AZJ
04/09/2015
Item No. 15

AN ORDINANCE 2015-04-09-0284

AUTHORIZING THE CLOSURE, VACATION, AND ABANDONMENT OF AN APPROXIMATELY 0.082-ACRE UNIMPROVED PORTION OF RIGHT OF WAY PERPENDICULAR TO HIGGINS ROAD BETWEEN DURHAM DRIVE AND STAHL ROAD, ADJACENT TO NCB 15704 IN COUNCIL DISTRICT 10, AS REQUESTED BY I.P.L Y REDUCCION DE PESO INC. FOR A FEE OF $4,950.00.

* * * * *

WHEREAS, I.P.L. Y Reduccion De Peso Inc. has requested the abandonment of an unimproved portion of a 15-foot wide alley public right of way perpendicular to Higgins Road between Durham Drive and Stahl Road within NCB 15704; and

WHEREAS, the right-of-way segment has not been constructed and is no longer needed for public purposes; and

WHEREAS, it is in the interest of the public that the City of San Antonio be relieved of the obligation to maintain the right-of-way segment; **NOW THEREFORE**,

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

SECTION 1. Subject to the reservation below, as an exercise of its discretion, the City Council closes, vacates, and abandons the right-of-way ("Right-of-Way Segment") identified in Section 2 of this Ordinance. A condition of the closure, vacation, and abandonment is City's receipt of the $4,950.00 fee in accordance with the funding section of this Ordinance.

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

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

Address:	*Description:*	*Owner Listed by Bexar Appraisal District:*
14702 Stahl Road	NCB 15704 BLK A LOT 2,3,4, 5,6 & NE IRR 268.43 FT OF 1	I.P.L. Y Reduccion De Peso Inc.
14615 Durham Dr	NCB 15704 BLK A LOT 13 & NE IRR 253.41 FT OF 14	I.P.L. Y Reduccion De Peso Inc.

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 affect the 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 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.

SECTION 5. In addition to the condition stated in Section 1, a further condition to the closure affected by this Ordinance is a plat being approved and recorded no later than April 1, 2016, providing proper access per Chapter 35 of the City's Unified Development Code for all lots associated with the Right of Way Segment being closed. I.P.L. Y Reduccion De Peso Inc. or the property owner at the time of platting must provide sufficient right of way dedication. If no such plat is timely approved, this Ordinance is voidable. Time is of the essence in replatting the Right of Way Segments. Additionally, the closure is further conditioned on the owners of the abutting property to the Right-of-Way Segments dedicating a public access easement in substantially the same form as **Attachment III** to serve in the same capacity as the streets being abandoned until either the Right of Way Segment areas are replatted or this Ordinance is void.

SECTION 5. 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 6. The Right-of-Way Segment exists by easement. The underlying fee ownership of the Right-of-Way Segments by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned.

SECTION 7. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 256000000001 and General Ledger 4903101.

SECTION 8. 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 9. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this **9th** day of **April**, **2015**.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for **Martha G. Sepeda, Acting City Attorney**

Agenda Item:	**15**
Date:	04/09/2015
Time:	10:50:29 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the closure, vacation, and abandonment of an unimproved portion of a 15-foot wide alley Public Right of Way perpendicular to Higgins Road between Durham Drive and Stahl Road adjacent to NCB 15704, in Council District 10, with conditions and as requested by I.P.L. Y Reduccion De Peso Inc., a Texas corporation for a fee of $4,950.00. [Peter Zanoni, Deputy City Manager; Mike Etienne, Director, Eastpoint & Real Estate Services Office]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

Attachment I

METES AND BOUNDS DESCRIPTION
15' Alley to be purchased from City of San Antonio
September 22, 2014

BEING a 3,574 Square Foot tract of land consisting of the west 255 feet of a 15 foot wide alley as shown on map or plat entitled "Fertile Valley Farms Subdivision" in the City of San Antonio, Bexar County, Texas, recorded in Volume 3377, Page 78, Deed and Plat Records, Bexar County, Texas, said 3,574 Square Foot tract being more particularly described as follows;

Beginning at a ½" iron rod set in the southerly line of said 15' Alley and in the northwesterly line of Lot 14, Block A New City Block 15,708, in the City of San Antonio, Bexar County, Texas on said map or plat entitled "Fertile Valley Farms Subdivision" in the City of San Antonio, Bexar County, Texas, recorded in Volume 3377, Page 78, Deed and Plat Records, Bexar County, Texas and the most easterly corner of the herein described tract, said 1/2" iron rod set being S 61° 33' 31" W,15.00 feet along the northwesterly line of said Lot 14 from the most northerly corner of said Lot 14;

