CONTAINING in all 2,987 Square Feet or 0.069 Acres of land, more or less.

MAVERICK LAND SURVEYING COMPANY

Jacob W. Oder, R.P.L.S. Texas No. 5846

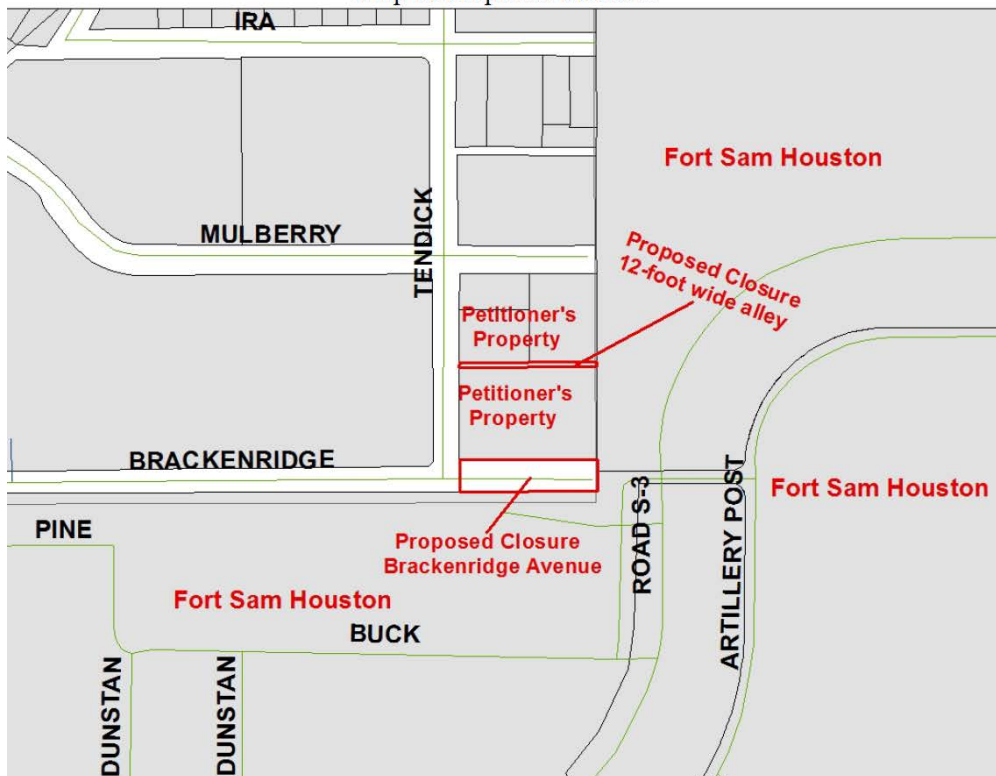




Attachment II



Map of Proposed Closures



Attachment III

DRAFT



Handwritten signature/initials.

**CITY OF SAN ANTONIO
TRANSPORTATION & CAPITAL IMPROVEMENTS**

P. O. BOX 838888
SAN ANTONIO TEXAS 78283-3888

March 5, 2018

**Bartlett Bexar LLC
C/o: PSW Real Estate
Jarred Corbell, PE
2003 South 1st Street
Austin, TX 78704**

S.P. No. 2061 – A. Request to close, vacate and abandon an improved portion of Brackenridge Avenue Public Right of Way located between Tendick Street and Fort Sam Houston B. Request to close, vacate and abandon an unimproved 12-foot wide alley Public Right of Way located between Tendick Street and Fort Sam Houston

Dear Mr. Corbell:

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 these requests subject to the following conditions:

CPS ENERGY: No objections as long as overhead easements are obtained along existing City Public Service Energy facilities. If the closure of Brackenridge Avenue is approved, CPS Energy will provide metes and bounds description to reserve a gas easement for the existing gas lines. A 14-foot gas and electric easements must be provided for gas main within Brackenridge Avenue. Petitioner must call 811 Dig Tess.

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/dsddocumentscentral/upload/TB531.pdf>.

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT: The property must be assembled with petitioner's properties and platted in accordance with City Code.

Joint Base San Antonio, DOD: You are cleared to proceed as long as the landscape is returned to its original state when construction is completed.

DEPARTMENT OF TRANSPORTATION & CAPITAL IMPROVEMENTS (TCD): Environmental Services: It is the Petitioner's responsibility to conduct the due diligence process (environmental assessments) for this area. The City does not warranty 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 these public rights of way closures is \$240,759.00, which includes the assessed value of \$240,587.00 plus \$72.00 for the posting of one (1) sign notifying the public of the proposed street 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 \$240,759.00, Form 1295 and a Discretionary Contracts Disclosure Form (to be completed on the <http://www.sanantonio.gov/utty/ethics/forms.usp> website link then printed and signed), we will continue processing your request.

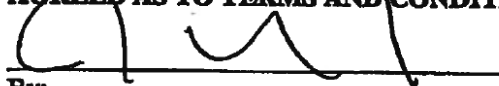
TM
05/10/18
Item No. _____

Sincerely,



Steve Hodges
Real Estate Manager

AGREED AS TO TERMS AND CONDITIONS:



By:

Proj. Manager

Title:

3/15/18

Date:

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 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.

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**