
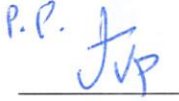




DATE SUBMITTED January 24, 2023  
Community  
Development  
 SUBMITTED BY Director  
 DATE ACTION  
 REQUIRED February 1, 2023

COUNCIL ACTION (X)  
 PUBLIC HEARING (X)  
 REQUIRED  
 RESOLUTION (X)  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS ( )


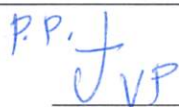
**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION: PUBLIC HEARING OF THE CITY COUNCIL TO DISCUSS THE VACATION OF A PUBLIC RIGHT-OF-WAY PORTION OF O STREET BETWEEN 12 <sup>TH</sup> STREET AND 13 <sup>TH</sup> STREET WITHIN THE CITY OF IMPERIAL		
	1. Adoption of Resolution No 2023-02, Approving the vacation of a public right-of-way portion of O Street between 12 <sup>th</sup> Street and 13 <sup>th</sup> Street within the City of Imperial		
DEPARTMENT INVOLVED:	Community Development Department		
BACKGROUND/SUMMARY:	See attached Staff Report.		
FISCAL IMPACT: N/A	ADMIN SERV INITIALS		
STAFF RECOMMENDATION: Staff recommends approval of Resolution No. 2023-02 subject to Conditions of Approval.	DEPT. INITIALS		
MANAGER'S RECOMMENDATION: 	CITY MANAGER'S INITIALS		
MOTION:			
SECONDED:	APPROVED ( )	REJECTED ( )	
AYES:	DISAPPROVED ( )	DEFERRED ( )	
NAYES:	REFERRED TO:		
ABSENT:			

DATE SUBMITTED January 24, 2023  
Community  
Development  
 SUBMITTED BY Director  
 DATE ACTION REQUIRED February 1, 2023

COUNCIL ACTION (X)  
 PUBLIC HEARING ( )  
 REQUIRED  
 RESOLUTION (X)  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS ( )

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION: A RESOLUTION OF THE CITY COUNCIL OF THE CITY IMPERIAL, CALIFORNIA, APPROVING THE VACATION OF A PUBLIC RIGHT-OF-WAY PORTION OF O STREET BETWEEN 12 <sup>TH</sup> STREET AND 13 <sup>TH</sup> STREET WITHIN THE CITY OF IMPERIAL		
	1. Adoption of Resolution No 2023-02, Approving the vacation of a public right-of-way portion of O Street between 12 <sup>th</sup> Street and 13 <sup>th</sup> Street within the City of Imperial		
DEPARTMENT INVOLVED:	Community Development Department		
BACKGROUND/SUMMARY:	See attached Staff Report.		
FISCAL IMPACT: N/A	ADMIN SERV INITIALS		
STAFF RECOMMENDATION: Staff recommends approval of Resolution No. 2023-02 subject to Conditions of Approval.	DEPT. INITIALS		
MANAGER'S RECOMMENDATION:	CITY MANAGER'S INITIALS	_____	
MOTION:			
SECONDED: AYES: NAYES: ABSENT:	APPROVED ( ) DISAPPROVED ( )	REJECTED ( ) DEFERRED ( )	REFERRED TO:



# Staff Report

Agenda Item No.

**To:** City of Imperial Planning Commission

**From:** Othon Mora, Community Development Director

**Date:** January 24, 2023

**Subject:** O Street Abandonment between 12<sup>th</sup> Street and 13<sup>th</sup> Street

## Summary:

<b>Applicant:</b>	Precision Engineering & Surveying, Inc. on behalf of Joshua Quintero
<b>Project Location:</b>	O Street between 12 <sup>th</sup> Street and 13 <sup>th</sup> Street
<b>Project Description:</b>	Abandonment of O Street between 12 <sup>th</sup> Street and 13 <sup>th</sup> Street
<b>Zoning:</b>	Rail Served Industrial (I-2)
<b>General Plan:</b>	Industrial Zone
<b>Environmental:</b>	Categorically Exempt – 15301 Existing Facilities
<b>Recommendation:</b>	Approve, subject to conditions

