

AN ORDINANCE 2013-10-10-0705

**CLOSING, VACATING, AND ABANDONING A 0.148-ACRE, IMPROVED PORTION OF SPITZER AVENUE LOCATED GENERALLY SOUTH OF LOOP 410 AND SOUTHTON ROAD IN COUNCIL DISTRICT 3, AS REQUESTED BY ABASTO PROPERTIES, LLC FOR A FEE OF \$10,872.00, CONDITIONED ON THE PETITIONER DEDICATING BY PLAT A CUL-DE-SAC AT THE END OF SPITZER AVENUE.**

\* \* \* \* \*

**WHEREAS**, the Right-of-Way Segment, as defined below, is a dead end.

**WHEREAS**, the Right-of-Way Segment is subject to dumping.

**WHEREAS**, it is in the interests of the public that the City of San Antonio be relieved of the obligation 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 fee set out below in the funding section of this Ordinance.

**SECTION 2.** Mps and pictures of the Right-of-Way Segment are set forth at **Attachment I**. The detailed description of the Right-of-Way Segment is 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 II controls over any discrepancy between it and Attachment I.

**SECTION 3.** The Right-of-Way Segment exists by virtue of a subdivision plat recorded at Volume 9613, Page 36, Official Public Records of Bexar County, Texas.

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

<i>Address:</i>	<i>Description:</i>	<i>Owner Listed by Bexar Appraisal District:</i>
Spitzer Avenue	Lot 4, Block 3, NCB 10915	Abasto Properties, LLC
Spitzer Avenue	Lot 2, Block 2, NCB 10915	Abasto Properties, 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.** In addition to the condition stated in Section 1, a further condition to the closure effected by this Ordinance is a plat being filed no later than December 31, 2015, dedicating the cul-de-sac area shown in **Attachment III** as part of the public-street right-of-way of Spitzer Avenue. If no such plat is timely filed, this Ordinance is void. If a plat is filed but the area dedicated as a cul-de-sac varies from the description in Attachment III, this Ordinance is nevertheless valid if the cul-de-sac dedicated by the plat meets the dimensions and other requirements for culs-de-sac contained in the then-current City of San Antonio Unified Development Code. Time is of the essence in replatting to add the cul-de-sac.

**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 or alley right of way. Neither does this Ordinance create new easement rights.

**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 Segment exists by easement. The underlying fee ownership of the Right-of-Way Segment by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned. For purposes of future conveyance and to better reflect their ownership generally, owners of the adjacent property should replat. No such replat impairs the rights retained by City above, unless in the course of replatting, the owner, at its own expense, otherwise provides for those rights according to platting rules of general applicability.

**SECTION 9.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 240000000060 and General Ledger 4903101.

**SECTION 10.** 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 11.** 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

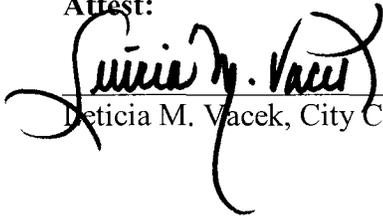
Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 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.

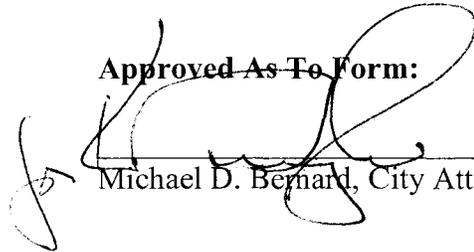
**PASSED AND APPROVED** this 10<sup>th</sup> day of October 2013.

  
M A Y O R  
Julián Castro

Attest:

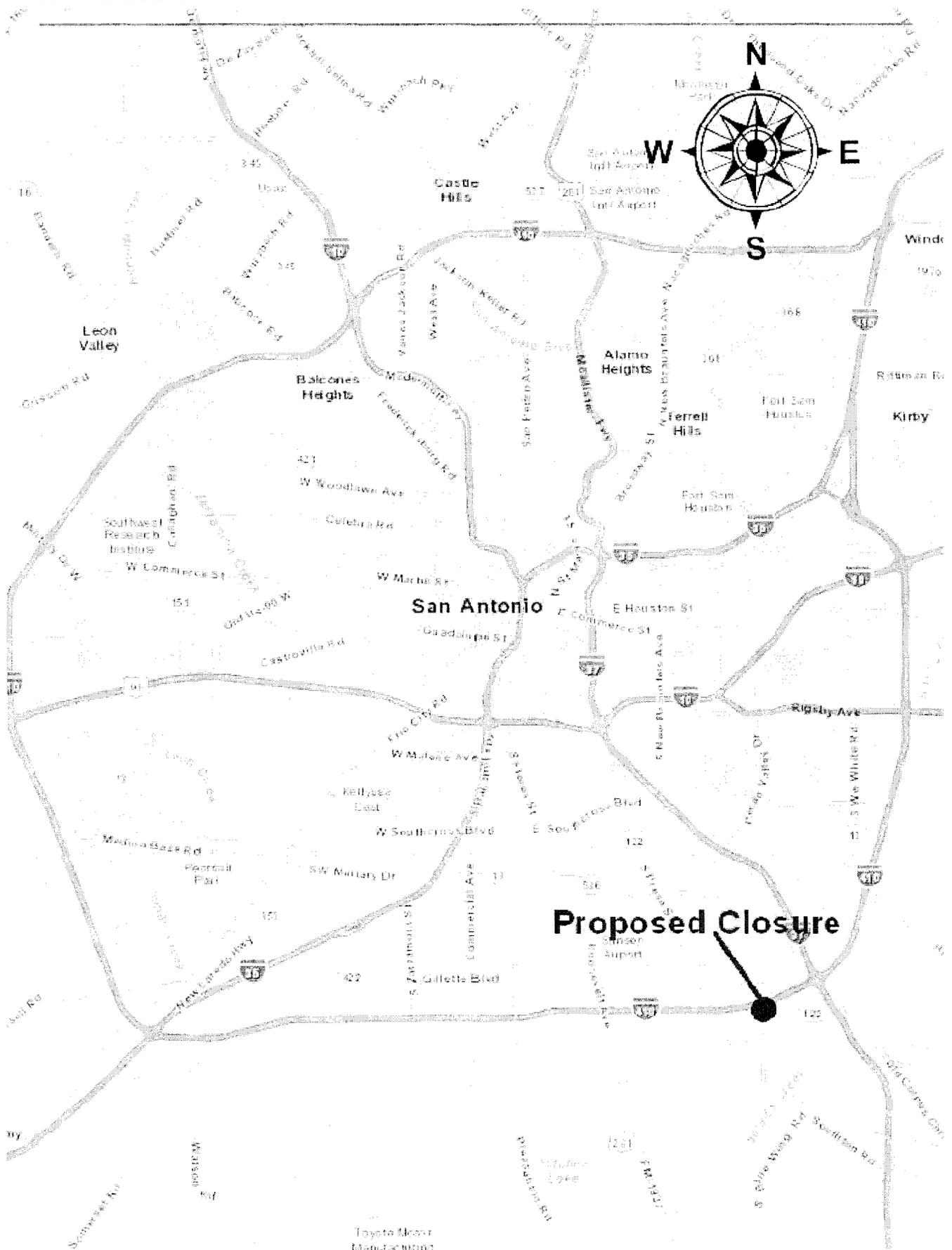
  
\_\_\_\_\_  
Deticia M. Vacek, City Clerk

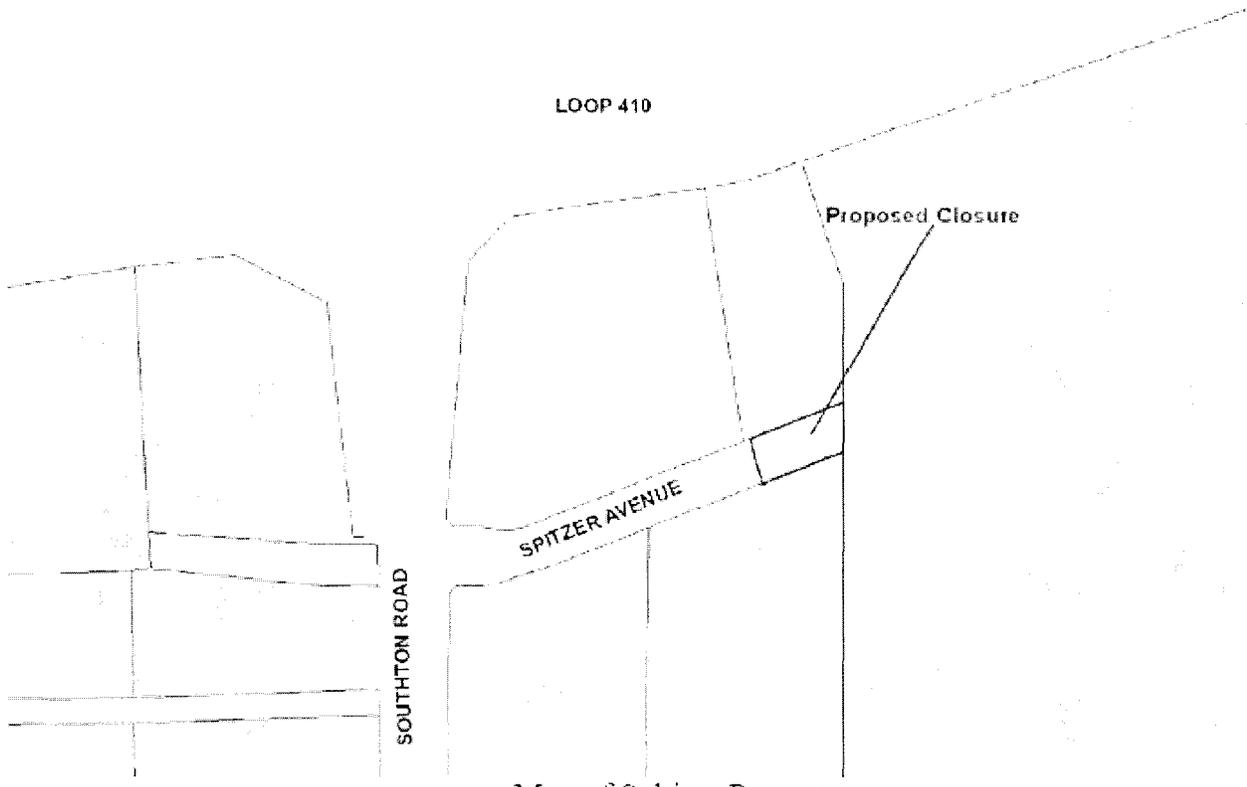
Approved As To Form:

  
\_\_\_\_\_  
Michael D. Bernard, City Attorney

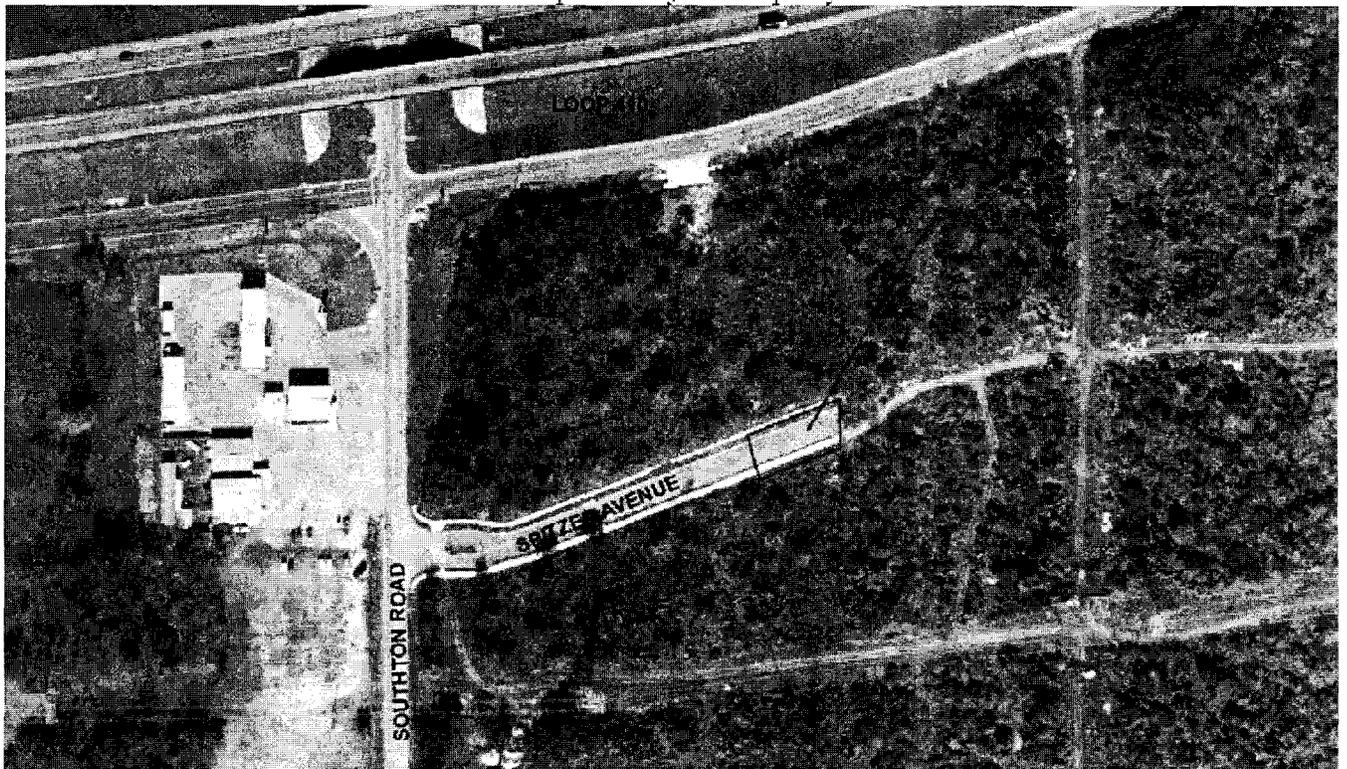
<b>Agenda Item:</b>	7 ( in consent vote: 6, 7, 8, 9, 12, 14, 15 )						
<b>Date:</b>	10/10/2013						
<b>Time:</b>	09:50:17 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance closing, vacating, and abandoning a 0.148-acre, improved portion of Spitzer Avenue located generally south of Loop 410 and Southton Road in Council District 3, as requested by Abasto Properties, LLC for a fee of \$10,872.00, conditioned on the petitioner dedicating by plat a cul-de-sac at the end of Spitzer Avenue. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Capital Improvements Management Services]						
<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>
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

