

AN ORDINANCE 2016-01-28-0024

**AUTHORIZING THE CLOSURE, VACATION, AND ABANDONMENT OF AN APPROXIMATELY 0.075-ACRE PORTION OF A PUBLIC ALLEY LOCATED BETWEEN BELDEN AVENUE AND EAST SOUTHCROSS BOULEVARD IN COUNCIL DISTRICT 3, AS REQUESTED BY FOXY TERRACE LLC FOR A FEE OF \$12,450.00.**

\* \* \* \* \*

**WHEREAS**, Foxy Terrace LLC, (Petitioner) is requesting the closure, vacation and abandonment of a 10-foot wide alley Public Right Way located between Belden Avenue and East Southcross Boulevard; and

**WHEREAS**, the closure is inclusive of the north-south alley and a short portion of the connecting east-west alley making a combined 0.075 acres or 3,267 square feet; and

**WHEREAS**, the petitioner has agreed to dedicate an easement out of their adjoining property allowing for cross access; and

**WHEREAS**, the petitioner is the sole owner of the abutting properties and if approved, plans to combine and re-plat the proposed closure with his properties for future development; and

**WHEREAS**, this portion of alley is surplus to City of San Antonio needs and such closure will alleviate the City of San Antonio from maintenance and other costs; **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 authorizes the closure, vacation, and abandonment of 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 fee set out below in 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 Right of Way Segment exists by virtue of a subdivision plat recorded at Volume 105, Page 279, Official Public Records of Bexar County, Texas.

**SECTION 4.** The properties abutting the Right-of-Way Segment are:

Address:	Description:	Owner Listed by Bexar Appraisal District:
2711 Mission Rd	NCB 7707 Blk 19 Lot 1-8, 9 Exc E Irr 4.48', Lot 10 Exc E Irr 42.17', Lot 11 Exc SE Irr 197.8'	Foxy Terrace LLC
827 Southcross	NCB 7707 Blk 19 Lot 12 & 13	Foxy Terrace LLC
524 Belden Ave	NCB 7707 Blk 19 Lot 27 & 28	Foxy Terrace LLC

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 5.** An additional condition to the closure effected by this Ordinance is the owners of abutting property to the Right of Way Segment must dedicate an irrevocable public street easement, in substantially the same form and over the area as shown in **Attachment III**, to serve in the same capacity as the alley being abandoned and to provide access conformance for the surrounding properties in accordance with City of San Antonio city code provisions.

**SECTION 6.** 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 Segment 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 7.** 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 8.** The Right-of-Way Segments exist 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.

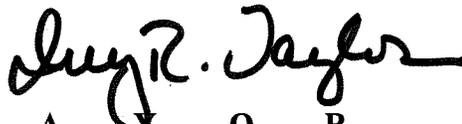
**SECTION 9.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 256000000001 and General Ledger 4903101. The fee and associated cost to Foxy Terrace LLC for this closure is \$12,450.00.

**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 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 11.** The disposition of any 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 12.** 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 28th day of January, 2016.



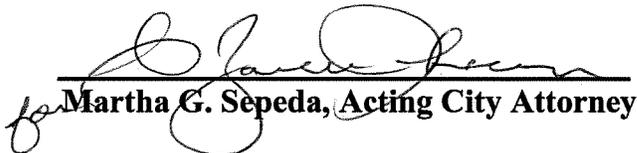
M A Y O R

Ivy R. Taylor

**ATTEST:**

  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
for Martha G. Sepeda, Acting City Attorney

<b>Agenda Item:</b>	<b>11 ( in consent vote: 4, 5, 7A, 7B, 9, 10A, 10B, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30 )</b>						
<b>Date:</b>	01/28/2016						
<b>Time:</b>	09:20:26 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing the closure, vacation and abandonment of a 0.075 acre portion of a 10-foot wide public alley, located between Belden Avenue and East Southcross Boulevard in Council District 3, as requested by Foxy Terrace LLC for a fee of \$12,450.00. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation and Capital Improvements]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x			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				

## Attachment I

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**METES AND BOUNDS DESCRIPTION  
FOR A  
0.075 OF AN ACRE TRACT OF LAND**

Being a 0.075 of an acre tract of land located in Block 19 of the Rasubdivision of Harlandale Addition to the City of San Antonio, NCB 7707, in Volume 105, Page 279 of the Official Public Records of Bexar County, Texas, and said 0.075 of acre tract of land being more particularly described as follows:

