

AN ORDINANCE

2007-09-20-1026

APPROVING AN AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION WITH THE WESTSIDE 211 SPECIAL IMPROVEMENT DISTRICT PROPERTY OWNERS, CUMBERLAND POTRANCO JOINT VENTURE, CUMBERLAND 211, LTD., NAVIGATORS STEVENS RANCH, L.P., KD CIRI I, L.L.C., CIRI LAND DEVELOPMENT COMPANY AND CUMBERLAND 90, LTD., FOR A THIRTY YEAR TERM; CONSENTING TO THE DELEGATION TO THE DISTRICT BY BEXAR COUNTY OF THE POWERS OF A ROAD DISTRICT, AND THE POWER TO PROVIDE WATER, WASTEWATER AND DRAINAGE FACILITIES SOLELY FOR THE PURPOSE OF FINANCING THE CONSTRUCTION OF WATER, WASTEWATER AND DRAINAGE FACILITIES IN THE DISTRICT; AND AUTHORIZING CITY STAFF TO USE THE TERMS OF THIS AGREEMENT AS FRAMEWORK IN FUTURE NEGOTIATIONS AND AGREEMENTS WITH FUTURE PETITIONS FOR PUBLIC IMPROVEMENT DISTRICT CREATION.

\* \* \* \* \*

**WHEREAS**, on August 30, 2007, the County created the Westside 211 Special Improvement District, under Subchapter C, Chapter 372 of the Texas Local Government Code, known as the Public Improvement District Act, for the purposes of financing the costs of public improvements within the PID, and required the Owners, Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Navigators Stevens Ranch, L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, Ltd., to enter into a non-annexation agreement with the City as part of the Public Improvement District creation process; and

**WHEREAS**, this requirement was also a condition to the City's August 9, 2007 consent to the creation of the PID, and the City and Owners have negotiated an Agreement for Services in Lieu of Annexation in accordance with the terms and conditions of Section 43.0563(a)(2) of the Texas Local Government Code, *Contracts for Provision of Services in Lieu of Annexation*, to evidence their agreement concerning the provision of services to the Property and the funding of services to the Property in lieu of annexation, to establish permissible land uses, to require compliance with certain municipal ordinances in lieu of annexation, and to consent to annexation of the Property upon the termination of this Agreement, as provided below; and

**WHEREAS**, also in creating the PID, and in accordance with Section 372.113(c) of the Act, the County endowed the PID with all powers granted by Article III, Sections 52 and 52a of the Constitution of the State of Texas; Chapters 372, 380, 381 and 383 of the Texas Local Government Code, the powers of a road district and the powers to provide water, wastewater and drainage facilities; and

**WHEREAS**, the Act conditions the County's delegation to the PID of the powers granted by Article III, Section 52 and the powers of a road district and to provide water, wastewater and drainage facilities on the consent of the City; and

**WHEREAS**, the City's consent to the delegation of the above powers does not include the powers of eminent domain and annexation, nor does it include the delegation of water, wastewater and drainage powers other than those necessary for financing the construction of the infrastructure required for the water, wastewater and drainage facilities, and is specifically not a consent to the retail provision of water, wastewater and/or drainage services nor is it a consent to a Certificate of Convenience and Necessity for either water or wastewater services to customers within the area; and

**WHEREAS**, in briefing the City Council on this PID and on a proposed policy for Public Improvement Districts created in the City's ETJ, by surrounding Counties, staff recommended that this Agreement and

Ordinance are appropriate documents to use as the framework for City policy in future negotiations and agreements for the creation by Counties of Subchapter C Public Improvement Districts; **NOW THEREFORE:**

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

**SECTION 1.** The City Manager, or her designee, is authorized to execute the Agreement for Services in Lieu of Annexation, attached as Exhibit A, between the City of San Antonio and Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Navigators Stevens Ranch, L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, Ltd., owners of approximately 3,625 acres of land in far West Bexar County, located generally along State Highway 211, north of Highway 90, in the City's extraterritorial jurisdiction, which comprises the Westside 211 Special Improvement District. The City Clerk shall file a true and correct copy of the executed Agreement for Services in Lieu of Annexation with this Ordinance.

**SECTION 2.** The City Council of the City of San Antonio resolves that it consents to the delegation by Bexar County to the Westside 211 Special Improvement District, the powers granted by Article III, Section 52 and the powers of a road district, save and except the powers to exercise eminent domain and annexation, and subject to the limitation of Section 3, below.

**SECTION 3.** The City's consent to the County's delegation to the PID of water, wastewater and drainage facility powers is solely for the purpose of financing the construction of water, wastewater and drainage facilities. The City does not consent to the retail provision of water, wastewater and drainage services or to a Certificate of Convenience and Necessity for either water or wastewater services to customers within the area.

**SECTION 4.** City staff is authorized to use the Agreement for Services in Lieu of Annexation and this Ordinance as a Policy for the consideration and negotiations of further County Public Improvement Districts, created pursuant to Subchapter C, Chapter 372, Texas Local Government Code.

**SECTION 5.** The statements set forth in the recitals of this Ordinance are true and correct, and are incorporated as a part of this Ordinance.

**SECTION 6.** If any provision of this Ordinance or the application of any provision of this Ordinance to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application of the remainder of this Ordinance to other circumstances shall nevertheless be valid, as if such invalid provision had never appeared in this Ordinance, and this Ordinance would have been enacted without such invalid provision.

**SECTION 7.** This ordinance shall become effective immediately after passage upon the receipt of eight affirmative votes, or, in the absence of eight affirmative votes, ten days after passage.

**PASSED AND APPROVED** this 20th day of September 2007.

ATTEST Quinn M. West  
City Clerk

*Diane Alvaran*  
M A Y O R  
PHIL HARDBERGER

APPROVED AS TO FORM: Benjamin T. Kay  
for City Attorney

## City Council Meeting

DATE: September 20, 2007

## ORDINANCE:

2007-09-20-1026

## AGENDA ITEM: 46

## RESOLUTION:

## Consent Agenda

<b>NAME</b>	<b>ROLL CALL</b>	<b>MOTION</b>	<b>SECOND</b>	<b>ABSTAIN</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>
Mary Alice Cisneros <b>DISTRICT 1</b>							
Sheila McNeil <b>DISTRICT 2</b>							
Roland Gutierrez <b>DISTRICT 3</b>							
Philip Cortez <b>DISTRICT 4</b>							
Lourdes Galvan <b>DISTRICT 5</b>							
Delicia Herrera <b>DISTRICT 6</b>							
Justin Rodriguez <b>DISTRICT 7</b>							
Diane Cibrian <b>DISTRICT 8</b>							
Kevin Wolff <b>DISTRICT 9</b>							
John Clamp <b>DISTRICT 10</b>							
Phil Hardberger <b>MAYOR</b>							

**COMMENTS:**

## **EXHIBIT A**

**AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION  
BETWEEN THE CITY OF SAN ANTONIO  
AND  
CUMBERLAND POTRANCO JOINT VENTURE, CUMBERLAND 211, LTD.,  
NAVIGATORS STEVENS RANCH, L.P., KD CIRI I, L.L.C., CIRI LAND DEVELOPMENT  
COMPANY AND CUMBERLAND 90, LTD.**

STATE OF TEXAS  
COUNTY OF BEXAR

This Agreement is entered into by and between the City of San Antonio, a Texas home-rule municipality, ("City"), and Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Navigators Stevens Ranch, L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, Ltd. ("Owners"), to be effective as of the 20th day of September, 2007 (the "Effective Date"), for the purpose of setting forth the terms and obligations between the City and the Owners (collectively, the "Parties"), with respect to the development of approximately 3,576 acres owned by Owners within the City's Extraterritorial Jurisdiction (the "Property") as follows:

**WHEREAS**, the Owners own the Property, generally located in far west Bexar County, Texas and within the City's Extraterritorial Jurisdiction (ETJ), generally along State Highway 211, north of Highway 90, such Property more specifically described by the field notes attached hereto as **Exhibit "A"** and incorporated in this Agreement by reference;

**WHEREAS**, the City and Owners desire to establish certainty in the timing of annexation and permitted uses and development of the Property; and

**WHEREAS**, the Property is not included within the City's annexation plan; and

**WHEREAS**, the Owners have undertaken the development of a mixed-intensity, mixed-use community in the Property;

**WHEREAS**, the City and the Owners have agreed to a mechanism whereby the Owners and the City will ensure the Owners' full compliance with certain chapters of the City Code of the City of San Antonio, including but not limited to the UDC in connection with the permitting, construction, and financing of the Property while preserving the Property's ability to accommodate future market demands; and

**WHEREAS**, the Owners have petitioned Bexar County to create, and on August 30, 2007, the County did create, a Public Improvement District, named the Westside 211 Special Improvement District, under Chapter 372, Subchapter C, of the Texas Local Government Code for the purposes of financing the costs of public improvements within the Property; and

**WHEREAS**, the County requires the Owners to enter into a non-annexation agreement with the City as part of the Public Improvement District creation process; and

**WHEREAS**, the City and Owners desire to establish an Agreement for Services in Lieu of Annexation in accordance with the terms and conditions of Section 43.0563(a)(2) of the Texas Local Government Code, *Contracts for Provision of Services in Lieu of Annexation*, to evidence their agreement concerning the provision of services to the Property and the funding of services to the

Property in lieu of annexation, to establish permissible land uses, to require compliance with certain municipal ordinances in lieu of annexation, and to consent to annexation of the Property upon the termination of this Agreement, as provided below;

**NOW THEREFORE**, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owners agree as follows:

## **SECTION 1: CONSIDERATION, TERM AND ANNEXATION**

**1.1 Consideration.** As consideration for City's consent not to annex the Property for the term of this Agreement, the Owners agree to voluntarily comply with various City ordinances and regulations and restrictive covenants that limit and restrict the manner in which the Property will be developed and consent to voluntary annexation of the Property, in accordance with the terms below, unless such termination results from a default by City.

The present and future benefits to be received by the City by entering into this Agreement and deferring the annexation of the land include the Owners' voluntary compliance with various City ordinances and regulations that would otherwise not be applicable to the Property; the development of the land with greater connectivity, environmental protection and safety considerations; the business and commercial activity and other economic development opportunities resulting from the development of the Property; the development of the Property in an orderly manner to facilitate its future annexation in an appropriate and economical manner; the expected increased future tax base when the Property is annexed; and the Owners' consent to annexation by the City upon termination of this Agreement, pursuant to the Owner's Consent to Annexation.

**1.2 Term.** For the consideration above, and subject to the terms and conditions of this Agreement, the City agrees to continue the extraterritorial status of the Property and defer annexation of the Property until December 30, 2037, in accordance with the provisions of Section 43.0563 of the Texas Local Government Code.

### **1.3 Owners' Consent to Annexation.**

**1.3.1. Voluntary petition for annexation.** The Owners hereby agree that this Agreement constitutes a voluntary petition to the City, acting in the City's sole discretion, for annexation of the Property for full purposes under the provisions of Section 43.052(h) of the Texas Local Government Code on or after December 31, 2037. The City is not obligated to annex the Property for full purposes on December 31, 2037 or at any other time.

To accomplish such annexation, the City will not need to take the following actions, all of which are waived by the Owners:

- (a) adopt or amend an annexation plan to include the Property;
- (b) give notice to any service providers in the area of the Property;
- (c) compile an inventory of services provided to the area by both public and private entities prior to the City's annexation or make such inventory available for public inspection;
- (d) complete a service plan that provides for the extension of full municipal services to the Property, other than the Service Plan;
- (e) hold any public hearings; and
- (f) undertake any negotiations for provision of services to the Property.

The Owners confirm and agree that, as the Owners are the sole owners of the Property as of the Effective Date, such voluntary petition may not be revoked by the Owners except as provided by this Consent, and is intended to be and shall be binding upon the Owners and their successors in interest in ownership of any right, title or interest in and to the Property or any part thereof.

**1.3.2. Waiver.** The Owners irrevocably waive any and all legal requirements applicable to annexation of the Property by the City, to the fullest extent permitted by law. The Owners agree to execute any and all documents reasonably requested by the City to evidence such waiver and the consent granted.

**1.3.3 City's acceptance.** The City accepts the Owners' voluntary petition for annexation of the Property, subject to the terms and conditions of this Agreement.

**1.4 Owners' Representations and Warranties.** Subject to the terms and conditions of this Agreement, the Owners covenant to and with City, as follows:

**1.4.1. Existence.** Owners are legally existing entities existing under the laws of the states of Texas and Alaska, and are qualified to transact business in the State of Texas.

**1.4.2 Authorization.** Owners are duly and legally authorized to enter into this Agreement and have complied with all laws, rules, regulations, charter provision and bylaws relating to their corporate existence, and authority to act, and the undersigned representatives are authorized to act on behalf of and bind Owners to the terms of this Agreement. Owners have provided to City, on or prior to the Effective Date, a certified copy of a resolution of their respective Board of Directors, partners or governing body, if required by law, authorizing Owners' execution of this Agreement through their representatives, together with documents evidencing Owners' good standing and authority to transact business in the State of Texas. Owners' have all requisite power to perform all of their obligations under this Agreement. The execution of this Agreement by Developer does not require any consent or approval which has not been obtained, including without limitation, the consent or approval of any Governmental Authority.

**1.4.3 Enforceable Obligations.** Assuming due authorization, execution and delivery by all of the parties to this Agreement, where necessary, all documents executed by Owners pursuant to this Agreement and all obligations of Owners under this Agreement are, to Owners' knowledge and belief, enforceable against Owners in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditor's rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

**1.4.4 No Legal Bar.** To Owners' knowledge and belief, the execution and delivery of this Agreement, all documents executed by Owners in accordance with the terms of this Agreement, and all obligations of Owners under this Agreement will not conflict with any provision of any law, regulation or any statute, rule, law, treaty, code, ordinance, regulation, permit, official interpretation, certificate or of any applicable federal, state, county or City governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation of the above) with jurisdiction over the land or its inhabitants, or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other governmental authority listed above.

**1.4.5 Litigation.** Except such matters which have been disclosed in writing to City or generally known by the public, there are no legal actions or proceedings pending or, to the knowledge of Owners' representatives, threatened against Owners which, if adversely determined, would materially and adversely affect the ability of Owners to fulfill their obligations under this Agreement or the financial condition, business or prospect of Owners.

**1.4.6 Documents.** All documents made available by Owners to City and/or City's agents or representatives prior to the Effective Date, are true, correct and complete copies of the instruments which they purport to be and accurately depict the subject matter addressed in the documents.

**1.4.7 Knowledge.** Owners have no knowledge of any facts or circumstances which presently evidence, or with the passage of time would evidence, that any of the representations made by Owners or by City under this Agreement are in any way inaccurate, incomplete or misleading.

**1.5 Owners' Covenants.** Subject to the terms and conditions of this Agreement, the Owners covenant to and with City, as follows:

**1.5.1** Owners shall not oppose any action taken by the City to annex the Property;

**1.5.2.** Owners shall include the following language in each deed or lease of any part of the Property executed after the Effective Date, executed by or on behalf of the Owners:

"This (conveyance or lease, as applicable) is made and accepted subject to that certain Owners' Consent to Annexation, located in Section 1.3 of the Agreement for Services in Lieu of Annexation, executed by the Owners and the City of San Antonio on \_\_\_\_\_, 2007, which permits the City of San Antonio to annex the herein described property upon the terms and conditions set forth therein. Acceptance of this (conveyance or lease, as applicable) shall evidence your consent and agreement to such annexation by the City and may be relied upon by the City as a beneficiary of your consent and agreement.

Further, this (conveyance or lease, as applicable) is made and accepted subject to the development standards contained in Section II of the Agreement for Services in Lieu of Annexation. Acceptance of this (conveyance or lease, as applicable) shall evidence your consent and agreement to such developmental standards and may be relied upon by the City as a beneficiary of your consent and agreement."

**1.5.3 Waiver of Subrogation.** Owners waive any subrogation rights against City with respect to any claims or damages (including, but not limited to, claims for bodily injury and property damage) which are caused by or result from (i) any risks insured against under any valid collectible insurance contract or policy carried by Owners in force at the time of any such injury and/or damage giving rise to such claim or (ii) any risk that would be covered under any insurance required to be obtained and maintained by Owners under or pursuant to this Agreement, even if such required insurance is not in fact obtained and maintained. This waiver of subrogation is not intended to limit the claims of Owners or City to the face amount or coverage of such insurance policies.

**1.5.4 Waiver of Consequential Damages.** Owners waive all present and future claims for consequential damages against City arising from or related to this Agreement, except for any claim relating to City's affirmative actions which result in a material breach of this Agreement, including, but not limited to, City's annexation of the Property (or any part of the Property) in violation of this

Agreement or City's unauthorized imposition of moratoria on building. Such waiver shall survive any termination of this Agreement.

**1.5.5 Waiver of Existing Claims.** Owners hereby release any and all presently existing claims of any kind or character which Owners have or may have under or pursuant to this Agreement or its subject matter, against City and its elected officials, members, agents, employees, officers, directors, shareholders and representatives, individually and collectively.

## **1.6 City's Representations and Warranties.**

**1.6.1 Existence.** City is a municipal corporation and home rule city of the State of Texas, principally situated in Bexar County.

**1.6.2 Power and Authority.** City has all requisite municipal corporate power and authority to enter into this Agreement and perform all of its obligations under this Agreement. The execution and performance by City of this Agreement has been duly authorized by City Ordinance, and except for the additional approval of the Owners, no consent or approval of any other person is required, including, without limitation, any governmental authority.

**1.6.3 No Legal Bar.** To City's knowledge and belief, the execution and performance by City of this Agreement, all documents executed by City pursuant to this Agreement, and all obligations of City under this Agreement do not and will not violate any provisions of any contract, agreement or instrument to which City is a party or is subject.

**1.6.4 Litigation.** Except such matters which have been disclosed in writing to Owners or generally are known by the public, there are no legal actions or proceedings pending known to the City which, if adversely determined, would materially and adversely affect the ability of the City to fulfill its obligations under this Agreement.

**1.6.5 Enforceable Obligations.** Assuming due authorization, execution and delivery by all other parties to this Agreement where necessary, this Agreement, all documents executed by the City pursuant to this Agreement and all obligations of the City under this Agreement are, to City's knowledge and belief, enforceable against the City in accordance with their terms.

## **1.7 City's Covenants.**

**1.7.1 Waiver of Subrogation.** With respect to any policies of insurance which the City may obtain (without any obligation to obtain such policies of insurance), City waives any subrogation rights against the Owners with respect to any claims or damages (including, but not limited to, claims for bodily injury and property damage) which are caused by or result from any risks insured against under any valid collectible insurance contract or policy carried by City in force at the time of any such injury and/or damage giving rise to such claim. This waiver of subrogation is not intended to limit the claims of City to the face amount or coverage of such insurance policies.

