

Recorded at the request of and
after recording return to:
Contra Costa County
Public Works Department
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 94553

Mail Tax Statements to:
Contra Costa County
Public Works Department
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 94553

**EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX
PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.**

Portion of A.P.N.: 373-260-001

GRANT OF WATER EASEMENT

For good and valuable consideration, including but not limited to the agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, CONTRA COSTA COUNTY, a political subdivision of the State of California (hereinafter "COUNTY"), hereby grants to the CITY OF MARTINEZ, a municipal corporation of the State of California (hereinafter "GRANTEE"), a non-exclusive, perpetual surface and subsurface easement and right of way ("Water Easement") for operating and periodically monitoring Grantee's existing backflow preventer devices, and related appurtenances ("Facilities"), together with access for ingress and egress thereto, and for no other purposes whatsoever, along and in all of the hereinafter described parcel of land situated in the County of Contra Costa, State of California, commonly known as 1025 Escobar Street/1139 Escobar Street, and as further described as follows:

FOR DESCRIPTION AND PLAT MAP, SEE ATTACHED EXHIBITS "A" AND "B"

The area of the parcel of land in and on which the easement is located shall be referred to herein as the "Water Easement" and is so designated and labeled as such on Exhibits "A" and "B."

The foregoing grant is made subject to the following terms and conditions:

1. **PRIMARY USE OF THE PROPERTY:** The Water Easement is located within COUNTY-owned property commonly identified as Assessor's Parcel No. 373-260-001 ("Property"). The primary use of the Property is for various Contra Costa County offices and facilities.

GRANTEE acknowledges and agrees that the use just described constitutes the

primary use of the Property and that any and all rights granted or implied by this Grant of Easement are secondary and subordinate to the primary use of the Property by the COUNTY, its successors and assigns. GRANTEE shall not, at any time, use or permit the public to use the Water Easement in any manner that will interfere with or impair the COUNTY's primary use of the Property. GRANTEE shall not fence said Water Easement without the prior written approval of the COUNTY, which said approval shall not be unreasonably denied or conditioned, and shall remove any fencing when requested by COUNTY to do so. GRANTEE shall not otherwise obstruct the Water Easement area.

2. **COUNTY TITLE:** GRANTEE hereby acknowledges COUNTY's title to the Property and agrees never to assail or resist said title.

3. **CONSTRUCTION AND MAINTENANCE ACTIVITIES:** (a) GRANTEE shall, prior to any construction, reconstruction, remodeling, excavation, installation or plantings within the Water Easement area, submit specific plans and specifications to the COUNTY for review and approval, which said approval shall not be unreasonably denied or conditioned. Such approval, together with any additional requirements, shall be in the form of a written permit issued by COUNTY to GRANTEE.

(b) Normal maintenance and inspection by GRANTEE of its Facilities within the Water Easement area shall not require prior notice to the COUNTY. GRANTEE shall perform maintenance of its Facilities so as to prevent damage to the Property or neighboring properties.

4. **DAMAGE TO COUNTY PROPERTY:** Any and all COUNTY Property, facilities, landscaping or other improvements, removed or damaged as a result of the use of the Water Easement area by GRANTEE, or any other person or entity acting under GRANTEE's direction or control, shall, at COUNTY's discretion and direction, be repaired or replaced by COUNTY, with all reasonable costs and expenses to be paid by GRANTEE (including but not limited to engineering costs and legal costs of collecting any unpaid expenses), or shall be repaired or replaced by GRANTEE, at the sole cost and expense of GRANTEE, equivalent to or better than their existing condition. In the event that GRANTEE fails to commence the required work within thirty days after being directed to do so by COUNTY, or such reasonable extension as COUNTY may agree to in writing, or fails to complete the required work within a reasonable time thereafter, COUNTY may perform or complete the work at the expense of GRANTEE, which expense GRANTEE agrees to pay to COUNTY promptly upon demand, including but not limited to engineering costs and any legal expenses incurred to collect such costs.