THENCE S 61° 33' 31" W 237.37 feet along the southerly line said 15' Alley to a 1/2" iron set in the easterly Right-of-way line of Higgins Road for the most southerly corner of the herein described tract;

THENCE N 35° 31' 13" W 15.12 feet along the easterly Right-of-way line of said Higgins Road to a 1/2" iron rod set at the interestion of the easterly Right-of-way line of said Higgins Road and northerly line of said 15' Alley for the most westerly corner of the herein described tract;

THENCE N 61° 33' 31" E 239.22 feet along the northerly line of said 15' Alley to a 1/2" iron rod set for the most northerly corner of the herein described tract;

THENCE S 28° 27' 51" E 15.00 feet across said 15' Alley to the POINT OF BEGINNING.

SGCE # 999-777-595D

METES AND BOUNDS DESCRIPTION
15' Alley to be conveyed to the City of San Antonio
September 22, 2014

BEING a 3,166 Square Foot tract of land consisting of the northeasterly 210 feet of Lot 14, Block A, New City Block 15,708, in the City of San Antonio, Bexar County, Texas on said map or plat entitled "Fertile Valley Farms Subdivision" in the City of San Antonio, Bexar County, Texas, recorded in Volume 3377, Page 78, Deed and Plat Records, Bexar County, Texas, said 3,166 Square Foot tract being more particularly described as follows;

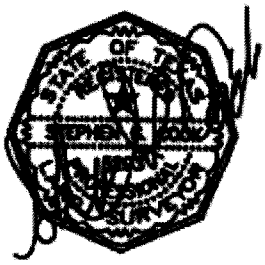
Beginning at a ½" iron rod set in the southerly line of said 15' Alley for the most northerly corner of said Lot 14 and the most northerly corner of the herein described tract;

THENCE S 28° 27' 51" E 210.50 feet along the northeasterly line of said Lot 14 to a 1/2" iron rod set in the northwesterly Right-of-way line of said Durham (an unconstructed street) for the most easterly corner of the herein described tract;

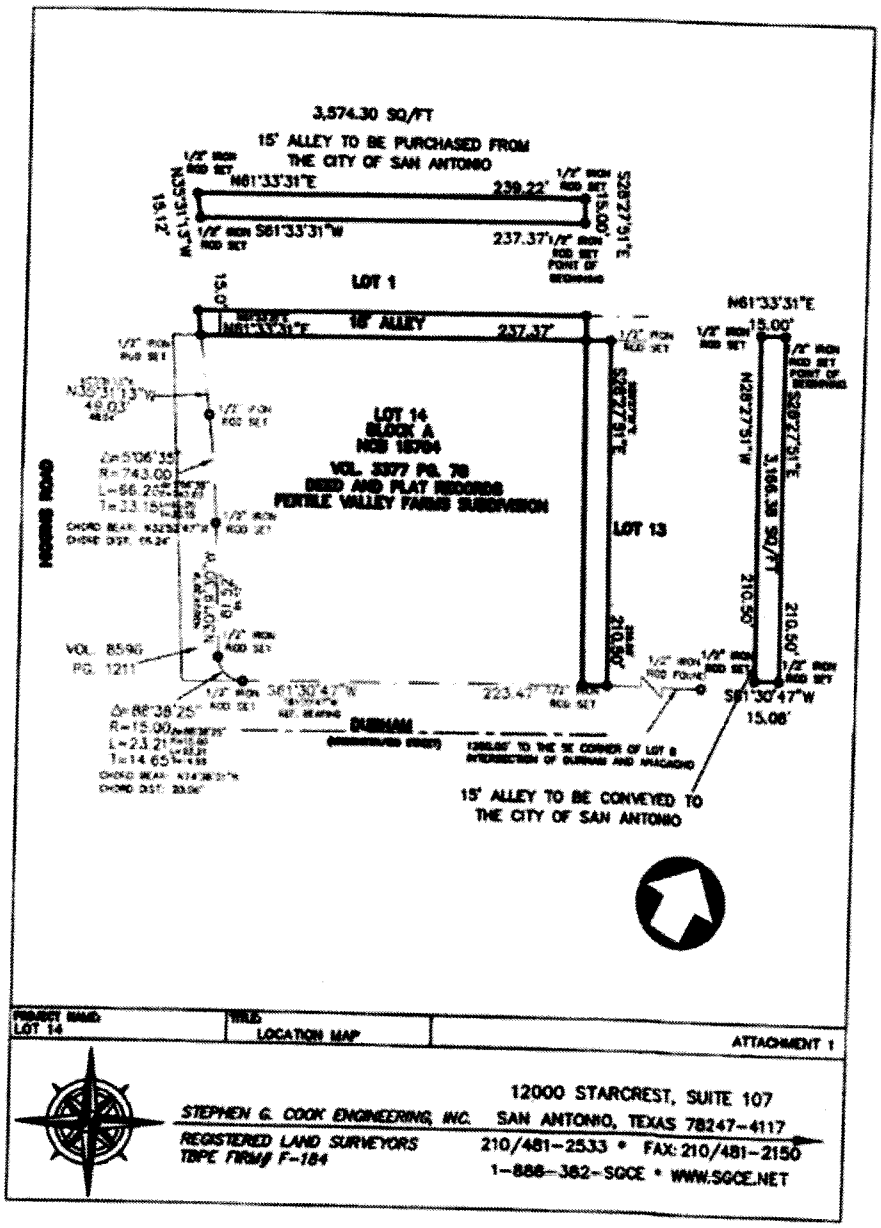
THENCE S 61° 30' 47" W 15.08 feet along the northeasterly Right-of-way line of said Durham (an unstructed street) to a 1/2" iron rod set for the most southerly corner of the herein described tract;