**1.7.2 Notice of Litigation.** City shall deliver notice to the Owners of any legal proceedings brought against City related to this Agreement. Such notice shall be delivered not later than fifteen (15) days after the earlier to occur of City's receipt of service of a claim or City's receipt of actual written notice of a claim, but no any event, prior to any settlement of such claim by City.

**1.8 Disclaimer of City.** ANY CITY APPROVALS GRANTED PURSUANT TO THIS AGREEMENT DO NOT REFLECT ANY COMMITMENT, APPROVAL, REPRESENTATION,

WARRANTY OR OBLIGATION WITH RESPECT TO THE SUFFICIENCY, ACCURACY, COMPLETENESS OR INTEGRITY OF ANY MATTERS SO APPROVED BY CITY, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY CITY. OWNERS ACKNOWLEDGE THAT, EXCEPT FOR CITY'S REPRESENTATIONS CONTAINED WITHIN THIS AGREEMENT, NEITHER CITY NOR ANY AFFILIATE OF CITY NOR ANY RELATED PARTY OF CITY HAS MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER (WHETHER EXPRESS OR IMPLIED) REGARDING THE DEVELOPMENT, THE SUBJECT MATTER OF THIS AGREEMENT OR ANY EXHIBIT TO THIS AGREEMENT, OTHER THAN THE EXPRESS OBLIGATIONS CONTAINED IN THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED BY THIS AGREEMENT. OWNERS AGREE THAT NEITHER CITY NOR ANY OF CITY'S AFFILIATES AND RELATED PARTIES WILL HAVE ANY RESPONSIBILITY FOR (AND HAVE MADE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO) ANY OF THE FOLLOWING:

1.8.1 THE ACCURACY OR COMPLETENESS OF ANY INFORMATION SUPPLIED OR AUTHORIZED FOR INCLUSION BY ANY PERSON OTHER THAN AUTHORIZED CITY STAFF UNDER THIS AGREEMENT;

1.8.2 THE COMPLIANCE OF THE DEVELOPMENT OF THE PROPERTY, DEVELOPMENT PLANS AND ANY PROPOSED IMPROVEMENT WITH ANY GOVERNMENTAL RULE; OR

1.8.3 THE ACCURACY OF ANY FINANCIAL PROJECTIONS, COST ESTIMATES, DEVELOPMENT SCHEDULES OR OTHER MATTERS RELATED TO THE DEVELOPMENT OF THE PROPERTY.

NEITHER CITY NOR ANY OF CITY'S AFFILIATES AND RELATED PARTIES WILL BE LIABLE AS A RESULT OF ANY FAILURE BY ANY PERSON (OTHER THAN CITY, CITY'S AFFILIATES OR RELATED PARTIES) UNDER THIS AGREEMENT (INCLUDING WITHOUT LIMITATION ANY DOCUMENT APPENDED AS AN EXHIBIT TO THIS AGREEMENT) TO PERFORM THEIR RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT. IT IS UNDERSTOOD AND AGREED BY THE OWNERS (FOR THEMSELVES AND FOR ANY PERSON CLAIMING BY, THROUGH OR UNDER THEM) THAT OWNERS HAVE BEEN AND WILL CONTINUE TO BE SOLELY RESPONSIBLE FOR MAKING THEIR OWN INDEPENDENT APPRAISAL OF AND INVESTIGATION INTO THE PROPERTY, THE DEVELOPMENT OF THE PROPERTY, AND ALL DEVELOPMENT PLANS.

1.9 **Reliance.** Each signer of this Agreement recognizes and acknowledges that, in entering into this Agreement, (a) all parties to this Agreement are expressly and primarily relying on the truth and accuracy of the foregoing representations, warranties and covenants of each party without any obligation to investigate the accuracy or completeness of such representations and covenants, and notwithstanding any investigation of such representations and covenants by any party to this Agreement, that such reliance exists on the part of each party to this Agreement prior to the Effective Date and thereafter; (b) such representations and covenants are a material inducement to each party in making this Agreement and agreeing to undertake and accept its terms, and (c) each party would not be willing to do so in the absence of any of such representations and covenants, all of which shall survive the termination of this Agreement.

## SECTION II: DEVELOPMENT STANDARDS

**2.1 Regulatory Controls.** The Owners' permitting and construction of the Property requires compliance with several chapters of the City Code of the City of San Antonio, including the Unified Development Code (the UDC). Such provisions require the development of the Property according to, among other things, park and open space requirements; permitted land uses; and block, street, sidewalk, parking and loading, buffer, signage, and other infrastructure requirements.

A Master Development Plan for the Stevens Ranch portion of the Property was approved by the City on January 28, 2004 and a Master Development Plan for the Felder Tract portion of the Property was approved by the City on January 21, 2005, and amended on June 29, 2007 (the "Applications"), prior to the request for PID creation and nonannexation of the Property. The City and the Owners have now assessed the Owners' land use and development standards for the Property as called for by the designations originally requested in the Applications, and have determined that the Applications shall be resubmitted to comply with the development standards contained in this Section II. The Parties agree that the Property shall be developed according to the City Code of the City of San Antonio, Chapter 6 (Building Code), Chapter 10 (Electricity Code), Chapter 11 articles I, II and III (Fire Prevention Code) including the 2006 International Fire Code and Amendments, Chapter 24 (Plumbing) and Chapter 35 (the UDC), with the following exceptions and amendments:

**2.1.1.** Chapter 11, article IV, regulating the use of fireworks, shall not apply.

**2.1.2.** The connectivity ratio of 1.2 required by Section 35-506(e)(1), shall not apply. The streets shall be constructed to ensure a higher connectivity ratio by limiting cul-de-sacs to areas that are constrained by major flood zones, topography, sensitive environmental areas, and limiting the length of blocks to a maximum of 800 feet.

**2.1.3** With respect to the Stevens Ranch portion of the Property, tree preservation applications must be consistent with the current UDC provisions, or the equivalent, as determined by the City.

**2.2 Inspections.** As part of the development (plat) review, the City shall include inspections for streets and drainage as if the area were in the City, and City Fire inspectors shall conduct all reviews for Fire Flows and Hydrant spacing.

**2.3 Master Development Plan.** Any MDP filed pursuant to this Agreement for any property described in **Exhibit "A"** shall be governed by the provisions of Section 35-412 ("Master Development Plan") of the UDC.

**2.4 Plat Review.** The City shall be the sole plat reviewing entity for Bexar County, in accordance with the Interlocal Agreement between the County and the City.

**2.5. Vested Rights.** No vested rights, as that term is used in Article VII of the City's UDC, may be requested for projects or properties within the Public Improvement District for a vesting date prior to the execution date of this Agreement. Within the boundaries of the Public Improvement District vested rights shall only be accrued based upon the complete submission of an MDP, subdivision plats or application building permit. If a complete permit application for a project within the boundaries of the Property was submitted prior to the execution date of this Agreement, the vesting date for the project shall not be the date of the permit application submittal, but shall be the execution date of this

Agreement, provided that the project may exercise vested rights only to the extent that the project is consistent with the terms of this Section II.

**2.6 Development Fees.** Owners shall pay City all application, plan review, plat review, and filing fees applicable to the approval of subdivision plats in the ETJ and all fees (including, without limitation, impact fees, traffic impact analysis fees, water/wastewater impact fees, general benefit fees and stormwater management fees) assessed with respect to the Property at the times and in the amounts set forth in the UDC and this Agreement.

**2.7 Binding Agreement.** The Parties agree that all of the development standards contained in this Agreement constitute an easement that continues in perpetuity and shall run with the land, and that all deeds or leases of any portion of the Property shall reflect this agreement, as required by Section 1.4, above. Any right, title, or interest granted in this Agreement to the Owners passes to each successor and assign of the Owners and each following successor and assign, and the word "Owner" includes all such successors and assigns. This easement survives unity of ownership of the fee and the easement.

**2.8 Review Requirement.** An executed copy of this Agreement, and any subsequent amendments to this Agreement, shall be attached to every request to the City for plan review, plat review, fee payment, or other documents requiring City staff review and/or approval.

### SECTION III: INDEMNIFICATION

**3.1 EXCEPT AS DESCRIBED OTHERWISE IN THIS AGREEMENT AND IN SECTION 3.2, THE OWNERS COVENANT AND AGREE TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND THE ELECTED OFFICIALS, MEMBERS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY (INDIVIDUALLY AND COLLECTIVELY, "INDEMNITEE") FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO: PERSONAL INJURY, BODILY INJURY, DEATH AND PROPERTY DAMAGE (COLLECTIVELY REFERRED TO AS "CLAIMS"), MADE UPON INDEMNITEE DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO OWNERS' ACTIVITIES RELATED TO THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF OWNERS, COLLECTIVELY AND INDIVIDUALLY, ANY AGENT, OFFICER, REPRESENTATIVE, OWNERS' EMPLOYEE OR PERSONNEL, CONSULTANT, CONTRACTOR OR SUBCONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, PERSONNEL, DIRECTORS AND REPRESENTATIVES (INDIVIDUALLY AND COLLECTIVELY, "OWNERS' PARTY"). THE INDEMNITY PROVIDED FOR IN THIS SECTION 3.1 SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE IN INSTANCES WHERE SUCH NEGLIGENCE OR WILLFUL MISCONDUCT CAUSES PERSONAL INJURY, BODILY INJURY, DEATH OR PROPERTY DAMAGE. IF OWNERS AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. OWNERS SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST AN INDEMNITEE KNOWN TO THE OWNERS**

RELATED TO OR ARISING OUT OF OWNERS' ACTIVITIES RELATED TO THIS AGREEMENT. OWNERS SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND, AT OWNERS' EXPENSE. CITY SHALL HAVE THE RIGHT, AT ITS OPTION, AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING OWNERS OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION 3.1.

**3.2 EXCEPTIONS TO INDEMNIFICATION BY OWNER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SECTION 3.1, OWNERS SHALL NOT INDEMNIFY, DEFEND AND HOLD HARMLESS ANY INDEMNITEE FROM CLAIMS RESULTING FROM OR RELATED TO:

**3.2.1 ANY CHALLENGE TO CITY'S AUTHORITY TO ENTER INTO OR PERFORM UNDER THIS AGREEMENT; OR**

**3.2.2 CITY'S NEGLIGENCE OR WILLFUL MISCONDUCT IN THE EXERCISE OF ITS GOVERNMENTAL FUNCTIONS.**

#### **SECTION IV: MISCELLANEOUS**

**4.1 Termination.** Upon the occurrence of any or all of the following events, the City may, at its option, terminate this Agreement in compliance with the notice provisions in Section 4.6 below:

**4.1.1** The termination of the Westside Special Improvement District by Bexar County;

**4.1.2** The determination by the Texas Department of Transportation (TxDOT) not to use Pass-Through Financing for the construction and improvement of Highway 211 between Potranco Road and Culebra Road, and to widen Potranco Road between Loop 1604 and Highway 211; or

**4.1.3** Owners, its heirs or assigns, attempt to withdraw, rescind or nullify the Owners' consent to annexation, contained in Section 1.3 of this Agreement, or to otherwise challenge the enforceability of the consent to annexation by City, except to the extent permitted under such consent to annexation.

**4.2 No liability.** Nothing in this Agreement shall be deemed to impose liability on Owners, or the City for actions or omissions of any third party (including, without limitation, any third party contractor or engineer).

**4.3. Modifications.** Any modifications to this Agreement must be in writing, and signed by each signatory of this Agreement or its successors, or they shall not be binding upon any of the parties of this Agreement.

**4.4 Severability.** If any covenant, provision, or agreement of this Agreement shall be held illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties to this Agreement that the remainder of this Agreement shall not be affected by the illegal, invalid or unenforceable covenant, provision, or agreement, and that this Agreement shall otherwise continue in full force and effect. It is the further intention of the parties that in lieu of each covenant, provision, or agreement of this instrument that is held illegal, invalid, or unenforceable, there be added as a part of this Agreement a

clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

**4.5 Recording of this Agreement.** This Agreement shall be recorded within thirty (30) days following approval by the City Council, by the Owners in the Real Property Records of Bexar County, Texas as a covenant to title of the parcels more specifically described in **Exhibit "A"**. Consequently, the Owners and the City agree that the provisions of this Agreement shall run with the land described in **Exhibit "A"** as long as this Agreement remains in effect, and shall be binding on all parties having any right, title, or interest in the property described in **Exhibit "A"** in whole or in part. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. No party may, without the prior written consent of the other party hereto, assign any rights, powers, duties, or obligations hereunder. This Agreement shall not inure to the benefit of any party other than the parties to this Agreement and their successors and permitted assignees.

**4.6 Breach and Default.** A material and substantial breach of this Agreement by either party shall constitute a default and serve as grounds for considering this Agreement null and void.

Before the City deems this Agreement as breached or expired, the City must provide the Owners written notice describing the default. If the default continues for a period of thirty (30) days after such notice is delivered to the Owners, this Agreement shall be considered breached and null and void; provided that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the Owners shall not be deemed to be in default if the Owners commence such cure within such thirty (30) day period and thereafter diligently pursue such cure to completion.

The failure to include in each deed or lease for any part of the Property executed after the Effective Date the development standards of Section II, as required by Section 1.5.2, is a curable event.

Nothing in this Agreement shall be construed so as to waive the Owners' right to protest a zoning case filed for any property described in **Exhibit "A"**.

**4.7 No Partnership.** Neither this Agreement nor any part of this Agreement shall be construed as creating a partnership, joint venture, or other business affiliation among the parties or otherwise.

**4.8 Entire Agreement.** This Agreement and the exhibits to this Agreement supersede any and all other prior or contemporaneous agreements, oral or written, among the parties with respect to the matters addressed in this Agreement.

**4.9 Notice.** All notices given with respect to this Agreement shall be in writing and deemed delivered upon receipt if hand delivered or sent by confirmed facsimile transmission, and, if mailed, deemed received on the third business day after deposit in the United States mail, postage prepaid, addressed to the parties as shown below:

**IF TO THE CITY:**

**City of San Antonio**  
**Development Services Department**  
Attn: Director  
1901 S. Alamo, 2<sup>nd</sup> Floor  
San Antonio, Texas 78204

**City of San Antonio**  
**Planning and Community Development**  
**Department**  
Attn: Director  
1901 S. Alamo, 2<sup>nd</sup> Floor  
San Antonio, Texas 78204

With a copy to:

**City of San Antonio**  
**Office of the City Attorney**  
Attn: City Attorney  
City Hall, 3<sup>rd</sup> Floor  
P.O. Box 839966  
San Antonio, Texas 78283-3966  
City of San Antonio

**Office of the City Clerk**  
Attn: City Clerk  
City Hall, 2<sup>nd</sup> Floor  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**IF TO OWNERS:**

**Cumberland Potranco Joint Venture**  
WRI Cumberland GP, L.L.C.  
Attn: Martin Debrovner  
Vice Chairman  
P.O. Box 924133  
Houston, Texas 77292

**Cumberland 211, Ltd.**  
Attn: George A. Field, III  
Manager  
100 Crescent Court, Suite 210  
Dallas, Texas 75201

**Navigators Stevens Ranch, L.P.**  
Attn: Patrick H. Daugherty, Manager  
J. Kevin Ciavarra, Manager  
1566 W. Algonquin Road  
Suite 230  
Hoffman Estates, IL 60192-1575

**KD CIRI I, L.L.C.**  
Attn: James Kerby  
Manager  
8601 Ranch Road 2222  
Building 1, Suite 235  
Austin, Texas 78730

**CIRI Land Development Company**  
Attn: Greg Jones  
President  
2525 C Street  
Suite 500  
Anchorage, AK 99509-3330

**Cumberland 90, Ltd.**  
Attn: George A. Field, III  
Manager  
100 Crescent Court, Suite 210  
Dallas, Texas 75201

Each Party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the City or Owners, as the case may be.

**4.10   Venue.** This Agreement shall be governed by and construed under the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be exclusively in Bexar County, Texas.

**4.11   Further Documents.** The Parties agree they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate the purposes of this Agreement.

**4.12 Attorney's Fees.** Each Party to this Agreement shall pay its own attorneys' fees with respect to the drafting, review, and negotiation of this Agreement and all subsequent instruments and agreements related to the Land Use and Development Standards. In the event it should ever become necessary for any Party to retain the services of an attorney to enforce its rights under this Agreement against any other party to this Agreement, then, should such Party prevail, that Party shall be entitled to recover, in addition to any other damages and awards to which it may be entitled, its reasonable attorneys' fees from the defaulting party.

**4.13 Time.** Time is of the essence of this Agreement and each and every provision of this Agreement.

**4.14 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.

This Agreement for Services in Lieu of Annexation is **EXECUTED** as of the dates set forth beneath the signatures of each party below, to be effective, however, as of the date first set forth above.

**City of San Antonio,  
a Texas municipal corporation**

By: \_\_\_\_\_  
Name: Sheryl Sculley  
Title: City Manager  
Date:

The State of Texas  
County of Bexar

This instrument was acknowledged before me on \_\_\_\_\_, 2007, by \_\_\_\_\_, City Manager of the City of San Antonio, Texas, a Municipal Corporation.

\_\_\_\_\_  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007.

**Cumberland Potranco Joint Venture, a Texas joint  
venture,**  
By: WRI Cumberland GP, L.P., a Texas limited  
partnership, its Manager,  
By: WRI Cumberland GP, L.L.C., a Texas limited  
liability company, its General Partner

By: \_\_\_\_\_  
Name: Martin Debrovner  
Title: Vice Chairman  
Date:

The State of Texas  
County of Bexar

This instrument was acknowledged before me on \_\_\_\_\_, 2007, by Martin Debrovner, Vice Chairman of Cumberland Potranco Joint Venture, a Texas joint venture, managed by WRI Cumberland GP, L.P., a Texas limited partnership, general partner of WRI Cumberland GP, L.L.C., a Texas limited liability company, its General Partner, property owner within the District.

\_\_\_\_\_  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day of  
\_\_\_\_\_ 2007.

**Cumberland 211, Ltd.,  
a Texas limited partnership  
By: Cumberland Properties, L.L.C.,  
a Texas corporation, its General Partner**

By: \_\_\_\_\_  
Name: George A. Field, III  
Title: Manager  
Date:

The State of Texas

County of Bexar

This instrument was acknowledged before me on \_\_\_\_\_, 2007, by George A Field, III, Manager  
Cumberland Properties, L.L.C., a Texas limited liability company, general partner of Cumberland 211, Ltd., a  
Texas Limited Partnership, property owner within the District.

\_\_\_\_\_  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

\_\_\_\_\_  
(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**Navigators Stevens Ranch, L.P.,  
a Texas limited partnership  
By: NSR GP, LLC, a Texas limited liability company,  
its General Partner**

By: \_\_\_\_\_  
Name: Patrick H. Daugherty  
Title: Manager  
Date:

By: \_\_\_\_\_  
Name: J. Kevin Ciavarra  
Title: Manager  
Date:

The State of Texas  
County of Dallas

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Patrick H. Daugherty, as a Manager of NSR GP, LLC, a Texas limited liability company, the General Partner of NAVIGATORS STEVENS RANCH, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership, property owner within the District.

