



KILLEN, GRIFFIN
& FARRIMOND
ATTORNEYS AT LAW

ROB KILLEN
JAMES B. GRIFFIN
ASHLEY FARRIMOND

September 26, 2022

City of San Antonio Board of Adjustment
Development Services Department
City of San Antonio
1901 South Alamo Street
San Antonio, Texas 78204

To the members of the Board of Adjustment:

The purpose of this letter is to address the Notice of Intent to Revoke Certificate of Occupancy ("Notice") received for the property located at 3442 Belgium Lane, in the City of San Antonio (the "City"), Texas 78219 ("Property") on September 23, 2022. It is our position that the Property is lawfully operating under its existing "I-2" zoning district. As such, we are filing this appeal of the Notice to the Board of Adjustment on September 26, 2022.

The Property is an approximately 5.9-acre parcel of land currently zoned "I-2" and lawfully occupied and operated by United Site Services, the tenant/Operator and Applicant of this Appeal. United Site Services is the leading provider of porta potty rentals in the United States and facilitates the rental of additional construction/contractor related equipment, all of which is permitted by right under its existing "I-2" zoning. The Property has been fully permitted and operational for several years. The Notice states in part that the Property is not correctly zoned and is operating outside its intended use. It is our position, however, that the Property is properly zoned with all necessary permits for its existing and intended use as outlined above, and the decision issued by the City in the Notice, based on Unified Development Code Section 35-311, as well as San Antonio Property Maintenance Code Section 108, was done so in error.

Given the information stated above and additional exhibits included in this appeal, it is our position that the Property is zoned properly, has obtained and secured all necessary permits from the City, and that the City improperly issued the Notice.

Thank you for your review of this request. Please do not hesitate to contact me at rob@kgftx.com or (210) 960-2750 if I can provide any additional information.

Sincerely,

KILLEN, GRIFFIN, & FARRIMOND, PLLC

BY: _____
Rob Killen



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT

CITY OF SAN ANTONIO

§
§
§

COUNTY OF BEXAR

STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 1

Block No. 1

NCB 10576 Property Address: 3442 Belgium Lane

Per Section 35-481 of the Unified Development Code (UDC), the Zoning Board of Adjustment is empowered to consider appeals of a decision made by an administration official.

The Applicant, United Site Services of Bexar County, alleges that

the following administrative official Amin Tohmaz, in his/her capacity as

Deputy Director, made an incorrect decision, or interpretation regarding Section 35-311
(Name of Official)
(Title of Official)

of the UDC. This incorrect decision or interpretation was (List the section(s) of the UDC that was applied incorrectly. Provide details why the decision was incorrect or misinterpreted.): Incorrect interpretation of Section 35-311 of the UDC in determining

that the Property is not operating lawfully and is not properly zoned for its current use.

The attached Notice of Intent to Revoke Certificate of Occupancy was issued in error and we respectfully request an appeal of this decision by the Board of Adjustment

The correct decision or interpretation should be as follows (List the section(s) of the UDC that should be applied in this decision. Provide details how the decision should be made.): The Property is lawfully operating and is correctly zoned for its current use.

See attached cover letter.

*Note: Local Government Code § 211.010 (b) and San Antonio City Code § 35-481 (b)(1) require that the applicant give notice of the specific grounds for the appeal. Failure to state the reasons for the alleged error and applicable code sections will result in the return of your application. Please attach additional pages if necessary.

Respectfully submitted:

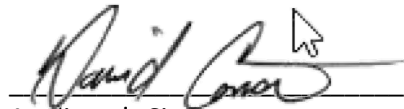
Applicant's name: United Site Services

Status: Owner () Agent (X)

Mailing address: 3442 Belgium Lane

Telephone: 210-960-2750 Alternate: _____

Email: rob@kgftx.com



Applicant's Signature

9/26/22

Date

Property Owner: KMTG Investments LLC

Mailing address: 2021 Enterprise Avenue

Telephone: 210-960-2750 Alternate: _____

Email: rob@kgftx.com

I, KMTG Investments LLC the owner of the subject property, authorize

United Site Services and Killen, Griffin & Farrimond, PLLC to submit this application and represent me in this appeal before the Board of Adjustment.