Beginning at point being the Northwest corner of a 10' wide Alley within Block 19 of said subdivision at it's intersection with Belden Avenue, said point bears N 89° 58' 00" W- 50.48' from ½" iron pin (no cap) found for the Northwest corner of Lot 28 of said subdivision. Said Lot 28 together with Lots 1-13 and 27, Block 19, save and except for portions of Lots 9-11 conveyed for additional Southcross Blvd. right of way, were conveyed to Edward L. Bravenec in Volume 14838, Page 1773 of the Official Public Records of Bexar County, Texas. Said beginning point being the Northwesterly corner of the herein described 0.075 of an acre tract of land;

Thence departing Belden Avenue, continuing with the Easternmost line of said Alley and the Western line of Lots 1-11, Block 19 of said subdivision, S 14° 14' 06" E, a distance of 288.53 feet to a point in the Northern line of Southcross Blvd. (previously platted as Pacific Ave.) at the Southeastern corner of said Alley, the Southwestern corner of Lot 11, Block 19. Same point being the Southwest corner of tract called Parcel 7028 in a deed from Clarence Oliver Stone, et ux to the City of San Antonio for additional Southcross Blvd. right of way, recorded in Volume 5835, Page 297 and being the Southernmost Southeast corner of the herein described tract;

Thence with the Northern margin of Southcross Blvd. and the southernmost line of said Alley, N 89° 58' 00" W a distance of 10.30 feet to a ½" iron pin (without cap) found for the Southernmost Southwest corner of said Alley and the Southeast corner of Lot 12, Block 19 of said subdivision, also being the Southernmost Southwest corner of the herein described tract;

Thence departing Southerross Blvd. continuing with the Southernmost West line of said Alley and the East line of said Lot 12, N 14° 14' 06" W a distance of 139.11 feet (140.3') to a point for the Northeast corner of said Lot 12, an interior Southwest corner of said alley of the herein described tract;

Thence continuing with the North line of Lots 12 and 13 of said subdivision and a South line of said Alley, N 89° 58' 00" W a distance of 40.16 feet to a point in the North line of said Lot 13, the South line of said Alley and the Westernmost Southwest corner of the herein described tract;

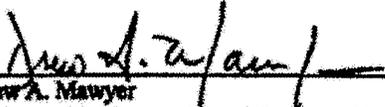
Thence in a Northerly direction crossing said Alley, N 14° 14' 06" W a distance of 10.32 feet to a point in a North line of said Alley in the South line of said Lot 28, being the Westernmost Northwest corner of the herein described tract; said point also being at the Southeast corner of a 0.032 acre tract being conveyed at this time to the City of San Antonio;

Thence continuing with the North line of said Alley and Lots 27 and 28, S 89° 58' 00" E a distance of 40.16 feet to a point at the Southeast corner of said Lot 27, an interior corner of said Alley and an interior corner of the herein described tract;

Thence continuing with the East line of said Lot 27 and the Northernmost West line of said Alley,  
N 14° 14' 06" W a distance of 139.10 feet (140.3') to the Point of Beginning and containing 0.075 of an acre of  
land;

Bearings based on the South line of Block 19, Harlandale Addition, as described in Parcel 7028, Volume 5835,  
Page 297.

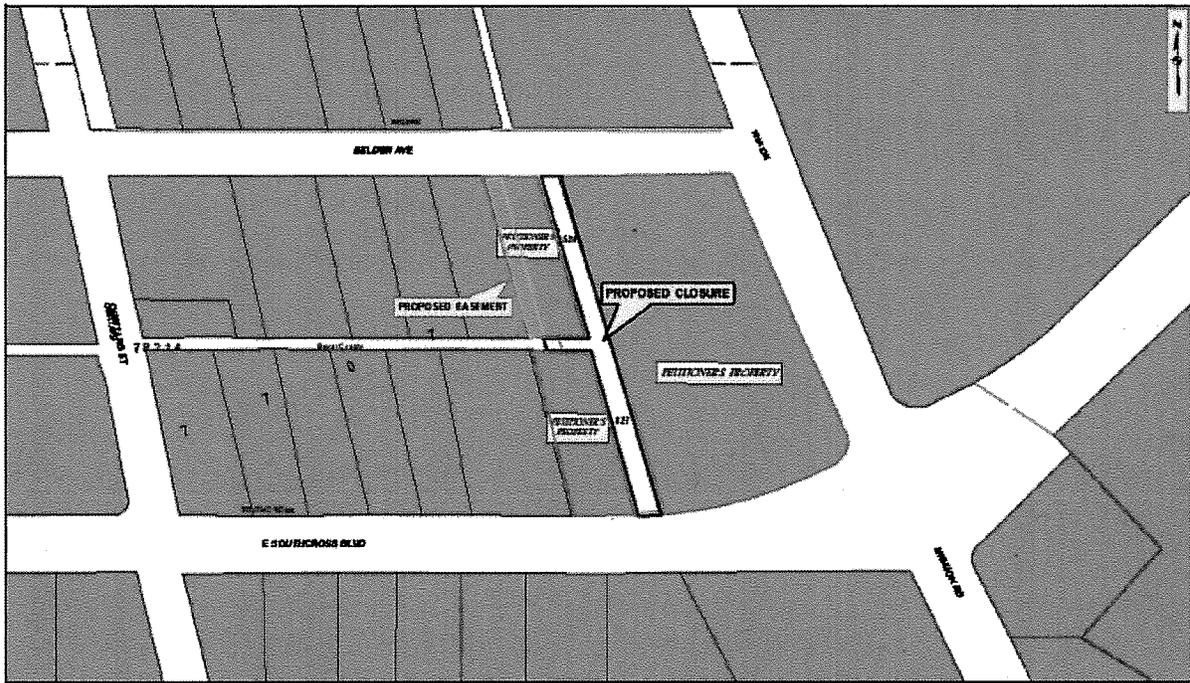
Survey drawing prepared this the 12<sup>th</sup> day of June, 2013.