\_\_\_\_\_  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

\_\_\_\_\_  
(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 2007.

The State of Texas  
County of Dallas

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by J. Kevin Ciavarra, as a Manager of NSR GP, LLC, a Texas limited liability company, the General Partner of NAVIGATORS STEVENS RANCH, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership, property owner within the District.

\_\_\_\_\_  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

\_\_\_\_\_  
(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**KD CIRI I, L.L.C.,  
a Texas limited liability company**

By: \_\_\_\_\_  
Name: James Kerby  
Title: Manager  
Date:

The State of Texas

County of Bexar

This instrument was acknowledged before me on \_\_\_\_\_, 2007, by James Kerby, Manager KD CIRI I, L.L.C., a Texas limited liability company, property owner within the District.

Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007.

**CIRI Land Development Company,  
an Alaska corporation**

By: \_\_\_\_\_  
Name: Greg Jones  
Title: President  
Date:

The State of Texas

County of Bexar

This instrument was acknowledged before me on \_\_\_\_\_, 2007, by Greg Jones, President, CIRI Land Development Company, an Alaska corporation, property owner within the District.

Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007.

<p><b>Cumberland 90, Ltd., a Texas limited partnership</b>  <b>By: Cumberland Properties, L.L.C., a Texas limited</b>  <b>liability company, its General Partner</b></p>		<b>Attest:</b>
<p>By: _____</p> <p>Name: George A. Field, III  Title: Manager</p> <p>Date: _____</p>		<p>By: _____</p> <p>Name: Leticia M. Vacek  Title: City Clerk</p> <p>Date: _____</p>
<p>The State of Texas    County of Bexar    This instrument was acknowledged before me on  _____, 2007, by George A Field, III, Manager,  Cumberland 90, Ltd., a Texas limited partnership,  general partner of Cumberland Properties, L.L.C., a  Texas limited liability company, property owner within  the District.</p>		<p><b>Approved as to Form:</b></p> <p>By: _____  Title: City Attorney  Date: _____</p>
<p>_____  Notary Public, State of Texas  (PERSONALIZED  SEAL)</p> <p>_____  (Print name of Notary Public here)</p> <p>My commission expires the _____ day  of _____ 2007</p>		

EXHIBIT "A"



LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

FIELD NOTES

FOR

A 3.625 acre, or 157,918,037 square feet more or less, tract of land being comprised of all of that 27.42 acre tract described in conveyance to Cumberland 211, Ltd. in Special Warranty Deed recorded in Volume 12395, Pages 1298-1312 of the Official Public Records of Real Property of Bexar County, Texas, out of a 1,349 acre tract recorded in Volume 11034, Pages 5-74 of the Official Public Records of Bexar County, Texas, and being all of a 1,305 acre tract and a 2.871 acre tract recorded in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, all of a 564 8 acre tract, out of that 609 83 acre tract of land conveyed to T Slash Bar Texas, Ltd. in a Warranty Deed with Vendors Lien recorded in Volume 6738, Pages 287-292 of the Official Public Records of Real Property of Bexar County, Texas, out of that 710.6 acre tract described in conveyance to Cumberland 211, Ltd. in Special Warranty Deed recorded in Volume 12395, Pages 1298-1312 of the Official Public Records of Real Property of Bexar County, Texas, all of a 40.95 acre tract described in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, all of a called 942.966 acre tract described in Volume 12634, Pages 160-168 of the Official Public Records of Bexar County, Texas, a portion of State Highway 211, a variable width right-of-way, and a portion of F.M. Highway 1957 (Potranco Road) a variable width right-of-way, out of the Clementine Bundick Survey No. 13 1/2, Abstract No. 992, County Block 4325, the Juan Talamantes Survey No. 300 1/3 (sometimes called 300 1/5), Abstract 1030, County Block 4369, the S. Musquez Survey No. 300 1/6, Abstract 1084, County Block 4371, the John Fitzgerald Survey No. 33, Abstract 1290, County Block 4402, the S. Tyler Survey No. 367, Abstract 744, County Block 4401, the P. Vela De Rubio Survey No. 207, Abstract 1118, County Block 4382, the C.C.S.D. & R C.N.G.R. Survey No. 207, Abstract 887, County Block 4381, the W.M. Bryan Survey No. 204, Abstract 118, County Block 4383, the C. Castro Survey No. 300 1/2, Abstract 185, County Block 4379, the N. Perez Survey No. 300 1/4, Abstract 1151, County Block 4378, the A. Cagnon & Bro. Survey No. 208, Abstract 955, County Block 4367, the T. Quintera Survey No. 300, Abstract 978, County Block 4353, the Manuel Leal Survey No. 299, Abstract 4357, County Block 4357, the I. Rodriguez Survey No. 300 1/8, Abstract 655, County Block 4370, the Jose Musquiz Survey No. 300 3/4, Abstract 1149, County Block 4368, Johann Pfeiffer Survey No. 7, Abstract 1018, County Block 4349, the E. Davis Survey No 6. Abstract No. 1001, County Block 4348, the Precilla Tarkington, Survey No. 5, Abstract No 1029, County Block 4347, the Mrs S.C. Craig Survey No. 13 3/4 , Abstract No. 1077, County. Block 4345 and the Juana Martinez Survey No. 14 1/2 , Abstract No. 1114, County Block 4016 all in Bexar County Texas, Said 3,060 acre tract being more fully described as follows, bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone, basis of bearings is the north line of the 27.42 acre tract as found monumented on the ground:

BEGINNING: At a found Texas Department of Transportation Concrete Monument, on the north end of a cutback line of the north right-of-way line of F.M. Highway 1957, a southwest corner of a 10.00 acre tract recorded in Volume 10690, Pages 831-835 of the Official Public Records of Real Property of Bexar County, Texas, on a southeast corner of the 27.42 acre tract;

THENCE: With the north right-of-way line of the F.M. Highway 1957 (Potranco Road), the south line of the 27.42 acre tract, the following calls and distances:

S  $88^{\circ}27'57''W$ , a distance of 30.03 feet to a Texas Department of Transportation Monument with a brass plate;

S  $45^{\circ}27'38''W$ , a distance of 71.36 feet to a Texas Department of Transportation Monument with a brass plate;

S  $89^{\circ}32'50''W$ , a distance of 425.86 feet to a Texas Department of Transportation Monument with a brass plate;

S  $88^{\circ}37'45''W$ , at distance of 412.45 feet to a found  $\frac{1}{2}$ " iron rod, for the southwest corner of a 27.42 acre tract, the southeast corner of the 40.95 acre tract, a distance of 390.00 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" for the southwest corner of the 40.95 acre tract, the southeast corner of the 710.6 acre tract, and continuing, with the south line of the 710.6 acre tract, for a total distance of 1545.42 feet to a point;

THENCE: S  $01^{\circ}22'15''E$ , departing the north right-of-way line of F.M. Highway 1957, the south line of the 710.6 acre tract, across the F.M. Highway 1957, a distance of 100.36 feet to a found TxDOT monument with brass plate, an angle point of Highway 211, a north corner of a 41.79 acre tract, described in Volume 8818, Pages 1645-1648 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northwest and west line of the 41.79 acre tract, the southeast and east line Highway 211, the following calls and distances:

S  $44^{\circ}08'40''W$ , a distance of 182.22 feet to a found TxDOT monument with brass plate;

S  $01^{\circ}22'19''E$ , a distance of 228.58 feet to a found TxDOT monument with brass plate, the beginning of a curve to the left;

Southeasterly, along the arc of a curve to the left, said curve having a radius of 5479.58 feet, a central angle of  $5^{\circ}25'00''$ , a chord bearing and distance of S  $04^{\circ}04'49''$  E, 517.84 feet, and an arc length of 518.03 feet to a found TxDOT monument with brass plate;

S  $08^{\circ}05'35''$  E, a distance of 663.33 feet to a found  $\frac{1}{2}$ " iron rod;

S  $15^{\circ}20'29''$  E, at a distance of 265.57 feet passing the northwest corner of Lot 2, Block 1, County Block 4349, Citicorp Subdivision Unit 2, recorded in Volume 9530, Page 168-170 of the Deed and Plat Records of Bexar County Texas, and continuing, with the west line of Lot 2, a total distance of 883.28 feet to a found  $\frac{1}{2}$ " iron rod;

THENCE: With the west line of Lot 2, the northeast right-of-way line of Highway 211, the following calls and distances:

S  $13^{\circ}41'51''$  E, a distance of 795.17 feet to a found type III highway right-of-way monument at an angle point;

S  $61^{\circ}27'40''$  E, a distance of 171.25 feet to a found  $\frac{1}{2}$  inch iron rod with a yellow cap marked "Pape-Dawson", the south most southwest corner of Lot 2 and the northwest corner of a 33.68 acre tract described in Volume 8818, Pages 1638-1644 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northeast right-of-way line of Highway 211, the southwest line of the 33.68 acre tract, the following calls and distances:

S  $22^{\circ}36'22''$  E, a distance of 110.10 feet to a found TxDOT monument with brass plate;

S  $36^{\circ}40'25''$  W, a distance of 186.68 feet to a found TxDOT monument with brass plate;

S  $13^{\circ}42'32''$  E, at a distance of 215.77 feet passing a found  $\frac{1}{2}$ " iron rod, the southwest corner of the 33.68 acre tract, the northwest corner of a 200.0 acre tract, described in Volume 8426, Pages 347-352 of the Official Public Records of Bexar County, Texas and continuing for a total distance of 352.00 feet to a point;

THENCE: With the northeast right-of-way line of Highway 211, the southwest line of the 200.0 acre tract, the following calls and distances:

S 09°30'13"E, a distance of 681.84 feet to a point;

S 13°42'32"E, a distance of 573.94 feet to a point;

S 17°15'31"E, a distance of 424.33 feet to a point;

S 25°04'11"E, a distance of 754.91 feet to a point;

S 27°55'30"E, a distance of 390.46 feet to a point;

S 65°35'16"E, a distance of 173.93 feet to a point;

N 79°57'47"E, a distance of 83.49 feet to a point;

S 12°19'49"E, a distance of 110.00 feet to a point;

S 23°41'04"W, a distance of 174.26 feet to a point;

THENCE: S 59°08'43"W, departing the northeast right-of-way line of Highway 211, the southwest line of the 200.0 acre tract, across Highway 211, a distance of 500.22 feet to a point on the southwest right-of-way line of Highway 211, the northeast line of the 942.966 acre tract;

THENCE: With the southwest right-of-way line of Highway 211, the northeast line of the 942.966 acre tract, the following calls and distances:

S 30°51'17"E, a distance of 90.55 feet to a found  $\frac{1}{2}$ " iron rod;

S 20°56'10"E, a distance of 345.83 feet to a found  $\frac{1}{2}$ " iron rod;

S 34°50'41"E, a distance of 580.54 feet to a found "+" in concrete;

S 50°14'31"E, a distance of 212.00 feet to a found TxDOT monument with brass plate;

S 30°54'30"E, a distance of 464.25 feet to a found TxDOT monument with brass plate, the beginning of a curve to the left;

Southeasterly, along the arc of a curve to the left, said curve having a radial bearing of N 59°06'04" E, a radius of 3064.79 feet, a central angle of 21°30'05", a chord bearing and distance of S 41°38'59" E, 1143.39 feet, and an arc length of 1150.12 feet to a found TxDOT monument with brass plate;

S 52°23'28"E, a distance of 474.00 feet to a found TxDOT monument with brass plate, the beginning of a curve to the right;

Southeasterly, along the arc of a curve to the right, said curve having a radius of 2664.79 feet, a central angle of 25°20'24", a chord bearing and distance of S 39°43'16" E, 1168.97 feet, and an arc length of 1178.55 feet to a found  $\frac{1}{2}$ " iron rod, the east corner of the 942.966 acre tract;

THENCE: Departing the southwest right-of-way line of Highway 211, with the southeast and south line of the 942.966 acre tract, the following calls and distances:

S 50°44'43"W, a distance of 309.43 feet to a found  $\frac{3}{4}$ " iron rod;

N 68°09'21"W, a distance of 522.74 feet to a found  $\frac{1}{2}$ " iron rod;

S 53°27'57"W, a distance of 654.06 feet to a found  $\frac{1}{2}$ " iron rod;

S 00°33'37"E, a distance of 572.92 feet to a point, for a southeast corner of 942.966 acre tract;

S 89°50'13"W, a distance of 327.83 feet to a point;

THENCE: Departing the south line of said 942.966 along and with the north line of said 564.8 acre tract, the following calls and distances:

SOUTH, a distance of 614.66 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

EAST, a distance of 1026.22 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

NORTH, a distance of 474.32 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

EAST, a distance of 872.06 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", a point in the west right of way line of State Highway 211, a variable width right of way;

THENCE: Along and with the east line of said 609.83 acre tract and the west right of way line of said State Highway 211 the following calls and distances:

S 00°13'08"E, a distance of 65.97 feet to a found TXDOT monument with brass plate;

S 16°54'50"E, a distance of 904.96 feet to a found TXDOT monument with brass plate;

S 39°03'26"W, a distance of 156.70 feet to a found  $\frac{1}{2}$ " iron rod;

S 00°21'16"E, a distance of 110.10 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

N 89°38'44"E, a distance of 48.10 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

S 51°56'53"E, a distance of 207.19 feet to a found TXDOT monument with brass plate, the beginning of a non-tangent curve to the right;

Southeasterly, along the arc of said curve to the right, said curve having a radial bearing of S 79°27'16" W, a radius of 2614.79 feet, a central angle of 10°09'33", a chord bearing and distance of S 05°27'58" E, 463.02 feet, and an arc length of 463.63 feet to a found TxDot Monument;

S 00°23'12"E, a distance of 476.16 feet to a found TXDOT monument with brass plate;

S 08°37'14"E, a distance of 349.75 feet to a found TXDOT monument with brass plate;

S 00°23'55"E, a distance of 992.12 feet to found  $\frac{1}{2}$ " iron rod;

S 15°36'15"W, a distance of 716.77 feet to a found TXDOT monument with brass plate;

S 26°59'51"W, a distance of 196.18 feet to found TXDOT monument with brass plate;

S 38°23'07"W, a distance of 259.04 feet to found TXDOT monument with brass plate;

THENCE: Leaving the west right of way line of said State Highway 211 and along and with the north right of way line of U.S. Highway 90, a variable width right of way the following calls and distances:

S 49°20'35"W, a distance of 226.55 feet to a found TXDOT monument with brass plate;

S 64°10'49"W, a distance of 194.07 feet to a found TXDOT monument with brass plate;

S 78°13'55"W, at a distance of 343.45 feet passing a found TXDOT monument with brass plate, at a distance of 403.33 passing a found  $\frac{1}{2}$ " iron rod, continuing for a total distance of 1247.85 feet to a found TXDOT monument with brass plate;

S 81°32'45"W, a distance of 206.23 feet to a found TXDOT monument with brass plate;

S 79°40'23"W, a distance of 300.09 feet to a found TXDOT monument with brass plate;

S 71°45'36"W, a distance of 1318.19 feet to a found TXDOT monument with brass plate;

S 74°34'04"W, a distance of 200 17 feet to a found TXDOT monument with brass plate;

S 71°48'08"W, a distance of 930.39 feet to a found  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

THENCE: N 00°11'04"W, departing the north right of way of U.S. Highway 90, along and with the west line of said 564.8 acre tract and the east line of a 131.9209 acre tract conveyed to Showplace Hill, Inc. in Volume 5801, Pages 5757, at a distance of 2253.55 feet passing a found  $\frac{1}{2}$ " iron rod, a northeast corner of said 131.9209 acre tract and the southeast corner of a 221.9387 acre tract recorded in Volume 5686, Pages 1998-2015 of the Official Public Records of Real Property, Bexar County, Texas, continuing for a total distance of 6094.61 feet to a found  $\frac{1}{2}$ " iron rod, the northeast corner of said 221.9387 acre tract and on the south line of a 942.966 acre tract recorded in Volume 10854, Pages 1216-1221 of the Official Public Records of Real Property of Bexar County, Texas, the northwest corner of said 564.8 acre tract;

THENCE: S 89°50'13"W, along and with the south line of said 942.966 acre tract a distance of 3664.10 feet to the southwest corner of said 942.966 acre tract;

THENCE: With the west line of the 942.966 acre tract, the following calls and distances:  
N 00°17'31"E, a distance of 2187.60 feet to a found  $\frac{1}{2}$ " iron rod;  
N 00°17'56"E, a distance of 1294.08 feet to a found  $\frac{1}{2}$ " iron rod;  
N 00°21'10"E, a distance of 1405.93 feet to a found  $\frac{1}{2}$ " iron rod;  
N 89°56'15"W, a distance of 1438.36 feet to a point, for a west corner;  
N 00°16'48"W, a distance of 2060.98 feet to a found  $\frac{1}{2}$ " iron rod, the northwest corner of this tract;

THENCE: With the north line of the 942.966 acre tract, the following calls and distances:  
N 89°45'46"E, a distance of 3111.93 feet to a found  $\frac{1}{2}$ " iron rod;  
S 61°51'35"E, a distance of 1307.53 feet to a point;  
N 37°54'16"E, a distance of 399.71 feet to a found  $\frac{1}{2}$ " iron rod;  
N 72°40'53"E, a distance of 457.34 feet to a found  $\frac{1}{2}$ " iron rod;  
N 90°00'00"E, a distance of 481.50 feet to a point, on the southwest right-of-way line of Highway 211, the northeast corner of the 942.966 acre tract;

THENCE: With the southwest and west right-of-way line of Highway 211, the following calls and distances:  
N 14°47'09"W, a distance of 1025.81 feet to a point;  
N 61°23'25"W, a distance of 171.29 feet to a point;  
N 22°41'13"W, a distance of 110.00 feet to a point;  
N 36°40'25"E, a distance of 186.68 feet to a point;  
N 13°42'32"W, a distance of 913.00 feet to a point;  
N 12°09'10"W, a distance of 602.48 feet to a point;

N 12°09'10" W, a distance of 1001.55 feet to a point, the beginning of a curve to the right;

Northwesterly, along the arc of a curve to the right, said curve having a radial bearing of N 83°12'41" E, a radius of 5979.58 feet, a central angle of 5°25'00", a chord bearing and distance of N 04°04'49" W, 565.09 feet, and an arc length of 565.30 feet to a point;

N 01°22'19" W, a distance of 228.58 feet to a point;

N 44°35'48" W, a distance of 175.22 feet to a point, a north corner of Highway 211, on the south right-of-way line of F.M. Highway 1957;

THENCE: N 01°22'15" W, departing the south right-of-way line of F.M. Highway 1957, across F.M. Highway 1957, a distance of 100.38 feet to a point, on the north right-of-way line of F.M. Highway 1957;

