



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: SEPTEMBER 3, 2013

ITEM NUMBER: PH-1

**SUBJECT: PUBLIC HEARING FOR THE VACATION OF A PORTION OF FULLERTON AVENUE AT 1826 FULLERTON AVENUE**

**DATE: AUGUST 22, 2013**

**FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION**

**PRESENTATION BY: ERNESTO MUNOZ, PUBLIC SERVICES DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: FARIBA FAZELI, INTERIM CITY ENGINEER,  
(714) 754-5335**

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## **RECOMMENDATION:**

1. Adopt Resolution ordering the vacation of a portion of Fullerton Avenue Right-Of-Way at 1826 Fullerton Avenue (Attachment 1).
2. Authorize execution of the Quitclaim Deed by the Mayor and the City Clerk (Attachment 2).

## **BACKGROUND:**

The Engineering Division is processing a request from Mr. Dustin Campbell (Homeowner), for the vacation of a portion of Fullerton Avenue. This portion of Fullerton Avenue is adjacent to Mr. Campbell's property at 1826 Fullerton Avenue (Attachment 3). The proposed vacation of right-of-way is in conjunction with Mr. Campbell's improvement to the property.

Per the current City's Master Plan of Highways, Fullerton Avenue is designated as a two-lane collector street and has been constructed to fulfill the Master Plan of Highways' capacity requirement. The parkway width along the property located at 1826 Fullerton Avenue (east side of the street) is 18.7 feet. However, the City's standard for collector streets requires a maximum 10 feet of parkway area. This results in 8.7 feet of excess right-of-way along this property. The proposed vacation complies with the current standard for local streets and is consistent with the existing improvements.

On June 24, 2013, a report was presented to the Planning Commission outlining the proposed vacation as required by Government Code Section 65402. Subsequently, the Planning Commission adopted Resolution No. PC-13-20, (Attachment 4) finding that the proposed vacation of a portion of Fullerton Avenue excess right-of-way is consistent with the City's General Plan.

## **ANALYSIS:**

The proposed segment of Fullerton Avenue to be vacated was originally dedicated in 1927 and is in excess of the final alignment. In addition, this segment of street does not serve any ingress and egress purposes to other private properties. Currently, there are no utilities located within this portion of right-of-way and therefore, a reservation for a utility easement is not required. The vacation of this portion of excess right-of-way is in conformance with the objectives of the General Plan Circulation Element and conforms to the California Streets and Highways Code, Chapter 4, Section 8334(a) which allows a local agency to summarily vacate an excess right-of-way of a street or highway not required for street or highway purposes.

The Notice of Intention to vacate right-of-way was presented to the City Council at its regular meeting of July 16, 2013. Resolution 13-23, (Attachment 5) was subsequently adopted setting this public hearing. The property has been posted and notices of this public hearing were published as required by the Resolution. Staff has prepared the attached Resolution ordering the vacation of excess right-of-way (Attachment 1). Staff also recommends that a Quitclaim Deed be executed relinquishing the City of any interest in said excess right-of-way (Attachment 2).

**ALTERNATIVES:**

The City could retain the excess right-of-way and continue to be responsible for its maintenance. The alternative to retain excess right-of-way will result in the City's continued involvement of unusable right-of-way. There are no future plans to widen Fullerton Avenue in this area.

**FISCAL REVIEW:**

Once the area is vacated it becomes taxable square footage, resulting in additional property taxes to the adjacent property owner to which the land will revert to. This will result in additional revenue to the City.

**LEGAL REVIEW:**

The City Attorney's Office has approved the attached resolution as to form.

**CONCLUSION:**

Staff recommends that the City Council adopt the Resolution ordering the vacation of Fullerton Avenue excess right-of-way at 1826 Fullerton Avenue. In addition, staff recommends that the City Council authorize execution of the Quitclaim Deed by the Mayor and the City Clerk.

