

ORDINANCE NO. 612

AN ORDINANCE of the City Council of the City of Lakewood, Washington, authorizing the acquisition of real property under threat of condemnation or by condemnation for the purpose of constructing roadway improvements; authorizing payment thereof from the City's General Fund or from such other monies that the City may have available or attain for the acquisition; providing for severability; declaring a statement of urgency and emergency; and establishing an effective date.

WHEREAS, the City of Lakewood has identified a roadway project to maintain and improve South Tacoma Way, SR 512 to 96th Street South ("Project") in compliance with goals announced in the City's Comprehensive Plan; and

WHEREAS, the Project involves public and traffic safety improvements, with the construction of sidewalks, curb and gutter, bicycle lanes, street lighting, storm drainage improvements, signal replacement/upgrade, and overlay to South Tacoma Way between State Route 512 and 96th Avenue S.; and

WHEREAS, the City has determined that the acquisition of certain rights and interests from the real property, located at 10011 S. Tacoma Way, Tacoma, Washington, 98499, identified as Pierce County Tax Parcel No. 319066014, and legally described on Exhibit A, attached hereto and incorporated by reference ("Parcel 319066014"), is necessary to accomplish and construct the Project; and

WHEREAS, the City has determined that the acquisition of certain rights and interests from the real property, located at 10222 S. Tacoma Way, Tacoma, Washington, 98499, identified as Pierce County Tax Parcel No. 0219015008, and legally described on Exhibit B, attached hereto and incorporated by reference ("Parcel 0219015008"), is necessary to accomplish and construct the Project; and

WHEREAS, the City has determined that in order to construct the Project, it is necessary to acquire, condemn, appropriate, take and damage portions of and interests in Parcel 319066014, in the form of permanent fee for right-of-way, as legally described in Exhibit C and depicted in Exhibit D, which are attached hereto and incorporated by reference; and

WHEREAS, the City has determined that in order to construct the Project, it is necessary to acquire, condemn, appropriate, take and damage portions of and interests in Parcel 0219015008, in the form of permanent fee for right-of-way, as legally described in Exhibit E and depicted in Exhibit F, which are attached hereto and incorporated by reference (collectively, the real property interests identified in Exhibits C through F are hereinafter referred to as the “Real Property Take”); and

~~WHEREAS, the City has appraised the fair market value of the Real Property Take; and~~

WHEREAS, the City has in good faith negotiated with the owners of Parcel 319066014 and Parcel 0219015008 for acquisition of the Real Property Take; and

WHEREAS, the City has yet been unable to reach a negotiated resolution with said owners; and

WHEREAS, while this Ordinance does authorize condemnation, the City Council does hereby express its intent that negotiations continue in regard to the Real Property Take and that legal action be employed only if further negotiations are not productive; and

WHEREAS, the City has complied with the notice requirements set forth in RCW 8.25.290 by providing notice to the owners of Parcel 319066014 and Parcel 0219015008 of the planned final action of adopting this Ordinance, and through publication once per week for two weeks, prior to enactment of this Ordinance; and

WHEREAS, payment of just compensation and costs of litigation should be made from the City's general fund or from such other monies that the City may have available or attain for the acquisition;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. Incorporation of Recitals. The recitals set forth above are hereby adopted and incorporated herein as if set forth in full.

Section 2. Public Use and Necessity Declared. The City Council of the City of Lakewood finds and declares that: i) the construction of the Project improvements for roadway and traffic safety is a public use; ii) the acquisition of the rights and interests in the Real Property Take legally described and depicted on Exhibits C, D, E and F is necessary for the construction of the Project; and iii) the construction of the Project is in the best interests of the citizens, motorists and pedestrians within the City of Lakewood.

Section 3. Acquisition. The City Council of the City of Lakewood authorizes the acquisition, condemnation and taking of the Real Property Take as legally described and depicted on Exhibits C, D, E and F. The City Council authorizes the acquisition of the Real Property Take under threat of condemnation or by initiation of legal action for condemnation to acquire the Real Property Take as necessary for the commencement and completion of the Project, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 4. Reservation of Rights. Nothing in this ordinance limits the City in its identification and acquisition of property and property rights necessary for this public purpose. The City reserves the right to acquire additional or different properties as needed for the Project.

