



## MEMORANDUM

**TO: CITY COUNCIL**

**FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR**

**BY: CARMEN LEYVA, ASSOCIATE ENGINEER**

**SUBJECT: CONSIDERATION OF A RESOLUTION ACCEPTING PEDESTRIAN EASEMENT AND PUBLIC IMPROVEMENTS FOR CONDITIONAL USE PERMIT NO. 12-005, McDONALD'S RENOVATION, LOCATED IN THE 400 BLOCK OF EAST GRAND AVENUE**

**DATE: APRIL 8, 2014**

### **RECOMMENDATION:**

It is recommended the City Council adopt a Resolution accepting the pedestrian easement and the public improvements for Conditional Use Permit No. 12-005, McDonald's Renovation, located in the 400 block of E. Grand Avenue.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

By accepting the improvements, the City will become responsible for maintenance and will eventually incur costs associated with adding infrastructure to its inventory.

### **BACKGROUND:**

On December 18, 2012, the Planning Commission approved Conditional Use Permit No. 12-005 authorizing the renovation of an existing drive-through restaurant in the Highway Mixed-Use (HMU) zoning district. The redevelopment of McDonald's consisted of a 3,587 square foot building area, enclosed playground, new landscaping and new signage. The project is located in the 400 block of E. Grand Avenue.

### **ANALYSIS OF ISSUES:**

A depiction of the public improvements is attached as Exhibit "A" to the proposed Resolution. The public improvements include new concrete sidewalk and driveway approaches, sewer and water services. Staff has inspected the improvements and recommends that the City Council accept the improvements as constructed.

As originally constructed, the City's sidewalk along the El Camino frontage actually is 5.7 feet wider than the right-of-way. The pedestrian access easement formally acknowledges the wider pedestrian pathway. Staff recommends that the pedestrian access easement on El Camino Real be accepted.

**CITY COUNCIL  
CONSIDERATION OF ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR  
CONDITIONAL USE PERMIT NO. 12-005, McDONALD'S RENOVATION, LOCATED  
AT THE 400 BLOCK OF EAST GRAND AVENUE  
APRIL 8, 2014  
PAGE 2**

**ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

- Accept the easement and public improvements; or
- Do not accept the easement and public improvements; or
- Provide direction to staff.

**ADVANTAGES:**

Accepting the pedestrian access easement will allow the City to have access to all public facilities constructed as part of this renovation and to have ownership of facilities in the public right-of-way. The City will be able to ensure that the improvements are maintained in good working order.

**DIADVANTAGES:**

The disadvantage of accepting the improvements would be if subsequent deficiencies in the work are identified. However, the contract documents include a one-year warranty period for the contractor to address any construction defects that may arise.

**ENVIRONMENTAL REVIEW:**

No environmental review is required.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted in front of City Hall on Thursday, April 3, 2014. The Agenda and report were posted on the City's website on Friday, April 4, 2014. No public comments were received.

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING PEDESTRIAN ACCESS EASEMENT AND PUBLIC IMPROVEMENTS FOR CONDITIONAL USE PERMIT NO. 12-005, McDONALD'S RENOVATION PROJECT, LOCATED AT THE 400 BLOCK OF EAST GRAND AVENUE.**

**WHEREAS**, the Planning Commission approved CUP 12-005 on December 18, 2012; and,

**WHEREAS**, the developer has offered for dedication the required pedestrian access easement and constructed the improvements required by CUP 12-005 conditions of approval and the Development Improvement Agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arroyo Grande does hereby accept the pedestrian access easement and the public improvements constructed for CUP 12-005, as shown on Exhibit "A" attached hereto and incorporated herein by this reference.

1. Public Pedestrian Access Easement.
2. Public curb, gutter, sidewalk and driveway on E. Grand Avenue.

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and by the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Resolution was passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**RESOLUTION NO.  
PAGE 2**

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**TONY FERRARA, MAYOR**

**ATTEST:**

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**KELLY WETMORE, CITY CLERK**

