



"Life is better in the Bend"

October 9, 2018

Secretary of Administration
Ms. Ellen Nowak
P.O. Box 7864
Madison, WI 53707

Dear Secretary Nowak,

Enclosed for filing pursuant to Wis. Stat. 66.0217(9) is a certified copy of an Ordinance annexing land from the Town of Vernon into the Village of Big Bend.

The current population of the territory described in the Ordinance is 0.

If you need anything further from me in connection with the filing requirements of Wis. Stat. 66.0217(9), please let me know.

Sincerely,


Bradley Calder
Village Clerk



W230 S 9185 Nevins Street
Big Bend, WI 53103
Phone: 262.662.2747
Fax: 262.662.3751



"Life is better in the Bend"

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Big Bend, WI 53103
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Fax: 262.662.3751

**VILLAGE OF BIG BEND
WAUKESHA COUNTY, WISCONSIN**

CERTIFICATION OF ADOPTION OF ANNEXATION ORDINANCE

I, Bradley Calder, Village Clerk of the Village of Big Bend, hereby certify that the attached Ordinance of the Village of Big Bend Village Board was adopted at a duly-noticed, open meeting of the Village Board and that said Ordinance remains in full force and effect without amendment.

Dated this 4th day of October, 2018

VILLAGE OF BIG BEND


Bradley Calder, Village Clerk

ORDINANCE 2018-08

AN ORDINANCE ANNEXING TERRITORY TO THE
VILLAGE OF BIG BEND, WISCONSIN

The Village Board of the Village of Big Bend, Wisconsin, do ordain as follows:

SECTION 1. Territory Annexed. In accordance with Sec. 66.0217 of the Wisconsin Statutes and the petition for direct annexation filed with the Village Clerk on the 13th day of July, 2018, signed by a number of qualified electors residing in the territory described below equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election and the owners of at least one-half of the land in area within the territory, the following described territory in the Town of Vernon, Waukesha County, Wisconsin, known as the Luckow-Lent property, is annexed to the Village of Big Bend, Wisconsin:

See legal description attached as Exhibit A.

The population of the annexed territory is zero (0).

SECTION 2. Effect of Annexation. From and after the date of this ordinance the territory described in Section 1 shall be a part of the Village of Big Bend for any and all purposes provided by law and all persons coming or residing within such territory shall be subject to all ordinances, rules and regulations governing the Village of Big Bend.

SECTION 3. Temporary Zoning Classification. (a) Upon recommendation of the Plan Commission, the territory annexed to the Village of Big Bend by this ordinance is temporarily zoned as follows, pursuant to Sec. 66.0217 (8)(a) of the Wisconsin Statutes:

A-1 Agricultural District

(b) The Plan Commission is directed to prepare an amendment to the zoning ordinance setting forth permanent classifications and regulations for the zoning of the annexed area and to submit its recommendations to the Board not later than 180 days following adoption of the ordinance.

SECTION 4. Ward Designation. The territory described in Section 1 of this ordinance is hereby made a part of Ward 1 of the Village of Big Bend, subject to the ordinances, rules and regulations of the Village governing wards.

SECTION 5. Payment of Town Taxes. Prior to January 31 of each of the five consecutive years following adoption of this ordinance, the owner(s) of each property who petitioned for annexation shall pay to the Village an amount equal to the amount of property taxes that the Town of Vernon levied on each petitioner's property in the year the annexation is final as shown by the tax roll under Sec. 70.65 of the Wisconsin Statutes, in the year in which the annexation is final and the

Village agrees to pay such amounts to the Town of Vernon pursuant to Sec. 66.0217(14) of the Wisconsin Statutes. Interest shall accrue on any delinquent amount owing at the rate of 1 ½ % per month. Any outstanding amount, including accrued interest remaining unpaid as of September 30 of any of the five years following adoption of this ordinance, shall be added as a special charge to the tax bill for each annexed property for which default has occurred.

