

AN ORDINANCE      2012-02-09-0097

**AUTHORIZING AN AMENDMENT TO THE LEASE AGREEMENT WITH THE SAN ANTONIO ZOOLOGICAL SOCIETY, INC. TO EXPAND THE LEASED PREMISES TO INCLUDE AN ADDITIONAL 2.6 ACRES; TO ESTABLISH TIMELINES FOR THE DEVELOPMENT OF THE ADDITIONAL ACREAGE; AND TO PROVIDE FOR A \$500,000.00 CONTRIBUTION FROM THE OTTO KOEHLER FUND IF THE ZOO MEETS THE DONKEY BARN STABILIZATION TIMELINE**

\* \* \* \* \*

**WHEREAS**, the current lease agreement with the San Antonio Zoological Society, Inc. (Zoo) was approved by City Council on April 30, 1998, for a twenty-five year term through May 2023; and

**WHEREAS**, the Zoo has leased the property in Brackenridge Park since 1959 and has operated this major attraction for tourists and citizens since that time; and

**WHEREAS**, the first Amendment to the lease was approved by City Council on August 7, 2008, and it extended the term to May 2033 in consideration of improvements provided and paid for by the Zoo; and

**WHEREAS**, the proposed Amendment No. 2 will approve the addition of 2.6 acres of land to the existing Zoo premises (Expansion Site); and

**WHEREAS**, the Expansion Site is located at the intersection of E. Hildebrand and Brackenridge Street and is the former site of the Parks and Recreation Department's maintenance yard which has been relocated to the Parks and Recreation Department's headquarters on Old Highway 90; and

**WHEREAS**, this action is consistent with the City Council approved 1977 Master Plan of Brackenridge Park; and

**WHEREAS**, the Amendment establishes time frames for the Zoo's development of the Expansion Site which will occur in two parts; and

**WHEREAS**, within eighteen months of approval of this Amendment, the Zoo will complete a site beautification project, including demolition of structures not intended for future use, improvements to structures intended for future use, landscaping, parking areas and replacement of the fencing along Hildebrand Avenue; and

**WHEREAS**, improvements to the Donkey Barn, which will house the Zoo's educational programs, will allow for the Zoo's occupancy of this structure. So long as the Zoo commits to completing the stabilization improvements to the Donkey Barn within three years following approval of this Amendment, City will provide \$500,000.00 to be used by the Zoo for project costs; and

**WHEREAS**, the parties will enter into a Funding Agreement related to the City's contribution and funds will be provided from the Otto Koehler Fund; and

**WHEREAS**, following the stabilization improvements, the Zoo will make additional improvements and occupy the Donkey Barn within four years following approval of this Amendment; and

**WHEREAS**, the Parks Board endorsed the expansion of the Zoo premises at its January 23, 2012 meeting; **NOW THEREFORE:**

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

**SECTION 1.** The City Manager or her designee or the Director of the Parks and Recreation Department or his designee is authorized to execute an amendment to the lease agreement with the San Antonio Zoological Society, Inc. to expand the leased premises to include an additional 2.6 acres. A copy of the amendment is attached hereto and incorporated herein for all purposes as **Attachment I.**

**SECTION 2.** The City Manager or her designee or the Director of the Parks and Recreation Department or his designee is authorized to execute a standard form City Funding Agreement with the San Antonio Zoological Society, Inc. to provide a \$500,000.00 contribution from the Otto Koehler Fund for the Donkey Barn Stabilization Project provided the Zoo meets the Donkey Barn Stabilization timeline.

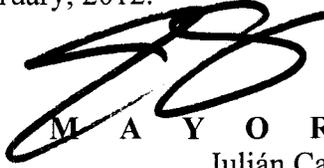
**SECTION 3.** Funding in an amount up to \$500,000.00 for this ordinance is available in Fund 11001000, Cost Center 2601800001 and General Ledger 5407030, as part of the Fiscal Year 2012 Budget.

**SECTION 4.** Payment not to exceed the amount of \$500,000.00 is authorized to the San Antonio Zoological Society, Inc. and should be encumbered with a purchase order.

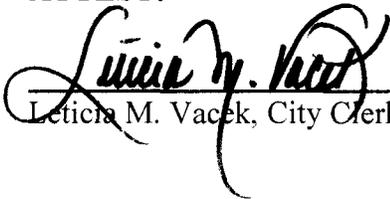
**SECTION 5.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 6.** This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 9th day of February, 2012.