THENCE N 28° 27' 51" W 210.50 feet across said Lot 14 to a 1/2" iron rod set in the northwesterly line of said Lot 14 for the most westerly corner of the herein described tract;

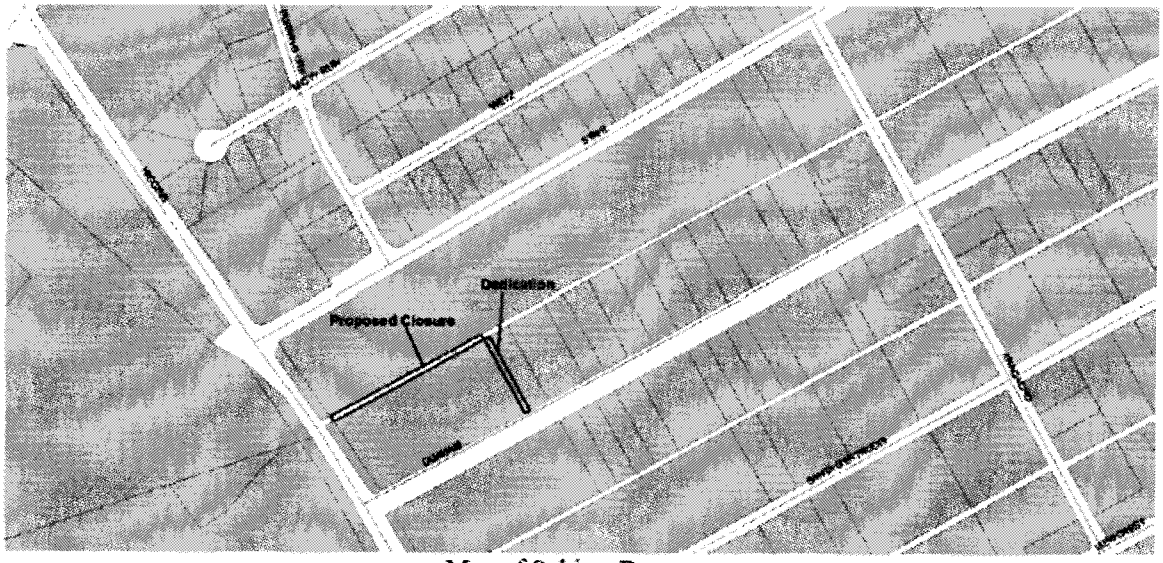
THENCE N 61° 33' 31" E 15.00 feet along the northwesterly line of said Lot 14 to the POINT OF BEGINNING.



