

332-C
(R-2019-187) 10/30/18

RESOLUTION NUMBER R- 312036

DATE OF FINAL PASSAGE OCT 30 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF REAL PROPERTY INTERESTS FOR THE PURE WATER NORTH CITY PROJECT FROM EXCELENCIA, LLC – APN 341-330-21; AUTHORIZING THE CITY ATTORNEY TO COMMENCE PROCEEDINGS IN EMINENT DOMAIN AND TO OBTAIN AN ORDER FOR IMMEDIATE POSSESSION; AND AUTHORIZING EXPENDITURE OF FUNDS FOR THE REAL PROPERTY INTERESTS TO BE ACQUIRED.

WHEREAS, on May 15, 2014, the City Council of the City of San Diego passed a resolution supporting the Pure Water San Diego Program; and

WHEREAS, the Pure Water San Diego Program (Program) is part of the City of San Diego’s Public Utilities Department Capital Improvement Program. The Program is a phased, multi-year program that uses proven technology to produce a safe, reliable and cost-effective water supply for the City. At full implementation in 2035, the Program will provide one-third (1/3) of San Diego’s water supply locally and will reduce the City’s ocean wastewater discharges by approximately one-half (1/2); and

WHEREAS, on April 10, 2018, the San Diego City Council approved the North City Pure Water Project – Phase I (Project), which included discretionary land use approvals and an Environmental Impact Report (EIR). The Project includes expansion of the existing North City Water Reclamation Plant and construction of an Advanced Water Purification Facility with a purified water pipeline delivering 30 million gallons per day from Morena Boulevard to the Miramar Reservoir. The purified water will blend with the City’s imported and local water

sources in the Miramar Reservoir and be treated again at the Miramar Drinking Water Treatment Plant and distributed to the public; and

WHEREAS, the Project will direct wastewater flows away from Point Loma to the City's water reclamation plants for treatment. From there, most of the recycled water will be sent to advanced water purification facilities. The resulting purified water will then be conveyed to the Miramar Reservoir where it will be blended with the City's imported water supplies before it is treated again at one of the City's standard drinking water treatment plants and distributed to consumers throughout the City; and

WHEREAS, the Project includes: Morena Pump Station and Pipelines which will transport approximately 32 mgd of wastewater to the North City Water Reclamation Plant (NCWRP), where it will be treated before being sent to the new NCPWF for further purification. Construction will include a new pump station on Sherman Street and two parallel 10.7-mile-long wastewater pipelines. The wastewater pipelines will start at Sherman Street, follow West Morena Boulevard to Clairemont Drive, continue to Genesee Avenue and go through University City to the NCWRP on Eastgate Mall. This portion will also include the construction of two approximately 3.5-mile water pipelines, a 16-inch water distribution pipeline and a 36-inch water transmission pipeline, which will run parallel to the wastewater pipelines along West Morena Boulevard and Morena Boulevard; North City Water Reclamation Plant Expansion will increase the amount of recycled water the NCWRP produces to meet the needs of both the recycled water system and the new NCPWF. The NCWRP is located on Eastgate Mall and treats wastewater to recycled water standards for irrigation and industrial uses. The plant capacity would increase from 30 mgd to 52 mgd. A new pump station located at the NCWRP will convey up to 42 mgd of recycled water to the new NCPWF across the street for further purification; North City Pure

Water Facility will be built on Eastgate Mall across the street from the existing NCWRP to clean the recycled water further to produce 30 mgd of safe, high-quality water that meets all state and federal drinking water standards; and

WHEREAS, the acquisition of the property interests set forth in Exhibit 1 attached hereto (Acquisition Areas) is a part of a series of subsequent discretionary actions necessary to implement the Project and is not considered a separate project under CEQA; and

WHEREAS, on April 10, 2018, the Council approved Site Development Permit No. 2092309 for the Project (Resolution R-2018-405) which also included a finding of compliance with the City's General Plan; and

WHEREAS, the Project requires a permanent pipeline easement and a temporary construction area easement from Excelencia, LLC – APN 341-330-21 as described in Exhibit 1; and

WHEREAS, the Excelencia easements are necessary because, in coordination with Caltrans, seven (7) potential I-15 crossings were presented. Of the seven, the most feasible location to set up tunneling operations to cross the I-15 was determined to be located on both properties. This location allowed for the shortest distance to cross the I-15 and is perpendicular to the interstate. Crossings greater than 30 degrees from perpendicular to the interstate is not allowed. Other crossing locations were deemed less favorable for various reasons such as the high traffic volumes, impacts to on/off ramps and skewed crossings greater than 30 degrees, which is not allowed; and

WHEREAS, the City obtained fair market value appraisals of the Acquisition Areas and determined that the probable compensation to be paid for acquisition of the property interests sought is Excelencia, LLC - \$109,000.00; and

WHEREAS, the City negotiated with the property owners and made offers to purchase the Acquisition Areas necessary for the Project at an amount consistent with the appraised fair market value of each of the properties in compliance with the California Government Code section 7267.2(a) and the negotiations with the property owners have not been successful as of the date of this Resolution; and

WHEREAS, funds are available to acquire the necessary real property interests sought for the Project from 700010 (Water Utility CIP); and

WHEREAS, the City is vested with the power of eminent domain by Article I, Section 19 of the California Constitution, California Government Code section 37350.5, and San Diego Charter section 220, to acquire real property interests necessary for a public purpose; and

WHEREAS, the acquisition of the real property interests for the entire Project requires a permanent pipeline easement and a temporary construction area easement from each of the subject parcels: Scripps Ranch Technology Park, LLC - Assessor Parcel Number (APN) 319-170-22; Mission Federal Credit Union – APN 319-170-23; Excelencia, LLC – APN 341-330-21; Antonia Michele Macfarlane, as Trustee of the Antonia Michele Macfarlane Revocable Trust dated October 17, 2013 – APN 363-060-02; ARE – Nexus Centre II, LLC – APN 345-012-15; San Diego Unified School District of San Diego County – APN 348-010-59; Westwood Apartments SD, LLC – APN 345-172-08. The Project as proposed is the least amount of real property necessary to complete the Project; and

WHEREAS, on October 10, 2018, the City mailed a notice of hearing, and of its intent to adopt this Resolution of Necessity, to the record owners of the Acquisition Areas, and all other persons who may have an ownership interest in the property interests sought; which notice of hearing advised said persons of their right to appear and be heard on the matters referred to

therein, on the date and at the time and the place stated therein, and that a waiver of their right to appear and be heard will result upon their failure to file a written notice, all in compliance with the California Code of Civil Procedure section 1245.235; and

WHEREAS, the hearing set out in said notice of hearing was held on October 30, 2018, at the time and place stated in the notice, and all interested parties were given an opportunity to appear and be heard on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury; (c) whether the property interests proposed to be acquired are necessary for the Project; (d) whether an offer meeting the requirements of California Government Code section 7267.2 has been given; and (e) whether all other prerequisites for the exercise of eminent domain to acquire the property rights have been met; and

WHEREAS, the Council, as a result of said hearing, has determined that the public health, safety and welfare require the City to acquire the property interests described in Exhibit 1 attached hereto for the permanent and temporary easements over portions of Excelencia, LLC – APN 341-330-21 needed for the Project; and

WHEREAS, under Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the public interest and necessity require acquisition of the property interests as set forth in Exhibit 1 attached hereto

consisting of permanent and temporary easements over a portion of Excelencia, LLC – APN 341-330-21 to implement the Project.

BE IT FURTHER RESOLVED, that the Project is planned or located in a manner most compatible with the public good and the least private injury.

BE IT FURTHER RESOLVED, that the property interests proposed to be acquired as set forth in Exhibit 1 attached hereto are necessary for the Project and that such use is a public use authorized by law (*inter alia*, Charter section 220, California Code of Civil Procedure sections 1240.010, 1240.020, 1240.030, 124.040, 1240.110, 1240.120, 1240.140, 1240.510, 1240.610 and 1255.410; California Government Code section 5023.1).