Please include the following items with this appeal

- ☐ **Documentation from City of San Antonio representing the decision you are appealing and proof that you are within the mandatory 20 day time limit to file the appeal.**
- ☐ **Sections of the UDC from which the decision was based, including all support sections which potentially reinforce your assertion that an error was made.**
- ☐ **Property Ownership documentation, including a copy of the warranty deed and Bexar County Appraisal District and applicable documentation as required per IB 554.**
- ☐ **Filing Fee of \$600 (plus applicable administrative fees).**



NOTICE OF INTENT TO REVOKE CERTIFICATE OF OCCUPANCY

Occupant of Business
United Site Services Inc.
3442 Belgium Lane
San Antonio, Texas 78219

September 23, 2022

Property owner
KMTG Investments LLC
2021 Enterprise Ave.
League City, Texas 77573

RE: Notice of intent to revoke Certificate of Occupancy for occupying a commercial building and operating a business without a valid certificate of occupancy. To wit: United Site Services at 3442 Belgium Lane, San Antonio, Texas 78219, *NCB 10576 BLK 1 LOT 1 (TRANSPORT INTRNTL POOL) (REAL)/ UNITED SITE SERVICES INC 3442 BELGIUM LN FURN FIXT MACH EQPT VEH SU OT (PERSONAL)*

Dear Owner/Occupant:

The Development Services Department (DSD) is responsible for enforcing health and safety codes and statutes relating to properties and structures within the City of San Antonio. On March 3, 2022, the City of San Antonio Code Enforcement Division inspected 3442 Belgium Lane (United Site Services) following receipt of complaints. The inspection found code violations which included, but not limited to, operating outside the scope of its Certificate of Occupancy (COO). The current COO is for a construction facility & truck repair; however, United Site Services provides portable restrooms, showers, & restroom trailers, as well as the removal of the waste onsite from the portable restrooms.

This type of business is classified as a waste station and the location is required to have a SAWS Industrial Wastewater Discharge Permit. The wastewater permit requires operator to follow all city ordinances. The Certificate of Occupancy is no longer valid because the business is operating outside its intended use.

The location is zoned "I-2" per the Unified Development Code §35-311 - Use Regulations. Section §311-2 table of "Nonresidential Use Matrix" does not permit a sanitary landfill or solid waste facility. Additionally, in violation of the requirements of §35-527 (e)(1), "Off Street Parking," the parking area is not constructed of the appropriate materials. Operator submitted an application for rezoning on June 6, 2022; however, *Operator* placed it on hold and has failed to take any further action to obtain the correct zoning. As of date of this Notice, the continued operations of the business or facility are illegal and should immediately cease and desist until the above violations are corrected. Operator has been made aware of said violations and advised of the necessary corrective measures for nearly **seven** months. Instead, Operator has chosen to flagrantly disregard the law despite the City's attempts to amicably resolve the matter.

Operator shall not occupy a commercial building without a valid Certificate of Occupancy and shall cease business operations per City Code section 10-12 until a new COO is obtained. In order to obtain said COO, the location must be rezoned to comply with §35-311 requirements. Consequently, pursuant to the San Antonio Property Maintenance Code (SAPMC), Section 108 "Unfit Structures and Unsafe Equipment," your structure is hereby declared unlawful and as such, poses a threat to the public health, safety or welfare. Therefore, the structure and premises shall be vacated as ordered by the city code official within 72 hours. Failure to comply with this order is a violation of the SAPMC.

Due to the violations described above, the owner or operator is required to obtain a valid Certificate of Occupancy within 72 hours of the posting of this notice. Failure to obtain a new COO as ordered by the city code official is punishable by a fine upon conviction of up to \$2,000 per violation. Each day a violation is permitted to exist shall constitute a separate offense.

If you have any further questions concerning this matter, please call Jenny Ramirez, Code Enforcement Manager, at 210-207-4084. Failure to comply with this order will result in the City pursuing further legal recourse as prescribed by law.