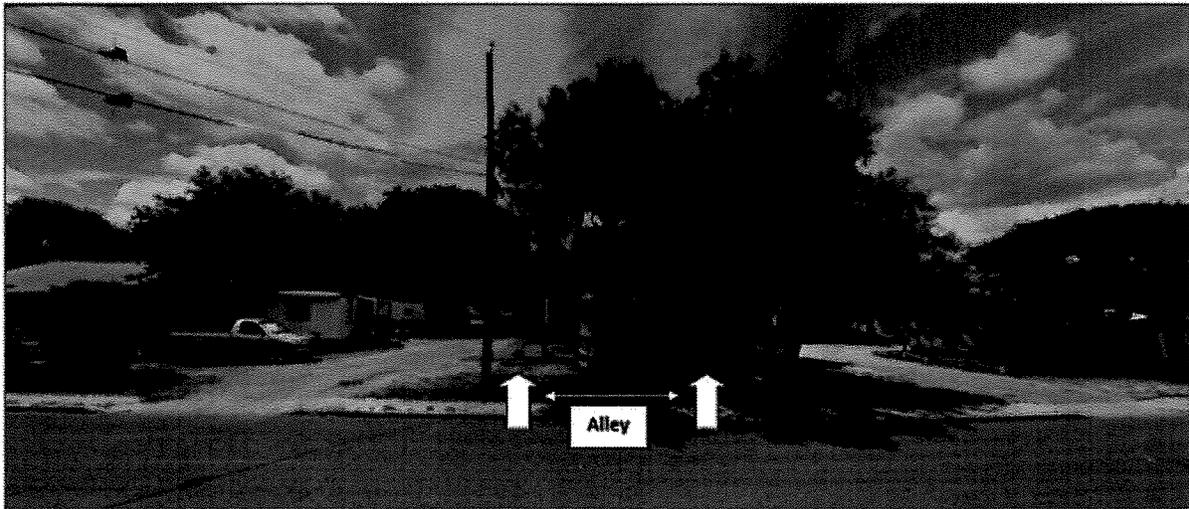
  
\_\_\_\_\_  
Drew A. Mawyer  
Registered Professional Land Surveyor No. 5348





Attachment II





**Approximate location of alley – View from East Southcross**

Attachment III

**Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.**

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State of Texas       §  
                              §       **Know All By These Presents:**  
County of Bexar     §

**Public Street Right-of-Way Dedication**

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**Grantor:** Foxy Terrace, LLC

**Grantor's Address:** P.O. Box 10336, San Antonio, Texas 78210

**Grantee:** City of San Antonio

**Grantee's Address:** P.O. Box 839966, San Antonio, Texas 78283-3966 (Bexar County)

**Purpose of Easement:** Right-of Way purposes, allowing Grantee and the public all rights incident to public Right-of-Way. This instrument burdens the Subject Property to the same extent as if it were a platted Right-of-Way.

**Subject Property:** 0.032 acres, more or less, within Lot 28, Block 19, NCB 7707 of the Resubdivision of Harlandale Addition, located in Bexar County, Texas and Being out of a tract of land described in Volume 105, Page 279, of the Deed and Plat Records of Bexar County, Texas, the land being more particularly described on Exhibit A, which is incorporated by reference for all purposes as if fully set forth.