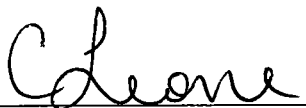
BE IT FURTHER RESOLVED, that an offer to acquire the real property interests, pursuant to California Government Code section 7267.2, at the appraised fair market value, has been made to each party claiming an ownership interest(s) in the property interests sought.

BE IT FURTHER RESOLVED, that the City Attorney of the City of San Diego is hereby authorized and directed to commence an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of and on behalf of the City of San Diego, against all claimants with any interest(s) in the real property interests sought, and to seek immediate possession of the real property interests sought pursuant to California Code of Civil Procedure section 1255.410 *et seq.*

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend funds as required from 700010 (Water Utility CIP) to acquire the property interests found necessary for the Project, and to deposit into the State Treasury's State Condemnation Fund, as necessary, the amount of \$109,000.00 as probable amount of compensation owed to the property owners to obtain possession of the Acquisition Areas. This is the probable amount of

compensation to be paid by the City for the necessary real property interests to be acquired. The Chief Financial Officer is further authorized to deposit, if necessary, additional funds that the Court or the parties in the anticipated eminent domain action deem necessary to increase the probable amount of compensation due to the property owner(s) as a result of the acquisition of the property interests set forth herein and the resulting eminent domain litigation.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Christine M. Leone
Deputy City Attorney

CML:cw
10/05/18
Or.Dept: READ
CC No.: 3000011516
Doc. No.: 1852806
Attachment: Exhibit 1

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 30 2018

ELIZABETH S. MALAND
City Clerk

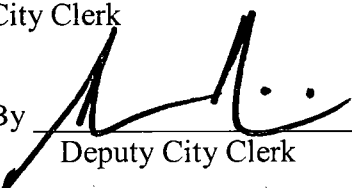
By 
Deputy City Clerk

EXHIBIT 1



Tom Petrosky
Senior Right of Way Agent
9150 Chesapeake Drive, Suite 190
San Diego, CA 92123
Tom.petrosky@clarklandresources.com

C: (949) 338-1298
F: (760) 560-1662

July 27, 2018

Excelencia, LLC
9682 Via Excelencia
San Diego, California 92126

To Whom It May Concern:

OFFER FOR WATER LINE EASEMENT and TEMPORARY CONSTRUCTION AREA
9682 Via Excelencia, San Diego (APN: 341-330-21)

The City of San Diego is in the process of completing designs for the Pure Water - North City Pure Water Pipeline project. The purpose of this project is to install a new 48" diameter water line that would service the surrounding area and community with a local water supply that will convey up to 30 million gallons per day.

Records show that you are the property owner of the above-numbered parcel, a portion of which will be benefitted by the project, see (Exhibit A). The City of San Diego ("City") seeks to acquire a water line easement and a temporary construction area (TCA) on your property located at 9682 Via Excelencia (APN: 341-330-21) in the City of San Diego, as more particularly depicted on (Exhibit B). This letter and all attachments constitute the offer.

The City had the easement and TCA appraised to determine its fair market value. The appraisal was conducted in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land. Based on the appraisal, the City offers to purchase these easement rights for **\$109,000** ("Purchase Price").

The Purchase Price is the full amount established by the appraisal as the fair market value of the easement, and the just compensation for such acquisition. A written statement of, and a summary of the basis for, the amount established as the Purchase Price is set forth in the attached Appraisal Summary Statement (Exhibit C).

The fair market value of the easement:

- a. Is the full amount believed by the City to be just compensation for the easement to be acquired;
- b. Is not less than the approved appraisal of the fair market value of the easement;
- c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for the property which is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
- d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits to which the owner may be entitled to receive under an agreement with the City of San Diego.

Additional information regarding the property is provided in (Exhibit D). It is the City's hope that this offer is acceptable and we can proceed with the purchase of the easement area. However, if you are not satisfied with the City's offer of just

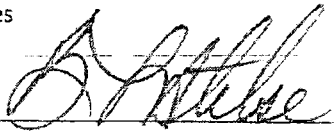
compensation, you will be given reasonable opportunity to present relevant material, which the City will carefully consider. A response to this offer would be appreciated by August 27, 2018.

If you have any questions regarding this offer, please call me at (949) 338-1298.

Sincerely,



Tom Petrosky
Senior Right-of-Way Agent
Clark Land Resources

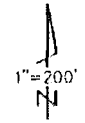
Offer received: By: 

Date: 7.27.18

Offer accepted: By: _____

Date: _____

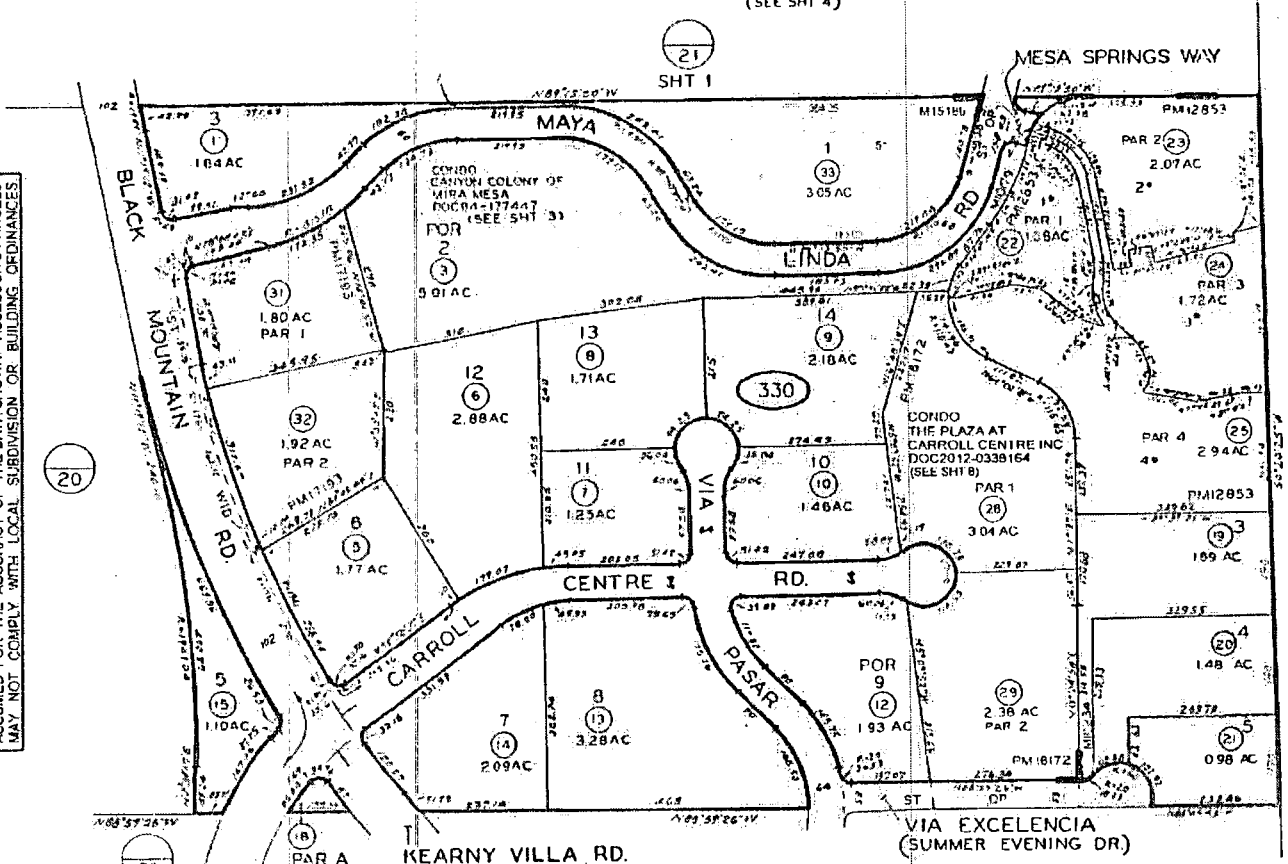




341-200

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

- 1^o CONDO CREEKSIDE PHASE 1
DOC 84-04158
(SEE SHT 2)
- 2 CONDO CREEKSIDE PHASE 2
DOC 84-082889
(SEE SHT 2)
- 3^o CONDO CREEKSIDE PHASE 3A & 3B
DOC 84-111472
(SEE SHT 4)
- 4^o CONDO CREEKSIDE PHASE 4A & 4B & 4C
DOC 84-192870
(SEE SHT 5)
- 5^o CONDO MIRABELLA POINT
DOC 06-0019014
DOC 06-188110
(SEE SHT 8)