Section 5. Authorization of City Manager to Condemn Real Property Take. The City Manager, by and through his designees, is authorized and directed to begin and prosecute actions and proceedings in the manner provided by law to condemn, take, damage and appropriate the Real Property Take necessary to carry out the provisions of this ordinance. In conducting said condemnation proceedings, the Lakewood City Attorney, by and through her designees, is hereby authorized to enter into stipulations for the Real Property Take. Such settlements shall be made only upon the recommendation of legal counsel and for amounts deemed to be reasonable estimation of fair market value.

Section 6. Authorization of City Manager to Negotiate Acquisition. The City Manager is hereby authorized to settle condemnation litigation or enter into settlements as necessary for the acquisition of the Real Property Take legally described and depicted in Exhibits C, D, E and F. Such settlements shall be made only upon the recommendation of legal counsel and for amounts deems to be reasonable estimation of fair market value.

Section 7. Compensation. The compensation to be paid to the owners of the Real Property Take acquired through this condemnation action shall be paid from the City's General Fund or from such other monies that the City may have available or attain for the acquisition.

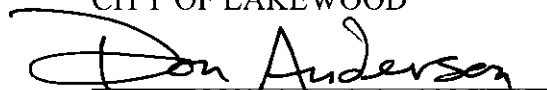
Section 8. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance of the application of the provision to other persons or circumstance shall not be affected.

Section 9. Statement of Urgency & Emergency: Pursuant to RCW 35A.11.090(2), this ordinance is not subject to initiative and referendum as it is necessary for immediate preservation of public peace, health and safety, and for the support of city government and its existing public institutions. The City Council hereby finds that it has received federal discretionary grant

funding in the amount of \$370,000.00 for the Project. The City's ability to obligate and secure such federal funding for the Project is threatened by delay, and all due haste is necessary to ensure proper certification of the right-of-way by the Washington State Department of Transportation. Therefore, the City Council adopts this statement of urgency and emergency relating to the effective date of this ordinance, and finds and determines that the thirty (30) day period RCW 35A.11.090 shall not apply to this ordinance. The City Council acknowledges that this statement of urgency requires a unanimous vote of the council and upon adoption of said unanimous vote, shall become effective immediately.

Section 10. Emergency; Effective Date. This Ordinance, as stated in Section 9 Statement of Urgency/Emergency above, is a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn.App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals and in Section 9 set forth above, which are adopted by reference.

ADOPTED by the City Council this 15th day of June, 2015.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:


Alice M. Bush, MMC, City Clerk

Approved as to Form:

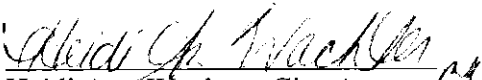

Heidi Ann Wachter, City Attorney

Exhibit A

CHICAGO TITLE COMPANY

PLAT CERTIFICATE
SCHEDULE A

(Continued)

Order No.: 4366394

LEGAL DESCRIPTION

LOT 1, PIERCE COUNTY SHORT PLAT NUMBER 8507230109, ACCORDING TO THE PLAT
THEREOF RECORDED JULY 23, 1985, RECORDS OF PIERCE COUNTY AUDITOR.

SITUATE IN THE CITY OF LAKEWOOD, COUNTY OF PIERCE, STATE OF WASHINGTON.

Exhibit B

CHICAGO TITLE COMPANY

PLAT CERTIFICATE
SCHEDULE A

(Continued)

Order No.: 4366392

LEGAL DESCRIPTION

A PORTION OF GOVERNMENT LOT 5, SECTION 1, TOWNSHIP 19 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF SOUTH TACOMA WAY, SAID RIGHT OF WAY NOW BEING 70.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE WITH THE NORTHERLY RIGHT OF WAY LINE OF PERKINS LANE, SAID RIGHT OF WAY NOW BEING 30.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE; THENCE SOUTH 89 DEGREES 51 MINUTES 35 SECONDS WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE OF PERKINS LANE, 260.00 FEET; THENCE NORTH 00 DEGREES 46 MINUTES 13 SECONDS WEST PARALLEL TO SAID WESTERLY RIGHT OF WAY LINE OF SOUTH TACOMA WAY; 185.0 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 35 SECONDS EAST 260.00 FEET; THENCE SOUTH 00 DEGREES 46 MINUTES 13 SECONDS EAST ALONG SAID WESTERLY RIGHT OF WAY LINE OF SOUTH TACOMA WAY, 185.00 FEET TO THE POINT OF BEGINNING, IN PIERCE COUNTY, WASHINGTON.