**APPROVED AS TO CONTENT:**

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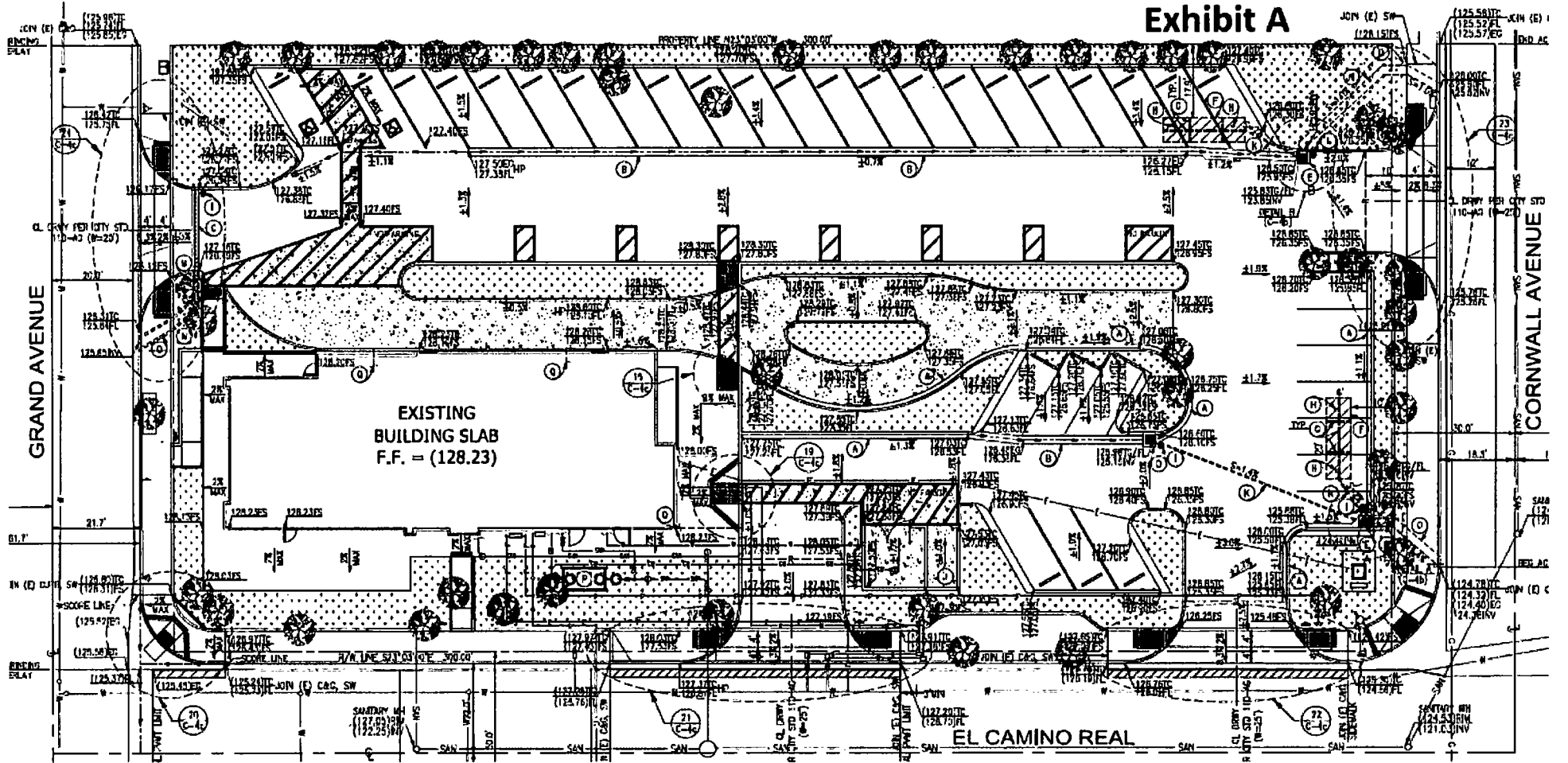
**STEVEN ADAMS, CITY MANAGER**

**APPROVED AS TO FORM:**

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**TIMOTHY J. CARMEL, CITY ATTORNEY**

# Exhibit A



**RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:**

City of Arroyo Grande  
Attn: City Clerk  
300 East Branch Street  
Arroyo Grande, CA 93420

Fee Exempt per GC Sections 6103 and 27383

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**IRREVOCABLE AND PERPETUAL OFFER TO DEDICATE RIGHT-OF-WAY**

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**THIS OFFER TO DEDICATE**, made this 20<sup>th</sup> day of February 2014, by McDonald's Corporation, a Delaware Corporation, as successor by merger to Franchise Realty Interstate Corporation of One McDonald's Plaza, Oak Brook, IL 60523. Hereinafter termed Offeror:

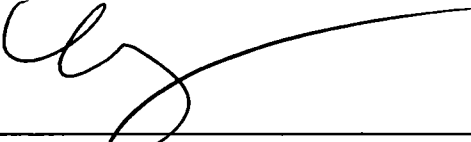
**WHEREAS**, said Offeror desires to make an irrevocable and perpetual offer to dedicate a public road easement, which offer may be accepted at any time by a governmental entity that has the power to establish, construct and maintain public roads.