022/12 MGC

BLK	OLD	NEW	WH	CUT
330		1-76	22	150
	1116	1-03	97	5675
	1117	12-21	92	225
	1118	12-21	94	1224
	22	CONDO	85	
	23	CONDO	85	
	3	CONDO	95	646
	24	CONDO	85	
	25	CONDO	85	
	2	2012	98	330
	11	2012	71	162
	7	11-20	87	218
	5	11-20	24	461
	30	31-12	96	1342
	26&27	33	00	1042
	33	CONDO	07	520
	28	CONDO	13	520

Exhibit A

SAN DIEGO COUNTY
ASSESSOR'S MAP
BOOK 341 PAGE 33 SHT. 1 OF 6

MAP 15189 - 10006 MAYA LINDA ROAD
MAP 10234 - MIRAMAR WOODS (CONDO)
MAP 10179 - CARROLL CANYON CENTRE

INTERSTATE

FRONTAGE

20

21
SHT 1

23
SHT 2

23
SHT 1

16.3
7
SHT 1

Exhibit B

EXHIBIT "A"
Water Easement

APN: 341-330-21

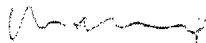
Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

Parcel 'A'

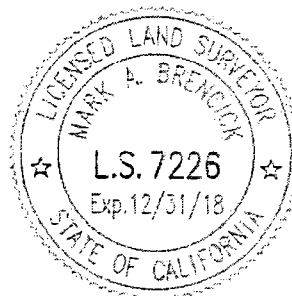
Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 38°20'14" an arc distance of 40.15 feet to the True Point of Beginning, with a radial line to said point bearing South 77°22'48" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 28°23'31" an arc distance of 29.73 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 48°59'18" East; thence leaving said Westerly line, South 84°58'29" East 160.89 feet; thence South 62°28'29" East 27.97 feet; thence South 83°15'59" East 56.88 feet to the Easterly property line of said Lot 5; thence along said Easterly property line, South 00°21'12" West 25.16 feet; thence leaving said Easterly property line, North 83°15'59" West 64.26 feet; thence North 62°28'29" West 27.59 feet; thence North 84°58'29" West 140.39 feet to the True Point of Beginning.

The hereinabove described area contains 0.136 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.



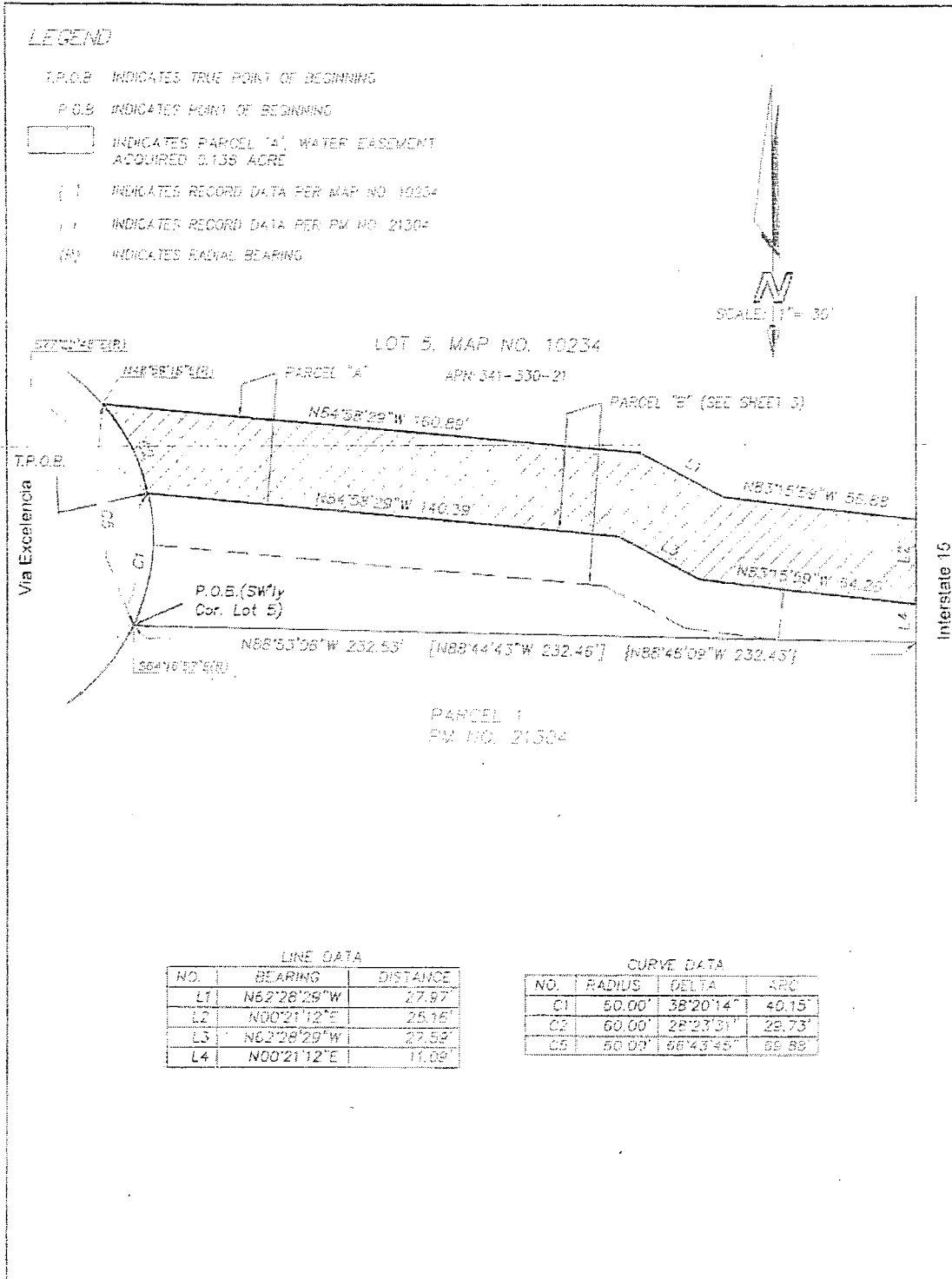
MARK A. BRENCICK, L.S. 7226
LANDMARK CONSULTING



PTS No. 576655

Exhibit B

EXHIBIT 'B'



LINE DATA

NO.	BEARING	DISTANCE
L1	N62°28'29"W	27.97'
L2	N00°21'12"E	25.15'
L3	N63°28'29"W	27.52'
L4	N00°21'12"E	11.09'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	50.00'	38°20'14"	40.15'
C2	50.00'	28°23'31"	29.73'
C3	50.00'	66°43'45"	55.89'

WATER EASEMENT:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	C.O.	N/A
ORIGINAL	LMCO				SHEET 2 OF 4 SHEET	576655	
						1905-6293	
						COS 85 COORDINATES	
						286-1773	
						LAMBERT COORDINATES	
						40493-2-B	

Exhibit B

EXHIBIT "A"
Temporary Construction Area

APN: 341-330-21

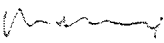
Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

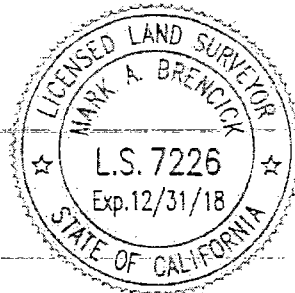
Parcel 'B'

Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 23°44'14" an arc distance of 24.86 feet to the **True Point of Beginning**, with a radial line to said point bearing South 88°01'11" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 14°36'00" an arc distance of 15.29 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 77°22'48" East; thence leaving said Westerly line, South 84°58'29" East 140.39 feet; thence South 62°28'29" East 27.59 feet; thence South 83°15'59" East 25.05 feet; thence South 06°44'01" West 15.00 feet to the Southerly property line of said Lot 5, whence the Southeasterly corner of said Lot 5 bears South 88°53'06" East 40.57 feet; thence leaving said Southerly property line, North 83°15'59" West 27.80 feet; thence North 62°28'29" West 27.35 feet; thence North 84°58'29" West 134.67 feet to the True Point of Beginning.