  
\_\_\_\_\_  
**ERNESTO MUÑOZ**  
Public Services Director

  
\_\_\_\_\_  
**FARIBA FAZELI**  
Interim City Engineer

- ATTACHMENTS:
- 1 – Resolution Ordering the Vacation of Excess Right-Of-Way
  - 2 – Quit Claim Deed
  - 3 – Site Plan
  - 4 – Resolution PC-13-20
  - 5 – Resolution 13-23

Click [here](#) or scroll down for attachments.

- DISTRIBUTION:
- Chief Executive Officer
  - Assistant CEO
  - City Attorney
  - City Clerk Division

RESOLUTION NO. 13-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF FULLERTON AVENUE RIGHT-OF-WAY AT 1826 FULLERTON AVENUE

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City Council of the City of Costa Mesa did, on the 16<sup>th</sup> day of July, 2013, adopt Resolution No. 13-23, entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF FULLERTON AVENUE RIGHT-OF-WAY LOCATED AT 1826 FULLERTON AVENUE; AND

WHEREAS, pursuant to said Resolution of Intention, the time and place for hearing all persons interested in or objecting to the proposed vacation was set for Tuesday, the 3<sup>rd</sup> day of September, 2013, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California; and

WHEREAS, notices of said proposed vacation were duly and regularly posted as required by law, all pursuant to the provisions of Section 8300 et seq. of the Streets and Highways Code of the State of California; and

WHEREAS, on said date of hearing, the proposed vacation came on regularly to be heard; all persons appearing on the proposed vacation were heard; and said hearing was closed on the 3<sup>rd</sup> day of September, 2013; and

WHEREAS, The original 1927 dedication is in excess of the final alignment of Flower Street which was established in 1960. The purpose of this vacation is based on a review of the current and future needs of the City and to vacate the excess land to the underlying fee owner. The portion of the street being vacated is not useful as a

nonmotorized transportation facility, is unnecessary for present or future public use, and the vacation serves the public interest and is a public benefit.

WHEREAS, the Costa Mesa City Council finds and determines from all the evidence submitted that the hereinafter described right-of-way is unnecessary for present or prospective street purposes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDER AND RESOLVE AS FOLLOWS:

1. That the hereinafter described right-of-way is unnecessary for present or prospective street purposes:

All as more particularly described in legal description shown in Exhibit "A" and on map shown in Exhibit "B", attached hereto and by this reference made a part hereof.

PASSED AND ADOPTED this 3<sup>rd</sup> day of September, 2013.

ATTEST:

\_\_\_\_\_  
BRENDA GREEN, City Clerk

\_\_\_\_\_  
JIM RIGHEIMER, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Tom Duarte, Attorney

STATE OF CALIFORNIA)  
COUNTY OF ORANGE ) ss  
CITY OF COSTA MESA )

I, BRENDA GREEN, Interim City Clerk of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 13-\_\_\_\_ was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 3rd day of September, 2013, by the following roll call vote:

AYES:

NOES:

4

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this 4<sup>th</sup> day of September, 2013.

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BRENDA GREEN, City Clerk

Recording Requested by CITY OF COSTA MESA  
When Recorded Mail to:  
**CITY OF COSTA MESA**  
**Attention - City Clerk**  
**P.O. BOX 1200**  
**COSTA MESA, CALIFORNIA 92628-1200**

Mail Tax Statements to:  
**Owner (s) of Record**

APN: 425-232-19

Deed No. : 3803

TCA: 15-115

Location: 1826 Fullerton Ave.