SECTION 6. Payment of Village Professionals Fees. The owner(s) of each property who petitioned for annexation shall be jointly and severally obligated to pay to the Village within 30 days of billing, any charges incurred by the Village from the Village Engineer, Planner, Attorney or other professional retained by the Village with respect to the annexation. The Village Clerk shall automatically charge any delinquent bill against the current or next tax roll as a delinquent tax against the property or properties.

SECTION 7. Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

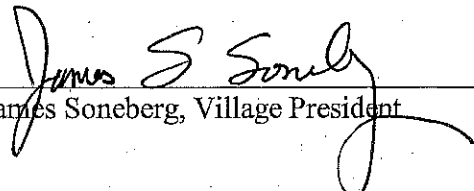
SECTION 8. Effective Date. This ordinance shall take effect upon passage and publication as provided by law.

Passed this 4th day of October, 2018.

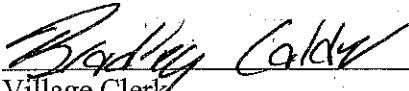
Approved this 4th day of October, 2018.

VILLAGE OF BIG BEND

By:


James Soneberg, Village President


ATTEST:


Village Clerk

Drafted JCS
9/6/18

EXHIBIT

ANNEXATION DESCRIPTION

PROJECT:	LOCATION:	CLIENT:	
VILLAGE OF BIG BEND ANNEXATION	VILLAGE OF BIG BEND, WAUKESHA COUNTY, WISCONSIN		

ANNEXATION DESCRIPTION

Part of the Northeast 1/4 of the Southeast 1/4 of Section 10 in Town 5 North, Range 19 East, Town of Vernon, Waukesha County, Wisconsin, being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 10; thence North 89°58'26" East along the north line of the Southwest 1/4 of Section 11, 760.84 feet to the south line of Interstate 43 and the north line of Vernon Meadows Addition Number 1; thence South 68°38'34" West along said line, 383.88 feet; thence South 64°04'24" West along said line, 439.78 feet to a north corner of Certified Survey Map 6677 as recorded in the Waukesha County Register of Deeds Office in Volume 55 on Page 317; thence Southwest along the north line of said Certified Survey Map and the south line of said Interstate 43, 267.29 feet to the northwest corner of Lot 1 of said Certified Survey Map 6677 and the point of beginning; thence Southeast along the southwesterly line of said Lot 1, 331.29 feet to the southwest corner of said Lot 1; thence Northeast along the southeasterly line of said Lot 1, 121.90 feet to the west line of Vernon Hills Drive; thence South along the west line of Vernon Hills Drive and the west line of Lot 63 of Vernon Meadows Addition Number 1, 650 feet more or less to a point 1335 more or less South of the East 1/4 corner of said Section 10; thence West 670 feet more or less; thence North 734.82 feet to the south line of Interstate 43; thence Northeast along said south line, 450 feet more or less to the point of beginning.



DRAWN BY:	GRS
CHECKED:	GRS
APPROVED:	GRS

REVISIONS:	DATE: 10/23/2018
	SCALE: N/A
	SHEET NUMBER:
	2 of 2



An aerial photograph overlaid with a cadastral map. The map shows several large land parcels outlined in yellow and green. A prominent black-outlined parcel is labeled "999". Other parcels are labeled with numbers like "997 002", "998 003", "996", "995", "994", "991", "990", "989", "988", "987", "986", "967", "966", "965", "964", "997", "996", "995", "994", "993", "992", "993", "992", "991", "990", "989", "988", "987", "986". Road names include "VILLAGE OF BIG BEND", "TOWN OF VERNON", "VERNON HILLS DR", "WESTWOOD DR", and "VERNON MEADOWS ADDN NO 1". There are also some handwritten-style numbers like "10543", "2375", and "2376". A highway shield with the number "43" is visible. The background is an aerial view of the terrain, showing fields, trees, and some buildings.