The hereinabove described area contains 0.066 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.


MARK A. BRENCICK, L.S. 7226
LANDMARK CONSULTING



PTS No. 576655


Exhibit B

EXHIBIT 'B'

LEGEND

T.P.O.B. INDICATES TRUE POINT OF BEGINNING

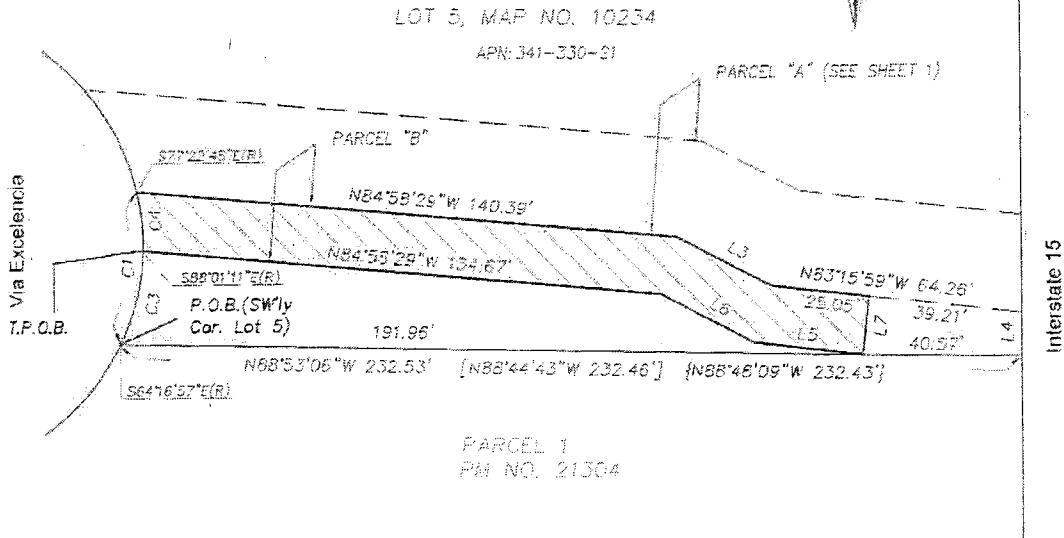
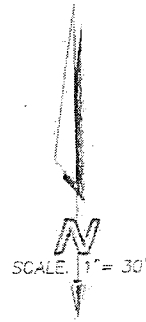
P.O.B. INDICATES POINT OF BEGINNING

 INDICATES PARCEL 'B', TEMPORARY CONSTRUCTION AREA 0.066 ACRE

[] INDICATES RECORD DATA PER MAP NO. 10234

{ } INDICATES RECORD DATA PER PM NO. 21304

(P) INDICATES RADIAL BEARING



LINE DATA

NO.	BEARING	DISTANCE
L3	N82°28'29"W	27.59'
L4	N00°21'12"E	11.09'
L5	N83°15'59"W	27.80'
L6	N52°28'29"W	27.35'
L7	N06°44'01"E	15.00'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	50.00'	38°20'14"	40.15'
C3	50.00'	23°44'14"	24.86'
C4	50.00'	14°36'00"	15.29'

TEMPORARY CONSTRUCTION AREA:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.D.
ORIGINAL	LMCO				SHEET 4 OF 4 SHEET	N/A
						578555
						1906-0293
						COS 85 COORDINATES
						268-1733
						LAMBERT COORDINATES
						40493-4-B
					STATUS	

Exhibit C

APPRAISAL SUMMARY STATEMENT

The fair market value for the property to be acquired is based upon an appraisal prepared in accordance with accepted appraisal principals and procedures. Recent sales of comparable properties were utilized to estimate value by the sales comparison approach. Full consideration is given to the subject property's zoning, development potential, and physical characteristics.

BASIC PROPERTY DATA

OWNER: Excelencia LLC

SUBJECT PROPERTY ADDRESS: 9672-92 Via Excelencia, San Diego, CA 92126

ASSESSOR'S PARCEL NUMBER: 341-330-19, 341-330-20, and 341-330-21

PRESENT USE: Three-Building Business Park

HIGHEST AND BEST USE: Highest and best use of the remainder after the acquisition is considered to be unchanged from the before condition.

PROPERTY CONSIDERED FOR ACQUISITION: Partial acquisition for the San Diego Pure Water Project.

INTEREST VALUED: Fee simple interest in establishing the larger parcel; and permanent easement and temporary construction interests.

DATE OF APPRAISAL: April 15, 2018

APPLICABLE ZONING: IP-2-1, City of San Diego.

APPLICABLE LAND USE: The Mira Mesa Community Plan designates the subject property for "Industrial Park" use.

IMPROVEMENTS: The site is improved with a three-building business park comprising two single-story industrial incubator buildings and a two-story office building. The buildings have an estimated combined gross building area of 64,632 square feet and were constructed in 1984.

TOTAL PROPERTY AREA:

Larger Parcel:	4.150± acres
Portion Sought (Permanent Easement):	5,924± Sq. Ft; (0.136± acre)
Portion Sought (Temporary Construction Area):	2,875± Sq. Ft; (0.066± acre)

Exhibit C

BASIS OF APPRAISAL

The sales comparison approach was used to develop an opinion of the fair market value of the subject land.

Sales Comparison Approach

The sales comparison approach compares sales of similar properties to the property being appraised. The following table is a summary of the sales considered most comparable to the subject property land.

COMPARABLE LAND SALE SUMMARY						
Comp No.	Location	Rec. Date Doc. No.	Sale Price	Size (SF)	Price/SF	Price/ SF*
1	SWC of Van Allen Way, Carlsbad	08/22/16 0432268	\$4,100,000	133,729	\$30.66	\$32.91
2	Gazelle Court & Whiptail Lp, Carlsbad	11/17/17 0538234	\$4,075,000	169,884	\$23.99	\$24.71
3	1901 Wright Place, Carlsbad	06/29/16 0324016	\$4,350,000	167,706	\$25.94	\$29.83
4	5170 Mercury Pt, San Diego	12/01/16 0659268	\$1,650,000	60,113	\$27.45	\$30.47
5	5902 Kearny Villa Road, San Diego	02/02/15 0044736	\$10,819,000	258,311	\$41.88	\$42.22
6	SWC Gateway & Palomar Airport Rd, Cbad	03/15/16 0113928	\$5,551,500	231,304	\$24.00	\$28.08
Listing	Kearny Mesa Road, San Diego	-Listing- (APN: 341-230-82)	\$3,995,000	132,858	\$30.07	\$27.06

*Reflects conditions of sale and market conditions adjusted sales price

RECOMMENDED COMPENSATION FOR REQUIRED PROPERTY

Value of the Larger Parcel (Land Only)	\$5,965,476	
Value of the Portion Sought (A)	\$97,746	\$97,746
Value of the Remainder as Part of the Whole		\$5,867,730
Value of the Remainder in the After Condition, Before Benefits		\$5,867,730
Severance Damages - <i>Temporary Impact</i> (B)		\$6,784
Value of the Remainder in the After Condition, After Benefits		\$5,867,730
Temporary Construction Area -6-month duration (C)		\$4,269
Total Appraised Just Compensation		\$108,799
		Rounded: \$109,000

Permanent Water Easement (A): The Right-of-Way map identified the permanent easement area as 5,924 square feet (SF), a portion of the easement area overlays preexisting easements. The portion sought was valued as follows: \$33/SF, times 5,924 SF, times 50% loss of the total ownership bundle of rights, equals \$97,746.