THENCE: N 88°37'45" E, with the north right-of-way line of F.M. Highway 1957, a distance of 370.15 feet to a found  $\frac{1}{4}$ " iron rod, the southwest corner of the 710.6 acre tract;

THENCE: With the west and southwest line of the 710.6 acre tract, the following calls and distances:

N 01°22'09" W, a distance of 1324.23 feet to a found 60d nail, the beginning of a curve to the left;

Northwesterly, with the arc of a curve to the left, said curve having a radius of 5729.58 feet, a central angle of 24°15'54", a chord bearing and distance of N 13°30'06" W, 2408.41 feet, and an arc length of 2426.50 feet to a found 60d nail;

N 25°38'03" W, at a distance of 2600.88 feet passing a found PK nail, the north corner of the remainder portion of a 500.00 acre tract, recorded in Volume 8377, Pages 1801-1807 of the Official Public Records of Bexar County, Texas, an angle point of a 345.688 acre tract described in Volume 11240, Pages 1426-1438 of the Official Public Records of Real Property of Bexar County, Texas, and continuing for a total distance of 2939.77 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the left;

THENCE: Northwesterly, with the east line of the 345.688 acre tract, along the arc of a curve to the left, said curve having a radial bearing of S64°22'03" W, a radius of 5729.62 feet, a central angle of 14°26'52", a chord bearing and distance of N 32°51'23" W, 1440.97 feet, a distance of 1444.80 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 47°59'15"W, with the east line of the 345.688 acre tract, a distance of 0.47 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the southeast corner of the remainder portion of a 1518.164 acre tract described in Volume 6636, Page 753-760 of the Official Public Records of Real Property of Bexar County, Texas, the beginning of a curve to the left;

THENCE: Northwesterly, with the east line of the remainder portion of the 1518.164 acre tract, along the arc of a curve to the left, said curve having a radius of 5728.89 feet, a central angle of 6°16'47", a chord bearing and distance of N 43°13'43" W, 627.58 feet, and an arc length of 627.90 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 46°22'07"W, at a distance of 1195.78 feet passing the east corner of a 69.53 acre tract-Parcel 1 described in Volume 11652, Pages 649-654 of the Official Public Records of Real Property of Bexar County, Texas, at a distance of 2381.42 feet passing the north corner of the 69.53 acre tract, the east corner of the 119.0 acre tract-Parcel 2 described in Volume 11652, Pages 681-685 of the Official Public Records of Real Property of Bexar County, Texas and Volume 595, Pages 667-671 of the Official Public Records of Medina County, Texas, and continuing for a total distance of 3863.11 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the right;

THENCE: Northwesterly, with the arc of a curve to the right, said curve having a radial bearing of N 43°37'54" E, a radius of 11459.16 feet, a central angle of 6°00'05", a chord bearing and distance of N 43°22'04" W, 1199.75 feet, at an arc length of 1123.11 feet passing the north corner of the 119.0 acre tract, the east corner of a 130.8 acre tract-Parcel 3 described in Volume 11652, Pages 686-691 of the Official Public Records of Real Property of Bexar County, Texas, and continuing for a total arc length of 1200.30 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 40°22'02"W, with the northeast line of the 130.8 acre tract, a distance of 612.61 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the right;

THENCE: Northwesterly, with the arc of a curve to the right, said curve having a radial bearing of N 49°37'59" E, a radius of 5729.58 feet, a central angle of 5°26'48", a chord bearing and distance of N 37°38'37" W, 544.46 feet, an arc length of 544.67 feet to a point, on the Medina County, and Bexar County line;

THENCE: N 00°16'40"W, with the Bexar and Medina County line, across the 710.6 acre tract, a distance of 3440.17 feet to a point on the south line of the 578.001 acre tract recorded in Volume 11424, Pages 190-200 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: N 80°05'48"E, departing the Bexar and Medina County line, with the south line of the 578.001 acre tract, the north line of the 710.6 acre tract a distance of 477.60 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the northeast corner of the 710.6 acre tract, the northwest corner of the 40.95;

THENCE: N 80°05'42"E, with the south line of the 578.001 acre tract, the north line of the 40.95 acre tract, at a distance of 72.02 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the northeast corner of the 40.95 acre tract, the northwest corner of the 1,305 acre tract, and continuing for a total distance of 1464.36 feet to a found  $\frac{1}{2}$ " iron rod at the southwest corner of a 609.8 acre tract recorded in Volume 5544, Pages 1495-1497 of the Official Public Records of Real Property of Bexar County, Texas, the northeast corner of the 1,305 acre tract and the northeast corner of this tract ;

THENCE: S 59°17'53" E, with the southwest line of the 609.8 acre tract, the northeast line of the 1,305 acre tract and the northeast line of this tract, at a distance of 4110 feet passing the northwest corner of a 51.00 acre tract recorded in Volume 8962, Pages 65-68 of the Official Public Records of Real Property of Bexar County, Texas, the south corner of the 609.8 acre tract, continuing with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract, for a total distance of 6242.07 feet to a found  $\frac{1}{2}$ " iron rod, for an east corner of the 1,305 acre tract, a reentrant corner of the 51.00 acre tract and an east corner of this tract;

THENCE: S 36°20'05" E. with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract and the northeast line of this tract, a distance of 41.80 feet to a found  $\frac{1}{2}$ " iron rod, for an angle point in the east line of the 1,305 acre tract, the west line of the 51.00 acre tract and the east line of this tract;

THENCE: S 09°47'37" E, with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract, at a distance of 1518 feet passing the south corner of the 51.00 acre tract, the west corner of a 50.00 acre tract recorded in Volume 7872, Pages 1391-1395 of the Official Public Records of Real Property of Bexar County, Texas, continuing with the southwest line of the 50.00 acre tract, the northeast line of the 1,305 acre tract, for a total distance of 3098.61 feet to a found  $\frac{1}{2}$ " iron rod, the south corner of the 50.00 acre tract, a reentrant corner of the 1,305 acre tract and a reentrant corner of this tract;

THENCE: N 35°37'28" E, with the southeast line of the 50.00 acre tract, a northwest line of the 1,305 acre tract, at a distance of 2206.4 feet, passing the east corner of the 50.00 acre tract, continuing with a northwest line of the 1,305 acre tract for a total distance of 3504.86 feet to a found  $\frac{1}{2}$ " iron rod with a cap marked "Baker", the west corner of a 10.897 acre tract recorded in Volume 8319, Pages 1245-1250 of the Official Public Records of Real Property of Bexar County, Texas, an east corner of the 1,305 acre tract and an east corner of this tract;

THENCE: S 46°18'19" E, with the southwest line of the 10.897 acre tract, the northeast line of the 1,305 acre tract, a distance of 1604.28 feet to a found  $\frac{1}{2}$ " iron rod, in the west line of Lot 1, Elm Valley Park Unit Three Subdivision recorded in Volume 9520, Page 92 of the Deed and Plat Records of Bexar County, Texas, for the south corner of the 10.897 acre tract, an east corner of the 1,305 acre tract and an east corner of this tract;

THENCE: S 00°26'52" E, with the west line of Lot 1, the east line of the 1,305 acre tract, at a distance of 80.2 feet passing the southwest corner of Lot 1, the north corner of a 5.717 acre tract recorded in Volume 4760, Pages 402-404 of the Official Public Records of Real Property of Bexar County, Texas, at a distance of 1193.3 feet passing the southwest corner of a 1.361 acre tract recorded in Volume 1914, Pages 961-964 of the Official Public Records of Real Property of Bexar County, Texas, the northwest corner of a 10.800 acre tract recorded in Volume 7849, Pages 363-366 of the Deed Records of Bexar County, Texas, continuing with the west line of the 10.800 acre tract, the east line of the 1,305 acre tract, for a total distance of 2366.69 feet to a found  $\frac{1}{2}$ " iron rod, at the south corner of the 10.800 acre tract, a corner of Rolling Oaks Estates Unit 5 Subdivision recorded in Volume 9500, Page 13 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S  $28^{\circ}45'25''$  E, with the southwest line of Rolling Oaks Estates Unit-5 Subdivision, the northeast line of the 1,305 acre tract and the northeast line of this tract, a distance of 2914.51 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", at a corner of Rolling Oaks Estates Unit-5 Subdivision, on the north line of Rolling Oaks Estates Unit 4 Subdivision recorded in Volume 9200, Page 74 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S  $70^{\circ}38'53''$  W, with the northwest line of Rolling Oaks Estates Unit 4 Subdivision, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 1784.39 feet to a found  $\frac{1}{2}$ " iron rod, at the northwest corner of Rolling Oaks Estates Unit 4 Subdivision, a reentrant corner of the 1,305 acre tract and a reentrant corner of this tract;

THENCE: S  $45^{\circ}08'05''$  E, with the southwest line of Rolling Oaks Estates Unit 4 Subdivision, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 760.59 feet to a found  $\frac{1}{2}$ " iron rod, at a corner of Rolling Oaks Estates Unit 4, a corner of Rolling Oaks Estates Unit 6 Subdivision recorded in Volume 9510, Pages 92-95 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S  $45^{\circ}13'36''$  W, with the northwest line of Rolling Oaks Estates Unit-6, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 1032.63 feet to a found 2" steel post, a corner of Rolling Oaks Estates Unit-6, the north corner of the 146.47 acre tract described in Volume 10690, Pages 831-835 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northwest line of the 146.47 acre tract, the southeast line of the 1,305 acre tract and the southeast line of this tract the following calls and distances;

S  $45^{\circ}26'59''$  W, a distance of 615.42 feet to found 12" live oak;

S  $45^{\circ}05'57''$  W, a distance of 251.24 feet to a found 2" steel post;

N  $87^{\circ}39'36''$  W, a distance of 43.25 feet to a found 4" cedar post in the east line of the 2.871 acre tract, for a reentrant corner of the 1305 acre tract, the northwest corner of the 146.47 acre tract and for a corner of this tract;

THENCE: With the east line of the 2.871 acre tract, the west line of said 146.47 acre tract the following calls and distances:

S 00°25'13" W, a distance of 879.17 feet to a found fence post;

S 00°41'04" W, a distance of 737.23 feet to a found fence post;

S 00°26'10" W, a distance of 894.46 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

S 00°18'07" W, a distance of 272.55 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

THENCE: S 00°32'37" W, a distance of 333.87 feet to a found 1/2" iron rod, the northeast corner of the 27.42 acre tract and the southeast corner of the 2.871 acre tract;

THENCE: S 00°32'37" W, with the west line of the 146.47 acre tract, the east line of the 27.42 acre tract, at a distance of 404.88 feet passing the southwest corner of the 146.47 acre tract, the northwest corner of the 10.000 acre tract, and continuing for a total of 556.53 feet to a found 1/2" iron rod with a yellow cap marked "Pape-Dawson";

THENCE: S 01°06'27" W, with the west line of the 10.000 acre tract, the east line of the 27.42 acre tract, a distance of 502.56 feet to the POINT OF BEGINNING and containing 3,625 acres in Bexar County, Texas. This survey is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

PREPARED BY: PAPE-DAWSON ENGINEERS INC.

DATE: June 8, 2007

JOB No.: 6626-01

FILE: P:\66\26\01\Word\Survey\070608-FN.doc

SAVE AND EXCEPT:

A 49.16 acre, or 2,141,357 square feet more or less, tract of land being out of that 1,349 acre tract recorded in Volume 11034, Pages 5-74 of the Official Public Records of Bexar County, Texas, and a 1,305 acre tract recorded in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, out of the C.C.S.D. & R.C.N.G.R. Survey No. 207, Abstract 887, County Block 4381, and the N. Perez Survey No. 300 1/4, Abstract 1151, County Block 4378, all in Bexar County Texas. Said 49.16 acre tract being more fully described as follows with basis of bearings being the State Plane Coordinate projection for the South Central Zone of Texas from the North American Datum of 1983 (CORS 1996):

COMMENCING: At a found  $\frac{1}{2}$ " iron rod, at the south corner of a 10.800 acre tract, recorded in Volume 7849, Pages 363-366 of the Deed Records of Bexar County, Texas, a corner of Rolling Oaks Estates Unit 5 Subdivision, recorded in Volume 9500, Page 13 of the Deed and Plat Records of Bexar County, Texas, an angle point in the east line of the 1,349 acre tract, the 1,305 acre tract and the northeast corner of a 122.1 acre tract surveyed concurrently and the southeast corner of a 160.3 acre tract surveyed concurrently;

THENCE: N  $85^{\circ}13'56''$ W, across the 1,349 acre tract, the 1,305 acre tract and the 160.3 acre tract at a distance of 1655.28 feet passing the southwest line of the 160.3 acre tract, continuing across the 1349 acre tract, the 1,305 acre tract for a total distance of 1754.41 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" for the east corner of this tract, the north corner of a 40.46 acre tract surveyed concurrently and being the POINT OF BEGINNING;

THENCE: Across the 1,349 acre tract, the 1,305 acre tract, with the east line of this tract and the west line of the 40.46 acre tract, the following calls and distances;

S  $47^{\circ}59'23''$ W, a distance of 374.44 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

S  $09^{\circ}10'28''$ W, a distance of 1130.44 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" for the south corner of this tract, the west corner of the 40.46 acre tract and an east corner of a 72.07 acre tract surveyed concurrently";

THENCE: Northwesterly, across the 1349 acre tract, the 1,305 acre tract and with the southwest line of this tract and the northeast line of the 72.07 acre tract, the following calls and distances;

N  $75^{\circ}47'02''$ W, a distance of 1019.26 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $55^{\circ}54'54''$ W, a distance of 205.46 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $01^{\circ}22'31''$ W, a distance of 465.50 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" for the southwest corner of this tract and a re-entrant corner of the 72.07 acre tract;

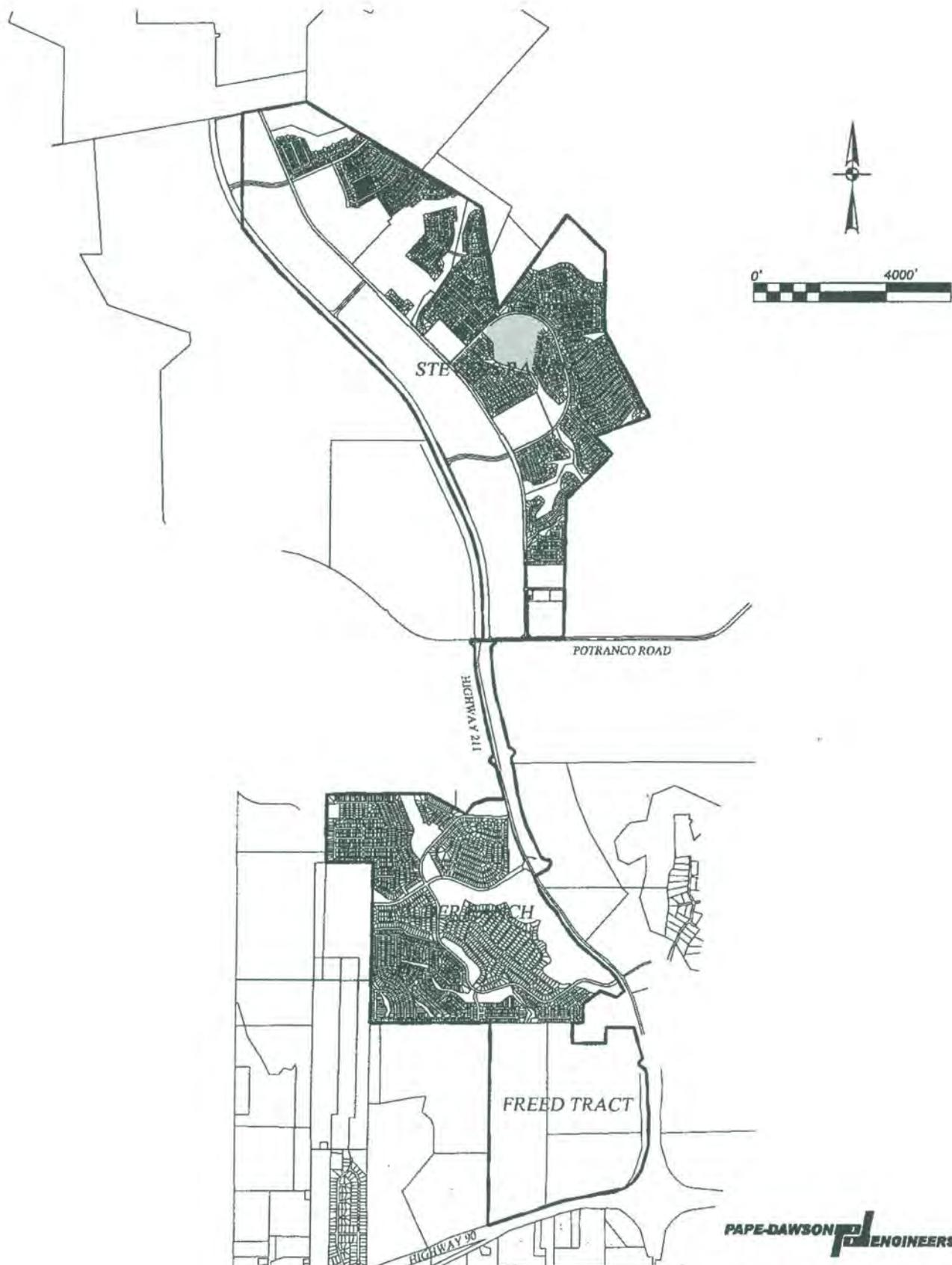
N  $27^{\circ}41'54''$ W, a distance of 116.21 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $45^{\circ}19'38''$ W, a distance of 340.71 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" for the west corner of this tract and the north corner of the 72.07 acre tract;

THENCE: Departing the northeast line of the 72.07 acre tract, across the 1,349 acre tract, the 1,305 acre tract, with the north line of this tract the following calls and distances;

N 44°40'22"E, a distance of 327.22 feet to a set  $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson";

Southeasterly, along the arc of a curve to the right, said curve having a radius of 1165.00 feet, a central angle of 93°19'01", a chord bearing and distance of S 88°40'08" E, 1694.55 feet, an arc length of 1897.42 feet to the POINT OF BEGINNING and containing 49.16 acres in Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.