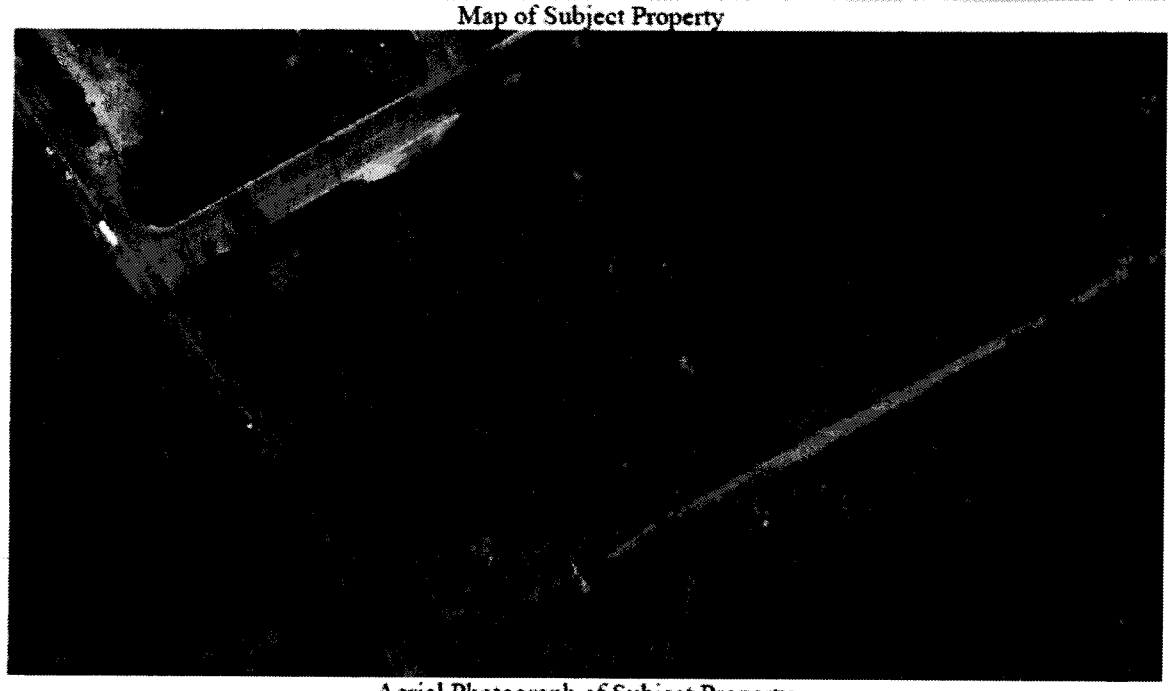
SGCE # 999-777-595E


3,574.30 SQ/FT
15' ALLEY TO BE PURCHASED FROM
THE CITY OF SAN ANTONIO
N61°33'31"E
239.22'
S61°33'31"W
237.37'
15.12'
N33°31'13"W
S28°27'51"E
LOT 1
15.00'
18' ALLEY
237.37'
N61°33'31"E
15.00'
N28°27'51"W
S28°27'51"E
3,186.38 SQ/FT
210.90'
LOT 14
BLOCK A
NCB 18704
VOL. 3377 PG. 78
DEED AND PLAT RECORDS
PENTILE VALLEY FARMS SUBDIVISION
LOT 13
N33°31'13"W
48.03'
VOL. 8596
PG. 1211
223.47'
S61°30'47"W
15.08'
DURHAM
15' ALLEY TO BE CONVEYED TO
THE CITY OF SAN ANTONIO
PROPERTY NAME:
LOT 14
TITLE:
LOCATION MAP
ATTACHMENT 1
STEPHEN G. COOK ENGINEERING, INC.
REGISTERED LAND SURVEYORS
TBPE FIRM# F-184
12000 STARCREST, SUITE 107
SAN ANTONIO, TEXAS 78247-4117
210/481-2533 • FAX: 210/481-2150
1-888-382-SGCE • WWW.SGCE.NET

Attachment II



Map of Subject Property



Aerial Photograph of Subject Property

Attachment III

PUBLIC ACCESS EASEMENT

Effective Date: April 2, 2015

Ordinance No.: _____

Grantor: I.P.L. Y REDUCCION DE PESO, INC., a Texas corporation,

Grantor's Mailing Address: 327 Springside, San Antonio, Texas 78260

Grantee: CITY OF SAN ANTONIO

Grantee's Mailing Address: CITY OF SAN ANTONIO, PO Box 839966, San Antonio, Texas 78283

Easement Property: See Attached Exhibit "A".

Easement Purpose: For providing free and uninterrupted pedestrian and vehicular ingress and egress along that portion of the Easement Property.

Consideration: The sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: None.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors and assigns an easement over, on, and across the Easement Property for the Easement Purpose and for the benefit of the general public, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors and assigns. Grantor binds Grantor and Grantor's heirs, successors and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty, to the extent such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions shall apply to the Easement granted by this agreement:

1. *Character of Easements.* The Easement is exclusive, irrevocable subject to the duration in subsection 2, and for the benefit and use of the general public for ingress and egress along the Easement Property.