5. **DAMAGE TO GRANTEE'S FACILITIES:** COUNTY shall have no responsibility for the maintenance or removal of GRANTEE's Facilities, appurtenances or improvements, caused by or resulting from COUNTY's use of the Property for the primary uses described in Section 1, COUNTY's work or operation thereon, or any

third parties. It shall be the sole responsibility of the GRANTEE to provide and maintain adequate protection and surface markings for its own Facilities. Subject to the foregoing, if GRANTEE'S facilities are damaged by the sole, active negligence or willful misconduct of COUNTY, COUNTY shall repair the damage at its sole cost and expense or, at the discretion of and upon written notice from COUNTY, the damage shall be repaired by GRANTEE and the pre-approved reasonable cost of such repair shall be paid for by COUNTY.

6. **NON-EXCLUSIVE EASEMENT:** The Water Easement granted hereunder is non-exclusive. This Water Easement is subject and subordinate to all existing rights, rights of way, licenses, reservations, franchises and easements of record, or that would be evident from a physical inspection or accurate survey of the Property, in and to the Property. GRANTEE agrees to take all precautions required to avoid damage to the facilities of the existing users. If GRANTEE damages the facilities or improvements of COUNTY or any existing user, GRANTEE shall repair or replace such facilities at GRANTEE'S sole cost and expense. Nothing contained herein shall be construed to prevent COUNTY from granting other easements, franchises, licenses or rights of way over said lands, provided however, that said subsequent uses do not unreasonably prevent or obstruct GRANTEE'S easement rights hereunder.

7. **INDEMNIFICATION, AS-IS CONDITION OF PROPERTY:** (a) In the exercise of all rights under this Grant of Easement, GRANTEE shall be responsible for any and all injury to the public, to persons and to property arising out of or connected with GRANTEE'S use of the Water Easement or GRANTEE'S installation, construction, reconstruction, removal, replacement, repair, upgrade, maintenance, operation, or use of the Facilities, or GRANTEE'S exercise of its rights hereunder. GRANTEE shall indemnify, defend, save, protect and hold harmless, COUNTY, its officers, agents, employees and contractors from and against any and all threatened or actual loss, damage (including foreseeable and unforeseeable consequential damages), liability, claims, suits, demands, judgments, orders, costs, fines, penalties or expense of whatever character, including but not limited to those relating to inverse condemnation, and including attorneys' fees, (hereinafter collectively referred to as "Liabilities") to persons or property, direct or consequential, directly or indirectly contributed to or caused by the granting of this Water Easement, GRANTEE'S operations, acts or omissions pursuant to this Water Easement, or the GRANTEE'S use of the Water Easement or GRANTEE'S installation, construction, reconstruction, removal, replacement, repair, upgrade, maintenance, operation, or use of the Facilities, or GRANTEE'S exercise of its rights hereunder, save and except Liabilities arising through the sole negligence or willful misconduct of the COUNTY, its officers or employees. GRANTEE acknowledges that Property subject to this Water Easement is in a flood control area. GRANTEE agrees that GRANTEE shall never have, claim or assert any right or action against COUNTY or the County of Contra Costa in the event of damage to or disruption of GRANTEE'S facilities caused or contributed to by flooding or water, and shall indemnify, defend, save, protect and

hold COUNTY harmless from all Liabilities resulting from such damage or disruption.

b) GRANTEE further agrees to defend, indemnify, save, protect and hold harmless, COUNTY from any and all actual or threatened claims, costs, actions or proceedings to attack, set aside, void, abrogate or annul this Grant of Easement or any act or approval of COUNTY related thereto.

