#5

FEB 11 2016

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **Transportation & Development – Memo No. RE16-066**

DATE: FEBRUARY 11, 2016

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, ACTING CITY MANAGER MR
NACHIE MARQUEZ, ASSISTANT CITY MANAGER NM
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ
DANIEL W. COOK, CITY ENGINEER DWC

FROM: ERICH KUNTZE, REAL ESTATE MANAGER

SUBJECT: RESOLUTION NO. 4927 AUTHORIZING THE EXTINGUISHMENT OF A TEMPORARY DRAINAGE EASEMENT NO LONGER NEEDED FOR PUBLIC USE AT THE NORTHEAST CORNER OF GILBERT ROAD AND THE 202 FREEWAY AND AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER ALL DOCUMENTS NECESSARY TO EFFECT THE EXTINGUISHMENT OF THE DRAINAGE EASEMENT

RECOMMENDATION: Staff recommends City Council pass and adopt Resolution No. 4927 authorizing the extinguishment of a temporary drainage easement no longer needed for public use at the northeast corner of Gilbert Road and the 202 Freeway and authorizing the Mayor to execute and deliver all documents necessary to effect the extinguishment of the drainage easement.

BACKGROUND/DISCUSSION: In 2014, the owner of the Rivulon - Phase I development ("Rivulon") granted a temporary drainage easement (the "Easement") to the City of Chandler. The Easement was granted as part of the Gilbert Road improvements constructed by Rivulon from the 202 Freeway to Pecos Road. Rivulon subsequently incorporated the required retention provided by this Easement into their development. As a result, the Easement is no longer required and can be extinguished. Rivulon has requested that the City extinguish this Easement in order to clear up their title. Staff reviewed the request and concurs that the Easement can be extinguished.

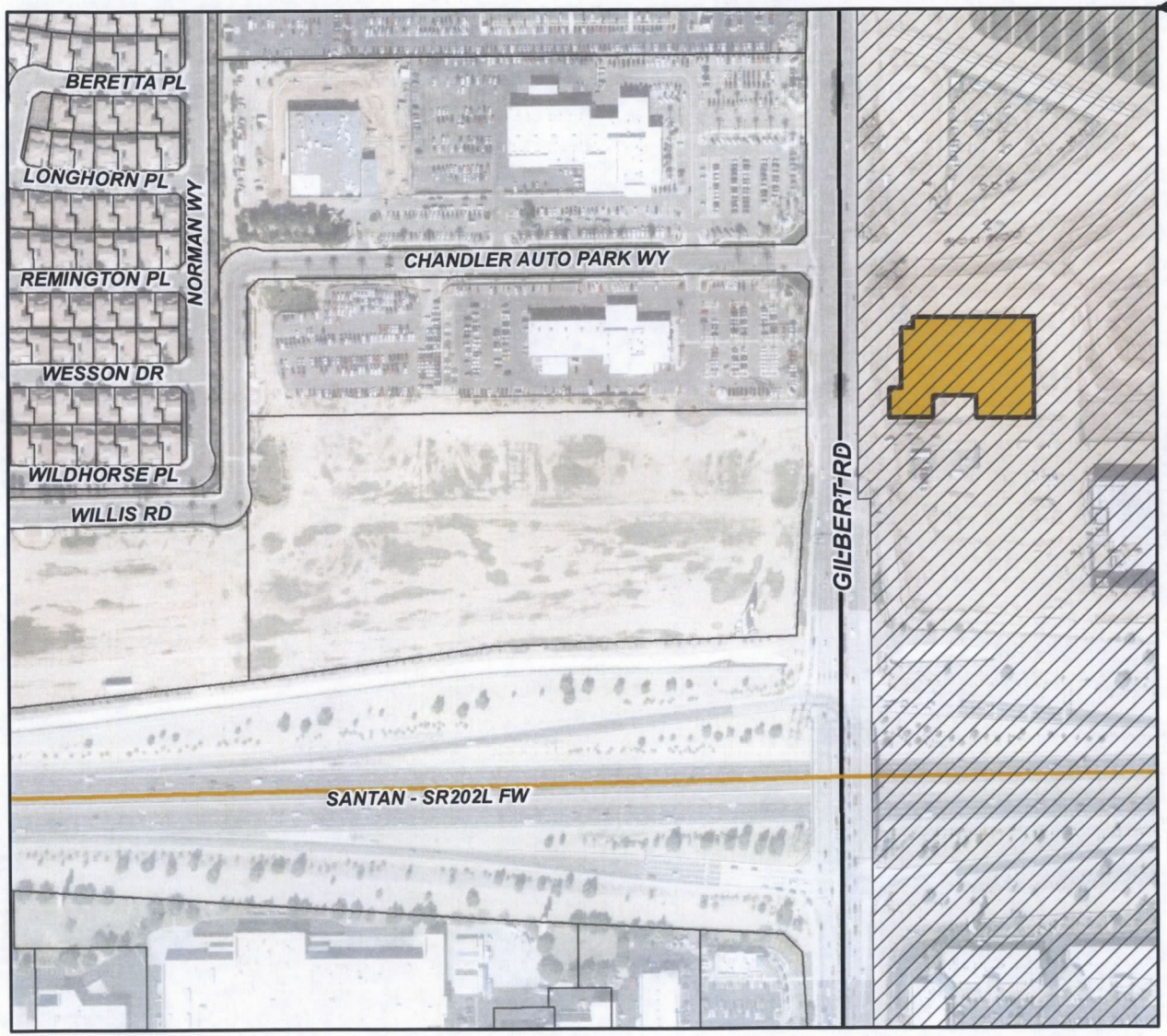
FINANCIAL IMPLICATIONS:

Cost:	N/A
Savings:	N/A
Long Term Costs:	N/A

PROPOSED MOTION: Move City Council pass and adopt Resolution No. 4927 authorizing the extinguishment of a temporary drainage easement no longer needed for public use at the northeast corner of Gilbert Road and the 202 Freeway and authorizing the Mayor to execute and deliver all documents necessary to effect the extinguishment of the drainage easement.

Attachments: Location Map
Resolution No. 4927
Release of Easement

AUTHORIZING THE EXTINGUISHMENT OF A TEMPORARY DRAINAGE EASEMENT NO LONGER NEEDED FOR PUBLIC USE AT THE NEC OF GILBERT RD AND THE 202 FWY



MEMO NO. RE16-066

RESOLUTION NO. 4927

TOWN OF GILBERT

TEMPORARY DRAINAGE EASEMENT

NTS

ChanGIS

F:\ENGINEER\GENSERV_ArcMap_Shared\Map Requests\Real Estate\RE16-066 EXTT TEMP DRN ESMT\RE16-066.mxd 1/25/2016 SALLYB

RESOLUTION NO. 4927

RESOLUTION OF THE COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE EXTINGUISHMENT OF A DRAINAGE EASEMENT NO LONGER NEEDED FOR PUBLIC USE AT THE NORTHEAST CORNER OF GILBERT ROAD AND THE 202 FREEWAY.

WHEREAS, as part of the Gilbert Road improvement fronting the Rivulon - Phase I development (the "Development") at the northeast corner of Gilbert Road and the 202 Freeway, the owner granted to the City, a temporary drainage easement (the "Easement") recorded as document number 2014-0778399, records of Maricopa County, Arizona, and attached hereto as Exhibit "A"; and

WHEREAS, the owner of the Development is requesting the extinguishment of the Easement; and

WHEREAS, due to the final built condition of the Development, the Easement acquired by the City is no longer required and can be extinguished.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the City of Chandler is authorized to extinguish the Easement described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the document used to extinguish the Easement shall be in the form as approved by the City Attorney (Exhibit "B") attached hereto and made a part hereof.

Section 3. That the Mayor of the City of Chandler is authorized to execute and deliver all documents necessary to effect the extinguishment of the Easement.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2016.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4927 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2016, and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT "A"
(Temporary Drainage Easement)

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20140778399 11/24/2014 02:37
ELECTRONIC RECORDING

NationwideDrain3-8-1-1--
chagollaj

When recorded, mail to:
City of Chandler
City Clerk
P.O. Box 4008, Mail Stop 606
Chandler, AZ 85244-4008

APN: 304-55-006N; 006P
Section 6, Township 2 South, Range 6 East
ek 2014

This document is exempt from Affidavit and Fee requirement pursuant to A.R.S. § 11-1134(A)(2).

TEMPORARY DRAINAGE EASEMENT

For and in consideration of the sum of Ten and No/100 Dollars ($10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged,

Nationwide Realty Investors, Ltd., an Ohio limited liability company

("Grantor"), does hereby grant and convey unto the CITY OF CHANDLER, an Arizona municipal corporation ("Grantee"), an easement in, on, over, under, across and through that certain real property situated in Maricopa County, Arizona, more particularly described in Exhibit A ("Legal Description") and depicted in Exhibit B (the "Drawing") attached hereto and incorporated herein by this reference (the "Easement Property"), for the construction, maintenance, repair and operation of a storm water drainage and retention basin; reserving, however, to Grantor, its heirs, successors, representatives and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easements hereby acquired; subject, however, to any existing easements for public rights-of-way and public utilities.