## Background

Precision Engineering & Surveying, Inc., on behalf of Joshua Quintero, is requesting the abandonment of the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street. The 300-foot long, 80 feet wide portion of O Street requested to be abandoned will allow for a proposed project which consists of an industrial park constructed in two phases. The first phase is a welding and machining shop, currently under construction, placed over APN 063-012-001 and 063-121-002 with a section reserved for a retention basin with the water capacity of 10,130 cubic feet. The second phase is contingent on the street abandonment and if approved, an industrial park on APN 063-123-001 is being proposed. The abandonment of that portion of O Street will add more usable space to build a suitable retention basin and allow adequate space to build the industrial park. Mr. Quintero owns the parcels (highlighted below) abutting O Street and is initiating the process of acquiring the final parcel to be able to build the industrial park. Currently, O Street between 12<sup>th</sup> and 13<sup>th</sup> Streets is unimproved and does not provide access to any of the abutting properties except as an alternate access to the City of Imperial's Waste Water Facility and Maintenance Shop.

The City of Imperial's Planning Commission held a public hearing for this project on October 26, 2022 and adopted Resolution PC2022-08 for finding of conformance with the City's General Plan. A concern of the possible gifting of public funds was discussed at the Planning Commission meeting and referred to City Attorney, Katherine Turner, for further review. After staff research and deliberation, the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street was legally confirmed to be a public right-of-way with no monetary value to the City.

**Project Location**

The highlighted parcels are owned by the applicant.



**Aerial View of Proposed Street Abandonment**



### **Discussion/Analysis**

City staff has reviewed the proposed abandonment of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street. The Development Review Committee met and reviewed the project for compliance with the City's General Plan and development standards on August 18, 2022. City Attorney, Katherine Turner, has reviewed the project and has recommended staff proceed with the proposed street abandonment.

### **Environmental Compliance**

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

### **Evaluation**

California Government Code 65402 requires the City of Imperial not to vacate/abandon any streets unless the abandonment has been found to be in conformance to the General Plan. The abandonment of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street has been found to be in conformance with the Land Use and Circulation Elements of the General Plan. The City of Imperial General Plan Circulation Element requires that streets be functionally classified according to the type of level of traffic they are designed to accommodate. O Street in its entirety is not classified as a Major or Secondary Arterial nor considered Industrial or Residential Collectors. All portions of O Street are classified as a local street and therefore not essential for traffic flow. P Street is classified as a secondary arterial and has sufficient capacity to handle any additional traffic resulting from the vacation and abandonment and will not interfere with local circulation.

### **Public Notification**

The public hearing scheduled for February 1, 2023 has been duly noticed at the project site since January 20, 2023 and in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation, on January 19 and January 26, 2023. An Intent to Vacate Notice of Public Hearing was sent to all property owners within 300-feet of the properties.

### **Recommendation**

Staff recommends the City Council conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends adoption of Resolution 2023-02 approving the vacation of a public right-of-way portion of O Street between 12<sup>th</sup> and 13<sup>th</sup> Street.

### **Attachments**

- Adopted Planning Commission Resolution PC2022-08
- Legal Description
- Site Plan
- Draft City Council Resolution 2023-02

Respectfully submitted,

Othon Mora, MCM, CBO  
Community Development Director

**RESOLUTION NO. PC2022-08  
FOR  
FINDING OF CONFORMANCE WITH THE GENERAL PLAN FOR  
THE RIGHT OF WAY VACATION OF A PORTION OF  
O STREET BETWEEN 12<sup>TH</sup> STREET AND 13<sup>TH</sup> STREET**

**WHEREAS**, the owner of property adjoining a city street has requested the City to vacate a portion thereof; and

**WHEREAS**, the Government Code of the State of California, Section 65402, provides in part that a local agency shall not vacate or abandon any streets until the location, purpose, and extent of such activity has been reported upon as to conformity with the adopted General Plan applicable thereto; and

**WHEREAS**, the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street is not identified in the Circulation Element of the General Plan as a major or secondary arterial roadway circulation system nor will it restrict access to private property; and

**WHEREAS**, the finding of conformance with the General Plan is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061 (b) (3)

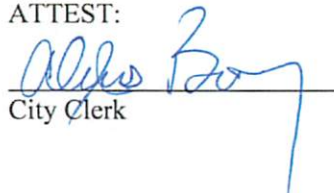
**NOW, THEREFORE**, be it resolved that the Planning Commission does hereby find the proposed vacation of the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street to be in conformance with the City of Imperial General Plan.