Parcels
 Plats
 Retired Parcels
 Retired Plats
 Municipal Boundary_2K
 Waterbodies_2K_Labels
 Waterlines_2K_Labels
 FacilitySites_2K_Labels
 Lots_2K
☐ Lot
☐ Outlot
 SimultaneousConveyance
☐ Assessor Plat
☐ CSM
☐ Condominium
☒ Subdivision
 Cartoline_2K
 <all other values>
 EA-Easement_Line
 PL-DA
 PL-Extended_Tie_line
 PL-Meander_Line
 PL-Note
 PL-Tie
 PL-Tie_Line
 Road Centerlines_2K
 Railroad_2K
 TaxParcel_2K
 Waterbodies_2K_Labels
 Waterlines_2K_Labels
 Municipal Boundary_5K
 FacilitySites_5K_Labels
 Waterbodies_5K_Labels
 Waterlines_5K_Labels
 Railroad_5K
 SimultaneousConveyance

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

Printed: 10/9/2018



ARENZ, MOLTER, MACY, RIFFLE, LARSON & BITAR

MUNICIPAL LAW & LITIGATION GROUP, S.C.

730 N. GRAND AVENUE
P.O. BOX 1348
WAUKESHA, WISCONSIN 53187
Telephone (262)548-1340
Facsimile (262)548-9211
sriffle1@aol.com

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SAMANTHA R. SCHMID
STEPHEN J. CENTINARIO, JR.
TIMOTHY A. SUHA

VIA REGULAR MAIL AND EMAIL

October 10, 2018

Erich Schmidtke
Municipal Boundary Review - DOA
101 East Wilson Street
PO Box 1645, Madison, WI 53701



Re- Luckow-Lent Annexation
Petition File No. 14132

Mr. Schmidtke:

As you know, I am counsel to the Town of Vernon. The Village of Big Bend enacted an annexation ordinance effectively annexing the lands subject to the above-referenced Department file on October 4, 2018. You, on behalf of the Municipal Boundary Division of the Department, issued the public interest determination on August 8, 2018, finding that the proposed annexation was found to be against the public interest. The Village Board proceeded to adopt the annexation ordinance without regard to this finding.

Wis. Stats. §66.0217 (6) (d) provide, in pertinent part:

(d) Direct annexation by unanimous approval.

1. Upon the request of the town affected by the annexation, the department shall review an annexation under sub. (2) to determine whether the annexation violates any of the following, provided that the town submits its request to the department within 30 days of the enactment of the annexation ordinance:

- a. The requirement under sub. (2) regarding the contiguity of the territory to be annexed with the annexing city or village.

This correspondence shall serve as the Town's request for the department's review as to whether the subject annexation violates the requirement, under Wis. Stats. §66.0217 (2), regarding the contiguity of the territory to be annexed with the Village of Big Bend. I enclose the fee associated with this request, pursuant to Department rule, in the amount of \$1,150. I would appreciate acknowledgement of receipt of this request by e-mail and look forward to the Department's Determination on contiguity.

Very truly yours,

MUNICIPAL LAW & LITIGATION GROUP



H. Stanley Riffle
Attorney for the Town of Vernon

cc: Karen Schuh, Town Clerk



"Life is better in the Bend"

October 9, 2018

Secretary of Administration
Ms. Ellen Nowak
P.O. Box 7864
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VILLAGE OF BIG BEND


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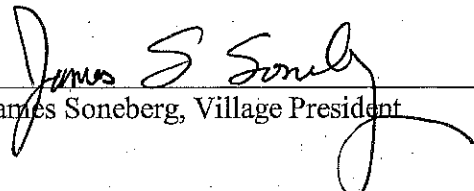
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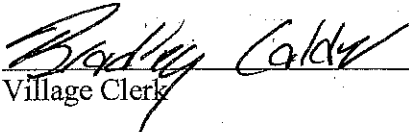
Approved this 4th day of October, 2018.