**NOW, THEREFORE**, for a valuable consideration, the receipt and sufficiency of which is hereby acknowledged, said Offeror covenants and promises as follows:

1. That said Offeror is the owner of the real property described in Exhibit A and shown schematically in Exhibit A-1, attached hereto and incorporated herein by this reference.
2. That said Offeror does hereby irrevocably and in perpetuity offer to such governmental entity an easement for a public right-of-way and incidental uses upon the property described in Exhibit B and as shown schematically in Exhibit B-1, both of which are attached hereto and incorporated herein by this reference.
3. That said Offeror agrees that said offer of dedication shall be irrevocable and that such government entity may, at any time in the future accept said offer of dedication of the public right-of-way.
4. That said easement granted herein shall be an easement in gross.
5. That said Offeror agrees that this irrevocable and perpetual Offer to Dedicate is and shall be binding on its heirs, legatees, successors and assignees.

IN WITNESS WHEREOF, the Offer is hereby executed by the said Offeror on the day and year first above written.

**MCDONALD'S CORPORATION, A DELAWARE CORPORATION, AS SUCCESSOR BY MERGER TO, FRANCHISE REALTY INTERSTATE CORPORATION**

  
By: \_\_\_\_\_  
Offeror; Lorraine V. Fortelka, Senior Counsel

\_\_\_\_\_  
Offeror

\_\_\_\_\_  
Offeror

\_\_\_\_\_  
Offeror

Document #: 1336300-v1

This is to certify that the interest in real estate property conveyed by **IRREVOCABLE AND PERPETUAL OFFER TO DEDICATE**, dated February 20, 2014, from **McDonald's Corporation a Delaware corporation, as successor by merger to, Franchise Realty Interstate Corporation** of One McDonald's Plaza, Oak Brook, IL 60523, to the **CITY OF ARROYO GRANDE**, a municipal corporation of the State of California, is hereby accepted by Resolution of the City Council of the City of Arroyo Grande on \_\_\_\_\_, and the City of Arroyo Grande consents to recordation thereof by its duly authorized officer.

\_\_\_\_\_  
Tony Ferrara, Mayor

\_\_\_\_\_  
Kelly Wetmore, City Clerk

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

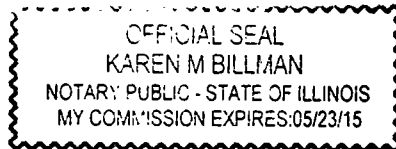
State of Illinois )  
 )  
County of DuPage )

On February 20, 2014, before me, Karen M. Billman, a notary public in and for the county and state aforesaid, DO HEREBY CERTIFY THAT Lorraine V. Fortelka, Senior Counsel, personally known to me (or 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 she 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: *Karen M. Billman*  
Karen M. Billman, Illinois Notary Public



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me appeared \_\_\_\_\_ 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: \_\_\_\_\_  
Print Name: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION - ENTIRE PROPERTY:**

A certain parcel of land situated in the Village of Arroyo Grande, County of San Luis Obispo, State of California, and known as being all of Lots 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, & 22 of Block 5 of the Western Addition to the Town of Arroyo Grande. Being all of the same land now or formerly conveyed to Franchise Realty Interstate Corporation, as recorded in Book 1833, Page 491 and Book 1833, Page 493 of the San Luis Obispo County Records. Said land being more particularly described as follows:

COMMENCING at a railroad spike found at the intersection of the centerlines of El Camino Real, formerly known as Barnett Street (50 feet wide) and Cornwall Avenue (60 feet wide);

Thence South 66°57'00" West along the centerline of Cornwall Avenue, 25.00 feet to a point;


Thence South 23°03'00" East, 30.00 feet to a p.k. nail set at the intersection of the southeasterly right of way of Cornwall Avenue and the southwesterly right of way of El Camino Real, and the POINT OF BEGINNING of the lands described herein;

Thence South 23°03'00" East along the southwesterly right of way of El Camino Real, 300.00 feet to a p.k. nail set at the intersection of the northwesterly right of way of Grand Avenue;

Thence South 66°57'00" West along the northwesterly right of way of Grand Avenue, 150.00 feet to a p.k. nail set at the southeasterly corner of lands conveyed to Achob N. Wartanian by Document Number 87277 of San Luis Obispo County Records;