**BE IT FURTHER RESOLVED** that the Planning Commission hereby determines that the City Council should take the necessary procedures to effect the vacation on the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street as shown on Exhibit A, and be subject to the determination of ownership for the applicant's potential purchase, if necessary, and the conditions of approval outlined in Exhibit B.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 26<sup>th</sup> day of October, 2022.

  
\_\_\_\_\_  
Planning Commission Chairman

ATTEST:

  
\_\_\_\_\_  
City Clerk

# EXHIBIT "A"

## STREET ABANDONMENT LEGAL DESCRIPTION

A PORTION OF "O" STREET IN THE TOWNSITE OF IMPERIAL, IN THE CITY OF IMPERIAL, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO MAP NUMBER 883 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, A COPY OF SAID MAP BEING ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

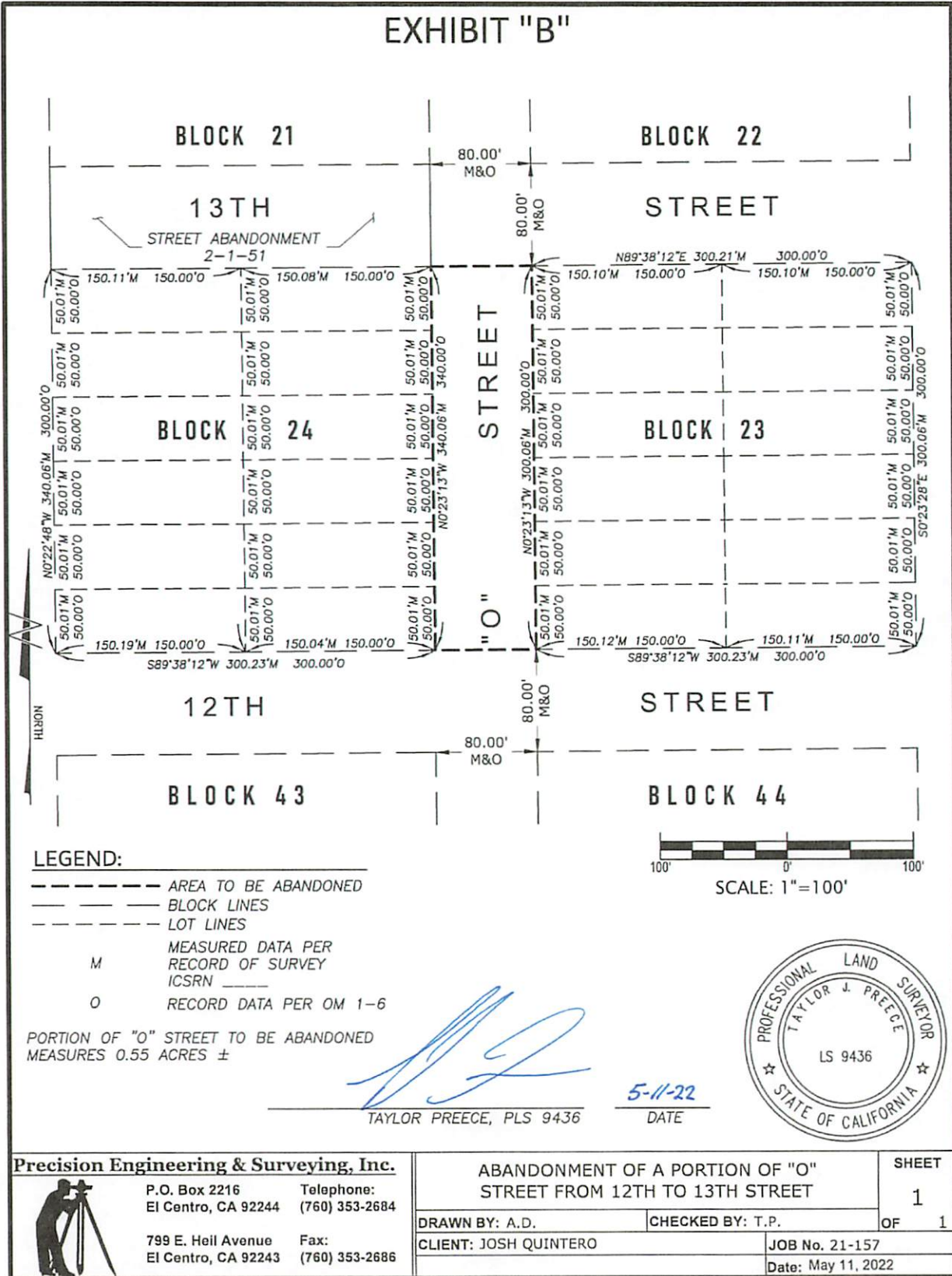
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CONTAINING 0.55 ACRES MORE OR LESS.