# Attachment I





Map of Subject Property



Aerial Photograph of Subject Property

## Attachment II

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**FIELD NOTES**  
**A 0.148 Acre Parcel**  
**ABASTOS PROPERTIES, BEXAR COUNTY, TEXAS**

Being a 0.148 acre Parcel being out City Base South Unit 1 Subdivision as recorded in volume 9616, Page 14, deed and plat records of Bexar County, Texas, and being more particularly described to wit;

The point of beginning being the Northwest corner of the herein described parcel and having the following courses from a reference tie being the Northeast cutoff into Loop 410; N 81°-33'-53" E a distance of 243.03 feet along the south right-of way of loop 410 to a point and S 08°-27'-25" E a distance of 320.88 feet to a point and N 68°-18'-58" E a distance of 18.49 feet to the point of beginning;

THENCE; N 68°-18'-58"E, a distance of 116.11 feet to a point for a corner;

THENCE; S 00°-00'-13" E, a distance of 62.32 feet to a pint for a corner;

THENCE; S 68°-19'-03" W, a distance of 106.69 feet to a point for a corner;

THENCE; N 08°-27'-25" W, a distance of 59.48 feet to the point of beginning and containing 0.148 acre.



*George Ozuna Jr.*  
George Ozuna Jr., R.P.L.S.  
Registered Public Land Surveyor



### Attachment III

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0.138 ACRE TRACT  
(RIGHT-OF-WAY TO BE DEDICATED)

FIELDNOTE DESCRIPTION of a 0.138 acre tract (Right Of Way to be dedicated) within the corporate limits of the City of San Antonio, Bexar County, Texas, and out of Lot 2, Block 2, New City Block 10915, as shown by plat of CITY BASE SOUTH, UNIT 1 recorded in Volume 9615, Page 36, Deed and Plat Records, Bexar County, Texas, in all said 0.138 acre tract being more particularly described as follows:

COMMENCING at a  $\frac{1}{2}$ " iron rod found on the south R.O.W line of Spitzer Ave (a 58' wide public Right-Of-Way) at the northeast corner of said Lot 2,

THENCE, along said south R.O.W. line and the north line of said Lot 2, South  $68^{\circ}19'03''$  West, 109.77 feet to a  $\frac{1}{4}$ " iron rod set at the beginning of a non-tangent curve to the right having a radius of 60.00 feet and from whence the radius point South  $66^{\circ}24'26''$  West, for the northeast corner and POINT OF BEGINNING of this tract;

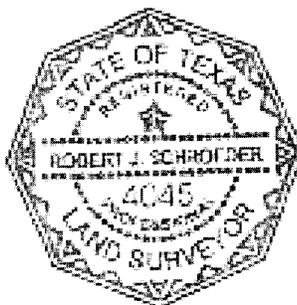
THENCE, southwesterly, westerly and northwesterly across said Lot 2 with the arc of said curve, through a central angle of  $163^{\circ}47'02''$ , a chord bearing and distance of South  $58^{\circ}17'57''$  West, 118.80 feet and an arc distance of 171.51 feet to a  $\frac{1}{2}$ " iron rod set at a point of reverse curvature with a curve to the left having radius of 30.00 feet, for an interior corner of this tract;

THENCE, continuing northwesterly with said curve to the left, through a central angle of  $71^{\circ}52'26''$ , a chord bearing and distance of North  $75^{\circ}44'44''$  West, 35.21 feet and an arc distance of 37.63 feet to a  $\frac{1}{4}$ " iron rod set on the north line of said Lot 2, for the northwest corner of this tract;

THENCE, along the south R.O.W line of said Spitzer Ave and the north line of said Lot 2, North  $68^{\circ}19'03''$  East, 145.50 feet to the POINT OF BEGINNING.

Containing in all, 6,009 square feet, or 0.138 acres of land.

Surveyed on this 14<sup>th</sup> day of December, 2012. (See attached Exhibit.)



MAVERICK LAND SURVEYING CO.

A handwritten signature in black ink, appearing to read "Robert J. Schroeder".

Robert J. Schroeder, R.P.L.S.  
Texas No. 4045