  
M A Y O R  
Julián Castro

**ATTEST:**

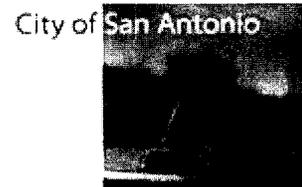
  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for Michael Bernard, City Attorney



Request for  
**COUNCIL**  
 ACTION



## Agenda Voting Results - 19A

<b>Name:</b>	5, 6, 7, 8, 9, 10, 11, 12A, 12B, 12C, 12D, 12E, 12F, 12G, 12H, 12I, 13, 14, 15, 16, 17, 18, 19A, 19B						
<b>Date:</b>	02/09/2012						
<b>Time:</b>	09:55:02 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an amendment to the lease agreement with the San Antonio Zoological Society, Inc. to expand the leased premises to include an additional 2.6 acres; to establish timelines for the development of the additional acreage; and to provide for a \$500,000.00 contribution from the Otto Koehler Fund if the Zoo meets the Donkey Barn stabilization timeline.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1	x					
Ivy R. Taylor	District 2		x				x
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x			x	
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

**LEASE AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND THE  
SAN ANTONIO ZOOLOGICAL SOCIETY FOR THE SAN ANTONIO ZOO AND  
AQUARIUM**

**AMENDMENT NO. 2**

This Amendment No. 2 (“Amendment”) to Lease Agreement is by and between the City of San Antonio, a Texas municipal corporation (“CITY”), acting by and through its City Manager or her designee, pursuant to Ordinance No. \_\_\_\_\_ passed and approved on \_\_\_\_\_, 2012, and the San Antonio Zoological Society, Inc. (“SOCIETY”).

1. Background

CITY and SOCIETY entered into a Lease Agreement for the San Antonio Zoo and Aquarium for the property located within Brackenridge Park (“Lease Agreement”) on April 30, 1998, as approved by Ordinance 87751. Amendment No. 1, as approved by Ordinance 2008-08-07-0644, extended the current term of the Lease Agreement to May 9, 2033.

2. Amendment No. 2

In consideration of the mutual covenants and agreements set forth below, CITY and SOCIETY agree as follows:

1. ARTICLE II. DEMISE OF PREMISES AND RENT

Article II is modified to add the following:

- 2.5 Exhibit E is attached and incorporated into the Lease Agreement to reflect the addition of approximately 2.6 acres of land located at the intersection of E. Hildebrand and Brackenridge Street (former site of the Parks and Recreation Department Maintenance Operations) along with all existing improvements (“Expansion Site”) and will be considered a part of the PREMISES effective with this Amendment No. 2.

2. ARTICLE V. MANAGEMENT, OPERATIONS, CAPITAL AND MAINTENANCE COSTS BORNE BY SOCIETY

Article V. is modified to add the following Section 5.2:

- 5.2 Upon approval of this Amendment No. 2, SOCIETY shall assume responsibility for all Expansion Site costs described in Section 5.1. SOCIETY will facilitate the transfer of the existing electric meter serving the Expansion Site to SOCIETY within thirty (30)

days following the approval of Amendment No. 2 by CITY through an Ordinance and SOCIETY will pay any costs associated with such meter transfer.

### 3. ARTICLE VIII. CITY PROVISION OF WATER FOR THE ZOO

Article VIII is modified to add the following:

8.6 The Water Allocation applies only to water use within the original Lease Agreement Premises, excluding the Expansion Site.

8.7 SOCIETY will be responsible for the payment of water usage for the Expansion Site. SOCIETY will facilitate the transfer of the existing water meter serving the Expansion Site to SOCIETY within thirty (30) calendar days following the approval of this Amendment No. 2 by CITY through an ordinance and SOCIETY will pay any costs associated with such meter transfer.

### 4. ARTICLE IX ZOO CAPITAL IMPROVEMENTS

Article IX is modified to add the following:

9.4 The following provisions apply to the Expansion Site:

9.4.1 Beautification Phase: SOCIETY agrees to:

9.4.1.1 Within eight (8) months following approval by City Council of this Amendment No. 2 SOCIETY will complete and submit to CITY's Parks and Recreation Department for review and approval preliminary plans which set out the manner in which the SOCIETY proposes to address the redevelopment of the Expansion Site, which will include but may not be limited to architectural, engineering, historic, archeological, code and accessibility issues for the redevelopment of the Expansion Site excluding the Donkey Barn Structure ("The Design Documents). The Beautification Phase will include demolition of structures not intended for future use, and proposed improvements to structures intended for future use with the exception of the Donkey Barn Structure, landscaping, parking areas, and replacement of the fencing along Hildebrand Avenue. With the submittal of the Design Documents, SOCIETY will provide cost estimates and SOCIETY's sources of funding to complete the Beautification Phase. In the event that SOCIETY completes and submits the Design Documents described in this Sub-Section, prior to the deadline, the amount of time that is the difference between the date of submission and eight months following approval by City Council of this Amendment No. 2 may be added to the time provided for the completion of the Beautification Phase, as outlined below in 9.4.1.2, and will be cumulative.