Exempt Recording Requested per  
Government Code 6103

## QUITCLAIM DEED

THE UNDERSIGNED DECLARE(S) DOCUMENTARY TRANSFER TAX IS NONE.  
GOVERNMENTAL AGENCY EXEMPT CITY OF COSTA MESA

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged,

**City of Costa Mesa, a Municipal Corporation**

do/does hereby remise, release and forever quitclaim to **DUSTIN NOAH CAMPBELL and JESSICA JEAN CAMPBELL, Trustees of THE MAGNOLIA LIVING TRUST, dated January 31, 2013** the following described real property subject to reversion rights as recognized by State and local law, in the City of Costa Mesa, County of Orange, State of California:

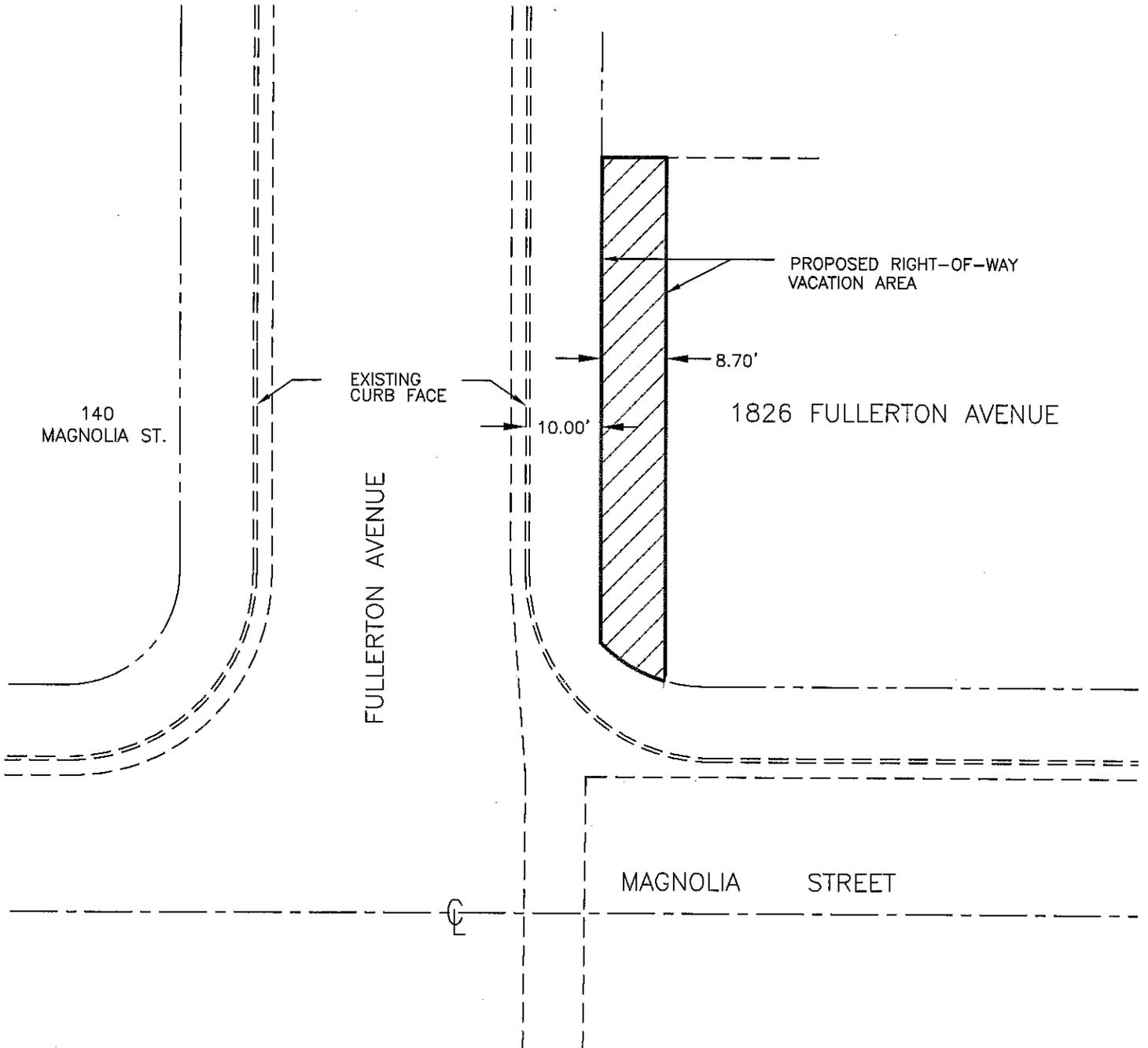
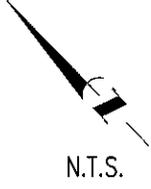
SEE RESOLUTION NO. \_\_\_\_\_ ,ADOPTED \_\_\_\_\_  
AS INSTRUMENT NO. \_\_\_\_\_ OF  
OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY  
RECORDER, ORANGE COUNTY, CALIFORNIA, ATTACHED  
HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