THE ABOVE DESCRIBED PROPERTY IS SUBJECT TO ALL COVENANTS, EASEMENTS, AND AGREEMENTS OF RECORD.

AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.







**DRAFT RESOLUTION NO. 2023-02**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL, CALIFORNIA, APPROVING THE VACATION OF A PUBLIC RIGHT-OF-WAY PORTION OF O STREET BETWEEN 12<sup>TH</sup> STREET AND 13<sup>TH</sup> STREET WITHIN THE CITY OF IMPERIAL**

**WHEREAS**, the owner of properties adjoining a City street has petitioned the City to vacate a portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street, which constitutes a public street pursuant to the provisions of the Streets and Highways Code Section 8308 thereof and has further agreed to pay any costs associated therewith; and

**WHEREAS**, The City of Imperial's Planning Commission adopted Resolution PC2022-08 and concluded the right-of-way vacation of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street in conformance with the City's adopted Circulation Element of the General Plan; and

**WHEREAS**, the finding of conformance with the General Plan is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061 (b)(3); and

**WHEREAS**, pursuant to the provisions of the California Streets and Highway Code, Section 8320 et seq., the City Clerk of the City of Imperial has administratively set a hearing for the City Council to consider ordering the vacation of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street; and

**WHEREAS**, the City Council of the City of Imperial hereby declares its intention to vacate a portion of O Street along 12<sup>th</sup> Street and 13<sup>th</sup> Street, approximately three hundred feet in length and eighty feet in width, further legally described as follows and in Exhibit A with location depicted in the map attached hereto as Exhibit B:

A PORTION OF "O" STREET BOUND TO THE NORTH BY A LINE CONNECTING THE NORTHEAST CORNER OF BLOCK 24 AND THE NORTHWEST CORNER OF BLOCK 23 AND BOUND TO THE SOUTH BY A LINE CONNECTING THE SOUTHEAST CORNER OF BLOCK 24 AND THE SOUTHWEST CORNER OF BLOCK 23, TOWNSITE OF IMPERIAL, IN THE CITY OF IMPERIAL, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO MAP NUMBER 883 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, A COPY OF SAID MAP BEING ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY.

CONTAINING .55 ACRES, MORE OR LESS; and

**WHEREAS**, upon hearing and considering all testimony and arguments, examining and analyzing the information submitted by staff and considering any written and oral comments received, the City Council considered all facts relating to the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial as follows:

- A) The City Council proposes to vacate the portion of the right-of-way described herein; and
- B) A public hearing was duly noticed in accordance with the Streets and Highway Code Section 8322 and 8323 and held at the City Council Chambers located at 200 West 9<sup>th</sup> Street, Imperial, California on February 1, 2023 at 7:00 P.M., or as soon thereafter; and

- C) The City Council finds, from all the evidence submitted, that the vacation of said portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street is consistent with the City's adopted General Plan and is unnecessary for present or prospective public use.
- D) That based on the evidence presented, the City Council hereby **APPROVES** the vacation of **the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street**, subject to the Conditions of Approval outlined in Exhibit C.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Imperial, this 1<sup>st</sup> day of February, 2023.