c) GRANTEE accepts the Water Easement area in an "as is" physical condition, with no warranty, guarantee, representation or liability, express or implied on the part of the COUNTY as to any matter, including but not limited to the physical condition of the Property and/or the condition and/or possible uses of the land or any improvements thereon, the condition of the soil or the geology of the soil, the condition of the air, surface water or groundwater, the presence of known and unknown faults, the presence of any hazardous substance, materials, or other kinds of contamination or pollutants of any kind in the air, soil, groundwater or surface water, or the suitability of the Property for the construction and use of the improvements thereon. It shall be the sole responsibility of GRANTEE, at its sole cost and expense, to investigate and determine the suitability of the soil, water, geologic, environmental and seismic conditions of the Property for the intended use contemplated herein, and to determine and comply with all building, planning and zoning regulations relative to the Property and the uses to which it can be put. GRANTEE relies solely on GRANTEE's own judgment, experience and investigations as to the present and future condition of the Property or its suitability for GRANTEE's intended use and is not relying in any manner on any representation or warranty by COUNTY. GRANTEE agrees that neither GRANTEE, its heirs, successors nor assigns shall ever claim to have or assert any right or action against COUNTY for any loss, damage or other matter arising out of or resulting from the presence of any hazardous substance or any other condition of the Property at the commencement of the Water Easement or from the release of any hazardous substance in, on or around any part of the Property or in the soil, water, subsurface strata or ambient air by any person or entity other than the COUNTY following the commencement of this Water Easement. As used herein, "hazardous substance" means any substance, material or waste which is or may become designated, classified or regulated as being "toxic," "hazardous" or a "pollutant" under any federal, state or local law, regulation or ordinance. Nothing in this Section is intended in any way to restrict the right of GRANTEE to seek contribution or indemnity from any person or entity other than COUNTY whose activities are a cause of any discharge, leakage, spillage or emission of hazardous materials on or to the Property.

d) To the extent permitted by law, GRANTEE shall indemnify, defend, save, protect and hold the COUNTY harmless from and against any and all claims, demands, Liabilities, expenses (including without limitation attorneys fees and consultants fees), penalties, damages, consequential damages and losses, and costs (including but not limited to the costs of any required or necessary testing, remediation, repair, removal, cleanup or detoxification of the Property and

surrounding properties and from and against the preparation of any cleanup, remediation, closure or other required plans whether such action is required or necessary prior to or following the termination of the Water Easement), of any kind or nature, to the extent caused or contributed to by GRANTEE's operation or performance under this Water Easement, or GRANTEE's use, release or disposal of any hazardous substance, including all costs, claims, damages (including property and personal injury) caused by the uncovering, release or excavation of hazardous materials (including petroleum) as a result of GRANTEE's construction, reconstruction, maintenance, use, replacement, or removal of its Facilities, to the extent that such activities increase the costs attributable to the cleanup or remediation of such hazardous materials.

e) The obligations contained in this Section shall survive the expiration or other termination of this Water Easement.

8. **NO WARRANTIES:** GRANTEE understands and acknowledges that COUNTY makes no representations, warranties or guarantees of any kind or character, express or implied, with respect to the Property, and GRANTEE is entering into this transaction without relying in any manner on any such representation or warranty by COUNTY.
9. **ABANDONMENT:** In the event GRANTEE shall cease to use the Water Easement herein continuously for a period of five years, or in the event GRANTEE abandons its Facilities or fails to use the Water Easement for the purpose for which it is granted, then all rights of GRANTEE in and to said lands shall thereupon cease and terminate and shall immediately revert to and vest in COUNTY or its successors. Upon any such termination of GRANTEE's rights, GRANTEE shall, upon request by COUNTY, and at GRANTEE's sole cost and expense, remove all of its Facilities from the Water Easement area and restore said Property to its original condition. Upon the failure of GRANTEE to do so, this work may be performed by COUNTY at GRANTEE's expense, which expense GRANTEE agrees to pay to COUNTY upon demand. GRANTEE shall execute any Quitclaim Deeds required by COUNTY in this regard.
10. **NO ASSIGNMENT OF EASEMENT:** No rights granted hereunder shall be transferred, apportioned or assigned without the prior written consent of COUNTY.
11. **NO SECONDARY RIGHTS:** Except to the extent this Grant of Water Easement provides, otherwise, nothing herein contained shall be deemed to construe that access or other secondary rights are conveyed by this document over any of COUNTY's adjacent lands lying outside of the aforesaid strip of land above described.
12. **ENTIRE AGREEMENT:** This Grant of Water Easement contains the entire agreement between the parties hereto and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

13. **CONSTRUCTION:** This Grant of Water Easement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Grant of Water Easement and their counsel have read and reviewed this grant of easement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Grant of Water Easement.
14. **SUCCESSORS AND ASSIGNS:** This indenture and all of the covenants herein contained shall inure to the benefit of and be binding upon the heirs, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Grant of Water Easement is signed and executed this _____ day of _____ 2023.