300 EAST PACHEY | SAN ANTONIO, TEXAS 78214 | PHONE 210.278.0000 | FAX 210.278.0010

PAPE-DAWSON  ENGINEERS

**WESTSIDE 211 PID BOUNDARY**

**CITY OF SAN ANTONIO**  
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
INTERDEPARTMENTAL CORRESPONDENCE

**TO:** Sheryl L. Sculley, City Manager

**FROM:** Emil R. Moncivais, FAICP, AIA, CNU, Director

**COPIES TO:** Jelynne LeBlanc Burley, Deputy City Manager, T.C. Broadnax, Assistant City Manager; File

**SUBJECT:** Execution of an Agreement for Services in Lieu of Annexation with the Westside 211 Special Improvement District Development Project Owners

**DATE:** October 4, 2007

Enclosed for execution as authorized by City Council (Ordinance Number 2007-09-20-10260) on September 20, 2007, is the Agreement for Services in Lieu of Annexation with the Westside 211 Special Improvement District Development Project Owners, for a thirty (30)-year period, effective from 2007 to 2037. The agreement details the terms and obligations between the City and the Owners with respect to the development of approximately 3,576 acres situated in far west Bexar County and within the City's Extraterritorial Jurisdiction (ETJ), generally along State Highway 211, north of Highway 90.

**MAJOR PROVISIONS OF AGREEMENT:**

- Consents to the County's delegation to the Public Improvement District the powers of a road district and the powers to provide water, wastewater and/or drainage facilities for the purpose of financing the construction of the infrastructure required for the water, wastewater and drainage facilities.
- Provides the City with the ability to extend and enforce regulations for development, infrastructure, and the environment in the District.
- Requires compliance with the proposed Platting Interlocal Agreement between the City and Bexar County.
- Does not grant vested rights for properties or projects within the district; those must be obtained through compliance with UDC requirements.
- Requires re-submittal of current master development plan to comply with the development regulations of Agreement. To ensure street connectivity ratios greater than the minimum 1.2 ratio required by the Unified Development Code, there is a maximum length of 800 feet for street block within the District. Cul-de-sacs will be limited in use, unless the area is restricted by topographical, floodplains, or other environmental constraints.
- Contains the consent to annexation upon expiration of the Agreement, similar to a provision in the Cibolo Canyon agreement.
- The Owner and District's revenues would pay for the amounts that are not covered by TxDOT pass-through funding. The term of this Agreement ensures the District's ability to issue and repay bonds.

- Does not consent to the exercise by the District of the road district powers of eminent domain or annexation, or for the District to be a retail provider of water, wastewater and drainage services.

### **POLICY ANALYSIS**

The Owners intend to develop the District property into a mixed-use community. The Owners shall submit a proposal for financing major thoroughfares construction and infrastructure improvements within the District to the Texas Department of Transportation (TxDOT) for Pass-Through Financing. On May 31, 2007, the City Council passed a resolution supporting Bexar County's Pass-Through Financing efforts. On August 9, 2007, the City granted its conditional consent to the formation of a County Public Improvement District ("PID") through Resolution No. 2007-08-09-0003R. The City conditioned its consent upon the execution of an Agreement for Services in Lieu of Annexation within thirty days of the Bexar County Commissioners Court creation of the PID, which occurred on August 30, 2007.

This Agreement provides the City with the option to terminate if the County terminates the PID at any time during the 30-year period and/or if TxDOT does not approve the use of Pass-Through Financing for this proposed project. Furthermore, in compliance with state law, two years after annexation by the City, the PID is dissolved and all its debt and obligations shall be extinguished. The consent of the City to the delegation of the road district powers and the power to provide water, wastewater and drainage facilities is required by state law, in order for the Westside 211 Special Improvement District to exercise those powers.

### **FISCAL IMPACT**

This action has no fiscal impact.

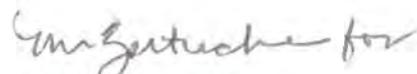
### **COORDINATION**

This contract has been reviewed and coordinated with the City Attorney's Office and Bexar County.



Emil R. Moncivais  
Planning and Community Development Director

**Approved:**

  
Michael Bernard  
City Attorney

Attachments

AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION  
BETWEEN THE CITY OF SAN ANTONIO  
AND  
CUMBERLAND POTRANCO JOINT VENTURE, CUMBERLAND 211, LTD.,  
NAVIGATORS STEVENS RANCH, L.P., KD CIRI I, L.L.C., CIRI LAND DEVELOPMENT  
COMPANY AND CUMBERLAND 90, LTD.

STATE OF TEXAS §  
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas home-rule municipality, ("City"), and Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Navigators Stevens Ranch, L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, Ltd. ("Owners"), to be effective as of the 20th day of September, 2007 (the "Effective Date"), for the purpose of setting forth the terms and obligations between the City and the Owners (collectively, the "Parties"), with respect to the development of approximately 3,576 acres owned by Owners within the City's Extraterritorial Jurisdiction (the "Property") as follows:

**WHEREAS**, the Owners own the Property, generally located in far west Bexar County, Texas and within the City's Extraterritorial Jurisdiction ("ETJ"), generally along State Highway 211, north of Highway 90, such Property more specifically described by the field notes attached hereto as **Exhibit "A"** and incorporated in this Agreement by reference;

**WHEREAS**, the City and Owners desire to establish certainty in the timing of annexation and permitted uses and development of the Property; and

**WHEREAS**, the Property is not included within the City's annexation plan; and

**WHEREAS**, the Owners have undertaken the development of a mixed-intensity, mixed-use community in the Property;

**WHEREAS**, the City and the Owners have agreed to a mechanism whereby the Owners and the City will ensure the Owners' full compliance with certain chapters of the City Code of the City of San Antonio, including but not limited to the Unified Development Code ("UDC") in connection with the permitting, construction, and financing of the Property while preserving the Property's ability to accommodate future market demands; and

**WHEREAS**, the Owners have petitioned Bexar County ("County") to create, and on August 30, 2007, the County did create, a Public Improvement District ("PID"), named the Westside 211 Special Improvement District, under Chapter 372, Subchapter C, of the Texas Local Government Code for the purposes of financing the costs of public improvements within the Property; and

**WHEREAS**, the County requires the Owners to enter into a non-annexation agreement with the City as part of the Public Improvement District creation process; and

**WHEREAS**, the City and Owners desire to establish an Agreement for Services in Lieu of Annexation in accordance with the terms and conditions of Section 43.0563(a)(2) of the Texas Local Government Code, *Contracts for Provision of Services in Lieu of Annexation*, to evidence their agreement concerning the provision of services to the Property and the funding of services to the

Property in lieu of annexation, to establish permissible land uses, to require compliance with certain municipal ordinances in lieu of annexation, and to consent to annexation of the Property upon the termination of this Agreement, as provided below;

**NOW THEREFORE**, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owners agree as follows:

## **SECTION 1: CONSIDERATION, TERM AND ANNEXATION**

**1.1 Consideration.** As consideration for City's consent not to annex the Property for the term of this Agreement, the Owners agree to voluntarily comply with various City ordinances and regulations and restrictive covenants that limit and restrict the manner in which the Property will be developed and consent to voluntary annexation of the Property, in accordance with the terms below, unless such termination results from a default by City.

The present and future benefits to be received by the City by entering into this Agreement and deferring the annexation of the land include the Owners' voluntary compliance with various City ordinances and regulations that would otherwise not be applicable to the Property; the development of the land with greater connectivity, environmental protection and safety considerations; the business and commercial activity and other economic development opportunities resulting from the development of the Property; the development of the Property in an orderly manner to facilitate its future annexation in an appropriate and economical manner; the expected increased future tax base when the Property is annexed; and the Owners' consent to annexation by the City upon termination of this Agreement, pursuant to the Owner's Consent to Annexation.

**1.2 Term.** For the consideration above, and subject to the terms and conditions of this Agreement, the City agrees to continue the extraterritorial status of the Property and defer annexation of the Property until December 30, 2037, in accordance with the provisions of Section 43.0563 of the Texas Local Government Code.

### **1.3 Owners' Consent to Annexation.**

**1.3.1. Voluntary petition for annexation.** The Owners hereby agree that this Agreement constitutes a voluntary petition to the City, acting in the City's sole discretion, for annexation of the Property for full purposes under the provisions of Section 43.052(h) of the Texas Local Government Code on or after December 31, 2037. The City is not obligated to annex the Property for full purposes on December 31, 2037 or at any other time.

To accomplish such annexation, the City will not need to take the following actions, all of which are waived by the Owners:

- (a) adopt or amend an annexation plan to include the Property;
- (b) give notice to any service providers in the area of the Property;
- (c) compile an inventory of services provided to the area by both public and private entities prior to the City's annexation or make such inventory available for public inspection;
- (d) complete a service plan that provides for the extension of full municipal services to the Property, other than the Service Plan;
- (e) hold any public hearings; and
- (f) undertake any negotiations for provision of services to the Property.

The Owners confirm and agree that, as the Owners are the sole owners of the Property as of the Effective Date, such voluntary petition may not be revoked by the Owners except as provided by this Consent, and is intended to be and shall be binding upon the Owners and their successors in interest in ownership of any right, title or interest in and to the Property or any part thereof.

**1.3.2. Waiver.** The Owners irrevocably waive any and all legal requirements applicable to annexation of the Property by the City, to the fullest extent permitted by law. The Owners agree to execute any and all documents reasonably requested by the City to evidence such waiver and the consent granted.

**1.3.3 City's acceptance.** The City accepts the Owners' voluntary petition for annexation of the Property, subject to the terms and conditions of this Agreement.

**1.4 Owners' Representations and Warranties.** Subject to the terms and conditions of this Agreement, the Owners covenant to and with City, as follows:

**1.4.1. Existence.** Owners are legally existing entities existing under the laws of the states of Texas and Alaska, and are qualified to transact business in the State of Texas.

**1.4.2 Authorization.** Owners are duly and legally authorized to enter into this Agreement and have complied with all laws, rules, regulations, charter provision and bylaws relating to their corporate existence, and authority to act, and the undersigned representatives are authorized to act on behalf of and bind Owners to the terms of this Agreement. Owners have provided to City, on or prior to the Effective Date, a certified copy of a resolution of their respective Board of Directors, partners or governing body, if required by law, authorizing Owners' execution of this Agreement through their representatives, together with documents evidencing Owners' good standing and authority to transact business in the State of Texas. Owners' have all requisite power to perform all of their obligations under this Agreement. The execution of this Agreement by Owners does not require any consent or approval which has not been obtained, including without limitation, the consent or approval of any Governmental Authority.

**1.4.3 Enforceable Obligations.** Assuming due authorization, execution and delivery by all of the parties to this Agreement, where necessary, all documents executed by Owners pursuant to this Agreement and all obligations of Owners under this Agreement are, to Owners' knowledge and belief, enforceable against Owners in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditor's rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

**1.4.4 No Legal Bar.** To Owners' knowledge and belief, the execution and delivery of this Agreement, all documents executed by Owners in accordance with the terms of this Agreement, and all obligations of Owners under this Agreement will not conflict with any provision of any law, regulation or any statute, rule, law, treaty, code, ordinance, regulation, permit, official interpretation, certificate or of any applicable federal, state, county or City governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation of the above) with jurisdiction over the land or its inhabitants, or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other governmental authority listed above.

**1.4.5 Litigation.** Except such matters which have been disclosed in writing to City or generally known by the public, there are no legal actions or proceedings pending or, to the knowledge of Owners' representatives, threatened against Owners which, if adversely determined, would materially and adversely affect the ability of Owners to fulfill their obligations under this Agreement or the financial condition, business or prospect of Owners.

**1.4.6 Documents.** All documents made available by Owners to City and/or City's agents or representatives prior to the Effective Date, are true, correct and complete copies of the instruments which they purport to be and accurately depict the subject matter addressed in the documents.

**1.4.7 Knowledge.** Owners have no knowledge of any facts or circumstances which presently evidence, or with the passage of time would evidence, that any of the representations made by Owners or by City under this Agreement are in any way inaccurate, incomplete or misleading.

**1.5 Owners' Covenants.** Subject to the terms and conditions of this Agreement, the Owners covenant to and with City, as follows:

**1.5.1** Owners shall not oppose any action taken by the City to annex the Property;

**1.5.2.** Owners shall include the following language in each deed or lease of any part of the Property executed after the Effective Date, executed by or on behalf of the Owners:

“This (conveyance or lease, as applicable) is made and accepted subject to that certain Owners' Consent to Annexation, located in Section 1.3 of the Agreement for Services in Lieu of Annexation, executed by the Owners and the City of San Antonio on \_\_\_\_\_, 2007, which permits the City of San Antonio to annex the herein described property upon the terms and conditions set forth therein. Acceptance of this (conveyance or lease, as applicable) shall evidence your consent and agreement to such annexation by the City and may be relied upon by the City as a beneficiary of your consent and agreement.

Further, this (conveyance or lease, as applicable) is made and accepted subject to the development standards contained in Section II of the Agreement for Services in Lieu of Annexation. Acceptance of this (conveyance or lease, as applicable) shall evidence your consent and agreement to such developmental standards and may be relied upon by the City as a beneficiary of your consent and agreement.”

**1.5.3 Waiver of Subrogation.** Owners waive any subrogation rights against City with respect to any claims or damages (including, but not limited to, claims for bodily injury and property damage) which are caused by or result from (i) any risks insured against under any valid collectible insurance contract or policy carried by Owners in force at the time of any such injury and/or damage giving rise to such claim or (ii) any risk that would be covered under any insurance required to be obtained and maintained by Owners under or pursuant to this Agreement, even if such required insurance is not in fact obtained and maintained. This waiver of subrogation is not intended to limit the claims of Owners or City to the face amount or coverage of such insurance policies.

**1.5.4 Waiver of Consequential Damages.** Owners waive all present and future claims for consequential damages against City arising from or related to this Agreement, except for any claim relating to City's affirmative actions which result in a material breach of this Agreement, including, but not limited to, City's annexation of the Property (or any part of the Property) in violation of this

Agreement or City's unauthorized imposition of moratoria on building. Such waiver shall survive any termination of this Agreement.

**1.5.5 Waiver of Existing Claims.** Owners hereby release any and all presently existing claims of any kind or character which Owners have or may have under or pursuant to this Agreement or its subject matter, against City and its elected officials, members, agents, employees, officers, directors, shareholders and representatives, individually and collectively.

## **1.6 City's Representations and Warranties.**

**1.6.1 Existence.** City is a municipal corporation and home rule city of the State of Texas, principally situated in Bexar County.

**1.6.2 Power and Authority.** City has all requisite municipal corporate power and authority to enter into this Agreement and perform all of its obligations under this Agreement. The execution and performance by City of this Agreement has been duly authorized by City Ordinance 2007-09-20-1026, and except for the additional approval of the Owners, no consent or approval of any other person is required, including, without limitation, any governmental authority.

**1.6.3 No Legal Bar.** To City's knowledge and belief, the execution and performance by City of this Agreement, all documents executed by City pursuant to this Agreement, and all obligations of City under this Agreement do not and will not violate any provisions of any contract, agreement or instrument to which City is a party or is subject.

**1.6.4 Litigation.** Except such matters which have been disclosed in writing to Owners or generally are known by the public, there are no legal actions or proceedings pending known to the City which, if adversely determined, would materially and adversely affect the ability of the City to fulfill its obligations under this Agreement.

**1.6.5 Enforceable Obligations.** Assuming due authorization, execution and delivery by all other parties to this Agreement where necessary, this Agreement, all documents executed by the City pursuant to this Agreement and all obligations of the City under this Agreement are, to City's knowledge and belief, enforceable against the City in accordance with their terms.

## **1.7 City's Covenants.**

**1.7.1 Waiver of Subrogation.** With respect to any policies of insurance which the City may obtain (without any obligation to obtain such policies of insurance), City waives any subrogation rights against the Owners with respect to any claims or damages (including, but not limited to, claims for bodily injury and property damage) which are caused by or result from any risks insured against under any valid collectible insurance contract or policy carried by City in force at the time of any such injury and/or damage giving rise to such claim. This waiver of subrogation is not intended to limit the claims of City to the face amount or coverage of such insurance policies.

**1.7.2 Notice of Litigation.** City shall deliver notice to the Owners of any legal proceedings brought against City related to this Agreement. Such notice shall be delivered not later than fifteen (15) days after the earlier to occur of City's receipt of service of a claim or City's receipt of actual written notice of a claim, but no any event, prior to any settlement of such claim by City.

**1.8 Disclaimer of City.** ANY CITY APPROVALS GRANTED PURSUANT TO THIS AGREEMENT DO NOT REFLECT ANY COMMITMENT, APPROVAL, REPRESENTATION,

WARRANTY OR OBLIGATION WITH RESPECT TO THE SUFFICIENCY, ACCURACY, COMPLETENESS OR INTEGRITY OF ANY MATTERS SO APPROVED BY CITY, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY CITY. OWNERS ACKNOWLEDGE THAT, EXCEPT FOR CITY'S REPRESENTATIONS CONTAINED WITHIN THIS AGREEMENT, NEITHER CITY NOR ANY AFFILIATE OF CITY NOR ANY RELATED PARTY OF CITY HAS MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER (WHETHER EXPRESS OR IMPLIED) REGARDING THE DEVELOPMENT, THE SUBJECT MATTER OF THIS AGREEMENT OR ANY EXHIBIT TO THIS AGREEMENT, OTHER THAN THE EXPRESS OBLIGATIONS CONTAINED IN THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED BY THIS AGREEMENT. OWNERS AGREE THAT NEITHER CITY NOR ANY OF CITY'S AFFILIATES AND RELATED PARTIES WILL HAVE ANY RESPONSIBILITY FOR (AND HAVE MADE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO) ANY OF THE FOLLOWING:

**1.8.1** THE ACCURACY OR COMPLETENESS OF ANY INFORMATION SUPPLIED OR AUTHORIZED FOR INCLUSION BY ANY PERSON OTHER THAN AUTHORIZED CITY STAFF UNDER THIS AGREEMENT;

**1.8.2** THE COMPLIANCE OF THE DEVELOPMENT OF THE PROPERTY, DEVELOPMENT PLANS AND ANY PROPOSED IMPROVEMENT WITH ANY GOVERNMENTAL RULE; OR

**1.8.3** THE ACCURACY OF ANY FINANCIAL PROJECTIONS, COST ESTIMATES, DEVELOPMENT SCHEDULES OR OTHER MATTERS RELATED TO THE DEVELOPMENT OF THE PROPERTY.

NEITHER CITY NOR ANY OF CITY'S AFFILIATES AND RELATED PARTIES WILL BE LIABLE AS A RESULT OF ANY FAILURE BY ANY PERSON (OTHER THAN CITY, CITY'S AFFILIATES OR RELATED PARTIES) UNDER THIS AGREEMENT (INCLUDING WITHOUT LIMITATION ANY DOCUMENT APPENDED AS AN EXHIBIT TO THIS AGREEMENT) TO PERFORM THEIR RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT. IT IS UNDERSTOOD AND AGREED BY THE OWNERS (FOR THEMSELVES AND FOR ANY PERSON CLAIMING BY, THROUGH OR UNDER THEM) THAT OWNERS HAVE BEEN AND WILL CONTINUE TO BE SOLELY RESPONSIBLE FOR MAKING THEIR OWN INDEPENDENT APPRAISAL OF AND INVESTIGATION INTO THE PROPERTY, THE DEVELOPMENT OF THE PROPERTY, AND ALL DEVELOPMENT PLANS.