---

Katie Burnworth  
Mayor

ATTEST:

---

Kristina Shields  
City Clerk

## EXHIBIT "A"

### STREET ABANDONMENT LEGAL DESCRIPTION

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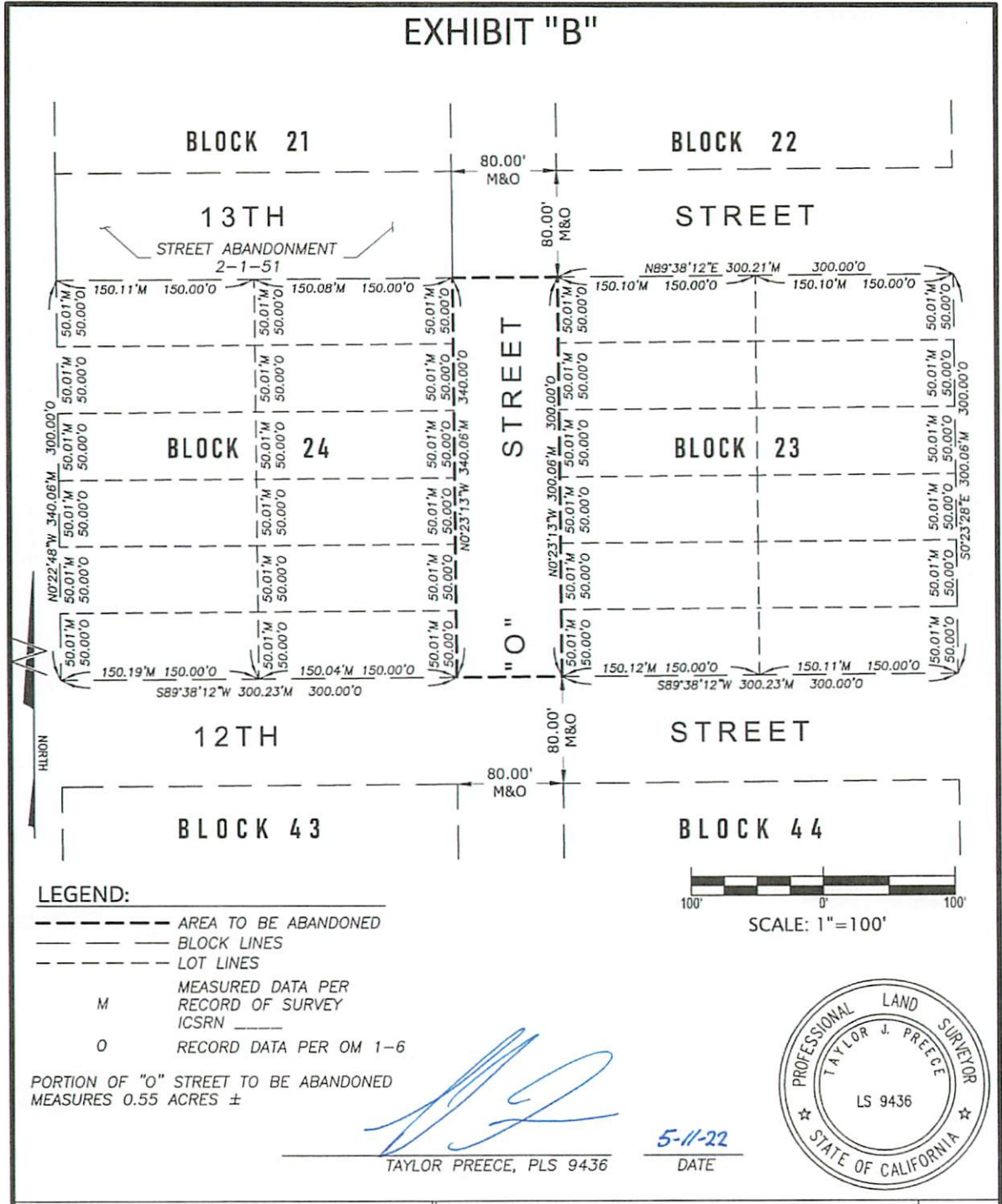
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CONTAINING 0.55 ACRES MORE OR LESS.