Amin Tohmaz, Deputy Director
Development Services Department

Property Identification #: 459604

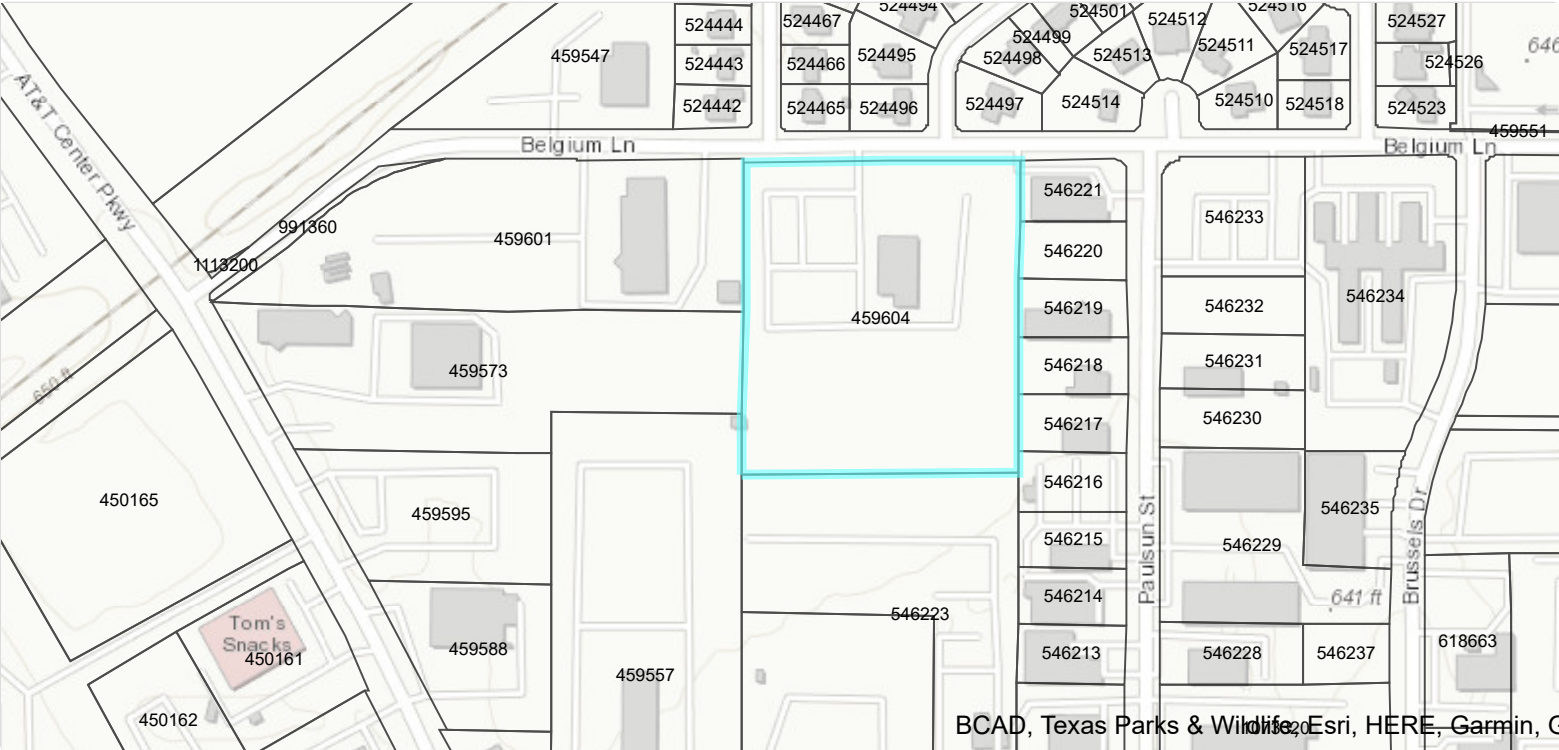
Geo ID: 10576-001-0010
Situs 3442 BELGIUM LN SAN ANTONIO,
Address: TX 78219
Property Type: Real
State Code: F1

Property Information: 2022

Legal NCB 10576 BLK 1 LOT 1
Description: (TRANSPORT INTRNTL POOL)
Abstract: S10576
Neighborhood: NBHD code11860
Appraised Value: \$1,393,580.00
Jurisdictions: 10, CAD, 06, 09, 21, 57, 08, 11

Owner Identification #: 3039489

Name: KMTG INVESTMENTS LLC
Exemptions:
DBA: Null



Bexar CAD

Property Search > 459604 KMTG INVESTMENTS LLC for Year 2022

Tax Year: 2022

Property

Account

Property ID:	459604	Legal Description:	NCB 10576 BLK 1 LOT 1 (TRANSPORT INTRNTL POOL)
Geographic ID:	10576-001-0010	Zoning:	I-2
Type:	Real	Agent Code:	
Property Use Code:	347		
Property Use Description:	TRUCKING FACILITY		