The aforesaid grant of easement shall be subject to the following covenants, restrictions and conditions:

1. This easement is subject to all easements and encumbrances of record, and is non-exclusive, *provided that* later granted easements shall be subject to Grantee's rights and uses.

2. In the event Grantee records a document to formally abandon this easement, all of Grantee's rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Property within a reasonable time subsequent to such abandonment.

3. Nothing herein requires that a fully landscaped storm water retention basin be constructed by Grantee, and Grantor acknowledges that Grantee has represented that it intends to install a temporary retention basin, not fully landscaped and improved.

4. At the time of development of the larger parcel upon which this easement is situated and of which the Easement Property is a part, the easement granted herein may be relocated in conformance with Grantor's development plans with approval of the City Engineer of the City of Chandler, Arizona.

5. The easement granted herein runs with the land, and the easement and all covenants, restrictions and conditions hereof shall be binding upon Grantor, its successors and assigns, and shall inure to the benefit of Grantee, its successors and assigns.

DATED this 4th day of NOVEMBER, 2014.

GRANTOR: Nationwide Realty Investors, Ltd.,

an Ohio limited liability company

By: _____

Its: V.P.

STATE OF ARIZONA)
) ss.
County of Maricopa)

OFFICIAL SEAL
ROBERT J. WOODS
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Comm Expires Aug 18, 2017

The foregoing Temporary Drainage Easement was acknowledged before me this 4th day of November, 2014, by James K. Rost, as the V.P. of Nationwide Realty Investors, Ltd., an Ohio limited liability company, for the company, being authorized so to do.

_____
Notary Public

My Commission Expires:

8/18/2017

EPS GROUP

Exhibit A
Gilbert Road Temporary Drainage Easement
Nationwide Property

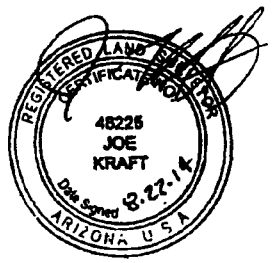
Job No. 07-087 August 19, 2014

A portion of the Northwest Quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at a brass cap in hand hole at the West Quarter corner of said Section 6, from which a City of Chandler brass cap in hand hole at the Northwest corner of said Section 6, bears N00°01'37"W (an assumed bearing) at a distance of 2,643.09 feet; thence N00°01'37"W, along the west line of the Northwest Quarter of said Section 6, for a distance of 174.62 feet; thence N89°58'23"E for a distance of 104.00 feet to a point on the east line of the west 104 feet of the Northwest Quarter of said Section 6, said point being the POINT OF BEGINNING;

Thence N00°01'37"W, along said east line, for a distance of 62.97 feet; thence N89°58'23"E for a distance of 24.26 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 127.81 feet; thence N89°58'23"E for a distance of 25.64 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 22.77 feet; thence N89°58'23"E for a distance of 256.48 feet; thence S00°01'37"E, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 214.38 feet; thence N89°20'55"W for a distance of 123.19 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 46.17 feet; thence S89°58'23"W for a distance of 91.33 feet; thence S00°01'37"E, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 46.81 feet; thence S89°58'23"W for a distance of 91.86 feet to the POINT OF BEGINNING;

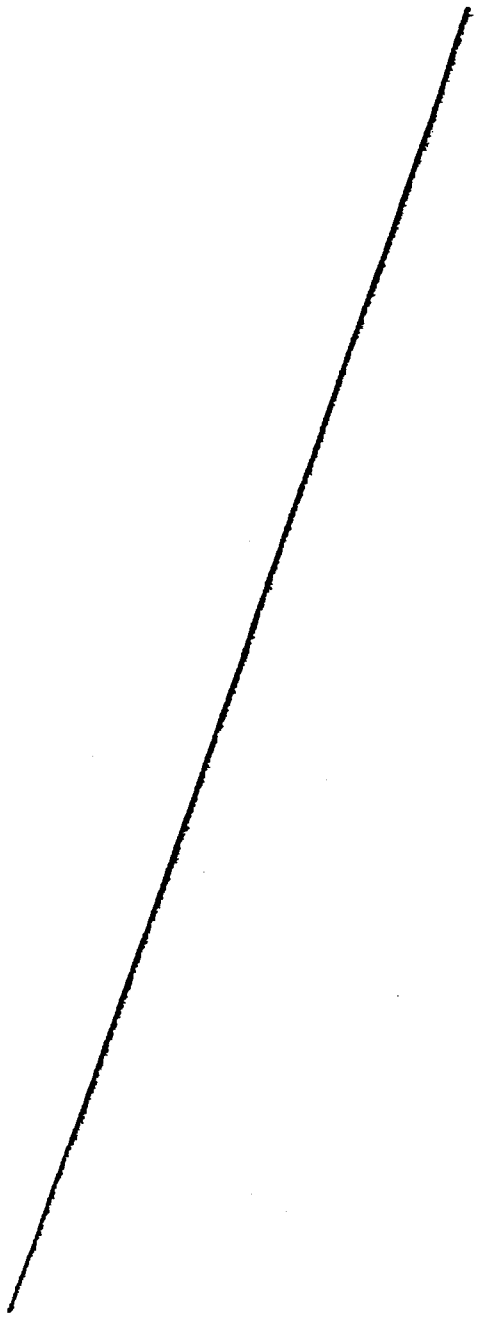
An area containing 56,929 square feet or 1.3069 acres, more or less.