Site Improvements: Representatives of the City of San Diego stated that any site improvements located within the acquisition area will be replaced in kind as part of the project as construction contract work (CCW). No compensation for site improvements is included in this appraisal.

Exhibit C

Severance Damages (B): In the after condition, the general character of the subject property will be relatively unchanged from the before condition as the permanent easement area can still be used for access and parking and is located along the periphery of site, an area encumbered by preexisting easements. The water pipeline will be installed underground. Therefore, no permanent damages accrue to the property.

Temporary Impact – The client stated that the construction contractor will perform all construction work at night, after tenant business hours. During daylight hours, the construction area will be covered by steel plates and access to the business park will be maintained throughout the construction period. However, a temporary 20% rent abatement for the tenant suite (Tri-Signal Integration) near the acquisition area is considered reasonable for the six-month construction period. The rent abatement for temporary impacts during the construction period is **\$6,784** (5,653 SF x \$1.00/SF/rent month x 6 months x 20% rent reduction).

Temporary Construction Area (C): The Right-of-Way map identified the temporary construction area (TCA) as 2,875± square feet. The TCA value was based on a 9% annual land lease rate and a six-month duration. The TCA was valued as follows: \$33/SF x 2,875 SF = \$94,875 x 9% ÷ 12 Months = \$711.58 monthly rent for the TCA. Therefore, the total compensation for the TCA for a six-month duration is **\$4,269** (\$711.58 monthly rent x 6 months).

DEFINITION OF FAIR MARKET VALUE

(See Code of Civil Procedure 1263.320, a & b)

(a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

APPRAISED BY: Mark Hendrickson, MAI and Ted Hendrickson, MAI, AG004974
APPRAISAL FIRM: Hendrickson Appraisal Company, Inc.
Real Estate Appraisers and Consultants
3530 Camino Del Rio N. Suite 205
San Diego, CA 92108

PREPARED BY (Signature): 

NAME (Printed): Mark J. Hendrickson, MAI

DATE: June 29, 2018

EXHIBIT D

ADDITIONAL INFORMATION RELATING TO THE PURCHASE OF REAL PROPERTY
OR AN INTEREST THEREIN

Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the California Relocation Assistance and Real Property Acquisition Guidelines require that each owner from whom the City of San Diego purchases real property or an interest therein, or each tenant owning improvements on said property, be provided with a summary of the appraisal of the real property or interest therein, as well as the following information.

1. You are entitled to receive full payment prior to vacating, if applicable, the real property being purchased unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession of the property, if applicable, to the City.
2. The holders of liens, deeds of trust or other security interests in your property, and/or any lessees or tenants of your property, may be entitled to all or a portion of the consideration to be paid by the City for your property in accordance with the particular contract(s) existing between you (the owner) and the lienholder or lessee/tenant.
3. Whenever a portion of a parcel of property is to be acquired by the City for public use, and the remainder, or a portion of the remainder, will be left in such size, shape or condition as to constitute an uneconomic remnant, the City shall offer to acquire the remnant if the owner so desires. An "uneconomic remnant" is a parcel of real property in which the owner retains an interest after partial acquisition of the property and which has little or no utility or value to the owner.
4. All buildings, structures and other improvements affixed to the land described in the reference documents and owned by the grantor(s) herein or, if applicable, owned by you as a tenant, are being conveyed unless other disposition of these improvements has been made.
5. The market value of the property, or rights therein, being purchased is based upon a market value appraisal which is summarized in the Appraisal Summary Statement and such amount:
 - a. Is the full amount believed by the City to be just compensation for the property, or property rights, to be acquired;
 - b. Is not less than the approved appraisal of the fair market value of the property, or property rights, as improved;

EXHIBIT D

- c. Disregards any decrease or increase in the fair market value of the real property, or property rights, to be acquired prior to the date of valuation caused by the public improvement for which the property, or property rights, is to be acquired or by the likelihood that the property, or property rights, would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
 - d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits to which the owner may be entitled to receive under an agreement with the City of San Diego, except for an amount to compensate the owner for loss of goodwill, if any.
6. Pursuant to Civil Code of Procedure Section 1263.025 should you elect to obtain an independent appraisal, the City will pay for the actual reasonable costs of the appraisal up to a maximum amount of \$ 5,000, subject to the following conditions;
 - a. You, not the City, must order the appraisal. Should you enter into a contract with a selected appraiser the City of San Diego will not be party to the contract.
 - b. The selected appraiser must be licensed with the Office of Real Estate Appraisers (OREA).
 - c. Appraisal cost reimbursement requests must be made in writing and submitted to the City of San Diego Real Estate Assets Department, 1200 Third Ave., Suite 1700, San Diego, CA 92120 within 90 days of the earliest of the following:
 - (1) The date the selected appraiser requests payment from you for the appraisal;
 - or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal. Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the City concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable and reimbursement will not exceed \$5,000.
7. The definition of "fair market value" is defined within eminent domain law (at California Code of Civil Procedure section 1263.320) as "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for doing so, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."
8. The owner of a business being conducted on the property to be acquired, or conducted on the remaining property which will be affected by the purchase of the required property, may be entitled to compensation for the loss of good will. "Goodwill" consists of the benefits that accrue to a business as a result of its location, reputation or dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage. Entitlement to compensation for loss of goodwill is

EXHIBIT D

contingent upon the business owner's ability to prove such loss in accordance with the provisions of sections 1263.510 and 1263.520 of the California Code of Civil Procedure, which read as follows:

§1263.510. Required Proofs.

- (a) The owner of a business conducted on a property taken or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:
- (1) The loss is caused by the taking of the property or the injury to the remainder.
 - (2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
 - (3) Compensation for the loss will not be included in payments under section 7262 of the Government Code.
 - (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.
- (b) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation or dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

§1263.520. State Tax Returns to Be Made Available.

The owner of a business who claims compensation under this article shall make available to the court, and the court shall, upon such terms and conditions as will preserve their confidentiality, make available to the plaintiff, the state tax returns of the business for audit for confidential use solely for the purpose of determining the amount of compensation under this article. Nothing in this section affects any right a party may otherwise have to discovery or to require the production of documents, papers, books and accounts."

9. If you ultimately elect to reject the City's offer for your property or property rights therein, you are entitled to have the amount of compensation for said property, or rights therein, determined by a court of law in accordance with the eminent domain laws of the State of California.