Grantor grants, dedicates, and conveys to Grantee and to the public generally, for and in consideration of the benefits accruing to Grantor, to Grantor's other property, and to the public, an easement in gross in perpetuity over, across, under, and upon the Subject Property for the Purpose of the Easement. Grantee may construct, maintain, reconstruct, remove, relocate, and replace improvements related to the Purpose of the Easement anywhere within the Subject Property and may inspect, patrol, and police the Subject Property. Grantee may remove all trees and other vegetation and all other natural or artificial obstructions from the Subject Property, and Grantee may further excavate, fill, level, grade, pave, and otherwise improve the Subject Property as may be conducive to the Purpose of the Easement. Grantor covenants for itself, its heirs,

executors, successors, and assigns that no permanent building or obstruction of any kind will be placed on the Subject Property.

To Have and To Hold the above described easement and rights unto the public until its use is abandoned.

Grantors bind itself and its heirs, executors, successors, and assigns, to warrant and forever defend, all and singular, the above described easement and rights unto Grantee and the public against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness my hand, this 22nd day of September, 2015.

FOXY TERRACE, LLC, a Texas  
limited liability corporation

By: [Signature]

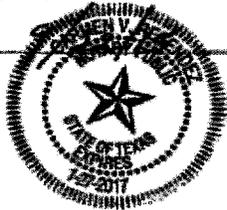
Printed  
Name: Michael Westheimer

Title: Managing Member

State of Texas        §  
                                 §  
County of Bexar     §

This instrument was acknowledged before me this date by Michael Westheimer, the \_\_\_\_\_, of Foxy Terrace, LLC, a Texas limited liability corporation, in the capacity therein stated and on behalf of that entity.

Date: \_\_\_\_\_



[Signature]  
Notary Public, State of Texas

My Commission expires: 12/27/17

Accepted under Ordinance: \_\_\_\_\_

# ROW Exhibit A

## Exhibit A



Being a 0.852 of an acre tract of land out of Lot 26, Block 19 of the Subdivision of Horseshoe Addition to the City of San Antonio, NCM 7877, recorded in Volume 196, Page 279, Bexar County, Texas. Said Lot 26 together with Lots 1-15 and 17, Block 19, now and except for portions Lots 9-11 conveyed for additional Easement Road Right of way, now conveyed from Robert Dumas and wife, James E. Dumas to Edward L. Dumas, dated February 2, 2011, recorded in Volume 14234, Page 1773 of the Official Public Records of Bexar County, Texas. Said 0.852 acre tract of land being more particularly described as follows:

Beginning at a 167' iron pin found in the South margin of Hedden Avenue at the Northwest corner of Lot 26, and the Northern corner of Lot 29, said Lot 29 together with Lot 28 conveyed in a deed from Matthew Beyond & Diana Beyond to Claudia R. Toon, recorded in Volume 12484, Page 494, and being the Northwest corner of this tract described 0.852 acre tract of land;

Thence with the Southern line of Hedden Avenue and the North line of said Lot 26, S 89°28'00" E, a distance of 16.32 feet to a point in the North line of said Lot 26, and being the Western corner of this tract described 0.852 acre tract of land;

Thence departing Hedden Avenue into and across said Lot 26, S 14°14'00" E, a distance of 129.38 feet to a point in the South line of Lot 26 and a North line of a 16' Alley defined in the Subdivision of Horseshoe Addition recorded in Volume 196, Page 279, and being the Southeast corner of this tract described tract;

Thence with the South line of Lot 26 and the Northern line of said Alley, N 89°28'00" W a distance of 19.15 feet to a point in the Southeast corner of Lot 26, the Southeast corner of Lot 26 and the Southeast corner of the herein described tract. Said point bears S 16°14'00" E - 159.62 feet and S 20°28'00" E - 39.89 feet to a 16" iron pin found in the Southeast corner Lot 13, Block 19, being in the South line of Block 19 and a Westward line of Woodhouse Blvd, previously platted as Pacific Ave.;

Thence departing said Alley, and continuing along the West line of Lot 26 and the East line of Lot 29, N 14°14'00" W a distance of 129.11 feet (758.7) to the Point of Beginning and enclosing 0.852 of an acre of land.

Beginning found on the South line of Block 19, Horseshoe Addition, as identified in Parcel 7626, Volume 14234, Page 2071.  
Survey done and prepared this the 12<sup>th</sup> day of June, 2012.

*David A. Mawyer*  
David A. Mawyer  
Registered Professional Land Surveyor No. 2046



★ ———— [ 1760 Reading Court, Spring Branch, TX 78160 | Ph: 214.575.0858 ] ———— ★