**1.9 Reliance.** Each signer of this Agreement recognizes and acknowledges that, in entering into this Agreement, (a) all parties to this Agreement are expressly and primarily relying on the truth and accuracy of the foregoing representations, warranties and covenants of each party without any obligation to investigate the accuracy or completeness of such representations and covenants, and notwithstanding any investigation of such representations and covenants by any party to this Agreement, that such reliance exists on the part of each party to this Agreement prior to the Effective Date and thereafter; (b) such representations and covenants are a material inducement to each party in making this Agreement and agreeing to undertake and accept its terms, and (c) each party would not be willing to do so in the absence of any of such representations and covenants, all of which shall survive the termination of this Agreement.

## SECTION II: DEVELOPMENT STANDARDS

**2.1 Regulatory Controls.** The Owners' permitting and construction of the Property requires compliance with several chapters of the City Code of the City of San Antonio, including the UDC. Such provisions require the development of the Property according to, among other things, park and open space requirements; permitted land uses; and block, street, sidewalk, parking and loading, buffer, signage, and other infrastructure requirements.

A Master Development Plan for the Stevens Ranch portion of the Property was approved by the City on January 28, 2004 and a Master Development Plan for the Felder Tract portion of the Property was approved by the City on January 21, 2005, and amended on June 29, 2007 (the "Applications"), prior to the request for PID creation and nonannexation of the Property. The City and the Owners have now assessed the Owners' land use and development standards for the Property as called for by the designations originally requested in the Applications, and have determined that the Applications shall be resubmitted to comply with the development standards contained in this Section II. The Parties agree that the Property shall be developed according to the City Code of the City of San Antonio, Chapter 6 (Building Code), Chapter 10 (Electricity Code), Chapter 11 articles I, II and III (Fire Prevention Code) including the 2006 International Fire Code and Amendments, Chapter 24 (Plumbing) and Chapter 35 (the UDC), with the following exceptions and amendments:

**2.1.1.** Chapter 11, article IV, regulating the use of fireworks, shall not apply.

**2.1.2.** The connectivity ratio of 1.2 required by Section 35-506(e)(1), shall not apply. The streets shall be constructed to ensure a higher connectivity ratio by limiting cul-de-sacs to areas that are constrained by major flood zones, topography, sensitive environmental areas, and limiting the length of blocks to a maximum of 800 feet.

**2.1.3** With respect to the Stevens Ranch portion of the Property, tree preservation applications must be consistent with the current UDC provisions, or the equivalent, as determined by the City.

**2.2 Inspections.** As part of the development (plat) review, the City shall include inspections for streets and drainage as if the area were in the City, and City Fire inspectors shall conduct all reviews for Fire Flows and Hydrant spacing.

**2.3 Master Development Plan ("MDP").** Any MDP filed pursuant to this Agreement for any property described in **Exhibit "A"** shall be governed by the provisions of Section 35-412 ("Master Development Plan") of the UDC.

**2.4 Plat Review.** The City shall be the sole plat reviewing entity for Bexar County, in accordance with the Interlocal Agreement between the County and the City.

**2.5. Vested Rights.** No vested rights, as that term is used in Article VII of the City's UDC, may be requested for projects or properties within the Public Improvement District for a vesting date prior to the execution date of this Agreement. Within the boundaries of the Public Improvement District, vested rights shall only be accrued based upon the complete submission of an MDP, subdivision plats or application building permit. If a complete permit application for a project within the boundaries of the Property was submitted prior to the execution date of this Agreement, the vesting date for the project shall not be the date of the permit application submittal, but shall be the execution date of this

Agreement, provided that the project may exercise vested rights only to the extent that the project is consistent with the terms of this Section II.

**2.6 Development Fees.** Owners shall pay City all application, plan review, plat review, and filing fees applicable to the approval of subdivision plats in the ETJ and all fees (including, without limitation, impact fees, traffic impact analysis fees, water/wastewater impact fees, general benefit fees and stormwater management fees) assessed with respect to the Property at the times and in the amounts set forth in the UDC and this Agreement.

**2.7 Binding Agreement.** The Parties agree that all of the development standards contained in this Agreement constitute an easement that continues in perpetuity and shall run with the land, and that all deeds or leases of any portion of the Property shall reflect this Agreement, as required by Section 1.4, above. Any right, title, or interest granted in this Agreement to the Owners passes to each successor and assign of the Owners and each following successor and assign, and the word "Owner" includes all such successors and assigns. This easement survives unity of ownership of the fee and the easement.

**2.8 Review Requirement.** An executed copy of this Agreement, and any subsequent amendments to this Agreement, shall be attached to every request to the City for plan review, plat review, fee payment, or other documents requiring City staff review and/or approval.

### SECTION III: INDEMNIFICATION

**3.1 EXCEPT AS DESCRIBED OTHERWISE IN THIS AGREEMENT AND IN SECTION 3.2, THE OWNERS COVENANT AND AGREE TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND THE ELECTED OFFICIALS, MEMBERS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY (INDIVIDUALLY AND COLLECTIVELY, "INDEMNITEE") FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO: PERSONAL INJURY, BODILY INJURY, DEATH AND PROPERTY DAMAGE (COLLECTIVELY REFERRED TO AS "CLAIMS"), MADE UPON INDEMNITEE DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO OWNERS' ACTIVITIES RELATED TO THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF OWNERS, COLLECTIVELY AND INDIVIDUALLY, ANY AGENT, OFFICER, REPRESENTATIVE, OWNERS' EMPLOYEE OR PERSONNEL, CONSULTANT, CONTRACTOR OR SUBCONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, PERSONNEL, DIRECTORS AND REPRESENTATIVES (INDIVIDUALLY AND COLLECTIVELY, "OWNERS' PARTY"). THE INDEMNITY PROVIDED FOR IN THIS SECTION 3.1 SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE IN INSTANCES WHERE SUCH NEGLIGENCE OR WILLFUL MISCONDUCT CAUSES PERSONAL INJURY, BODILY INJURY, DEATH OR PROPERTY DAMAGE. IF OWNERS AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. OWNERS SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST AN INDEMNITEE KNOWN TO THE OWNERS**

RELATED TO OR ARISING OUT OF OWNERS' ACTIVITIES RELATED TO THIS AGREEMENT. OWNERS SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND, AT OWNERS' EXPENSE. CITY SHALL HAVE THE RIGHT, AT ITS OPTION, AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING OWNERS OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION 3.1.

**3.2 EXCEPTIONS TO INDEMNIFICATION BY OWNER.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SECTION 3.1, OWNERS SHALL NOT INDEMNIFY, DEFEND AND HOLD HARMLESS ANY INDEMNITEE FROM CLAIMS RESULTING FROM OR RELATED TO:

**3.2.1 ANY CHALLENGE TO CITY'S AUTHORITY TO ENTER INTO OR PERFORM UNDER THIS AGREEMENT; OR**

**3.2.2 CITY'S NEGLIGENCE OR WILLFUL MISCONDUCT IN THE EXERCISE OF ITS GOVERNMENTAL FUNCTIONS.**

#### **SECTION IV: MISCELLANEOUS**

**4.1 Termination.** Upon the occurrence of any or all of the following events, the City may, at its option, terminate this Agreement in compliance with the notice provisions in Section 4.6 below:

**4.1.1** The termination of the Westside 211 Special Improvement District by Bexar County;

**4.1.2** The determination by the Texas Department of Transportation (TxDOT) not to use Pass-Through Financing for the construction and improvement of Highway 211 between Potranco Road and Culebra Road, and to widen Potranco Road between Loop 1604 and Highway 211; or

**4.1.3** Owners, its heirs or assigns, attempt to withdraw, rescind or nullify the Owners' consent to annexation, contained in Section 1.3 of this Agreement, or to otherwise challenge the enforceability of the consent to annexation by City, except to the extent permitted under such consent to annexation.

**4.2 No liability.** Nothing in this Agreement shall be deemed to impose liability on Owners, or the City for actions or omissions of any third party (including, without limitation, any third party contractor or engineer).

**4.3. Modifications.** Any modifications to this Agreement must be in writing, and signed by each signatory of this Agreement or its successors, or they shall not be binding upon any of the parties of this Agreement.

**4.4 Severability.** If any covenant, provision, or agreement of this Agreement shall be held illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties to this Agreement that the remainder of this Agreement shall not be affected by the illegal, invalid or unenforceable covenant, provision, or agreement, and that this Agreement shall otherwise continue in full force and effect. It is the further intention of the parties that in lieu of each covenant, provision, or agreement of this instrument that is held illegal, invalid, or unenforceable, there be added as a part of this Agreement a

clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

**4.5 Recording of this Agreement.** This Agreement shall be recorded within thirty (30) days following approval by the City Council, by the Owners in the Real Property Records of Bexar County, Texas as a covenant to title of the parcels more specifically described in **Exhibit "A"**. Consequently, the Owners and the City agree that the provisions of this Agreement shall run with the land described in **Exhibit "A"** as long as this Agreement remains in effect, and shall be binding on all parties having any right, title, or interest in the Property described in **Exhibit "A"** in whole or in part. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. No party may, without the prior written consent of the other party hereto, assign any rights, powers, duties, or obligations hereunder. This Agreement shall not inure to the benefit of any party other than the Parties to this Agreement and their successors and permitted assignees.

**4.6 Breach and Default.** A material and substantial breach of this Agreement by either Party shall constitute a default and serve as grounds for considering this Agreement null and void.

Before the City deems this Agreement as breached or expired, the City must provide the Owners written notice describing the default. If the default continues for a period of thirty (30) days after such notice is delivered to the Owners, this Agreement shall be considered breached and null and void; provided that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the Owners shall not be deemed to be in default if the Owners commence such cure within such thirty (30) day period and thereafter diligently pursue such cure to completion.

The failure to include in each deed or lease for any part of the Property executed after the Effective Date the development standards of Section II, as required by Section 1.5.2, is a curable event.

Nothing in this Agreement shall be construed so as to waive the Owners' right to protest a zoning case filed for any property described in **Exhibit "A"**.

**4.7 No Partnership.** Neither this Agreement nor any part of this Agreement shall be construed as creating a partnership, joint venture, or other business affiliation among the Parties or otherwise.

**4.8 Entire Agreement.** This Agreement and the exhibits to this Agreement supersede any and all other prior or contemporaneous agreements, oral or written, among the Parties with respect to the matters addressed in this Agreement.

**4.9 Notice.** All notices given with respect to this Agreement shall be in writing and deemed delivered upon receipt if hand delivered or sent by confirmed facsimile transmission, and, if mailed, deemed received on the third business day after deposit in the United States mail, postage prepaid, addressed to the Parties as shown below:

**IF TO THE CITY:**

**City of San Antonio  
Development Services Department**  
Attn: Director  
1901 S. Alamo, 2<sup>nd</sup> Floor  
San Antonio, Texas 78204

**City of San Antonio  
Planning and Community Development  
Department**  
Attn: Director  
1901 S. Alamo, 2<sup>nd</sup> Floor  
San Antonio, Texas 78204

With a copy to:

**City of San Antonio**  
**Office of the City Attorney**  
Attn: City Attorney  
City Hall, 3<sup>rd</sup> Floor  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**Office of the City Clerk**  
Attn: City Clerk  
City Hall, 2<sup>nd</sup> Floor  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**IF TO OWNERS:**

**Cumberland Potranco Joint Venture**  
WRI Cumberland GP, L.L.C.  
Attn: Martin Debrovner  
Vice Chairman  
P.O. Box 924133  
Houston, Texas 77292

**Cumberland 211, Ltd.**  
Attn: George A. Field, III  
Manager  
100 Crescent Court, Suite 210  
Dallas, Texas 75201

**Navigators Stevens Ranch, L.P.**  
Attn: Patrick H. Daugherty, Manager  
J. Kevin Ciavarra, Manager  
1566 W. Algonquin Road  
Suite 230  
Hoffman Estates, IL 60192-1575

**KD CIRI I, L.L.C.**  
Attn: James Kerby  
Manager  
8601 Ranch Road 2222  
Building 1, Suite 235  
Austin, Texas 78730

**CIRI Land Development Company**  
Attn: Greg Jones  
President  
2525 C Street  
Suite 500  
Anchorage, AK 99509-3330

**Cumberland 90, Ltd.**  
Attn: George A. Field, III  
Manager  
100 Crescent Court, Suite 210  
Dallas, Texas 75201

Each Party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the City or Owners, as the case may be.

**4.10   Venue.** This Agreement shall be governed by and construed under the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be exclusively in Bexar County, Texas.

**4.11   Further Documents.** The Parties agree they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate the purposes of this Agreement.

**4.12 Attorney's Fees.** Each Party to this Agreement shall pay its own attorneys' fees with respect to the drafting, review, and negotiation of this Agreement and all subsequent instruments and agreements related to the Land Use and Development Standards. In the event it should ever become necessary for any Party to retain the services of an attorney to enforce its rights under this Agreement against any other party to this Agreement, then, should such Party prevail, that Party shall be entitled to recover, in addition to any other damages and awards to which it may be entitled, its reasonable attorneys' fees from the defaulting party.

**4.13 Time.** Time is of the essence of this Agreement and each and every provision of this Agreement.

**4.14 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.

This Agreement for Services in Lieu of Annexation is **EXECUTED** as of the dates set forth beneath the signatures of each party below, to be effective, however, as of the date first set forth above.

**City of San Antonio,  
a Texas municipal corporation**

By: \_\_\_\_\_  
Name: Sheryl Seulley  
Title: City Manager  
Date: \_\_\_\_\_

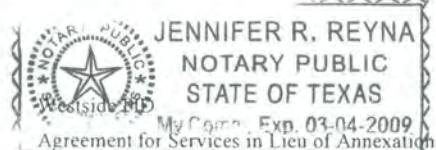
The State of Texas  
County of Bexar

This instrument was acknowledged before me on October 5, 2007, by T.C. Broadnax, City Manager of the City of San Antonio, Texas, a Municipal Corporation.

Jennifer R. Reyna  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

Jennifer R. Reyna  
(Print name of Notary Public here)

My commission expires the 4th day of March 2007



**Cumberland Potranco Joint Venture, a Texas joint venture,**

By: WRI Cumberland GP, L.P., a Texas limited partnership, its Manager,  
By: WRI Cumberland GP, L.L.C., a Texas limited liability company, its General Partner

By: Steve Richter  
Name: \_\_\_\_\_  
Title: Executive VP/CFO  
Date: \_\_\_\_\_



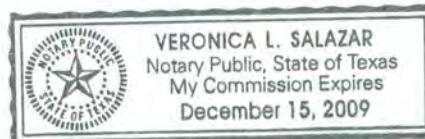
The State of Texas  
County of Bexar HARRIS

This instrument was acknowledged before me on Sept. 28, 2007, by Steve Richter, Exec. VP/CFO of Cumberland Potranco Joint Venture, a Texas joint venture, managed by WRI Cumberland GP, L.P., a Texas limited partnership, general partner of WRI Cumberland GP, L.L.C., a Texas limited liability company, its General Partner, property owner within the District.

Steve Richter  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

Veronica L. Salazar  
(Print name of Notary Public here)

My commission expires the 15th day of December 2007



Cumberland 211, Ltd.,  
a Texas limited partnership  
By: Cumberland Properties, L.L.C.,  
a Texas corporation, its General Partner

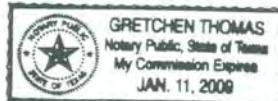
By:   
Name: George A. Field, III  
Title: Manager  
Date:

The State of Texas

County of Bexar

This instrument was acknowledged before me on 2007.07, 2007, by George A Field, III, Manager  
Cumberland Properties, L.L.C., a Texas limited liability company, general partner of Cumberland 211, Ltd., a  
Texas Limited Partnership, property owner within the District.

Gretchen Thomas  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)



Gretchen Thomas  
(Print name of Notary Public here)

My commission expires the 11 day of January <sup>2008</sup> 2007.

Navigator Stevens Ranch, L.P.,  
a Texas limited partnership  
By: NSR GP, LLC, a Texas limited liability company,  
its General Partner

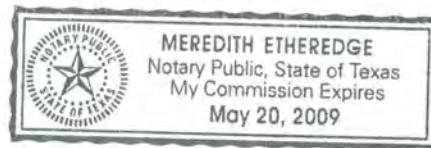
By:  
Name: James D. Dondero  
Title: Manager  
Date: 9/25/07

By:  
Name: J. Kevin Ciavarra  
Title: Manager  
Date: 9/25/07

The State of Texas  
County of Dallas

This instrument was acknowledged before me on this 25 day of September, 2007, by Patrick H. Daugherty, as a Manager of NSR GP, LLC, a Texas limited liability company, the General Partner of NAVIGATORS STEVENS RANCH, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership, property owner within the District.

M. Etheredge  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)



M. Etheredge  
(Print name of Notary Public here)

My commission expires the 20 day of May 2009  
2007.

The State of Texas  
County of Dallas

This instrument was acknowledged before me on this 25 day of September, 2007, by J. Kevin Ciavarra, as a Manager of NSR GP, LLC, a Texas limited liability company, the General Partner of NAVIGATORS STEVENS RANCH, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership, property owner within the District.

M. Etheredge  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)



M. Etheredge  
(Print name of Notary Public here)

My commission expires the 20 day of May 2009  
2007.

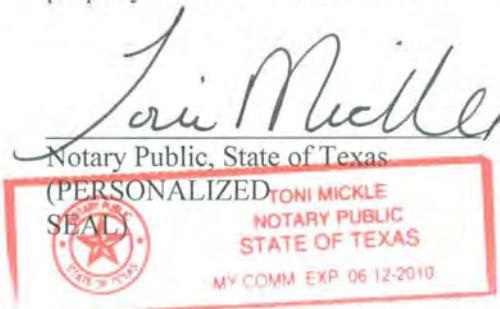
**KD CIRI I, L.L.C.,**  
a Texas limited liability company

By:   
Name: James Kerby  
Title: Manager  
Date: October 1, 2007

The State of Texas

County of Bexar Travis

This instrument was acknowledged before me on  
October 1, 2007, by James Kerby, Manager KD  
CIRI I, L.L.C., a Texas limited liability company,  
property owner within the District.



(Print name of Notary Public here)

Toni Mickle  
My commission expires the 12 day  
of June 2007.  
2010

**CIRI Land Development Company,**  
an Alaska corporation

By: \_\_\_\_\_  
Name: Greg Jones  
Title: President  
Date: \_\_\_\_\_

The State of Texas

County of Bexar

This instrument was acknowledged before me on  
\_\_\_\_\_, 2007, by Greg Jones, President, CIRI Land  
Development Company, an Alaska corporation, property  
owner within the District.

Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007.