PURCHASE AND SALE AGREEMENT

[North City Pure Water Pipeline, WBS #B-16035]

THIS EASEMENT AND TEMPORARY CONSTRUCTION AREA PURCHASE AND SALE AGREEMENT ("Agreement") is entered into by and between EXCELENCIA, LLC, a California limited liability company ("SELLER"), and THE CITY OF SAN DIEGO, a California municipal corporation ("BUYER"), to be effective as of the date signed by SELLER when signed by the parties and approved by the San Diego City Attorney (the "Effective Date"), as follows:

1. City Council Authorization. BUYER is authorized to acquire this real property interest pursuant to San Diego Municipal Code section 22.3110 and Capital Improvement Project WBS B-16035 identified and appropriated through the previously adopted Capital Improvements Program Budgets, along with the annual appropriations ordinances therefor.
2. Purchase and Sale: Easement and Temporary Construction Area. SELLER is the owner of that certain real property, with an address of 9682 Via Excelencia, San Diego California 92126, and which is identified by Assessor's Parcel No. 341-330-21 ("Property").
 - a. Easement. Under the terms and conditions of this Agreement, SELLER shall convey to BUYER, and BUYER shall acquire from SELLER a permanent easement and right-of-way in, upon, over, under, and across the Property (the "Easement") to construct, reconstruct, maintain, operate, repair, and replace waterlines and related appurtenances, as more specifically shown on the easement deed attached hereto as Exhibit A (the "Easement Deed").
 - b. Temporary Construction Area. Under the terms and conditions of this Agreement, SELLER shall also convey to BUYER, and BUYER shall acquire from SELLER, the right to utilize a portion of the Property as a Temporary Construction Area to construct waterlines and related appurtenances as more specifically described and depicted on the Temporary Construction Area Permit attached hereto as Exhibit B (the "TCA"). The terms and conditions under which BUYER is authorized to use the Temporary Construction Area are more specifically set forth in the TCA.
3. Open Escrow. BUYER shall open an escrow (the "Escrow") with Stewart Title Company (the "Escrow Holder"), located at Hazard Center Drive, Suite 1400, San Diego, CA 92108, within ten (10) days, or other date mutually acceptable to both parties, after the Effective Date ("Opening of Escrow") and shall deliver to Escrow Holder the fully executed Agreement (or Counterparts thereof). Escrow Holder shall provide escrow services for the transaction contemplated by this Agreement.
4. Purchase Price. The consideration for SELLER's grant of the Easement and Temporary Construction Area shall be the one time payment of one hundred and nine thousand dollars (\$109,000.00) ("Purchase Price"). The Purchase Price includes \$97,947.00 for the Easement, \$4,269.00 for the TCA, and \$6,784.00 for severance damages.

5. **Submissions to Escrow.** Within ten (10) business days after Opening of Escrow, SELLER shall deliver to Escrow the signed and notarized Easement Deed, and BUYER shall deliver to Escrow the Purchase Price.
6. **Survey; Environmental Investigation.** Prior to the Closing Date (as defined below), BUYER, at BUYER's sole expense, may conduct a current survey of the Property and such environmental investigations of the Property as BUYER may deem appropriate. SELLER hereby grants permission to BUYER, its officers, employees, agents and contractors to enter upon and occupy the Property prior to the Closing Date for the purpose of conducting such survey, environmental investigations, and all other reasonable investigations related to this Agreement.
7. **SELLER's Responsibilities.** Seller shall make reasonable efforts to comply with BUYER's reasonable requests for documents pertaining to the Property, subject to reasonable cost limitations and confidentiality restrictions.
8. **Further Cooperation.** Each party shall execute and deliver to the Escrow Holder all instruments and documents reasonably required by the other party or the Escrow Holder to consummate the transaction contemplated by this Agreement.
9. **Closing.** The closing of Escrow shall be held at the Escrow Holder's office on a date that is mutually satisfactory to both BUYER and SELLER (the "Closing Date").
10. **Title.** At the closing of Escrow, SELLER shall deliver to Escrow Holder a recordable Easement Grant Deed substantially in the form attached hereto as **Exhibit A** and SELLER's signed TCA substantially in the form attached hereto as **Exhibit B**.
 - a) **Escrow Costs.** BUYER shall pay: (i) escrow fees, (ii) recording fees, (iii) title insurance charges, (iv) reconveyance fees, and (v) trustees' or forwarding fees for any reconveyance of deed of trust or release of mortgage incurred in this transaction.
11. **Amendments.** The terms and provisions of this Agreement may only be modified or amended pursuant to a written instrument signed by all parties hereto.
12. **Successors and Assigns.** This Agreement shall inure to and bind the successors and assigns of the parties. ~~The Easement shall run with the land and the conveyance thereof shall bind and inure to the benefit of the respective successors and assigns of the parties to this Agreement.~~
13. **Assignment.** This Agreement may not be assigned in whole or in part by either party without the other party's prior written consent.
14. **Partial Invalidity.** If any term, covenant, condition, or provision of this Agreement is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

15. Survival. Any obligation which accrues under this Agreement prior the closing of Escrow or the termination of this Agreement shall survive the closing of Escrow or such termination.
16. Entire Agreement. This Agreement represents the entire agreement between the parties for the purchase and sale of the Easement, and supersedes all prior negotiations, representations or agreements, either oral or written.
18. Counterparts. This Grant may be executed in any number of counterparts, each of which when executed shall be deemed an original, but all of which together shall constitute one and the same instrument.
19. Notices. Any notice required or permitted to be given by one party to another party shall be addressed to the parties as follows:

BUYER: THE CITY OF SAN DIEGO

Attention: Cybele Thompson

Real Estate Assets Department

1200 Third Avenue, Suite 1700, MS51A

San Diego, California 92101-4199

SELLER: EXCELENCIA, LLC

9682 Via Excelencia

San Diego, California 92126

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, this Agreement is executed by the following individuals, who represent to the other party(ies) by their signatures below, that they are authorized to execute and bind the BUYER and SELLER to this Agreement.

Date: _____

EXCELENCIA, LLC, a California limited liability company

BY: _____
Name: _____

Date: _____

THE CITY OF SAN DIEGO, a California municipal corporation

BY: _____
Name: CYBELE L. THOMPSON
Title: Director, Real Estate Assets

Approved as to Form:

MARA W. ELLIOTT, San Diego City Attorney

BY: _____
Name: _____
Title: _____

EXHIBIT A: EASEMENT DEED

Recording Requested by:
City Real Estate Assets Dept.
After recording mail to:

Real Estate Assets Dept.
City of San Diego
1200 Third Ave, Suite 1700
San Diego, CA 92101

341	330	21	PTN
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT DEED

NO DOCUMENTARY TAX DUE – R & T 11922 (amended)
Presented for record by the CITY OF SAN DIEGO

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

EXCELENCIA, LLC, a California limited liability company (Grantor),

HEREBY GRANTS to the City of San Diego, a California municipal corporation, in the County of San Diego, State of California (Grantee), a permanent easement and right-of-way to construct, reconstruct, maintain, operate, and repair **underground waterlines**, including all incidents and appurtenances thereto, together with the right of ingress and egress, in, over, under, upon, along and across all that real property situated in the City of San Diego, County of San Diego, State of California (Easement Area), described and depicted in the following:

Exhibit A attached hereto and incorporated herein and Exhibit B attached hereto and incorporated herein.

Grantor, its heirs and assigns, reserves the right to the continued use of the Easement Area for purposes not inconsistent with the rights herein granted to Grantee as long as that use does not interfere with Grantee's use of the easement, and subject to the following conditions: The erecting of buildings, masonry walls, fences and other structures; the planting or growing of trees; the changing of the surface grade; and the installation of private pipelines shall be prohibited except by written permission of the Grantee.

This easement and its covenants, conditions, and restrictions shall run with the land and be binding upon and inure to the benefit of the successors, heirs, executors, administrators, permittees, licensees, agents and assigns of Grantor and Grantee.

This is to certify that the interest in the real property conveyed by this instrument to the City of San Diego, a municipal corporation, is hereby accepted the undersigned officer on behalf of the City of San Diego pursuant to authority conferred by Resolution No. 250320, adopted by the Council of the City of San Diego on October 1, 1979, and the grantee consents to recordation thereof by its duly authorized officer.

EXCELENCIA, LLC, a California limited liability company

By:

Print Name and Title

Dated _____ By _____
Cybele L. Thompson, Director
Real Estate Assets Department

Approved as to form this ___ day of _____, 2018.