THIS DEED IS BEING RECORDED TO PERFECT THE TITLE OF  
THE SUBJECT PROPERTIES.

\_\_\_\_\_  
City Clerk of the  
City of Costa Mesa

\_\_\_\_\_  
Mayor of the City of Costa Mesa

ATTACHMENT #3



RESOLUTION NO. PC-13-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA FINDING THAT THE CITY OF COSTA MESA'S VACATION OF A PORTION OF RIGHT-OF-WAY ON FULLERTON AVENUE TO THE ADJACENT PROPERTY OWNER OF 1826 FULLERTON AVENUE IS IN CONFORMANCE WITH THE CITY OF COSTA MESA 2000 GENERAL PLAN, THE CALIFORNIA STREETS AND HIGHWAYS CODE, CHAPTER 4, SECTIONS 8330 ET SEQ. (PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENT LAW, SUMMARY VACATION) AND WILL SERVE THE PUBLIC INTEREST AND IS A PUBLIC BENEFIT.

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City of Costa Mesa 2000 General Plan was adopted on January 22, 2002;

WHEREAS, the California Government Code 65402, requires the City of Costa Mesa shall not acquire, use, or dispose of any real property until the use of the property has been found in conformance with the City's General Plan;

WHEREAS, The California Streets and Highways Code, Chapter 4, Section 8334(a) allows a local agency to summarily vacate an excess right-of-way of a street or highway not required for street or highway purposes. The proposed right-of-way vacation has been reviewed by the Engineering and Transportation Services Divisions, and based on the existing land use and freeway configuration, it is no longer required for public street and highway purposes.

WHEREAS, the portion of the street being vacated has been found by the Engineering and Transportation Services Divisions not to be useful as a non-motorized transportation facility, and as such, the vacation serves the public interest and is a public benefit since the vacated street area is unnecessary for present or future public use.

WHEREAS, the subject right-of-way adjacent to 1864 Fullerton Avenue is shown in Exhibit A (City Engineer's memo dated June 4, 2013);

WHEREAS, the Costa Mesa Planning Commission has reviewed the proposed abandonment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby find the proposed vacation of excess right-of-way in conformance with the City of Costa Mesa 2000 General Plan and the California Streets and Highways Code. Furthermore, the Planning Commission finds the street vacation serves the public interest and is a public benefit.

**PASSED AND ADOPTED this 24<sup>th</sup> day of June 2013.**



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JIM FITZPATRICK, Chair  
Costa Mesa Planning Commission



## EXHIBIT "A"

### FINDINGS

- A. The proposed street vacation is consistent with the General Plan and the Land Use and Circulation Elements contained therein.
- B. The proposed street vacation is consistent with the provisions of Section 8300 et seq. of the California Streets and Highways Code.
- C. The portion of the Fullerton Avenue being vacated has been found by the Engineering and Transportation Services Divisions not to be useful as a non-motorized transportation facility. As such, the vacation serves the public interest and is a public benefit since the vacated street area is unnecessary for present or future public use.

## RESOLUTION NO. 13-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF FULLERTON AVENUE AT 1826 FULLERTON AVENUE.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council of the City of Costa Mesa does hereby declare its intention to vacate a portion of its interest in Fullerton Avenue at 1826 Fullerton Avenue, being more particularly described in Exhibit A and B attached hereto. The original 1927 dedication is in excess of the final alignment of Fullerton Avenue which was established in 1960. The purpose of this vacation is based on a review of the current and future needs of the City and to vacate the excess land to the underlying fee owner. The vacation will benefit the neighborhood with the new improvements.