Thence North 23°03'00" West along the northeasterly line of lands so conveyed to Achob N. Wartanian, along the northeasterly line of lands conveyed to Charles E. Crotser by Document Number 2003091729 of San Luis Obispo County Records, and along the northeasterly line of lands conveyed to Khatchik Hrachia Achadjian by Document Number 2003049130 of San Luis County Records, 300.00 feet to a p.k. nail set on the southeasterly right of way of the aforesaid Cornwall Avenue;

Thence North 66°57'00" East along the southeasterly right of way of Cornwall Avenue, 150.00 feet to the POINT OF BEGINNING. Containing 45,000 square feet or 1.0331 acres of land, more or less, as surveyed in January of 2013 by James M. McNeely, California Registered Professional Licensed Surveyor No. 5158 for and on behalf of Millman Surveying, Inc. and is subject to all legal highways and easements of record.



Expiration Date: June 30, 2015



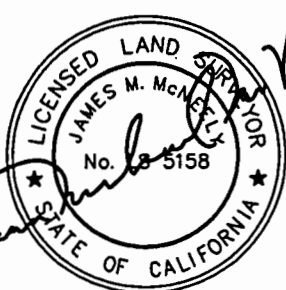
EXHIBIT B  
LEGAL DESCRIPTION

**LEGAL DESCRIPTION - R/W AREA:**

A certain parcel of land situated in the Village of Arroyo Grande, County of San Luis Obispo, State of California, and known as being a part of the easterly portion of Lots 12, 13, 14 and 17 of Block 5 of the Western Addition to the Town of Arroyo Grande. Being a portion of the land now or formerly conveyed to Franchise Realty Interstate Corporation, as recorded in Book 1833, Page 491 and Book 1833, Page 493 of the San Luis Obispo County Records. Said land being more particularly described as follows:

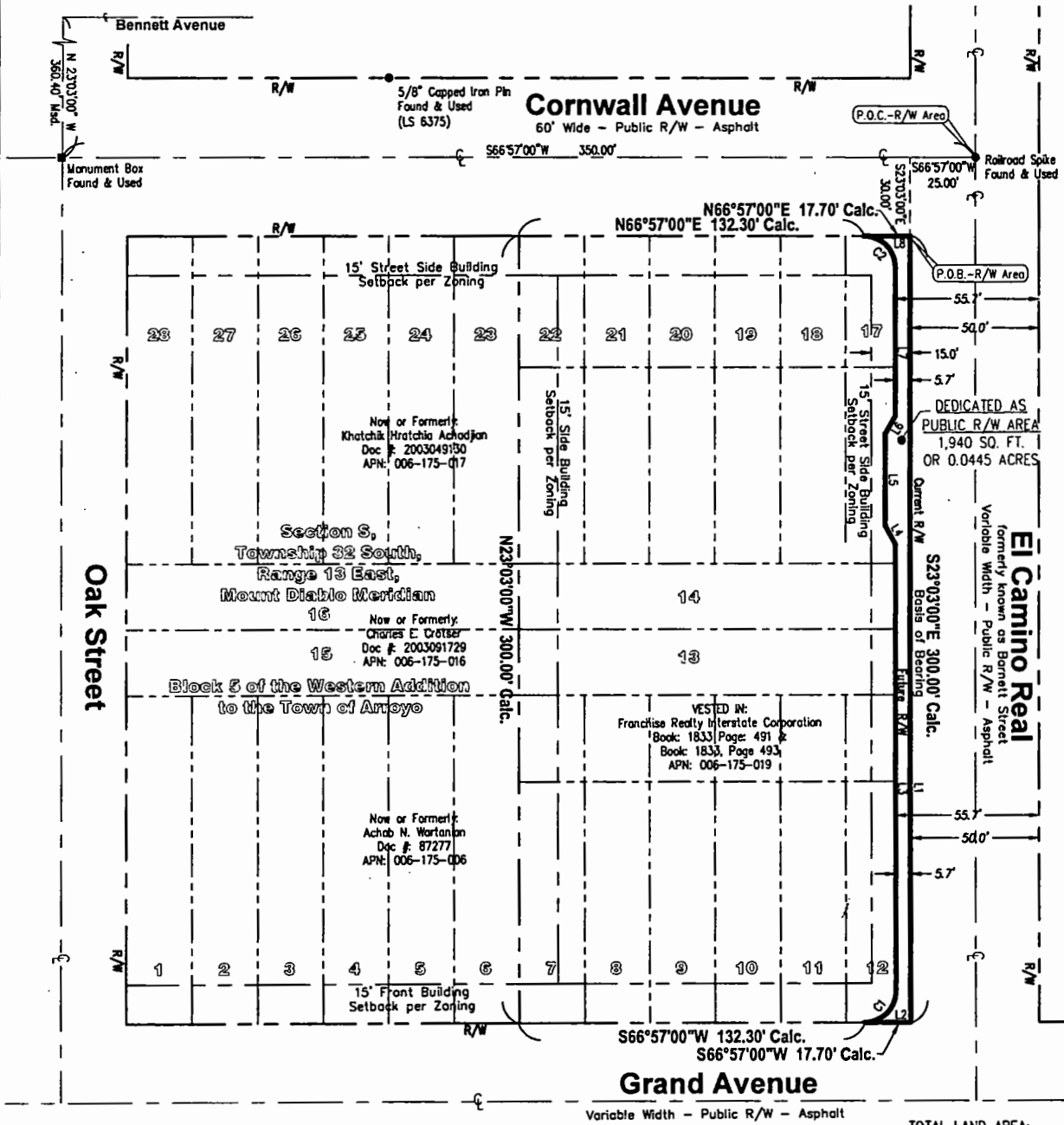
COMMENCING at a railroad spike found at the intersection of the centerlines of El Camino Real, formerly known as Barnett Street (50 feet wide) and Cornwall Avenue (60 feet wide);  
Thence South 66°57'00" West along the centerline of Cornwall Avenue, 25.00 feet to a point;  
Thence South 23°03'00" East, 30.00 feet to the intersection of the southeasterly right of way of Cornwall Avenue and the southwesterly right of way of El Camino Real, and the POINT OF BEGINNING of the lands described herein;  
Thence South 23°03'00" East along the southwesterly right of way of El Camino Real, 300.00 feet to the intersection of the northwesterly right of way of Grand Avenue;  
Thence South 66°57'00" West along the northwesterly right of way of Grand Avenue, 17.70 feet to the westerly line of the easterly 9.70 feet of the aforesaid Lots;  
Thence with a curve to the left, having a radius of 12.00 feet, through an angle of 90°00'02", a chord bearing and distance of North 21°57'01" East, 16.97 feet, an arc distance of 18.85 feet;  
Thence with a new line over, upon and through the aforesaid lands North 23°03'00" West a distance of 170.52 feet; Thence North 53°03'00" West, a distance of 8.00 feet;  
Thence North 23°03'00" West, a distance of 35.00 feet;  
Thence North 06°57'00" East, a distance of 8.00 feet;  
Thence North 23°03'00" West, a distance of 56.62 feet;  
Thence with a curve to the left, having a radius of 12.00 feet, through an angle of 90°00'00", a chord bearing and distance of North 68°03'00" West, 16.97 feet, an arc distance of 18.85 feet to the southeasterly right of way of the aforesaid Cornwall Avenue;  
Thence North 66°57'00" East along the southeasterly right of way of Cornwall Avenue, 17.70 feet to the POINT OF BEGINNING.