9.4.1.2 Within ten (10) months following approval by CITY's Parks and Recreation Department of the Design Documents SOCIETY will secure all necessary approvals and complete the Beautification Phase for use by SOCIETY for exhibits and/or operations ("Beautification Phase Completion Date"). CITY's Parks and Recreation Department will assist SOCIETY in facilitating the required approvals and permits associated with the demolition and construction activities.

9.4.1.3 In the event of a default by SOCIETY relating to its duties in connection with the portion of the Expansion Site addressed in the section 9.4.1 it will be the right of the CITY to terminate the Lease as to this portion of the Expansion Site addressed in this Section 9.4.1 after any notice and right to cure as otherwise set out under the terms of this Lease.

9.4.2 Donkey Barn Structure: SOCIETY agrees to:

9.4.2.1 Within six (6) months after approval of this Amendment No. 2 by City Council, SOCIETY will complete and submit to CITY's Parks and Recreation Department for review and approval a Conceptual Plan/Feasibility Study which will address issues to include but not limited to architectural, engineering, historic, archeological, code and accessibility. With the submittal of the Conceptual Plan/Feasibility Study, SOCIETY will provide cost estimates to complete the Donkey Barn modifications.

9.4.2.2 Within six (6) months after approval by CITY of the Conceptual Plan/Feasibility Study SOCIETY will complete and submit to City's Parks and Recreation Department for review and approval Design Documents for the Donkey Barn. With the submittal of Donkey Barn Design Documents, SOCIETY will provide revised cost estimates and documentation that funding is available for the stabilization of the Donkey Barn structure.

9.4.2.3 In the event that SOCIETY completes and submits the Donkey Barn Conceptual Plan/Feasibility Study as set out in 9.4.2.1 and/or the Donkey Barn Design Documents as set out in 9.4.2.2 prior to the deadline, the amount of time that is the difference between the date of submission and six months following approval of this Amendment No. 2 for the Conceptual Plan/Feasibility Study and six months following approval by CITY of the Conceptual Plan/Feasibility Study for the Design Documents may be added to the time provided for either the completion of the Design Documents or the completion of the Construction Documents and releasing them for bidding by contractors.

9.4.2.4 Within nine (9) months after approval by CITY's Parks and Recreation Department of the Design Documents SOCIETY will release Construction Documents for bidding by contractors.

9.4.2.5 So long as SOCIETY commits to complete the Donkey Barn stabilization improvements within three (3) years following approval by City Council of this Amendment No. 2 ("Donkey Barn Stabilization Completion

Date”), CITY will provide SOCIETY with \$500,000 to be used for project costs and the parties will enter into a Funding Agreement related to this CITY contribution.

9.4.2.6 SOCIETY will complete further modification to the Donkey Barn concurrently with or following the stabilization improvements and will complete those improvements and occupy the structure within four (4) years following approval by City Council of this Amendment No. 2 (“Donkey Barn Occupancy Date”).

9.4.2.7 In the event of a default by SOCIETY relating to its duties in connection with the Donkey Barn Site as set out in this Amendment, the CITY’s sole remedy will be the right of the CITY to terminate the Lease as to this portion of the Site after any notice and right to cure as otherwise set out under the terms of this Lease, with the Donkey Barn being returned to the CITY with all improvements completed as of that time to the CITY’s control and use. In addition, any unspent portion of CITY’s contribution will be retained by CITY.

9.4.2.8 The Beautification Phase Completion Date, Donkey Barn Stabilization Completion Date, and/or Donkey Barn Occupancy Date may be modified by the approval of SOCIETY and CITY (through its Director of Parks and Recreation) if, as a result of the feasibility study, due diligence, unforeseen and/or costly circumstances related to the structural or other site conditions are identified.

9.4.2.9 SOCIETY intends to utilize the Donkey Barn Structure for housing SOCIETY’s educational programming functions. In addition, Donkey Barn uses may include other complimentary zoo or community purposes such as a Brackenridge Park Visitor Center.