Protest

Protest Status:

Informal Date:

Formal Date:

Location

Address:	3442 BELGIUM LN SAN ANTONIO, TX 78219	Mapsco:	618A3
Neighborhood:	NBHD code11860	Map ID:	
Neighborhood CD:	11860	E-File Eligible	

Owner

Name:	KMTG INVESTMENTS LLC	Owner ID:	3039489
Mailing Address:	2021 ENTERPRISE AVE LEAGUE CITY, TX 77573-2902	% Ownership:	100.0000000000%

Exemptions:

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$913,690	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$479,890	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0

(=) Market Value:	=	\$1,393,580	
(-) Ag or Timber Use Value Reduction:	-	\$0	

(=) Appraised Value:	=	\$1,393,580	
(-) HS Cap:	-	\$0	

(=) Assessed Value:	=	\$1,393,580	

Taxing Jurisdiction

Owner: KMTG INVESTMENTS LLC
% Ownership: 100.000000000000%
Total Value: \$1,393,580

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax		
06	BEXAR CO RD & FLOOD	0.023668	\$1,393,580	\$1,393,580	\$329.83		
08	SA RIVER AUTH	0.018580	\$1,393,580	\$1,393,580	\$258.93		
09	ALAMO COM COLLEGE	0.149150	\$1,393,580	\$1,393,580	\$2,078.52		
10	UNIV HEALTH SYSTEM	0.276235	\$1,393,580	\$1,393,580	\$3,849.56		
11	BEXAR COUNTY	0.276331	\$1,393,580	\$1,393,580	\$3,850.89		
21	CITY OF SAN ANTONIO	0.558270	\$1,393,580	\$1,393,580	\$7,779.94		
57	SAN ANTONIO ISD	1.491600	\$1,393,580	\$1,393,580	\$20,786.64		
CAD	BEXAR APPRAISAL DISTRICT	0.000000	\$1,393,580	\$1,393,580	\$0.00		
Total Tax Rate:		2.793834					
					Taxes w/Current Exemptions:	\$38,934.31	
					Taxes w/o Exemptions:	\$38,934.31	

Improvement / Building

All improvements valued at income

Improvement #1: Commercial State Code: F1 Living Area: 7242.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
400	OFFICE	S - G	ME	1996	2130.0
350	SERVICE GARAGE - AUTOMOTIVE	S - G	ME	1996	5112.0
CNP	Canopy	* - G		0	960.0

Improvement #2: Commercial State Code: F1 Living Area: sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
CON	Concrete	* - G		0	20000.0
CON	Concrete	* - G		2020	1400.0

Improvement #3: Commercial State Code: F1 Living Area: sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
FEN	Fence	S - G		0	1700.0

Improvement #4: Commercial State Code: F1 Living Area: sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
CPT	Detached Carport	G - NO		2019	550.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	IND	Industrial	5.9230	258005.88	0.00	0.00	\$0	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2022	\$913,690	\$479,890	0	1,393,580	\$0	\$1,393,580
2021	\$875,930	\$456,670	0	1,332,600	\$0	\$1,332,600
2020	\$720,460	\$456,670	0	1,177,130	\$0	\$1,177,130
2019	\$676,990	\$446,350	0	1,123,340	\$0	\$1,123,340
2018	\$663,830	\$428,290	0	1,092,120	\$0	\$1,092,120

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	11/18/2016	SWD	Special Warranty Deed	3442 BELGIUM SAN ANTONIO LLC	KMTG INVESTMENTS LLC	18221	1620	20160232575
2	6/22/2015	CD	Correction Deed	MANDELL DARWIN MACK & THREE FORKS RANCH LLC	3442 BELGIUM SAN ANTONIO LLC	18225	0196	20160233853
3	6/22/2015	SWD	Special Warranty Deed	MANDELL DARWIN MACK & THREE FORKS RANCH LLC	3442 BELGIUM SAN ANTONIO LLC	17305	1755	20150112519

2022 data current as of May 20 2022 1:16AM.

2021 and prior year data current as of May 6 2022 5:50AM

For property information, contact (210) 242-2432 or (210) 224-8511 or email.

For website information, contact (210) 242-2500.