CONTRA COSTA COUNTY

GRANTEE
CITY OF MARTINEZ

By _____
John Gioia
Chair, Board of Supervisors

By _____
Michael Chandler
City Manager

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 CONTRA COSTA

On _____, before me, _____ Clerk of the Board of Supervisors, Contra Costa County, personally 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 _____
Deputy Clerk

APPROVED AS TO FORM
by County Counsel
July, 1999

JL:
G:\realprop\County Administration Bldg Replacement\EA.17PA - Grant of Water Line Easement - v5 04032023.doc
03/02/09

**EXHIBIT A – LEGAL DESCRIPTION
CITY OF MARTINEZ
WATER EASEMENT**

APN 373-260-001

REAL PROPERTY in the City of Martinez, County of Contra Costa, State of California more particularly described as follows:

A portion of the Lands of Contra Costa County, Parcel One in Volume 8574 at Page 572 of Official Records of Contra Costa County, recorded August 8, 1977 being a portion of Block 346 of the Additional Survey of the Town of Martinez, filed for record in Book D at Page 83 of Maps, on March 30, 1895, on file at the Recorder of the County of Contra Costa State of California more particularly described as follows;

BEGINNING at a point on the Northerly line of Escobar Street, also being the southeasterly corner of the lands described in Volume 295 of Deeds at Page 35 of Official Records of Contra Costa County, recorded May 15, 1917;

THENCE along the Northerly line of Escobar Street, South 53°39'45" West a distance of 83.63 feet to the **TRUE POINT OF BEGINNING**;

THENCE continuing along said northerly line of Escobar Street, South 53°39'45" West a distance of 12.00 feet;

THENCE leaving said northerly line of said Escobar Street, North 35°43'22" West a distance of 13.41 feet;

THENCE North 54°16'38" East a distance of 12.00 feet;

THENCE South 35°43'22" East a distance of 13.28 feet to the Northerly line of aforementioned Escobar Street and the **TRUE POINT OF BEGINNING**.