VILLAGE OF BIG BEND

By:


James Soneberg, Village President


ATTEST:


Village Clerk

Drafted JCS
9/6/18

EXHIBIT

ANNEXATION DESCRIPTION

PROJECT:	LOCATION:	CLIENT:	
VILLAGE OF BIG BEND ANNEXATION	VILLAGE OF BIG BEND, WAUKESHA COUNTY, WISCONSIN		

ANNEXATION DESCRIPTION

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DRAWN BY:	GRS
CHECKED:	GRS
APPROVED:	GRS

REVISIONS:	DATE: 10/23/2018
	SCALE: N/A
	SHEET NUMBER:
	2 of 2



This aerial map displays the Vernon Meadows Addition No. 1, a residential development. The map is overlaid with a grid of property lots, each identified by a unique number. The lots are color-coded: green for lots 991 through 999, yellow for lots 986 through 990, and orange for lots 964 through 967. The map includes several roads: Village of Big Bend (a major road running diagonally), Vernon Hills Dr (a curved road), and Westwood Dr (a curved road). The map also shows the Town of Vernon and the Village of Big Bend. The map is titled 'VERNON MEADOWS ADDN NO 1' in large, bold, orange letters. The map is oriented with North at the top.

Parcels
 Plats
 Retired Parcels
 Retired Plats
 Municipal Boundary_2K
 Waterbodies_2K_Labels
 Waterlines_2K_Labels
 FacilitySites_2K_Labels
 Lots_2K
☐ Lot
☐ Outlot
 SimultaneousConveyance
☐ Assessor Plat
☐ CSM
☐ Condominium
☒ Subdivision
 Cartoline_2K
 <all other values>
 EA-Easement_Line
 PL-DA
 PL-Extended_Tie_line
 PL-Meander_Line
 PL-Note
 PL-Tie
 PL-Tie_Line
 Road Centerlines_2K
 Railroad_2K
 TaxParcel_2K
 Waterbodies_2K_Labels
 Waterlines_2K_Labels
 Municipal Boundary_5K
 FacilitySites_5K_Labels
 Waterbodies_5K_Labels
 Waterlines_5K_Labels
 Railroad_5K
 SimultaneousConveyance

0 373.52 Feet

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Notes:

Printed: 10/9/2018





SCOTT WALKER

GOVERNOR

ELLEN E. NOWAK

SECRETARY

Municipal Boundary Review

PO Box 1645, Madison WI 53701

Voice (608) 264-6102 Fax (608) 264-6104

Email: wimunicipalboundaryreview@wi.gov

Web: <http://doa.wi.gov/municipalboundaryreview>

November 1, 2018

PETITION FILE NO. 14132

Stan Riffle, Attorney
Arenz, Molter, Macy, Riffle et al
730 N Grand Avenue
PO Box 1348
Waukesha, WI 53187

Subject: VILLAGE OF BIG BEND ANNEXATION ORDINANCE 2018-08

On October 15, 2018 the Department received a request from the Town of Vernon to review an annexation ordinance that was adopted by the Village of Big Bend on October 4, 2018. The Department finds that this annexation is not contiguous with the Village of Big Bend.

In determining whether an annexation ordinance complies with s. 66.0217(6)(d), Wis. Stats., the Department considers:

- 1) Contiguity requirement – the annexation territory must be contiguous to the annexing city or village.
- 2) Same-County requirement – if no part of the annexing city or village is located within the same county as the annexation territory, then the town board whose territory is being annexed must first adopt a resolution approving the proposed annexation.

The Department finds that the Village of Big Bend Annexation Ordinance 2018-08 meets the same-county requirement but does not meet the contiguity requirement.

The Department reviewed the petition for this annexation according to its review authority under s. 66.0217(6) Wis. Stats. The Department issued its determination letter on August 8, 2018 finding the petition to be *Against the Public Interest* because of lack of contiguity, among other things. The Department found the annexation to be a ‘Balloon-on-a-String’ type of configuration which is irregular in shape and not considered contiguous by Department precedent and caselaw. The *Balloon* in this case is an 11-acre annexation parcel which is connected to the Village only via I-43 road right-of-way, which is the *String* in this case. “Balloon-on-a-String” type configurations have been determined not to meet the minimum standard for contiguity established by the Wisconsin Supreme Court in *Town of Mt. Pleasant v. City of Racine*¹. Furthermore, this type of ‘Balloon-on-a-String’ configuration does not coincide with the legislative intent of Chapter 66, Wis. Stats. because it creates incoherent boundaries that are difficult for both the City and the Town to administer, for state, federal, and regional jurisdictions to follow, and for residents and businesses to understand.