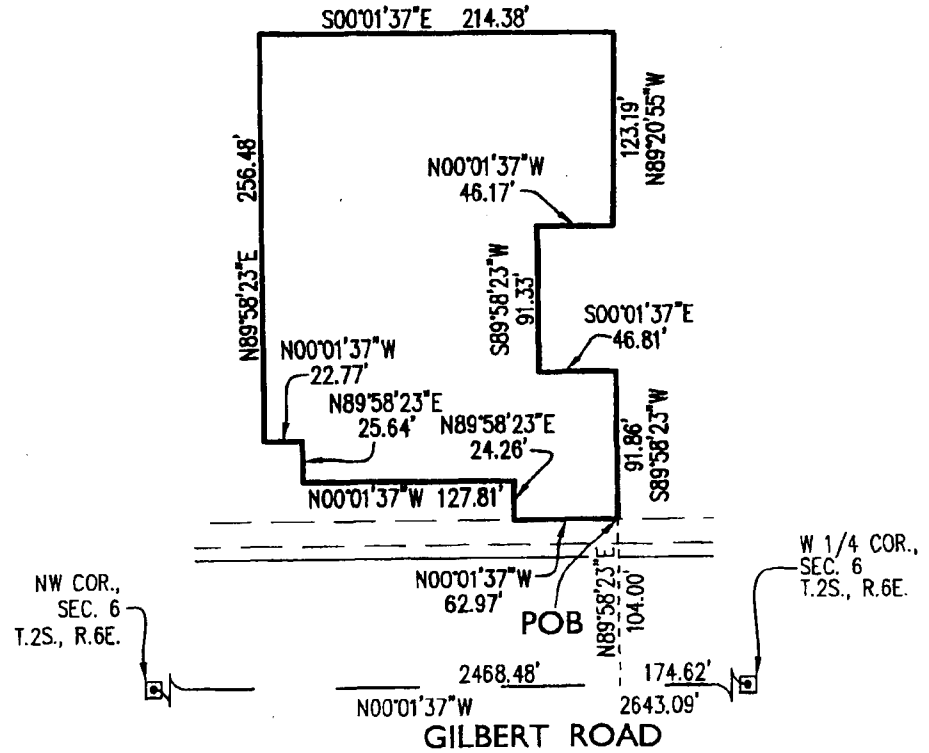
Exp: 9.30.17

EPS Group, Inc. • 2045 S. Vineyard, Suite 101 • Mesa, AZ 85210
Tel (480) 503-2250 • Fax (480) 503-2258

EXHIBIT "B"



20140778399



NORTH N.T.S.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
48225
JOE
KRAFT
Date Signed 8-22-14
ARIZONA U.S.A.
EXPIRES: 9 30 2017

07-087

EPS GROUP
2045 S Vineyard Ave, Suite 101
Mesa, AZ 85210
T 480 503 2250 | F 480 503 2258
www.epsgroupinc.com

Project: Gilbert Road Temporary Drainage Easement
Nationwide Property

Exhibit B

07087 nationwide de 3.txt

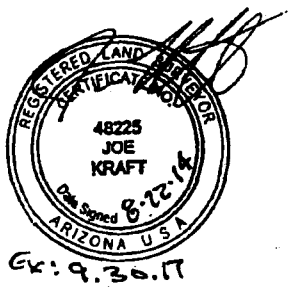
Project: 07087 Thu August 21 15:48:22 2014
Parcel Map Check