9.4.3 CITY, at its cost, has completed a Phase II Environmental Site Assessment and associated remediation of the Expansion Site. CITY, at its cost, has completed a Confirmation Asbestos and Lead-Based Paint Survey for the Expansion Site which identifies material to be removed prior to construction and demolition activities and CITY has provided a copy of this report to SOCIETY. In addition, CITY, at its cost, has completed a Cultural Resource Study of the Expansion Site which identifies historic and archeological conditions to be taken into consideration in SOCIETY’S construction and demolition activities and CITY has provided a copy of this report to SOCIETY. SOCIETY, at its cost, is responsible for all environmental and cultural resource evaluation, testing and remediation associated with future work to be performed by SOCIETY at the Expansion Site and shall not submit reports or data to regulatory agencies without first submitting these items to the City for review. In addition, SOCIETY will coordinate in advance with CITY regarding demolition or construction activities with a potential impact on cultural resources.

9.4.4 SOCIETY is responsible for obtaining all necessary Federal, State and City permissions, approvals and permits for all demolitions and improvements which take into consideration the historical, cultural resource, proximity to the San Antonio River, drainage and other unique aspects of the Expansion Site, including but not limited to, the Texas Historical Commission, CITY's Historic Preservation Office and Historic and Design and Review Commission, approvals related to the RIO overlay district, and compliance with Americans with Disabilities Act. Approval by CITY's Parks and Recreation Department of plans does not constitute or serve as any required Federal, State or City permissions, approvals or permits.

9.4.5 All plans for improvements and any associated demolition will be subject to the prior review and approval of CITY, through its Director of Parks and Recreation.

9.4.6 All costs incurred by SOCIETY associated with the improvements outlined in this Section 9.4 shall be the responsibility of SOCIETY.

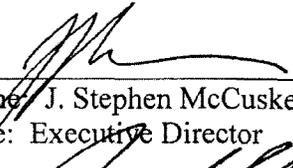
Except as modified herein, all terms and conditions contained in the LEASE AGREEMENT shall remain in full force and effect.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

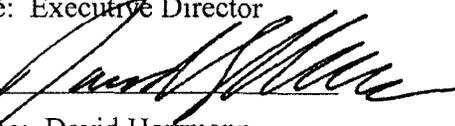
CITY OF SAN ANTONIO:

SAN ANTONIO ZOOLOGICAL  
SOCIETY, INC.

By: \_\_\_\_\_  
City Manager

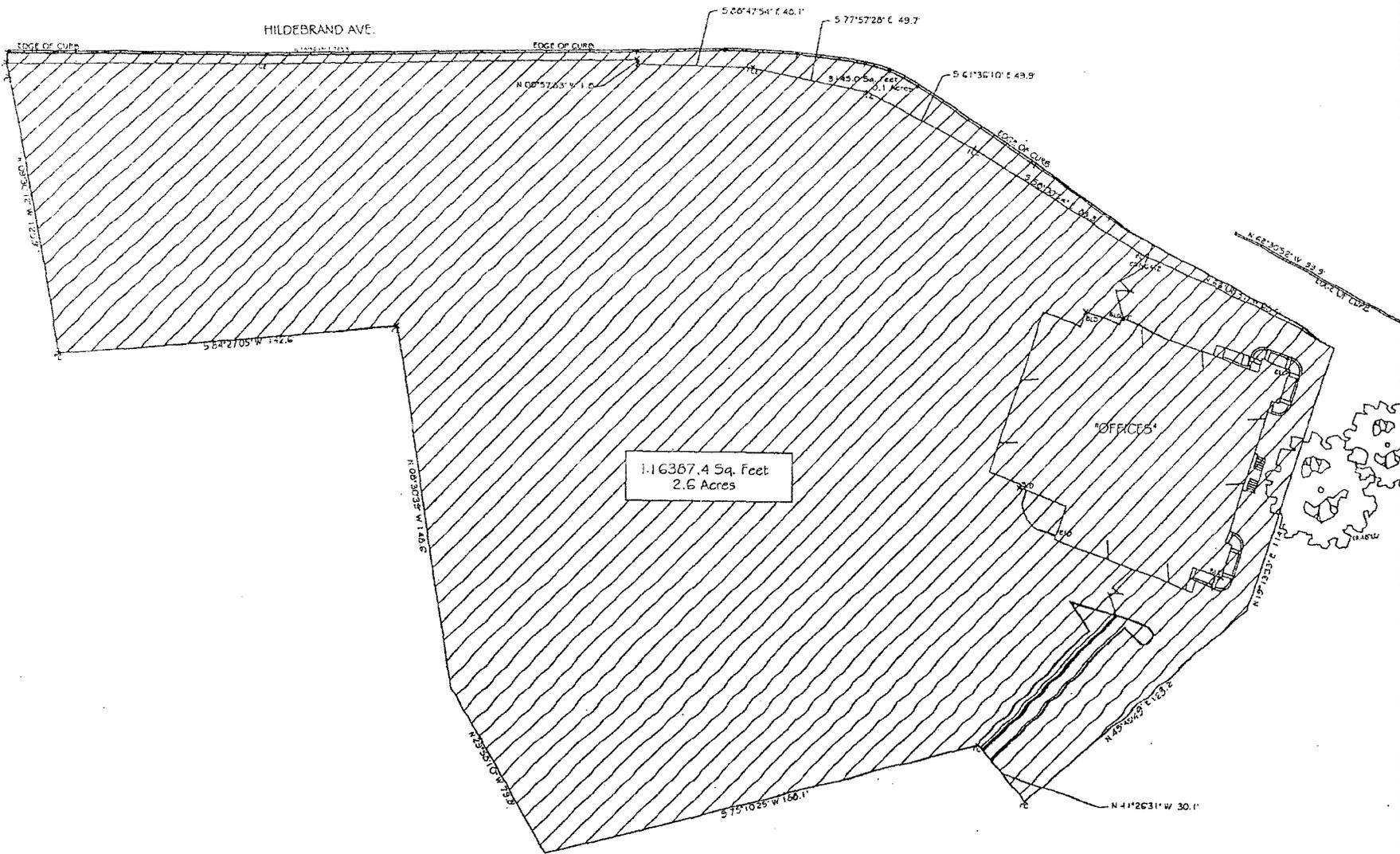
By:   
Name: J. Stephen McCusker  
Title: Executive Director