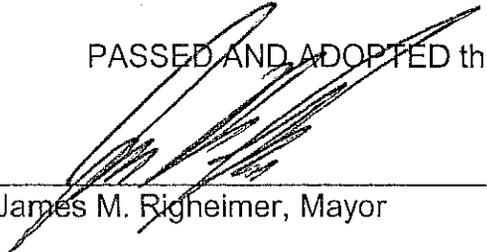
SECTION 2. On Tuesday, the 3<sup>rd</sup> day of September, 2013, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California, is hereby fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation.

SECTION 3. These proceedings shall be conducted pursuant to the provisions of Section 8300 et seq. of the Streets and Highways Code of the State of California, and any other applicable laws.

SECTION 4. The City Chief Executive Officer of the City of Costa Mesa is hereby directed to cause notices of the said proposed vacation to be conspicuously posted along said strip of land for at least two (2) weeks before the date of said hearing. Said notices shall be posted not more than three hundred (300) feet apart, but in no event shall fewer than three (3) notices be posted.

SECTION 5. This Resolution shall be published twice in a newspaper of general circulation, printed and published in the City of Costa Mesa, Orange County, California.

PASSED AND ADOPTED this 16<sup>th</sup> day of July, 2013.

  
\_\_\_\_\_  
James M. Righimer, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green  
BRENDA GREEN,  
City Clerk

Thomas Duarte  
Thomas Duarte  
City Attorney

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )     ss  
CITY OF COSTA MESA )

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 13-23 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 16<sup>th</sup> day of July, 2013, by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:   Genis, Leece, Mensinger, Monahan, Righeimer

NOES:           COUNCIL MEMBERS:   None

ABSENT:         COUNCIL MEMBERS:   None

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 17<sup>th</sup> day of July, 2013.

Brenda Green  
BRENDA GREEN, CITY CLERK

DEED NO. \_\_\_\_\_

EXHIBIT "A"  
LEGAL DESCRIPTION FOR VACATION OF RIGHT OF WAY  
APN 425-232-19

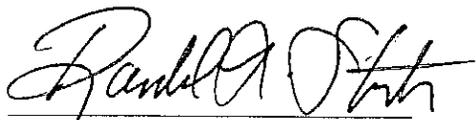
THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF COSTA MESA,  
COUNTY OF ORANGE, STATE OF CALIFORNIA.

BEING A PORTION OF A PUBLIC HIGHWAY PER DEED OF RIGHT OF WAY TO THE  
CITY OF COSTA MESA RECORDED NOVEMBER 23, 1927 IN BOOK 101, PAGE 172, OF  
OFFICIAL RECORDS. SAID LAND LYING WITHIN A PORTION OF LOTS 1 AND 2 OF  
BLOCK "A" OF TRACT NO. 377, RECORDED IN BOOK 16, PAGE 15 OF  
MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

THE EASTERLY 8.70 FEET OF THE 14.70 FEET, LYING ADJACENT TO AND  
SOUTHEASTERLY OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF FULLERTON  
AVENUE, AS SHOWN ON SAID MAP OF TRACT NO. 377, SAID STRIP OF LAND BEING  
BOUNDED NORTHEASTERLY BY THE NORTHEASTERLY LINE OF SAID LOT 2 AND  
BOUNDED SOUTHWESTERLY BY THE NORTH WESTERLY LINE OF SAID LOT 1,  
SAID LINE ALSO BEING THE EASTERLY CURVED LINE AS DESCRIBED PER DEED  
OF RIGHT OF WAY TO THE CITY OF COSTA MESA, RECORDED MARCH 23, 1960 IN  
BOOK 5160, PAGE 155, OF OFFICIAL RECORDS.

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART  
HEREOF.

PREPARED BY ME OR UNDER MY DIRECTION



RANDAL L. STREETER, R.C.E. 25083