¹ Town of Mt. Pleasant v. City of Racine, 24 Wis.2d 41, 127 N.W.2d 757 (1964).

An alternative is for the Village and Town to develop a boundary agreement between themselves to address how this shared boundary line will eventually be made clear, compact, and orderly. Reviewing and approving boundary agreements is another function of this Department, therefore Department staff would be available to answer any questions regarding boundary agreement requirements or process, or any other technical assistance.

Although the Department's finding is merely advisory, because the Department finds this annexation ordinance to violate the contiguity requirement, s. 66.0217(6)(d)2, Wis. Stats. indicates that the Town of Vernon is now eligible to contest the validity of this annexation ordinance in circuit court, and has 45 days in which to exercise that option. If the Town of Vernon does in fact decide to contest this annexation in court, the Department reminds the Village of Big Bend of its statutory obligation to file notice of the pending litigation with our office as required by s. 66.0231, Wis. Stats.

Please call me at (608) 264-6102, should you have any questions concerning this annexation ordinance review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erich Schmidtke', with a stylized, flowing script.

Erich Schmidtke, Municipal Boundary Review

Cc: Petitioners

Brad Calder, Village Clerk

Karen Schuh, Town Clerk

ARENZ, MOLTER, MACY, RIFFLE, LARSON & BITAR

MUNICIPAL LAW & LITIGATION GROUP, S.C.

730 N. GRAND AVENUE

P.O. BOX 1348

WAUKESHA, WISCONSIN 53187-1348

Telephone (262)548-1340

Facsimile (262)548-9211

sriffle@ammr.net

DEC 26 2018

Secretary's Office
Dept. of Administration

DALE W. ARENZ, RETIRED
DONALD S. MOLTER, JR., RETIRED
JOHN P. MACY
COURT COMMISSIONER
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STEPHEN J. CENTINARIO, JR.
TIMOTHY A. SUHA

December 21, 2018

Department of Administration
Office of the Secretary
P.O. Box 7864
Madison, WI 53707

**Re: Voiding of Village of Big Bend Annexation of Town of Vernon Property
Waukesha County Circuit Court Case No. 18CV2190**

Dear Secretary Nowak:

Earlier this year, the Village of Big Bend passed an annexation ordinance attempting to annex property from the Town of Vernon. On November 30, 2018, the Town of Vernon filed a civil suit challenging that annexation. On December 11, 2018, the Town of Vernon and the Village of Big Bend stipulated to a dismissal of the lawsuit in exchange for voiding of the ordinance and agreement that the property at issue was at all times prior and subsequent to the enactment of the ordinance, situated within the Town of Vernon.

Attached is the Ordinance and the Order for Judgment from Judge Michael O. Bohren rescinding and voiding said ordinance. As such, we are providing you with this letter and a copy of the Order for your records.

Please feel free to contact us if you have any questions or need any further information.

Sincerely,

H. Stanley Riffle

H. Stanley Riffle
Town of Vernon Attorney

Enclosures

FILED
12-14-2018
Clerk of Circuit Court
Waukesha County
2018CV002190

DATE SIGNED: December 13, 2018

Electronically signed by Michael O. Bohren
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

TOWN OF VERNON,
W249 S8910 Center Drive
Big Bend, WI 53103

Plaintiff,

Case No. 18-CV-2190

v.

VILLAGE OF BIG BEND
W230 S9185 Nevins St
Big Bend, WI 53103
Defendant.

ORDER FOR JUDGMENT AND JUDGMENT

UPON THE STIPULATION of counsel of record for the Parties herein:

IT IS HEREBY ORDERED:

1. Order for Judgment and Judgment is hereby entered in favor of the Plaintiff, Town of Vernon rescinding and voiding the Village of Big Bend Ordinance No. 2018-08 *nunc pro tunc*, such that the lands subject to the Ordinance be situated within the Town of Vernon at all times prior and subsequent to the enactment of the Ordinance.