THE ABOVE DESCRIBED PROPERTY IS SUBJECT TO ALL COVENANTS, EASEMENTS, AND AGREEMENTS OF RECORD.

AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.





**Precision Engineering & Surveying, Inc.**


 P.O. Box 2216 Telephone:  
 El Centro, CA 92244 (760) 353-2684  
 799 E. Heil Avenue Fax:  
 El Centro, CA 92243 (760) 353-2686

ABANDONMENT OF A PORTION OF "O" STREET FROM 12TH TO 13TH STREET		SHEET 1
DRAWN BY: A.D.	CHECKED BY: T.P.	OF 1
CLIENT: JOSH QUINTERO		JOB No. 21-157
		Date: May 11, 2022

## **EXHIBIT C**

### **CONDITIONS OF APPROVAL O Street Vacation between 12<sup>th</sup> Street and 13<sup>th</sup> Street**

**Josh Quintero  
306 S. N Street  
Imperial, CA 92251**

1. The Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
2. The Applicant shall pay all applicable impact and capacity fees.
3. The right-of-way vacation shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
4. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the right-of-way vacation. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the public right-of-way vacation, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
5. All conditions of approval for this right-of-way vacation shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
6. Department Comments
  - Public Services
    1. Applicant shall provide access to repair underground utilities, such as storm water and potable water, on O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street, running North and South, if needed.
    2. City of Imperial Shop South entrance gate located on O Street and Northern portion of 13<sup>th</sup> Street may be used as an additional access point, if needed.

3. All paving material shall be asphalt and shall maintain line of site to existing O Street City of Imperial Shop entrance.

#### Fire Department

4. Abandonment of public streets are of concern as they could lead to operational challenges in emergency situations that could cause unforeseen issues. As presented, this private enterprise project does not currently present an issue.
5. Right-of-Way vacation procedures are to be executed according to City of Imperial specifications.

#### Community Development

6. A Site Plan Review is required prior to the construction of any building or structure on any Industrial Zone property pursuant to Section 24.19.500 of the City of Imperial Zoning Ordinance.
  7. Industrial Zone property development and performance standards shall apply to all land and buildings authorized within this zone.
7. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
  8. If the Community Development Department finds and determines that the Applicant or successor-in-interest has not complied or cannot comply with the terms and conditions listed herein, or the Planning/Building Department determines that the activities constitute a nuisance, the City shall provide Applicant with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1), Applicant fails to comply, and/or (2) Applicant cannot comply with the conditions set forth herein, then the matter shall be referred to the Planning Commission, or to the appropriate enforcement authority for termination of the right-of-way abandonment of the portion of O Street, between 12<sup>th</sup> and 13<sup>th</sup> Street.
  9. As between the City and the Applicant, any violation of these Conditions of Approval may be a "nuisance per se". The City may enforce the terms and conditions of these conditions in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
  10. Applicant shall not be permitted to maintain a "nuisance", which is anything which (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.

**RESOLUTION NO. 2023-02**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL, CALIFORNIA,  
APPROVING THE VACATION OF A PUBLIC RIGHT-OF-WAY PORTION OF O STREET  
BETWEEN 12<sup>TH</sup> STREET AND 13<sup>TH</sup> STREET WITHIN THE CITY OF IMPERIAL**

**WHEREAS**, the owner of properties adjoining a City street has petitioned the City to vacate a portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street, which constitutes a public street pursuant to the provisions of the Streets and Highways Code Section 8308 thereof and has further agreed to pay any costs associated therewith; and

**WHEREAS**, The City of Imperial's Planning Commission adopted Resolution PC2022-08 and concluded the right-of-way vacation of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street in conformance with the City's adopted Circulation Element of the General Plan; and

**WHEREAS**, the finding of conformance with the General Plan is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061 (b)(3); and

**WHEREAS**, pursuant to the provisions of the California Streets and Highway Code, Section 8320 et seq., the City Clerk of the City of Imperial has administratively set a hearing for the City Council to consider ordering the vacation of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street; and