MARA W. ELLIOT, City Attorney

By: _____
Deputy City Attorney

EXHIBIT "A"
Water Easement

APN: 341-330-21

Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

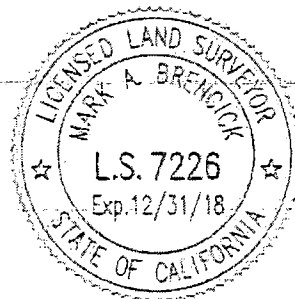
Parcel 'A'

Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 38°20'14" an arc distance of 40.15 feet to the True Point of Beginning, with a radial line to said point bearing South 77°22'48" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 28°23'31" an arc distance of 29.73 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 48°59'18" East; thence leaving said Westerly line, South 84°58'29" East 160.89 feet; thence South 62°28'29" East 27.97 feet; thence South 83°15'59" East 56.88 feet to the Easterly property line of said Lot 5; thence along said Easterly property line, South 00°21'12" West 25.16 feet; thence leaving said Easterly property line, North 83°15'59" West 64.26 feet; thence North 62°28'29" West 27.59 feet; thence North 84°58'29" West 140.39 feet to the True Point of Beginning.

The hereinabove described area contains 0.136 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.


MARK A. BRENCICK, L.S. 7226
LANDMARK CONSULTING



PTS No. 576655

EXHIBIT "B"

LEGEND

- TR 15 INDICATES TRUE POINT OF BEGINNING
- P.T.B. INDICATES POINT OF BEGINNING
- [Symbol] INDICATES PARCEL "A" WATER EASEMENT ACQUIRED 0.136 ACRE
- [Symbol] INDICATES RECORD DATA PER MAP NO. 10234
- [Symbol] INDICATES RECORD DATA PER PW NO. 21334
- [Symbol] INDICATES MAGN. BEARING

APN. 341-330-21

OWNER
Excelencia LLC, a California Limited Liability Company

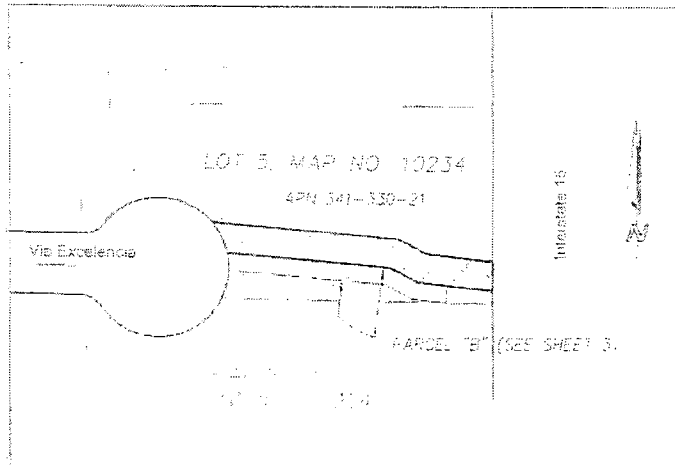
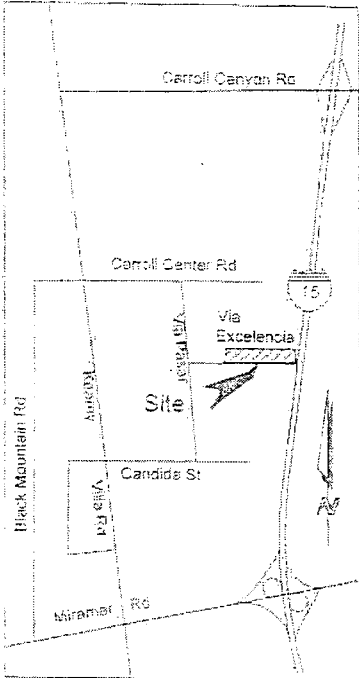
BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE GRID BEARING BETWEEN STATION 131 AND STATION 127 AS SHOWN ON RECORD OF SURVEY 14482, I.E. N 51°23'00" E SAID BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPOCH 1981.35), ZONE 8

THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999602 GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR

ELEVATION AT STATION 131 IS 455.81' (MVD028)

-0°22'07.7"
@ STA. 131



Vicinity Maps

R.15

LANDMARK CONSULTING
8555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 527-8070



06/18/2018
MARK A. BRINGTON, L.S. 7226 DATE

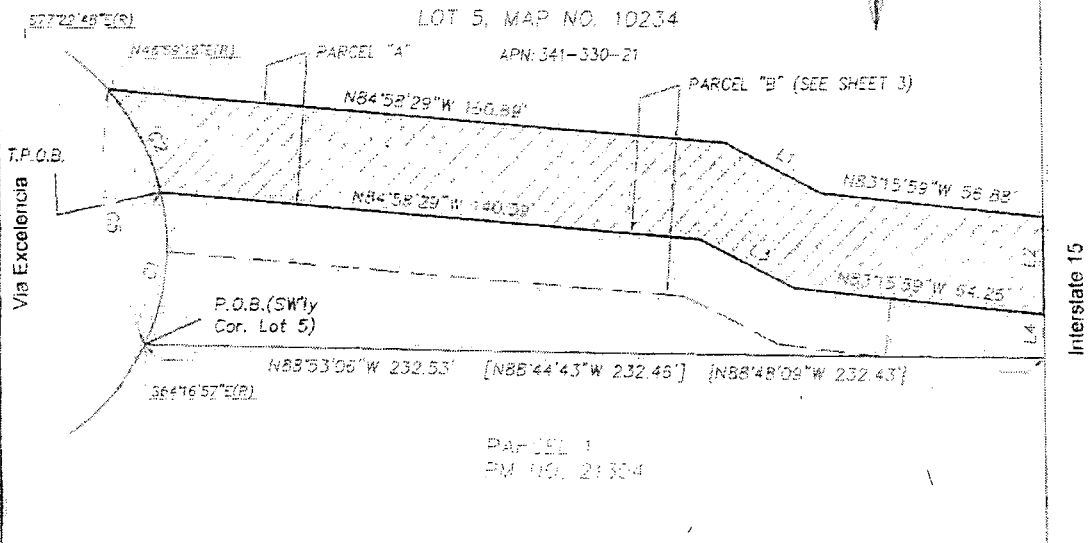
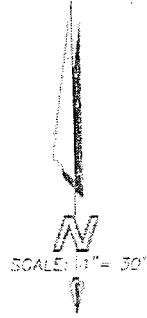
WATER EASEMENT:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	NO. 7
ORIGINAL	LACO			SHEET 1 OF 4 SHEET	878855
					1006-R223
					CCS 83 COORDINATES
					2891-1717
					LANDMARK COORDINATES
					40493-1-B

EXHIBIT 'B'

LEGEND

- T.P.O.B. INDICATES TRUE POINT OF BEGINNING
- P.O.B. INDICATES POINT OF BEGINNING
- [Hatched Area] INDICATES PARCEL 'A', WATER EASEMENT ACQUIRED 0.135 ACRE
- [] INDICATES RECORD DATA PER MAP NO. 10234
- [] INDICATES RECORD DATA PER PM NO. 21304
- (R) INDICATES RADIAL BEARING



LINE DATA		
NO.	BEARING	DISTANCE
L1	N62°28'29"W	27.97'
L2	N00°21'12"E	25.16'
L3	N62°28'29"W	27.58'
L4	N00°21'12"E	11.09'

CURVE DATA			
NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C2	60.00'	28°23'31"	29.73'
C5	60.00'	66°45'45"	59.85'

WATER EASEMENT:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	N/A
ORIGINAL	LMCO				SHEET 2 OF 4 SHEET	528855
					1906-6283	CCS 83 COORDINATES
					266-1753	LAMBERT COORDINATES
						40493-2-B

EXHIBIT B: TEMPORARY CONSTRUCTION AREA PERMIT

TEMPORARY CONSTRUCTION AREA PERMIT

This TEMPORARY CONSTRUCTION AREA PERMIT ("Permit") is entered into by and between EXCELENCIA, LLC, a California limited liability company ("Property Owner"), and the CITY OF SAN DIEGO, a California municipal corporation ("CITY"), to be effective as of _____, 2018, when signed by the parties and approved by the San Diego City Attorney (the "Effective Date").