(BEING LOT 1 OF PIERCE COUNTY SHORT PLAT NUMBER 77-182, ACCORDING TO THE MAP THEREOF RECORDED MARCH 23, 1977 IN VOLUME 15 OF SHORT PLATS, PAGE 25).

TOGETHER WITH THAT PORTION OF VACATED SOUTH TACOMA WAY ADJOINING, AS VACATED BY RESOLUTION NUMBER 20520 AND RECORDED UNDER RECORDING NUMBER 2812095, WHICH UPON VACATION, ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

SITUATE IN THE CITY OF LAKEWOOD, COUNTY OF PIERCE, STATE OF WASHINGTON.

Exhibit C

**PARCEL NO. 0319066014
NEW RIGHT OF WAY DESCRIPTION**

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY OF SOUTH TACOMA WAY SAID POINT BEING 50.00 FEET RIGHT OF STATION 138+25.22 OF CITY OF LAKEWOOD RIGHT OF WAY PLANS FOR SOUTH TACOMA WAY/HIGHWAY 512 TO 96TH STREET, CITY PROJECT NO. e1171, DATED MAY 2, 2014, SAID POINT BEING ON THE SOUTHERLY LINE OF PARCEL NUMBER 0319066014; THENCE S89°25'11"E, ALONG SAID SOUTHERLY LINE FOR 9.00 FEET TO A POINT 59.00 FEET RIGHT OF STATION 138+25.27; THENCE NORTHERLY TO A POINT 59.00 FEET RIGHT OF STATION 139+65.26, MORE OR LESS, SAID POINT BEING ON THE NORTHERLY LINE OF PARCEL NO. 0319066014; THENCE N89°25'11"W ALONG SAID NORTHERLY LINE FOR 8.71 FEET TO A POINT 50.29 RIGHT OF STATION 139+65.22 SAID POINT BEING ON THE EXISTING EASTERLY RIGHT OF WAY OF SOUTH TACOMA WAY; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT OF WAY TO THE POINT OF BEGINNING.

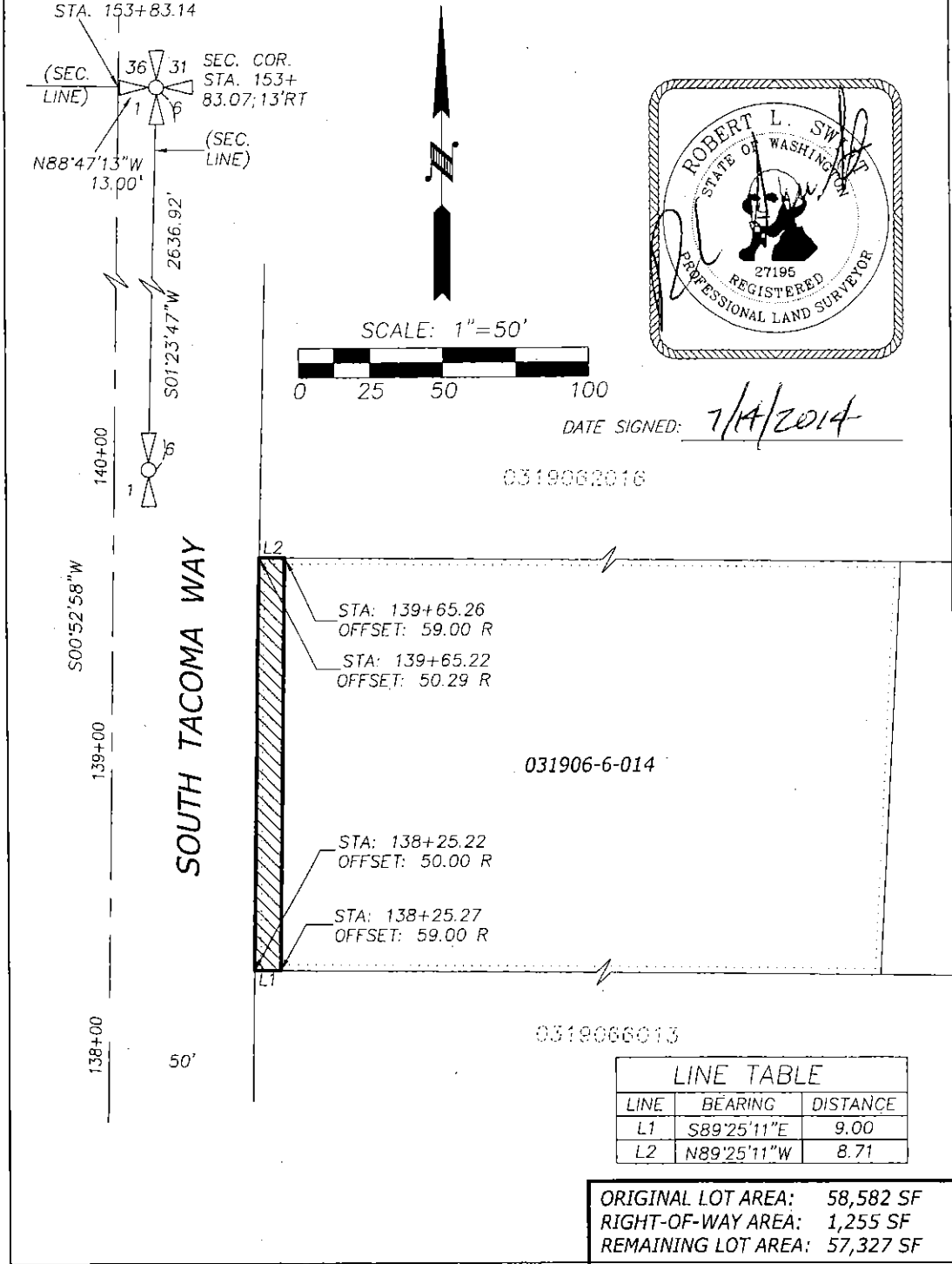
SITUATE IN THE CITY OF LAKEWOOD, PIERCE COUNTY, WASHINGTON.