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**CONTAINING .55 ACRES, MORE OR LESS; and**

**WHEREAS**, upon hearing and considering all testimony and arguments, examining and analyzing the information submitted by staff and considering any written and oral comments received, the City Council considered all facts relating to the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial as follows:

- A) The City Council proposes to vacate the portion of the right-of-way described herein; and
- B) A public hearing was duly noticed in accordance with the Streets and Highway Code Section 8322 and 8323 and held at the City Council Chambers located at 200 West 9<sup>th</sup> Street, Imperial, California on February 1, 2023 at 7:00 P.M., or as soon thereafter; and
- C) The City Council finds, from all the evidence submitted, that the vacation of said portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street is consistent with the City's adopted General Plan and is unnecessary for present or prospective public use.
- D) That based on the evidence presented, the City Council hereby **APPROVES** the **vacation of the portion of O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street**, subject to the Conditions of Approval outlined in Exhibit C.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Imperial, this 1<sup>st</sup> day of February, 2023.

---

Katie Burnworth  
Mayor

ATTEST:

---

Kristina Shields  
City Clerk



# EXHIBIT "A"

## STREET ABANDONMENT LEGAL DESCRIPTION

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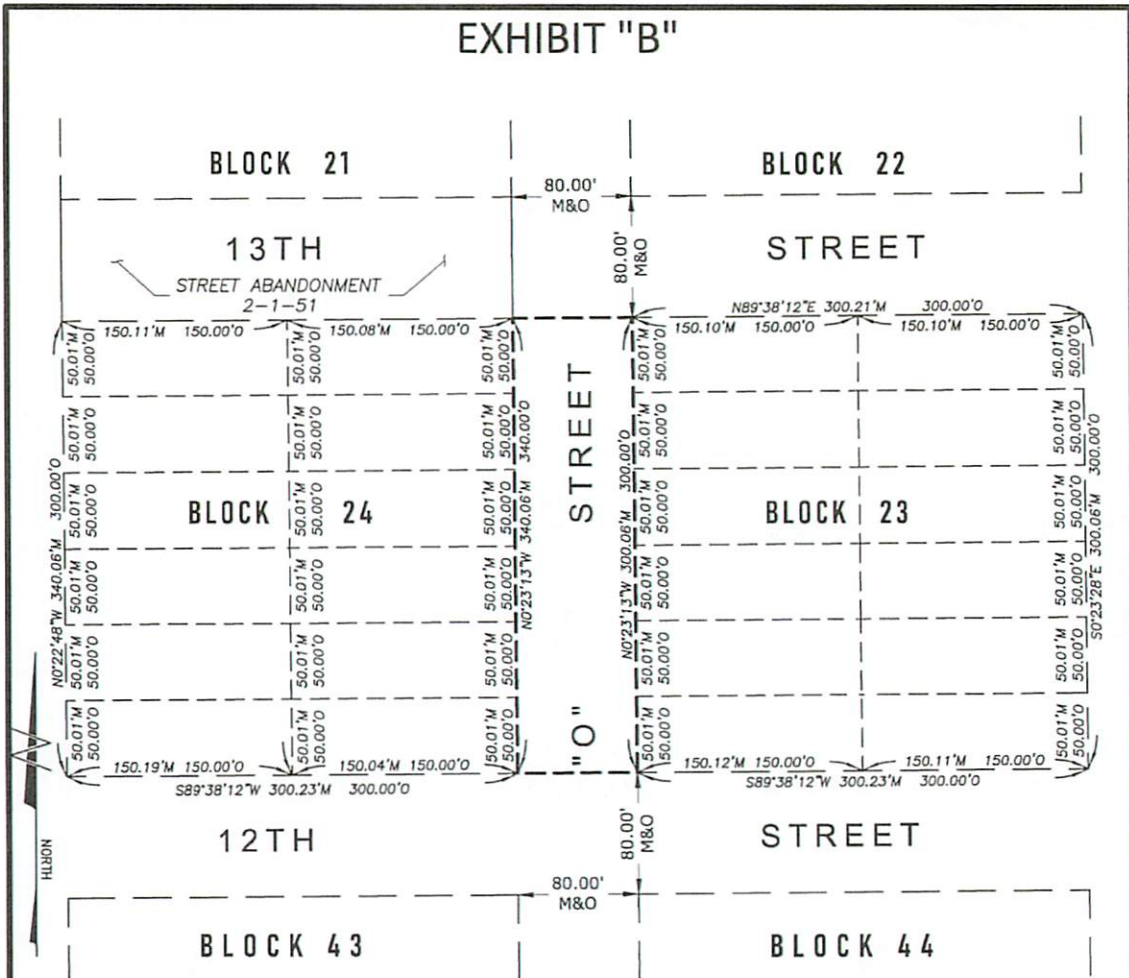
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AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