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: EFFECTIVE AS OF NOVEMBER 18, 2016

Grantor: 3442 BELGIUM SAN ANTONIO LLC, a Texas limited liability company

Grantor's Mailing Address:

3405 Highland Drive
Carlsbad, California 92008

Grantee: KMTG INVESTMENTS, LLC, a Texas limited liability company

Grantee's Mailing Address:

2021 Enterprise
League City, Texas 77573

Consideration:

Cash and a note of even date executed by Grantee and payable to the order of Branch Banking & Trust Company, a North Carolina banking corporation ("Lender") in the principal amount of EIGHT HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$860,000.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of Lender and by a first-lien deed of trust of even date from Grantee to Brian K. Golden, Scott A. Asmus, Lisa M. Tragemann, and Tony Reitzel, trustee(s).

Property (including any improvements):

Lot One (1), Block One (1), New City Block 10576, TRANSPORT INTERNATIONAL POOL SUBDIVISION, in the City of San Antonio, Bexar County, Texas, according to plat thereof recorded in Volume 9537, Page 156, Deed and Plat Records of Bexar County, Texas.

Reservations from Conveyance:

NONE

Exceptions to Conveyance and Warranty:

To the extent the following validly exist and affect title to the Property:

1. Restrictions recorded in the Real Property Records of Bexar County, Texas at Volume 15565, Page 1101.
2. Building setback, 25 feet in width from the front property line as shown on plat recorded in Volume 9537, Page 156, Deed and Plat Records of Bexar County, Texas.
3. Electric and gas easement, 14 feet in width from the front property line as shown on plat recorded in Volume 9537, Page 156, Deed and Plat Records of Bexar County, Texas.
4. Telephone easement, 10 feet in width from the front property line as shown on plat recorded in Volume 9537, Page 156, Deed and Plat Records of Bexar County, Texas.
5. Street dedication, 7 feet in width from the front property line as shown on plat recorded in Volume 9537, Page 156, Deed and Plat Records of Bexar County, Texas.
6. Water rights and easements as set out in Volume 613, Page 327 and Volume 1803, Page 298, Deed Records of Bexar County, Texas.
7. Memorandum of Lease Agreement recorded under Volume 16939, Page 1220, Real Property Records of Bexar County, Texas.
8. Electric line right-of-way easement recorded in Volume 16954, Page 2045, Real Property Records of Bexar County, Texas.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

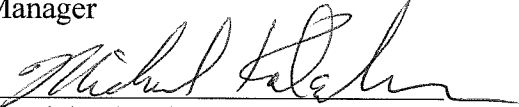
Lender, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of Lender and are transferred to Lender without recourse against Grantor.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

3442 BELGIUM SAN ANTONIO LLC,
a Texas limited liability company

By: MERIDIAN PROPERTIES REAL
ESTATE, INC., a California corporation,
its Manager

By: 
Michael Kalscheur, President

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of November, 2016, by Michael Kalscheur, President of MERIDIAN PROPERTIES REAL ESTATE, INC., a California corporation, Manager of 3442 BELGIUM SAN ANTONIO LLC, a Texas limited liability company, on behalf of said company.

See Attached Acknowledgment

Notary Public – State of Texas _____

Notary's Printed Name: _____

My Commission Expires: _____

Return Recorded Deed To:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of SAN DIEGO)On 21 NOVEMBER 2016before me, DAREN VASSNOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

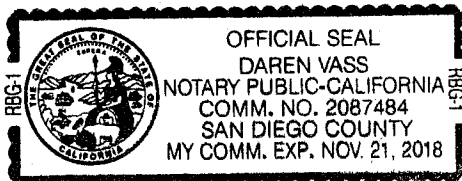
personally appeared MICHAEL KALSCHEN

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: 5 YEAR WARRANTY DEEDDocument Date: 11/21/16

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Doc# 20160232575
Pages 5
11/23/2016 12:58PM
e-Filed & e-Recorded in the
Official Public Records of
BEXAR COUNTY
GERARD C. RICKHOFF
COUNTY CLERK
Fees \$38.00

STATE OF TEXAS
COUNTY OF BEXAR
This is to Certify that this document
was e-FILED and e-RECORDED in the Official
Public Records of Bexar County, Texas
on this date and time stamped thereon.
11/23/2016 12:58PM
COUNTY CLERK, BEXAR COUNTY TEXAS



Gerard C. Rickhoff