Containing an area of 160 Square Feet, more or less

APN 373-260-001

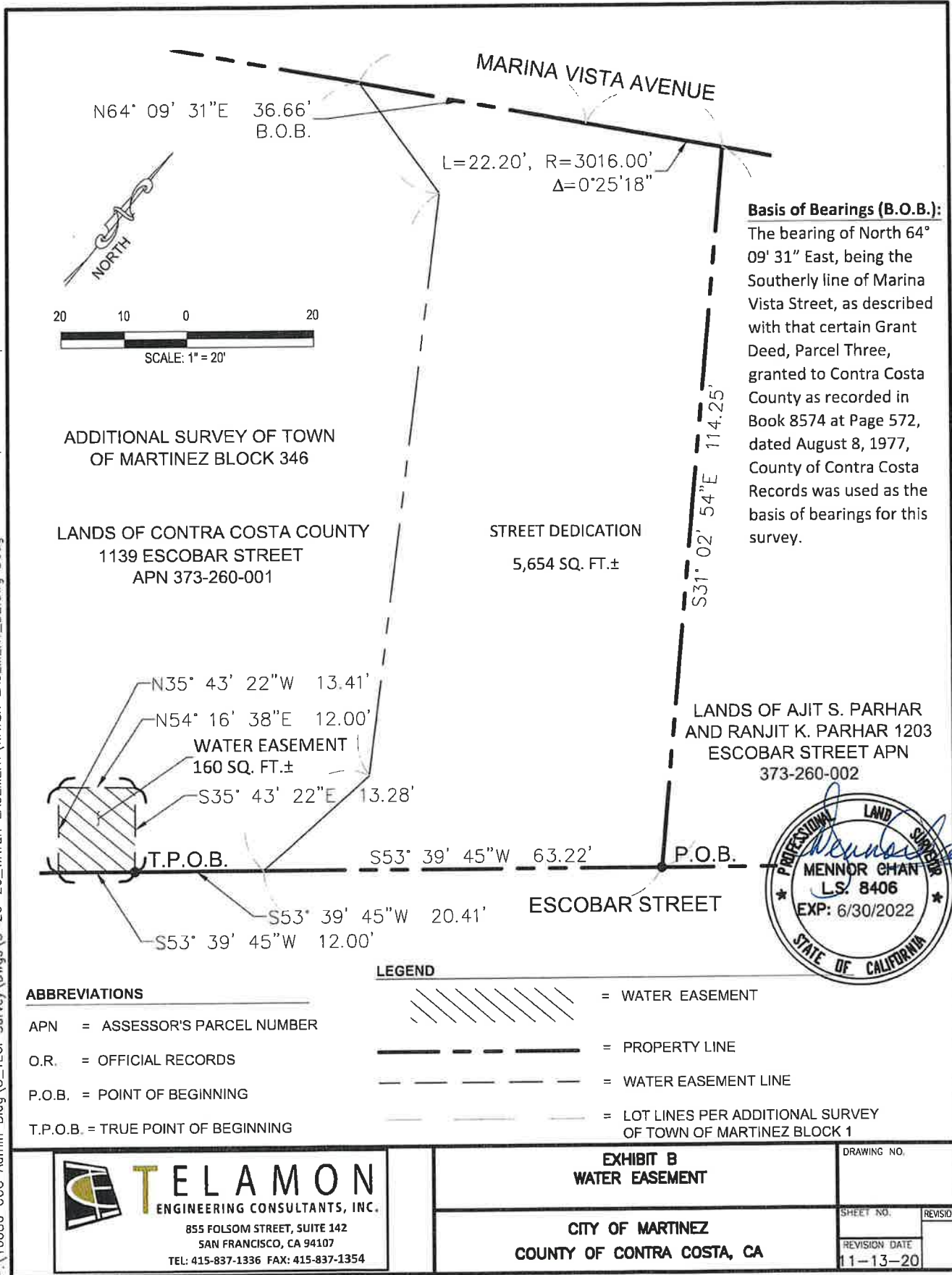
Attached hereto is a plat entitled Exhibit "B" and by this reference made a part hereof.


Mennor C. Chan, P.L.S. 8406 1st Dec., 2020
Date

TELAMON ENGINEERING CONSULTANTS, INC.
855 Folsom Street, Suite 142
San Francisco, CA 94107
Tel: 415.837.1336



P:\16086 CCC Admin Bldg\8_TECI Survey\Dwgs\5-26-20-WATER EASEMENT\WATER EASEMENT_DZ.dwg Doug Nov 30, 2020 - 2:24pm



ABBREVIATIONS

- APN = ASSESSOR'S PARCEL NUMBER
- O.R. = OFFICIAL RECORDS
- P.O.B. = POINT OF BEGINNING
- T.P.O.B. = TRUE POINT OF BEGINNING

LEGEND

- = WATER EASEMENT
- = PROPERTY LINE
- = WATER EASEMENT LINE
- = LOT LINES PER ADDITIONAL SURVEY OF TOWN OF MARTINEZ BLOCK 1

TELAMON
ENGINEERING CONSULTANTS, INC.
855 FOLSOM STREET, SUITE 142
SAN FRANCISCO, CA 94107
TEL: 415-837-1336 FAX: 415-837-1354

EXHIBIT B WATER EASEMENT		DRAWING NO.	
CITY OF MARTINEZ COUNTY OF CONTRA COSTA, CA		SHEET NO.	REVISION
		REVISION DATE	
		11-13-20	

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 CONTRA COSTA

On _____, before me, _____,

Notary Public, personally 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 _____ (Seal)
Notary Public