# EXHIBIT "B"



**LEGEND:**

- AREA TO BE ABANDONED
- BLOCK LINES
- LOT LINES
- M MEASURED DATA PER RECORD OF SURVEY ICSRN
- O RECORD DATA PER OM 1-6

PORTION OF "O" STREET TO BE ABANDONED  
MEASURES 0.55 ACRES ±

*(Signature)*  
TAYLOR PREECE, PLS 9436

5-11-22  
DATE



**Precision Engineering & Surveying, Inc.**



P.O. Box 2216 Telephone:  
El Centro, CA 92244 (760) 353-2684  
799 E. Heil Avenue Fax:  
El Centro, CA 92243 (760) 353-2686

ABANDONMENT OF A PORTION OF "O"  
STREET FROM 12TH TO 13TH STREET

SHEET  
1  
OF 1

DRAWN BY: A.D.	CHECKED BY: T.P.
CLIENT: JOSH QUINTERO	JOB No. 21-157
	Date: May 11, 2022

## **EXHIBIT C**

### **CONDITIONS OF APPROVAL**

#### **O Street Vacation between 12<sup>th</sup> Street and 13<sup>th</sup> Street**

**Josh Quintero  
306 S. N Street  
Imperial, CA 92251**

1. The Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
2. The Applicant shall pay all applicable impact and capacity fees.
3. The right-of-way vacation shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
4. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the right-of-way vacation. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the public right-of-way vacation, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
5. All conditions of approval for this right-of-way vacation shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
6. Department Comments  
Public Services
  - a. Applicant shall provide access to repair underground utilities, such as storm water and potable water, on O Street between 12<sup>th</sup> Street and 13<sup>th</sup> Street, running North and South, if needed.

- b. City of Imperial Shop South entrance gate located on O Street and northern portion of 13<sup>th</sup> Street may be used as an additional access point, if needed.
- c. All paving material shall be asphalt and shall maintain line of site to existing O Street City of Imperial Shop entrance.

**Fire Department**

- d. Abandonment of public streets are of concern as they could lead to operational challenges in emergency situations that could cause unforeseen issues. As presented, this private enterprise project does not currently present an issue.
- e. Right-of-Way vacation procedures are to be executed according to City of Imperial specifications.

**Community Development**

- f. A Site Plan Review is required prior to the construction of any building or structure on any Industrial Zone property pursuant to Section 24.19.500 of the City of Imperial Zoning Ordinance.
- g. Industrial Zone property development and performance standards shall apply to all land and buildings authorized within this zone.

7. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
8. If the Community Development Department finds and determines that the Applicant or successor-in-interest has not complied or cannot comply with the terms and conditions listed herein, or the Planning/Building Department determines that the activities constitute a nuisance, the City shall provide Applicant with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1), Applicant fails to comply, and/or (2) Applicant cannot comply with the conditions set forth herein, then the matter shall be referred to the Planning Commission, or to the appropriate enforcement authority for termination of the right-of-way abandonment of the portion of O Street, between 12<sup>th</sup> and 13<sup>th</sup> Street.
9. As between the City and the Applicant, any violation of these Conditions of Approval may be a "nuisance per se". The City may enforce the terms and conditions of these conditions in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
10. Applicant shall not be permitted to maintain a "nuisance", which is anything which (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.