*See Attached  
mer 10/2/07 P.15*

KD CIRI I, L.L.C.,  
a Texas limited liability company

By:  
Name: James Kerby  
Title: Manager  
Date:

The State of Texas  
County of Bexar

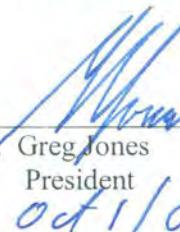
This instrument was acknowledged before me on \_\_\_\_\_, 2007, by James Kerby, Manager KD CIRI I, L.L.C., a Texas limited liability company, property owner within the District.

Notary Public, State of Texas  
(PERSONALIZED  
SEAL)

(Print name of Notary Public here)

My commission expires the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007.

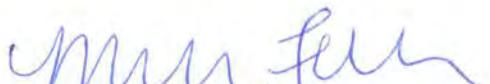
CIRI Land Development Company,  
an Alaska corporation

By:   
Name: Greg Jones  
Title: President  
Date: Oct 1/07

The State of ~~Texas~~ Alaska

~~County of Bexar~~ Third Judicial District

This instrument was acknowledged before me on Oct 1, 2007, by Greg Jones, President, CIRI Land Development Company, an Alaska corporation, property owner within the District.



Notary Public, State of ~~Texas~~ Alaska  
(PERSONALIZED  
SEAL)

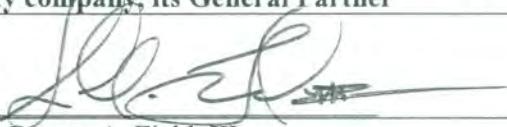
Miranda Fuller

(Print name of Notary Public here)

My commission expires the 27 day  
of July 2007.



Cumberland 90, Ltd., a Texas limited partnership  
By: Cumberland Properties, L.L.C., a Texas limited  
liability company, its General Partner

By: 

Name: George A. Field, III

Title: Manager

Date: 7-27-07

Attest:

By: 

Name: Leticia M. Vacek

Title: City Clerk

Date: 10/09/07

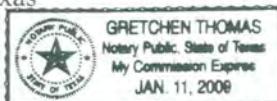


The State of Texas

County of Bexar

This instrument was acknowledged before me on  
Sept. 27, 2007, by George A Field, III, Manager,  
Cumberland 90, Ltd., a Texas limited partnership,  
general partner of Cumberland Properties, L.L.C., a  
Texas limited liability company, property owner within  
the District.

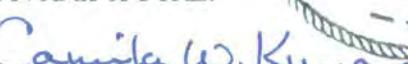
  
Notary Public, State of Texas  
(PERSONALIZED  
SEAL)



  
(Print name of Notary Public here)

My commission expires the 11 day  
of January 2007  
2008

Approved as to Form:

By: 

Title: City Attorney

Date: 10/05/07

EXHIBIT "A"



LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

FIELD NOTES

FOR

A 3.625 acre, or 157,918.037 square feet more or less, tract of land being comprised of all of that 27.42 acre tract described in conveyance to Cumberland 211, Ltd. in Special Warranty Deed recorded in Volume 12395, Pages 1298-1312 of the Official Public Records of Real Property of Bexar County, Texas, out of a 1,349 acre tract recorded in Volume 11034, Pages 5-74 of the Official Public Records of Bexar County, Texas, and being all of a 1,505 acre tract and a 2.871 acre tract recorded in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, all of a 564 8 acre tract, out of that 609.83 acre tract of land conveyed to T Slash Bar Texas, Ltd. in a Warranty Deed with Vendors Lien recorded in Volume 6738, Pages 287-292 of the Official Public Records of Real Property of Bexar County, Texas, out of that 710.6 acre tract described in conveyance to Cumberland 211, Ltd. in Special Warranty Deed recorded in Volume 12395, Pages 1298-1312 of the Official Public Records of Real Property of Bexar County, Texas, all of a 40 95 acre tract described in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, all of a called 942.966 acre tract described in Volume 12634, Pages 160-168 of the Official Public Records of Bexar County, Texas, a portion of State Highway 211, a variable width right-of-way, and a portion of F.M. Highway 1957 (Potranco Road) a variable width right-of-way, out of the Clementine Bundick Survey No. 13 1/2, Abstract No. 992, County Block 4325, the Juan Talamantes Survey No. 300 1/3 (sometimes called 300 1/5), Abstract 1030, County Block 4369, the S. Musquez Survey No. 300 1/6, Abstract 1084, County Block 4371, the John Fitzgerald Survey No. 33, Abstract 1290, County Block 4402, the S. Tyler Survey No. 367, Abstract 744, County Block 4401, the P. Vela De Rubio Survey No. 207, Abstract 1118, County Block 4382, the C.C.S.D. & R.C.N.G.R. Survey No. 207, Abstract 887, County Block 4381, the W.M. Bryan Survey No. 204, Abstract 118, County Block 4383, the C. Castro Survey No. 300 1/2, Abstract 185, County Block 4379, the N. Perez Survey No. 300 1/4, Abstract 1151, County Block 4378, the A. Cagnon & Bro. Survey No. 208, Abstract 955, County Block 4367, the T. Quintera Survey No. 300, Abstract 978, County Block 4353, the Manuel Leal Survey No. 299, Abstract 4357, County Block 4357, the I. Rodriguez Survey No. 300 1/8, Abstract 655, County Block 4370, the Jose Musquiz Survey No. 300 3/4, Abstract 1149, County Block 4368, Johann Pfeiffer Survey No. 7, Abstract 1018, County Block 4349, the E. Davis Survey No. 6, Abstract No. 1001, County Block 4348, the Precilla Tarkington, Survey No. 5, Abstract No. 1029, County Block 4347, the Mrs. S.C. Craig Survey No. 13 3/4, Abstract No. 1077, County Block 4345 and the Juana Martinez Survey No. 14 1/2, Abstract No. 1114, County Block 4016 all in Bexar County Texas, Said 3,060 acre tract being more fully described as follows, bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone, basis of bearings is the north line of the 27.42 acre tract as found monumented on the ground:

BEGINNING: At a found Texas Department of Transportation Concrete Monument, on the north end of a cutback line of the north right-of-way line of F.M. Highway 1957, a southwest corner of a 10.00 acre tract recorded in Volume 10690, Pages 831-835 of the Official Public Records of Real Property of Bexar County, Texas, on a southeast corner of the 27.42 acre tract;

THENCE: With the north right-of-way line of the F.M. Highway 1957 (Potranco Road), the south line of the 27.42 acre tract, the following calls and distances:

S  $88^{\circ}27'57''W$ , a distance of 30.03 feet to a Texas Department of Transportation Monument with a brass plate;

S  $45^{\circ}27'38''W$ , a distance of 71.36 feet to a Texas Department of Transportation Monument with a brass plate;

S  $89^{\circ}32'50''W$ , a distance of 425.86 feet to a Texas Department of Transportation Monument with a brass plate;

S  $88^{\circ}37'45''W$ , at distance of 412.45 feet to a found  $\frac{1}{2}$ " iron rod, for the southwest corner of a 27.42 acre tract, the southeast corner of the 40.95 acre tract, a distance of 390.00 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson" for the southwest corner of the 40.95 acre tract, the southeast corner of the 710.6 acre tract, and continuing, with the south line of the 710.6 acre tract, for a total distance of 1545.42 feet to a point;

THENCE: S  $01^{\circ}22'15''E$ , departing the north right-of-way line of F.M. Highway 1957, the south line of the 710.6 acre tract, across the F.M. Highway 1957, a distance of 100.36 feet to a found TxDOT monument with brass plate, an angle point of Highway 211, a north corner of a 41.79 acre tract, described in Volume 8818, Pages 1645-1648 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northwest and west line of the 41.79 acre tract, the southeast and east line Highway 211, the following calls and distances:

S  $44^{\circ}08'40''W$ , a distance of 182.22 feet to a found TxDOT monument with brass plate;

S  $01^{\circ}22'19''E$ , a distance of 228.58 feet to a found TxDOT monument with brass plate, the beginning of a curve to the left;

Southeasterly, along the arc of a curve to the left, said curve having a radius of 5479.58 feet, a central angle of 5°25'00", a chord bearing and distance of S 04°04'49" E, 517.84 feet, and an arc length of 518.03 feet to a found TxDOT monument with brass plate;

S 08°05'35"E, a distance of 663.33 feet to a found  $\frac{1}{2}$ " iron rod;

S 15°20'29"E, at a distance of 265.57 feet passing the northwest corner of Lot 2, Block 1, County Block 4349, Citicorp Subdivision Unit 2, recorded in Volume 9530, Page 168-170 of the Deed and Plat Records of Bexar County Texas, and continuing, with the west line of Lot 2, a total distance of 883.28 feet to a found  $\frac{1}{2}$ " iron rod;

THENCE: With the west line of Lot 2, the northeast right-of-way line of Highway 211, the following calls and distances:

S 13°41'51"E, a distance of 795.17 feet to a found type III highway right-of-way monument at an angle point;

S 61°27'40"E, a distance of 171.25 feet to a found  $\frac{1}{2}$  inch iron rod with a yellow cap marked "Pape-Dawson", the south most southwest corner of Lot 2 and the northwest corner of a 33.68 acre tract described in Volume 8818, Pages 1638-1644 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northeast right-of-way line of Highway 211, the southwest line of the 33.68 acre tract, the following calls and distances:

S 22°36'22"E, a distance of 110.10 feet to a found TxDOT monument with brass plate;

S 36°40'25"W, a distance of 186.68 feet to a found TxDOT monument with brass plate;

S 13°42'32"E, at a distance of 215.77 feet passing a found  $\frac{1}{2}$ " iron rod, the southwest corner of the 33.68 acre tract, the northwest corner of a 200.0 acre tract, described in Volume 8426, Pages 347-352 of the Official Public Records of Bexar County, Texas and continuing for a total distance of 352.00 feet to a point;

THENCE: With the northeast right-of-way line of Highway 211, the southwest line of the 200.0 acre tract, the following calls and distances:

S 09°30'13"E, a distance of 681.84 feet to a point;

S 13°42'32"E, a distance of 573.94 feet to a point;

S 17°15'31"E, a distance of 424.33 feet to a point;

S 25°04'11"E, a distance of 754.91 feet to a point;

S 27°55'30"E, a distance of 390.46 feet to a point;

S 65°35'16"E, a distance of 173.93 feet to a point;

N 79°57'47"E, a distance of 83.49 feet to a point;

S 12°19'49"E, a distance of 110.00 feet to a point;

S 23°41'04"W, a distance of 174.26 feet to a point;

THENCE: S 59°08'43"W, departing the northeast right-of-way line of Highway 211, the southwest line of the 200.0 acre tract, across Highway 211, a distance of 500.22 feet to a point on the southwest right-of-way line of Highway 211, the northeast line of the 942.966 acre tract;

THENCE: With the southwest right-of-way line of Highway 211, the northeast line of the 942.966 acre tract, the following calls and distances:

S 30°51'17"E, a distance of 90.55 feet to a found  $\frac{1}{4}$ " iron rod;

S 20°56'10"E, a distance of 345.83 feet to a found  $\frac{1}{2}$ " iron rod;

S 34°50'41"E, a distance of 580.54 feet to a found "+" in concrete;

S 50°14'31"E, a distance of 212.00 feet to a found TxDOT monument with brass plate;

S 30°54'30"E, a distance of 464.25 feet to a found TxDOT monument with brass plate, the beginning of a curve to the left;

Southeasterly, along the arc of a curve to the left, said curve having a radial bearing of N 59°06'04" E, a radius of 3064.79 feet, a central angle of 21°30'05", a chord bearing and distance of S 41°38'59" E, 1143.39 feet, and an arc length of 1150.12 feet to a found TxDOT monument with brass plate;

S 52°23'28"E, a distance of 474.00 feet to a found TxDOT monument with brass plate, the beginning of a curve to the right;

Southeasterly, along the arc of a curve to the right, said curve having a radius of 2664.79 feet, a central angle of 25°20'24", a chord bearing and distance of S 39°43'16" E, 1168.97 feet, and an arc length of 1178.55 feet to a found  $\frac{1}{2}$ " iron rod, the east corner of the 942.966 acre tract;

THENCE: Departing the southwest right-of-way line of Highway 211, with the southeast and south line of the 942.966 acre tract, the following calls and distances:

S 50°44'43"W, a distance of 309.43 feet to a found  $\frac{1}{4}$ " iron rod;

N 68°09'21"W, a distance of 522.74 feet to a found  $\frac{1}{2}$ " iron rod;

S 53°27'57"W, a distance of 654.06 feet to a found  $\frac{1}{2}$ " iron rod;

S 00°33'37"E, a distance of 572.92 feet to a point, for a southeast corner of 942.966 acre tract;

S 89°50'13"W, a distance of 327.83 feet to a point;

THENCE: Departing the south line of said 942.966 along and with the north line of said 564.8 acre tract, the following calls and distances:

SOUTH, a distance of 614.66 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

EAST, a distance of 1026.22 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

NORTH, a distance of 474.32 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

EAST, a distance of 872.06 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", a point in the west right of way line of State Highway 211, a variable width right of way;

THENCE: Along and with the east line of said 609.83 acre tract and the west right of way line of said State Highway 211 the following calls and distances:

S 00°13'08"E, a distance of 65.97 feet to a found TXDOT monument with brass plate;

S 16°54'50"E, a distance of 904.96 feet to a found TXDOT monument with brass plate;

S 39°03'26"W, a distance of 156.70 feet to a found 1/2" iron rod;

S 00°21'16"E, a distance of 110.10 feet to a found 1/4" iron rod with a yellow cap marked "Pape-Dawson";

N 89°38'44"E, a distance of 48.10 feet to a found 1/4" iron rod with a yellow cap marked "Pape-Dawson";

S 51°56'53"E, a distance of 207.19 feet to a found TXDOT monument with brass plate, the beginning of a non-tangent curve to the right;

Southeasterly, along the arc of said curve to the right, said curve having a radial bearing of S 79°27'16" W, a radius of 2614.79 feet, a central angle of 10°09'33", a chord bearing and distance of S 05°27'58" E, 463.02 feet, and an arc length of 463.63 feet to a found TxDot Monument;

S 00°23'12"E, a distance of 476.16 feet to a found TXDOT monument with brass plate;

S 08°37'14"E, a distance of 349.75 feet to a found TXDOT monument with brass plate;

S 00°23'55"E, a distance of 992.12 feet to found 1/2" iron rod;

S 15°36'15"W, a distance of 716.77 feet to a found TXDOT monument with brass plate;

S 26°59'51"W, a distance of 196.18 feet to found TXDOT monument with brass plate;

S 38°23'07"W, a distance of 259.04 feet to found TXDOT monument with brass plate;

THENCE: Leaving the west right of way line of said State Highway 211 and along and with the north right of way line of U.S. Highway 90, a variable width right of way the following calls and distances:

S 49°20'35"W, a distance of 226.55 feet to a found TXDOT monument with brass plate;

S 64°10'49"W, a distance of 194.07 feet to a found TXDOT monument with brass plate;

S 78°13'55"W, at a distance of 343.45 feet passing a found TXDOT monument with brass plate, at a distance of 403.33 passing a found  $\frac{1}{4}$ " iron rod, continuing for a total distance of 1247.85 feet to a found TXDOT monument with brass plate;

S 81°32'45"W, a distance of 206.23 feet to a found TXDOT monument with brass plate;

S 79°40'23"W, a distance of 300.09 feet to a found TXDOT monument with brass plate;

S 71°45'36"W, a distance of 1318.19 feet to a found TXDOT monument with brass plate;

S 74°34'04"W, a distance of 200.17 feet to a found TXDOT monument with brass plate;

S 71°48'08"W, a distance of 930.39 feet to a found  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

THENCE: N 00°11'04"W, departing the north right of way of U.S. Highway 90, along and with the west line of said 564.8 acre tract and the east line of a 131.9209 acre tract conveyed to Showplace Hill, Inc. in Volume 5801, Pages 5757, at a distance of 2253.55 feet passing a found  $\frac{1}{2}$ " iron rod, a northeast corner of said 131.9209 acre tract and the southeast corner of a 221.9387 acre tract recorded in Volume 5686, Pages 1998-2015 of the Official Public Records of Real Property, Bexar County, Texas, continuing for a total distance of 6094.61 feet to a found  $\frac{1}{4}$ " iron rod, the northeast corner of said 221.9387 acre tract and on the south line of a 942.966 acre tract recorded in Volume 1085, Pages 1216-1221 of the Official Public Records of Real Property of Bexar County, Texas, the northwest corner of said 564.8 acre tract;

THENCE: S 89°50'13" W, along and with the south line of said 942.966 acre tract a distance of 3664.10 feet to the southwest corner of said 942.966 acre tract;

THENCE: With the west line of the 942.966 acre tract, the following calls and distances:  
N 00°17'31" E, a distance of 2187.60 feet to a found  $\frac{1}{2}$ " iron rod;  
N 00°17'56" E, a distance of 1294.08 feet to a found  $\frac{1}{2}$ " iron rod;  
N 00°21'10" E, a distance of 1405.93 feet to a found  $\frac{1}{2}$ " iron rod;  
N 89°56'15" W, a distance of 1438.36 feet to a point, for a west corner;  
N 00°16'48" W, a distance of 2060.98 feet to a found  $\frac{1}{2}$ " iron rod, the northwest corner of this tract;

THENCE: With the north line of the 942.966 acre tract, the following calls and distances:  
N 89°45'46" E, a distance of 3111.93 feet to a found  $\frac{1}{2}$ " iron rod;  
S 61°51'35" E, a distance of 1307.53 feet to a point;  
N 37°54'16" E, a distance of 399.71 feet to a found  $\frac{1}{2}$ " iron rod;  
N 72°40'53" E, a distance of 457.34 feet to a found  $\frac{1}{2}$ " iron rod;  
N 90°00'00" E, a distance of 481.50 feet to a point, on the southwest right-of-way line of Highway 211, the northeast corner of the 942.966 acre tract;

THENCE: With the southwest and west right-of-way line of Highway 211, the following calls and distances:  
N 14°47'09" W, a distance of 1025.81 feet to a point;  
N 61°23'25" W, a distance of 171.29 feet to a point;  
N 22°41'13" W, a distance of 110.00 feet to a point;  
N 36°40'25" E, a distance of 186.68 feet to a point;  
N 13°42'32" W, a distance of 913.00 feet to a point;  
N 12°09'10" W, a distance of 602.48 feet to a point;

N 12°09'10" W, a distance of 1001.55 feet to a point, the beginning of a curve to the right;

Northwesterly, along the arc of a curve to the right, said curve having a radial bearing of N 83°12'41" E, a radius of 5979.58 feet, a central angle of 5°25'00", a chord bearing and distance of N 04°04'49" W, 565.09 feet, and an arc length of 565.30 feet to a point;

N 01°22'19" W, a distance of 228.58 feet to a point;

N 44°35'48" W, a distance of 175.22 feet to a point, a north corner of Highway 211, on the south right-of-way line of F.M. Highway 1957;