Parcel name: DE-Nationwide 3

North: 8730.1778 East : 10739.3182
Line Course: N 00-01-37 W Length: 62.97
North: 8793.1478 East : 10739.2886
Line Course: N 89-58-23 E Length: 24.26
North: 8793.1592 East : 10763.5486
Line Course: N 00-01-37 W Length: 127.81
North: 8920.9692 East : 10763.4885
Line Course: N 89-58-23 E Length: 25.64
North: 8920.9812 East : 10789.1285
Line Course: N 00-01-37 W Length: 22.77
North: 8943.7512 East : 10789.1177
Line Course: N 89-58-23 E Length: 256.48
North: 8943.8718 East : 11045.5977
Line Course: S 00-01-37 E Length: 214.38
North: 8729.4919 East : 11045.6985
Line Course: N 89-20-55 W Length: 123.19
North: 8730.8924 East : 10922.5165
Line Course: N 00-01-37 W Length: 46.17
North: 8777.0624 East : 10922.4948
Line Course: S 89-58-23 W Length: 91.33
North: 8777.0194 East : 10831.1648
Line Course: S 00-01-37 E Length: 46.81
North: 8730.2094 East : 10831.1868
Line Course: S 89-58-23 W Length: 91.86
North: 8730.1662 East : 10739.3268

Perimeter: 1133.68 Area: 56,929 sq. ft. 1.3069 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0144 Course: S 36-45-32 E
Error North: -0.01157 East : 0.00864
Precision 1: 78,727.08



Ex: 9.30.17

ACCEPTANCE

The CITY OF CHANDLER, an Arizona Municipal Corporation, does hereby accept the foregoing grant and easement and the terms and conditions thereof.

In witness whereof, the CITY OF CHANDLER has caused this ACCEPTANCE to be executed by its Public Works Director pursuant to City of Chandler City Code Section 43-2.3 which was authorized by its City Council by Ordinance 2970 on the 27th day of June 1999.

Checked by:

Real Estate Coordinator

City Attorney

City Engineer

By: _____
R.J. Zeder, Public Works Director

Date: 11-21-14

EXHIBIT "B"

When recorded, mail to
City Clerk's Office
City of Chandler
Mail Stop 606
P.O. Box 4008
Chandler, AZ. 85244-4008

RELEASE OF EASEMENT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, CITY OF CHANDLER, an Arizona municipal corporation ("City"), does hereby release and extinguish any and all interest that it may have in that certain real property described in Exhibit "A" to that certain Easement recorded with the Maricopa County Recorder on November 24, 2014 as Docket No. 2014-0778399 attached hereto and made a part hereof, arising by virtue of the execution and recording of said easement. This Release of Easement is not intended to release any interest that City may have in any portion of the subject real property arising by virtue of any other instrument recorded with the Maricopa County Recorder, including without limitation, any deed, easement other than the aforementioned easement, or final order of condemnation.

Dated this _____ day of _____, 2016.

CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this, the ____ day of February, 2016, before me, the undersigned, a Notary Public, personally appeared Jay Tibshraeny, who acknowledged himself to be the Mayor of the City of Chandler, an Arizona municipal corporation, and that he as such officer of the municipal corporation being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation as such officer.

_____
Notary Public

APPROVED AS TO FORM:

_____ for
City Attorney

Exhibit A
Gilbert Road Temporary Drainage Easement
Nationwide Property

Job No. 07-087

August 19, 2014

A portion of the Northwest Quarter of Section 6, Township 2 South, Range 6 East of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at a brass cap in hand hole at the West Quarter corner of said Section 6, from which a City of Chandler brass cap in hand hole at the Northwest corner of said Section 6, bears N00°01'37"W (an assumed bearing) at a distance of 2,643.09 feet; thence N00°01'37"W, along the west line of the Northwest Quarter of said Section 6, for a distance of 174.62 feet; thence N89°58'23"E for a distance of 104.00 feet to a point on the east line of the west 104 feet of the Northwest Quarter of said Section 6, said point being the POINT OF BEGINNING;

Thence N00°01'37"W, along said east line, for a distance of 62.97 feet; thence N89°58'23"E for a distance of 24.26 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 127.81 feet; thence N89°58'23"E for a distance of 25.64 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 22.77 feet; thence N89°58'23"E for a distance of 256.48 feet; thence S00°01'37"E, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 214.38 feet; thence N89°20'55"W for a distance of 123.19 feet; thence N00°01'37"W, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 46.17 feet; thence S89°58'23"W for a distance of 91.33 feet; thence S00°01'37"E, along a line parallel with the west line of the Northwest Quarter of said Section 6, for a distance of 46.81 feet; thence S89°58'23"W for a distance of 91.86 feet to the POINT OF BEGINNING;

An area containing 56,929 square feet or 1.3069 acres, more or less.