Attest: \_\_\_\_\_  
City Clerk

By:   
Name: David Herrmann  
Title: Chairman of the Board

Approved as to Form: \_\_\_\_\_

"EXHIBIT E"



1.16387.4 Sq. Feet  
2.6 Acres

Note:  
Some Bearing and Distances shown on this plat are Field Measurements and Scaled Flat File Drawing.  
\* Identifies Reference Bearing

 Hatched area reflects the Premises

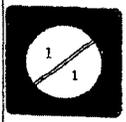
"EXHIBIT E"



San Antonio  
Parks and  
Recreation  
Department


CITY OF SAN ANTONIO  
PARKS AND RECREATION DEPARTMENT  
PARK PROJECT SERVICES  
DIVISION  
SAN ANTONIO, TEX. 78204  
94 DOLOROSA ST.  
P.O. BOX 11466  
TEL. (512) 375-3779  
FAX (512) 387-3723

Brackenridge Park  
950 HILDEBRAND AVE.  
SAN ANTONIO, TEXAS  
SITE SURVEY



Drawn by:  
G.T.  
Drawn by:  
G.T.  
Date:  
04-06-10  
Project No.:  
Project:  
brackmfnysl.dwg

SITE SURVEY  
MAY 2010



FIELD NOTES  
FOR A  
TRACT OF LAND

Being (116,387.4 sq. ft.) 2.6 acres out of Tract A-52 Known as Brackenridge Park,  
San Antonio, Bexar County, Texas.

Beginning at a chain-link fence corner 125.9' south of Hildebrand and said point being  
the approximate North East corner of a 30.4 acre tract as Recorded on Flat File 44-114 of  
Park Projects Records, Parks & Recreation, City of San Antonio.

Thence: N 09°30'12" W, 125.90' to a Fence Line Corner;  
Thence: N 88°56'15" E a distance of 263.30' to a Fence Line Corner;  
Thence: S 09°57'33" E a distance of 1.80' to a Fence Corner;  
Thence: S 88°47'54" E a distance of 48.10' to a Fence Line Corner;  
Thence: S 77°57'28" E a distance of 49.70' to a Fence Line Corner;  
Thence: S 61°36'10" E a distance of 49.90' to a Fence Line Corner;  
Thence: S 58°00'34" E a distance of 85.30' to a Fence Corner;  
Thence: S 66°08'31" E a distance of 88.90' to a Point;  
Thence: S 19°13'33" W a distance of 114.40' to a Point;  
Thence: S 49°45'49" W a distance of 123.20' to a Fence Corner on Wall;  
Thence: N 41°26'31" W a distance of 30.10' to a Fence Corner on Wall;  
Thence: S 75°10'25" W a distance of 188.10' to a Point;  
Thence: N 29°58'10" W a distance of 79.80' to a Point;  
Thence: N 08°30'39" W a distance of 148.60' to a Fence Corner;  
Thence: S 84°27'05" W a distance of 142.60' to a point of Beginning and containing  
2.6 acres (116,387.4 sq. ft.) more or less.