THENCE: N 01°22'15" W, departing the south right-of-way line of F.M. Highway 1957, across F.M. Highway 1957, a distance of 100.38 feet to a point, on the north right-of-way line of F.M. Highway 1957;

THENCE: N 88°37'45" E, with the north right-of-way line of F.M. Highway 1957, a distance of 370.15 feet to a found  $\frac{1}{2}$ " iron rod, the southwest corner of the 710.6 acre tract;

THENCE: With the west and southwest line of the 710.6 acre tract, the following calls and distances:

N 01°22'09" W, a distance of 1324.23 feet to a found 60d nail, the beginning of a curve to the left;

Northwesterly, with the arc of a curve to the left, said curve having a radius of 5729.58 feet, a central angle of 24°15'54", a chord bearing and distance of N 13°30'06" W, 2408.41 feet, and an arc length of 2426.50 feet to a found 60d nail;

N 25°38'03" W, at a distance of 2600.88 feet passing a found PK nail, the north corner of the remainder portion of a 500.00 acre tract, recorded in Volume 8377, Pages 1801-1807 of the Official Public Records of Bexar County, Texas, an angle point of a 345.688 acre tract described in Volume 11240, Pages 1426-1438 of the Official Public Records of Real Property of Bexar County, Texas, and continuing for a total distance of 2939.77 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the left;

THENCE: Northwesterly, with the east line of the 345.688 acre tract, along the arc of a curve to the left, said curve having a radial bearing of S64°22'03" W, a radius of 5729.62 feet, a central angle of 14°26'52", a chord bearing and distance of N 32°51'23" W, 1440.97 feet, a distance of 1444.80 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 47°59'15"W, with the east line of the 345.688 acre tract, a distance of 0.47 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the southeast corner of the remainder portion of a 1518.164 acre tract described in Volume 6636, Page 753-760 of the Official Public Records of Real Property of Bexar County, Texas, the beginning of a curve to the left;

THENCE: Northwesterly, with the east line of the remainder portion of the 1518.164 acre tract, along the arc of a curve to the left, said curve having a radius of 5728.89 feet, a central angle of 6°16'47", a chord bearing and distance of N 43°13'43" W, 627.58 feet, and an arc length of 627.90 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 46°22'07"W, at a distance of 1195.78 feet passing the east corner of a 69.53 acre tract-Parcel 1 described in Volume 11652, Pages 649-654 of the Official Public Records of Real Property of Bexar County, Texas, at a distance of 2381.42 feet passing the north corner of the 69.53 acre tract, the east corner of the 119.0 acre tract-Parcel 2 described in Volume 11652, Pages 681-685 of the Official Public Records of Real Property of Bexar County, Texas and Volume 595, Pages 667-671 of the Official Public Records of Medina County, Texas, and continuing for a total distance of 3863.11 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the right;

THENCE: Northwesterly, with the arc of a curve to the right, said curve having a radial bearing of N 43°37'54" E, a radius of 11459.16 feet, a central angle of 6°00'05", a chord bearing and distance of N 43°22'04" W, 1199.75 feet, at an arc length of 1123.11 feet passing the north corner of the 119.0 acre tract, the east corner of a 130.8 acre tract-Parcel 3 described in Volume 11652, Pages 686-691 of the Official Public Records of Real Property of Bexar County, Texas, and continuing for a total arc length of 1200.30 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson";

THENCE: N 40°22'02"W, with the northeast line of the 130.8 acre tract, a distance of 612.61 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the beginning of a curve to the right;

THENCE: Northwesterly, with the arc of a curve to the right, said curve having a radial bearing of N 49°37'59" E, a radius of 5729.58 feet, a central angle of 5°26'48", a chord bearing and distance of N 37°38'37" W, 544.46 feet, an arc length of 544.67 feet to a point, on the Medina County, and Bexar County line;

THENCE: N 00°16'40"W, with the Bexar and Medina County line, across the 710.6 acre tract, a distance of 3440.17 feet to a point on the south line of the 578.001 acre tract recorded in Volume 11424, Pages 190-200 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: N 80°05'48"E, departing the Bexar and Medina County line, with the south line of the 578.001 acre tract, the north line of the 710.6 acre tract a distance of 477.60 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the northeast corner of the 710.6 acre tract, the northwest corner of the 40.95;

THENCE: N 80°05'42"E, with the south line of the 578.001 acre tract, the north line of the 40.95 acre tract, at a distance of 72.02 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", the northeast corner of the 40.95 acre tract, the northwest corner of the 1,305 acre tract, and continuing for a total distance of 1464.36 feet to a found  $\frac{1}{2}$ " iron rod at the southwest corner of a 609.8 acre tract recorded in Volume 5544, Pages 1495-1497 of the Official Public Records of Real Property of Bexar County, Texas, the northeast corner of the 1,305 acre tract and the northeast corner of this tract;

THENCE: S 59°17'53" E, with the southwest line of the 609.8 acre tract, the northeast line of the 1,305 acre tract and the northeast line of this tract, at a distance of 4110 feet passing the northwest corner of a 51.00 acre tract recorded in Volume 8962, Pages 65-68 of the Official Public Records of Real Property of Bexar County, Texas, the south corner of the 609.8 acre tract, continuing with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract, for a total distance of 6242.07 feet to a found  $\frac{1}{2}$ " iron rod, for an east corner of the 1,305 acre tract, a reentrant corner of the 51.00 acre tract and an east corner of this tract;

THENCE: S 36°20'05" E, with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract and the northeast line of this tract, a distance of 41.80 feet to a found  $\frac{1}{2}$ " iron rod, for an angle point in the east line of the 1,305 acre tract, the west line of the 51.00 acre tract and the east line of this tract;

THENCE: S 09°47'37" E, with the southwest line of the 51.00 acre tract, the northeast line of the 1,305 acre tract, at a distance of 1518 feet passing the south corner of the 51.00 acre tract, the west corner of a 50.00 acre tract recorded in Volume 7872, Pages 1391-1395 of the Official Public Records of Real Property of Bexar County, Texas, continuing with the southwest line of the 50.00 acre tract, the northeast line of the 1,305 acre tract, for a total distance of 3098.61 feet to a found  $\frac{1}{2}$ " iron rod, the south corner of the 50.00 acre tract, a reentrant corner of the 1,305 acre tract and a reentrant corner of this tract;

THENCE: N 35°37'28" E, with the southeast line of the 50.00 acre tract, a northwest line of the 1,305 acre tract, at a distance of 2206.4 feet, passing the east corner of the 50.00 acre tract, continuing with a northwest line of the 1,305 acre tract for a total distance of 3504.86 feet to a found  $\frac{1}{2}$ " iron rod with a cap marked "Baker", the west corner of a 10.897 acre tract recorded in Volume 8319, Pages 1245-1250 of the Official Public Records of Real Property of Bexar County, Texas, an east corner of the 1,305 acre tract and an east corner of this tract;

THENCE: S 46°18'19" E, with the southwest line of the 10.897 acre tract, the northeast line of the 1,305 acre tract, a distance of 1604.28 feet to a found  $\frac{1}{2}$ " iron rod, in the west line of Lot 1, Elm Valley Park Unit Three Subdivision recorded in Volume 9520, Page 92 of the Deed and Plat Records of Bexar County, Texas, for the south corner of the 10.897 acre tract, an east corner of the 1,305 acre tract and an east corner of this tract;

THENCE: S 00°26'52" E, with the west line of Lot 1, the east line of the 1,305 acre tract, at a distance of 80.2 feet passing the southwest corner of Lot 1, the north corner of a 5.717 acre tract recorded in Volume 4760, Pages 402-404 of the Official Public Records of Real Property of Bexar County, Texas, at a distance of 1193.3 feet passing the southwest corner of a 1.361 acre tract recorded in Volume 1914, Pages 961-964 of the Official Public Records of Real Property of Bexar County, Texas, the northwest corner of a 10.800 acre tract recorded in Volume 7849, Pages 363-366 of the Deed Records of Bexar County, Texas, continuing with the west line of the 10.800 acre tract, the east line of the 1,305 acre tract, for a total distance of 2366.69 feet to a found  $\frac{1}{2}$ " iron rod, at the south corner of the 10.800 acre tract, a corner of Rolling Oaks Estates Unit 5 Subdivision recorded in Volume 9500, Page 13 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S 28°45'25" E, with the southwest line of Rolling Oaks Estates Unit-5 Subdivision, the northeast line of the 1,305 acre tract and the northeast line of this tract, a distance of 2914.51 feet to a found  $\frac{1}{2}$ " iron rod with a yellow cap marked "Pape-Dawson", at a corner of Rolling Oaks Estates Unit-5 Subdivision, on the north line of Rolling Oaks Estates Unit 4 Subdivision recorded in Volume 9200, Page 74 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S 70°38'53" W, with the northwest line of Rolling Oaks Estates Unit 4 Subdivision, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 1784.39 feet to a found  $\frac{1}{2}$ " iron rod, at the northwest corner of Rolling Oaks Estates Unit 4 Subdivision, a reentrant corner of the 1,305 acre tract and a reentrant corner of this tract;

THENCE: S 45°08'05" E, with the southwest line of Rolling Oaks Estates Unit 4 Subdivision, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 760.59 feet to a found  $\frac{1}{2}$ " iron rod, at a corner of Rolling Oaks Estates Unit 4, a corner of Rolling Oaks Estates Unit 6 Subdivision recorded in Volume 9510, Pages 92-95 of the Deed and Plat Records of Bexar County, Texas;

THENCE: S 45°13'36" W, with the northwest line of Rolling Oaks Estates Unit-6, the southeast line of the 1,305 acre tract and the southeast line of this tract, a distance of 1032.63 feet to a found 2" steel post, a corner of Rolling Oaks Estates Unit-6, the north corner of the 146.47 acre tract described in Volume 10690, Pages 831-835 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: With the northwest line of the 146.47 acre tract, the southeast line of the 1,305 acre tract and the southeast line of this tract the following calls and distances;

S 45°26'59" W, a distance of 615.42 feet to found 12" live oak;

S 45°05'57" W, a distance of 251.24 feet to a found 2" steel post;

N 87°39'36" W, a distance of 43.25 feet to a found 4" cedar post in the east line of the 2.871 acre tract, for a reentrant corner of the 1305 acre tract, the northwest corner of the 146.47 acre tract and for a corner of this tract;

THENCE: With the east line of the 2.871 acre tract, the west line of said 146.47 acre tract the following calls and distances:

S 00°25'13" W, a distance of 879.17 feet to a found fence post;

S 00°41'04" W, a distance of 737.23 feet to a found fence post;

S 00°26'10" W, a distance of 894.46 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

S 00°18'07" W, a distance of 272.55 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

THENCE: S 00°32'37" W, a distance of 333.87 feet to a found 1/2" iron rod, the northeast corner of the 27.42 acre tract and the southeast corner of the 2.871 acre tract;

THENCE: S 00°32'37" W, with the west line of the 146.47 acre tract, the east line of the 27.42 acre tract, at a distance of 404.88 feet passing the southwest corner of the 146.47 acre tract, the northwest corner of the 10.000 acre tract, and continuing for a total of 556.53 feet to a found 1/2" iron rod with a yellow cap marked "Pape-Dawson";

THENCE: S 01°06'27" W, with the west line of the 10.000 acre tract, the east line of the 27.42 acre tract, a distance of 502.56 feet to the POINT OF BEGINNING and containing 3,625 acres in Bexar County, Texas. This survey is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

PREPARED BY: PAPE-DAWSON ENGINEERS INC.

DATE: June 8, 2007

JOB No.: 6626-01

FILE: P:\662601\Word\Survey\070608-FN.doc

SAVE AND EXCEPT:

A 49.16 acre, or 2,141,357 square feet more or less, tract of land being out of that 1,349 acre tract recorded in Volume 11034, Pages 5-74 of the Official Public Records of Bexar County, Texas, and a 1,305 acre tract recorded in Volume 12202, Pages 1370-1395 of the Official Public Records of Bexar County, Texas, out of the C.C.S.D. & R.C.N.G.R. Survey No. 207, Abstract 887, County Block 4381, and the N. Perez Survey No. 300 1/4, Abstract 1151, County Block 4378, all in Bexar County Texas. Said 49.16 acre tract being more fully described as follows with basis of bearings being the State Plane Coordinate projection for the South Central Zone of Texas from the North American Datum of 1983 (CORS 1996):

COMMENCING: At a found  $\frac{1}{4}$ " iron rod, at the south corner of a 10.800 acre tract, recorded in Volume 7849, Pages 363-366 of the Deed Records of Bexar County, Texas, a corner of Rolling Oaks Estates Unit 5 Subdivision, recorded in Volume 9500, Page 13 of the Deed and Plat Records of Bexar County, Texas, an angle point in the east line of the 1,349 acre tract, the 1,305 acre tract and the northeast corner of a 122.1 acre tract surveyed concurrently and the southeast corner of a 160.3 acre tract surveyed concurrently;

THENCE: N  $85^{\circ}13'56''W$ , across the 1,349 acre tract, the 1,305 acre tract and the 160.3 acre tract at a distance of 1655.28 feet passing the southwest line of the 160.3 acre tract, continuing across the 1349 acre tract, the 1,305 acre tract for a total distance of 1754.41 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson" for the east corner of this tract, the north corner of a 40.46 acre tract surveyed concurrently and being the POINT OF BEGINNING;

THENCE: Across the 1,349 acre tract, the 1,305 acre tract, with the east line of this tract and the west line of the 40.46 acre tract, the following calls and distances;

S  $47^{\circ}59'23''W$ , a distance of 374.44 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

S  $09^{\circ}10'28''W$ , a distance of 1130.44 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson" for the south corner of this tract, the west corner of the 40.46 acre tract and an east corner of a 72.07 acre tract surveyed concurrently";

THENCE: Northwesterly, across the 1349 acre tract, the 1,305 acre tract and with the southwest line of this tract and the northeast line of the 72.07 acre tract, the following calls and distances;

N  $75^{\circ}47'02''W$ , a distance of 1019.26 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $55^{\circ}54'54''W$ , a distance of 205.46 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $01^{\circ}22'31''W$ , a distance of 465.50 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson" for the southwest corner of this tract and a re-entrant corner of the 72.07 acre tract;

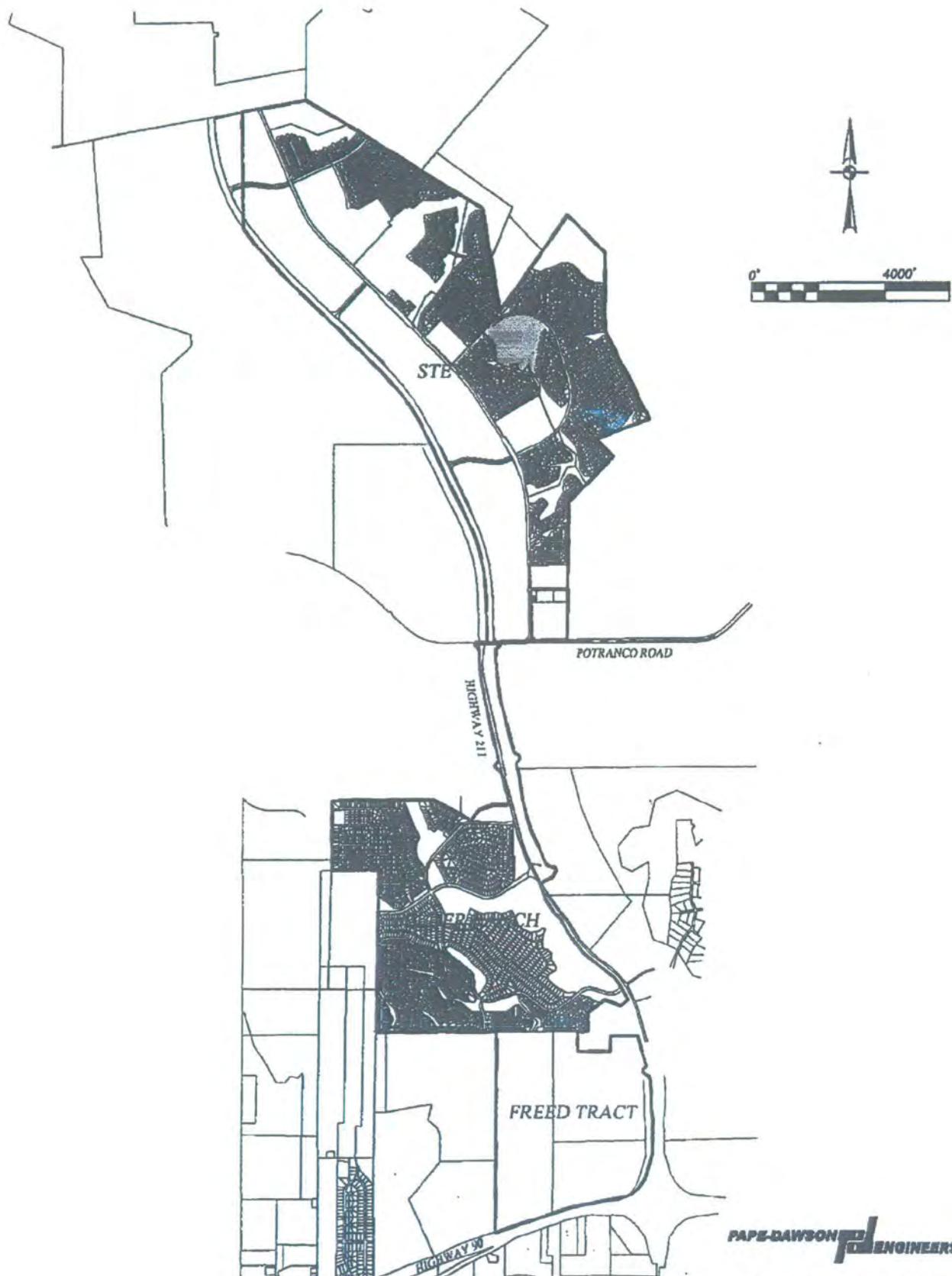
N  $27^{\circ}41'54''W$ , a distance of 116.21 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

N  $45^{\circ}19'38''W$ , a distance of 340.71 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson" for the west corner of this tract and the north corner of the 72.07 acre tract;

THENCE: Departing the northeast line of the 72.07 acre tract, across the 1,349 acre tract, the 1,305 acre tract, with the north line of this tract the following calls and distances;

N 44°40'22"E, a distance of 327.22 feet to a set  $\frac{1}{4}$ " iron rod with yellow cap marked "Pape-Dawson";

Southeasterly, along the arc of a curve to the right, said curve having a radius of 1165.00 feet, a central angle of 93°19'01", a chord bearing and distance of S 88°40'08" E, 1694.55 feet, an arc length of 1897.42 feet to the POINT OF BEGINNING and containing 49.16 acres in Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.



WESTSIDE 211 PID BOUNDARY