2. *Duration of Easement.* The duration of the Easement shall be the period commencing on the effective date and automatically expiring upon the first of either (i) recordation of an approved subdivision plat (or replat) covering the easement area and providing access in compliance with Chapter 35 of the City Code (Unified Development Code) or (ii) if the Easement Property once again becomes public right-of-way pursuant to the terms of the Ordinance.

3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs successors and assigns the right to continue to use and enjoy the surface of the Easement Property for all purposes that do not interfere with or interrupt the use or enjoyment of the Easement by Grantee for the Easement Purposes. Grantor shall not grant any additional easements, licenses, permits, or other interest that may affect the rights of Grantee unless agreed to in writing by Grantee.

4. *Improvement and Maintenance of Easement Property.* Maintenance of the Easement Property shall be the sole expense of Grantor. Grantee has the right to eliminate any encroachments into the Easement Property. Grantor must maintain the Easement Property in a neat and clean condition. During the term of this Easement, Grantor has the right to develop the easement Property in accordance with a City of San Antonio approved replat of said property. Grantee has the right to remove or relocate any fences within the easement property or along or near its boundary lines if reasonably necessary to continue the purposes of this easement. On written request by Grantee, the owners of the Easement Property will execute or join in the execution of easements for sewer, drainage, or utility facilities under or across the easement Property.

5. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Retraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

6. *Binding Effect.* This Agreement binds and inures to the benefit of the parties and their respective heirs, successors and permitted assigns.

7. *Choice of Law.* This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the County or Counties in which the easement property is located.

8. *Counterparts.* This Agreement may be executed in any number of counterparts with the same effect as if signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

9. *Waiver of Default.* It is not a waiver or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.

10. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions and conditions of this agreement and all transactions contemplated by this agreement.

11. *Entire Agreement.* This agreement and any exhibits are the entire agreement of the parties concerning the Easement Property and the grant of the Easement by Grantor to Grantee. Grantor represents that (i) it owns the property over which this easement is granted and (ii) it is a Texas corporation, duly organized, validly existing, and in good standing under the laws of the State of Texas with authority to grant this easement to Grantee. There are no representations, agreements, warranties, or promises other than those in this agreement and neither party is relying on any statements or representations of any agent of the other party, that are not in this agreement and any exhibits.

12. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of this agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

13. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

14. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

15. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holidays, the date for performance will be the next following regular business day.

GRANTOR:

I.P.L. Y REDUCCION DE PESO, INC.
A Texas Corporation

By: _____
Elsa Parker, Director

THE STATE OF TEXAS §
§
COUNTY OF BEXAR §

The foregoing instrument was acknowledged before me this the 26th day of Feb., 2015, by Elsa Parker, as the Director of I.P.L. Y Reduccion de Peso, Inc., a Texas corporation, on behalf of said corporation.

SHELLEE GIPSON
Notary Public
STATE OF TEXAS
My Comm. Exp. 04/08/2016

_____
Notary Public, State of Texas

EXHIBIT A

METES AND BOUNDS DESCRIPTION
15' Alley to be conveyed to the City of San Antonio
September 22, 2014

BEING a 3,166 Square Foot tract of land consisting of the northeasterly 210 feet of Lot 14, Block A, New City Block 15,708, in the City of San Antonio, Bexar County, Texas on said map or plat entitled "Fertile Valley Farms Subdivision" in the City of San Antonio, Bexar County, Texas, recorded in Volume 3377, Page 78, Deed and Plat Records, Bexar County, Texas, said 3,166 Square Foot tract being more particularly described as follows;

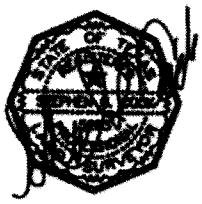
Beginning at a ½" iron rod set in the southerly line of said 15' Alley for the most northerly corner of said Lot 14 and the most northerly corner of the herein described tract;

THENCE S 28° 27' 51" E 210.50 feet along the northeasterly line of said Lot 14 to a 1/2" iron rod set in the northwesterly Right-of-way line of said Durham (an unconstructed street) for the most easterly corner of the herein described tract;

THENCE S 61° 30' 47" W 15.08 feet along the northeasterly Right-of-way line of said Durham (an unstructed street) to a 1/2" iron rod set for the most southerly corner of the herein described tract;

THENCE N 28° 27' 51" W 210.50 feet across said Lot 14 to a 1/2" iron rod set in the northwesterly line of said Lot 14 for the most westerly corner of the herein described tract;

THENCE N 61° 33' 31" E 15.00 feet along the northwesterly line of said Lot 14 to the POINT OF BEGINNING.



SGCE # 999-777-595E