Containing 1,940 square feet or 0.0445 acres of land, more or less, as surveyed in January of 2013 by James M. McNeely, California Registered Professional Licensed Surveyor No. 5158 for and on behalf of Millman Surveying, Inc. and is subject to all legal highways and easements of record.

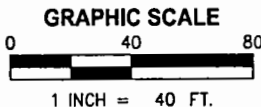


Expiration Date: June 30, 2015

**EXHIBIT B-1  
STREET R/W DEDICATION**



**TOTAL LAND AREA:**  
45,000 S.F. or 1.0331 Acres



LINE TABLE		
LINE	LENGTH	BEARING
L1	300.00	S23°03'00"E
L2	17.70	S66°57'00"W
L3	170.52	N23°03'00"W
L4	8.00	N53°03'00"W
L5	35.00	N23°03'00"W
L6	8.00	N06°57'00"E
L7	56.62	N23°03'00"W
L8	17.70	N66°57'00"E

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	18.85	12.00	90°00'02"	N21°57'01"E	16.97
C2	18.85	12.00	90°00'00"	N68°03'00"W	16.97

**LICENSED LAND SURVEYOR**  
JAMES M. McNEELY  
No. 5158  
STATE OF CALIFORNIA

*James M. McNeely*

Expiration Date: June 30, 2015

**millman**  
National Land Services

Millman Surveying, Inc.  
Corporate Headquarters  
1742 Georgetown Road, Suite H  
Hudson, OH 44236  
Phone: 800-520-1010  
www.millmanland.com

Drawn By: CW  
Date: 03.06.13  
Checked: JMM  
MSI Project No. 28959

Project Manager: SP  
Scale: 1"=40'  
Sheet: 1 of 1