2. Upon entry of this Order for Judgment and Judgment, the Plaintiff shall file immediately with the secretary of administration a copy of this Order for Judgment and Judgment together with the ordinance, and shall send one copy to each company that provides any utility service in the area that is annexed. The Plaintiff shall also file with the county clerk or board of election commissioners the report required by s. 5.15 (4) (b). The Plaintiff shall record the Order for Judgment and Judgment together with the ordinance with the register of deeds and the clerk of any affected school district.

3. No costs shall be awarded under this Order for Judgment and Judgment, said costs being specifically waived by the Plaintiff.

ORDINANCE 2018-08

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VILLAGE OF BIG BEND, WISCONSIN

The Village Board of the Village of Big Bend, Wisconsin, do ordain as follows:

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SECTION 3. Temporary Zoning Classification. (a) Upon recommendation of the Plan Commission, the territory annexed to the Village of Big Bend by this ordinance is temporarily zoned as follows, pursuant to Sec. 66.0217 (8)(a) of the Wisconsin Statutes:

A-1 Agricultural District

(b) The Plan Commission is directed to prepare an amendment to the zoning ordinance setting forth permanent classifications and regulations for the zoning of the annexed area and to submit its recommendations to the Board not later than 180 days following adoption of the ordinance.

SECTION 4. Ward Designation. The territory described in Section 1 of this ordinance is hereby made a part of Ward 1 of the Village of Big Bend, subject to the ordinances, rules and regulations of the Village governing wards.

SECTION 5. Payment of Town Taxes. Prior to January 31 of each of the five consecutive years following adoption of this ordinance, the owner(s) of each property who petitioned for annexation shall pay to the Village an amount equal to the amount of property taxes that the Town of Vernon levied on each petitioner's property in the year the annexation is final as shown by the tax roll under Sec. 70.65 of the Wisconsin Statutes, in the year in which the annexation is final and the

Village agrees to pay such amounts to the Town of Vernon pursuant to Sec. 66.0217(14) of the Wisconsin Statutes. Interest shall accrue on any delinquent amount owing at the rate of 1 ½ % per month. Any outstanding amount, including accrued interest remaining unpaid as of September 30 of any of the five years following adoption of this ordinance, shall be added as a special charge to the tax bill for each annexed property for which default has occurred.

SECTION 6. Payment of Village Professionals Fees. The owner(s) of each property who petitioned for annexation shall be jointly and severally obligated to pay to the Village within 30 days of billing, any charges incurred by the Village from the Village Engineer, Planner, Attorney or other professional retained by the Village with respect to the annexation. The Village Clerk shall automatically charge any delinquent bill against the current or next tax roll as a delinquent tax against the property or properties.

SECTION 7. Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

SECTION 8. Effective Date. This ordinance shall take effect upon passage and publication as provided by law.

Passed this 4th day of October, 2018.

Approved this 4th day of October, 2018.

VILLAGE OF BIG BEND

By: _____

James S Soneberg
James Soneberg, Village President

ATTEST:

Bridget Calder
Village Clerk

Drafted JCS
9/6/18

Exhibit A

Legal Description

Legal Description: THAT PT OF THE FOLLOWING DEC PROP S OF HWY 43 PT NE OF NE1/4 OF SE1/4 SEC 10 T5N R19E; COM NE COR SE1/4 SEC 10; W 40 RODS (660'); S 60 RODS (990'); E 40 RODS (660') TO E LI SEC; N TO BGN :: ALSO PT CSM #2376 VOL 17/122 REC AS DOC #922622 COM NE COR SE1/4; S88°32'04"W 1297.70 FT; S01°47'33"E 797.22 FT TO SLY R/W I-43; N67°20'37"E 316.41 FT; N73°59'53"E 302.04 FT; N67°20'37"E 46.51 FT THE BGN; S02°12'07"E 734.82 FT; N88°28'53"E 669.99 FT RO W LI 1/4 SEC; N02°12'07"W 334.46 FT; S88°32'04"W 660 FT; N02°12'07"W 403.60 FT TO SLY R/W I-43; S67°20'37"W 10.67 FT TO BGN :: EX DOC #0689558 :: EX CSM #6677 :: DOC #4347194