(THE ABOVE-DESCRIBED PARCEL CONTAINS APPROXIMATELY 1,255 SQUARE FEET)

Exhibit D

PARCEL NO: 031906-6-014

SW1/4 OF NW1/4 OF SEC. 6, TWP. 19 N., RGE. 3 E., W.M.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S89°25'11"E	9.00
L2	N89°25'11"W	8.71

ORIGINAL LOT AREA: 58,582 SF
 RIGHT-OF-WAY AREA: 1,255 SF
 REMAINING LOT AREA: 57,327 SF

Exhibit E

**PARCEL NO. 0219015008
EASEMENT DESCRIPTION**

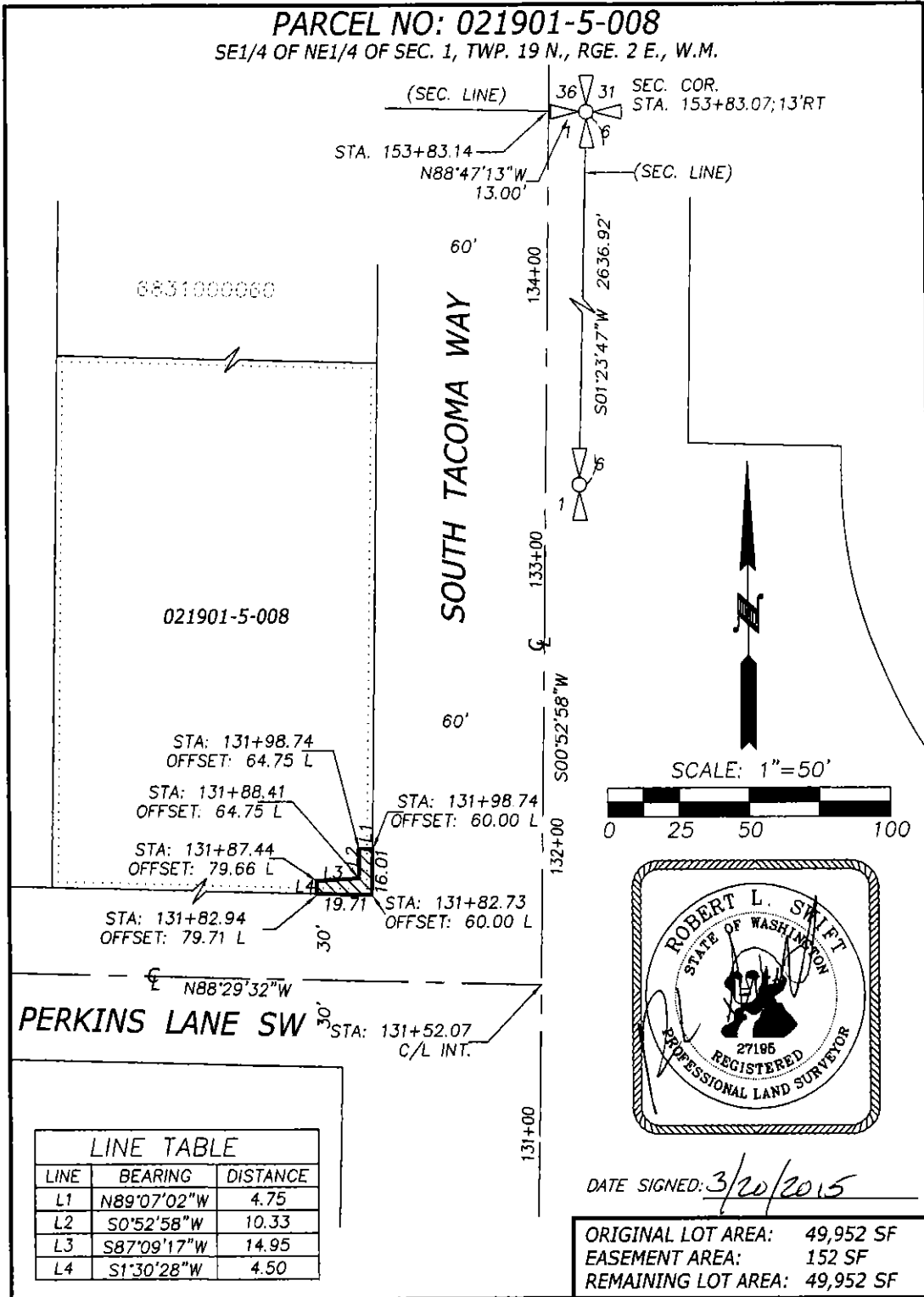
BEGINNING AT A POINT ON THE WESTERLY RIGHT OF WAY OF SOUTH TACOMA WAY SAID POINT BEING 60.00 FEET LEFT OF STATION 131+98.74 OF CITY OF LAKEWOOD RIGHT OF WAY PLANS FOR SOUTH TACOMA WAY/HIGHWAY 512 TO 96TH STREET, CITY PROJECT NO. e1171, DATED MAY 2, 2014; THENCE N 89°07'02" W FOR 4.75 FEET TO A POINT 64.75 FEET LEFT OF STATION 131+98.74; THENCE S 0°52'58" W FOR 10.33 FEET TO A POINT 64.75 FEET LEFT OF STATION 131+88.41; THENCE S 87°09'17" W FOR 14.95 FEET TO A POINT 79.66 FEET LEFT OF STATION 131+87.44; THENCE S 1°30'28" W FOR 4.50 FEET TO A POINT 79.71 FEET LEFT OF STATION 131+82.94, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF PERKINS LANE S.W.; THENCE S 88°29'32" E ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 19.71 FEET TO A POINT 60.00 FEET LEFT OF STATION 131+82.73, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH TACOMA WAY; THENCE N 0°52'58" E ALONG SAID WESTERLY RIGHT-OF-WAY FOR 16.01 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE CITY OF LAKEWOOD, PIERCE COUNTY, WASHINGTON.

(THE ABOVE-DESCRIBED EASEMENT CONTAINS APPROXIMATELY 152 SQUARE FEET)

Exhibit F

PARCEL NO: 021901-5-008
 SE1/4 OF NE1/4 OF SEC. 1, TWP. 19 N., RGE. 2 E., W.M.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°07'02"W	4.75
L2	S0°52'58"W	10.33
L3	S87°09'17"W	14.95
L4	S1°30'28"W	4.50

DATE SIGNED: 3/20/2015

ORIGINAL LOT AREA: 49,952 SF
 EASEMENT AREA: 152 SF
 REMAINING LOT AREA: 49,952 SF