RECITALS

- A. Property Owner is the owner of that certain real property with an address of 9862 Via Excelencia, San Diego, California 92126, and which is identified by Assessor's Parcel No. 341-330-21 (the "Property").
- B. The CITY has requested permission from Property Owner to enter upon, use, and occupy a portion of the Property to perform work associated with the CITY's North City Pure Water Pipeline, Project #WBS-B16035 (the "Project").

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, Property Owner hereby grants CITY the right to enter upon the Property, based upon the following terms and conditions:

1. Property Owner hereby grants to CITY and its agents, employees, and contractors, permission to enter and use a **Temporary Construction Area ("TCA")** on the Property, as described on attached Exhibit A and depicted on attached Exhibit B, which shall include the right to store and stage equipment, materials, and vehicles, and the right to remove and reconstruct improvements thereon and therein, along with the right to conduct all activities reasonably related to such improvements (collectively, "the Work").
2. The parties understand and agree that the Work will be performed in conjunction with the Project. The Work shall commence upon CITY Resident Engineer's issuance of a Notice to Proceed.
3. This Permit shall be effective upon the Effective Date and shall expire on the date of completion of the Work (estimated to be six (6) months, not including rain days), as determined by the City's Resident Engineer.
4. CITY shall pay Property Owner \$4,269.00 in consideration for this Permit. If City's use of the TCA exceeds six (6) months after the CITY Resident Engineer's issuance of a Notice to Proceed, the CITY will pay Property Owner **\$711.58 per month, or the prorated amount for the portion of any month, after month six (6) until CITY no longer requires use of the TCA, as determined by the CITY's Resident Engineer.**

5. CITY agrees to give Property Owner written notice fourteen (14) days prior to the estimated start of the Work **and prior to any extension of use of the TCA**. CITY shall provide contact information for the CITY's Resident Engineer and the onsite contractor prior to the start of the Work.
6. CITY's Project Manager shall coordinate with **Property Owner** or its representatives regarding any Work details that affect the Property. The parties understand and agree that no private utilities shall be installed in conjunction with the Project. It is also understood that access to and over the TCA, including ingress and egress to and from **Via Excelencia**, will be off the existing traveled way and CITY contractor(s) will manage a traffic plan for circulation on Property. CITY shall use reasonable efforts to minimize all such impacts.
7. CITY shall be responsible for the restoration of the TCA, and any other property damaged or disturbed as a result of the Work, to a condition as near as possible to the condition existing at the time of commencement of the Work.
8. CITY shall require CITY's contractor(s) accessing the Property to carry liability insurance as required in "Standard Specifications for Public Works Construction, 2015 Edition," as amended by all periodic supplemental amendments to said document.
9. All recitals and attached exhibits are incorporated into this Permit by this reference.
10. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

Each party is signing this Permit on the date stated opposite that party's signature.

Date: _____

EXCELENCIA, LLC, a California limited liability company

BY: _____

Name: _____

Title: _____

Date: _____

THE CITY OF SAN DIEGO, a California
municipal corporation

BY: _____

Name: CYBELE L. THOMPSON

Title: Director, Real Estate Assets

Approved as to form this _____ day of
_____, 2018.

MARA W. ELLIOTT, City Attorney

BY: _____

Name: _____

Title: _____

EXHIBIT "A"
Temporary Construction Area

APN: 341-330-21

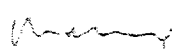
Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

Parcel 'B'

Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 23°44'14" an arc distance of 24.86 feet to the **True Point of Beginning**, with a radial line to said point bearing South 88°01'11" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 14°36'00" an arc distance of 15.29 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 77°22'48" East; thence leaving said Westerly line, South 84°58'29" East 140.39 feet; thence South 62°28'29" East 27.59 feet; thence South 83°15'59" East 25.05 feet; thence South 06°44'01" West 15.00 feet to the Southerly property line of said Lot 5, whence the Southeasterly corner of said Lot 5 bears South 88°53'06" East 40.57 feet; thence leaving said Southerly property line, North 83°15'59" West 27.80 feet; thence North 62°28'29" West 27.35 feet; thence North 84°58'29" West 134.67 feet to the True Point of Beginning.

The hereinabove described area contains 0.066 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.


MARK A. BRENCICK, L.S. 7226
LANDMARK CONSULTING



PTS No 576655

Recording Requested by:
City Real Estate Assets Dept.
After recording mail to:

Real Estate Assets Dept.
City of San Diego
1200 Third Ave, Suite 1700
San Diego, CA 92101

341	330	21	PTN
-----	-----	----	-----

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT DEED

NO DOCUMENTARY TAX DUE - R & T 11922 (amended)
Presented for record by the CITY OF SAN DIEGO

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

EXCELENCIA, LLC, a California limited liability company (Grantor),

HEREBY GRANTS to the City of San Diego, a California municipal corporation, in the County of San Diego, State of California (Grantee), a permanent easement and right-of-way to construct, reconstruct, maintain, operate, and repair **underground waterlines**, including all incidents and appurtenances thereto, together with the right of ingress and egress, in, over, under, upon, along and across all that real property situated in the City of San Diego, County of San Diego, State of California (Easement Area), described and depicted in the following:

Exhibit A attached hereto and incorporated herein and Exhibit B attached hereto and incorporated herein.

Grantor, its heirs and assigns, reserves the right to the continued use of the Easement Area for purposes not inconsistent with the rights herein granted to Grantee as long as that use does not interfere with Grantee's use of the easement, and subject to the following conditions: The erecting of buildings, masonry walls, fences and other structures; the planting or growing of trees; the changing of the surface grade; and the installation of private pipelines shall be prohibited except by written permission of the Grantee.

This easement and its covenants, conditions, and restrictions shall run with the land and be binding upon and inure to the benefit of the successors, heirs, executors, administrators, permittees, licensees, agents and assigns of Grantor and Grantee.

This is to certify that the interest in the real property conveyed by this instrument to the City of San Diego, a municipal corporation, is hereby accepted the undersigned officer on behalf of the City of San Diego pursuant to authority conferred by Resolution No. 250320, adopted by the Council of the City of San Diego on October 1, 1979, and the grantee consents to recordation thereof by its duly authorized officer.

EXCELENCIA, LLC, a California limited liability company

By:

Print Name and Title

Dated _____ By _____
Cybele L. Thompson, Director
Real Estate Assets Department

Approved as to form this ____ day of _____, 2018.

MARA W. ELLIOT, City Attorney

By: _____
Deputy City Attorney

EXHIBIT "A"
Water Easement

APN: 341-330-21

Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

Parcel 'A'

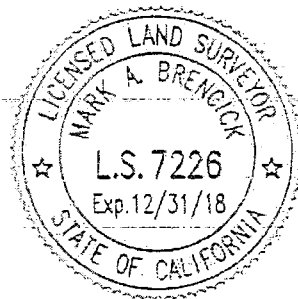
Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 38°20'14" an arc distance of 40.15 feet to the **True Point of Beginning**, with a radial line to said point bearing South 77°22'48" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 28°23'31" an arc distance of 29.73 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 48°59'18" East; thence leaving said Westerly line, South 84°58'29" East 160.89 feet; thence South 62°28'29" East 27.97 feet; thence South 83°15'59" East 56.88 feet to the Easterly property line of said Lot 5; thence along said Easterly property line, South 00°21'12" West 25.16 feet; thence leaving said Easterly property line, North 83°15'59" West 64.26 feet; thence North 62°28'29" West 27.59 feet; thence North 84°58'29" West 140.39 feet to the True Point of Beginning.

The hereinabove described area contains 0.136 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.



MARK A. BRENCICK, L.S. 7226
LANDMARK CONSULTING



PTS No. 576655

LEGEND

- 1003 INDICATES TRUE POINT OF BEGINNING
- 1023 INDICATES POINT OF BEGINNING
- INDICATED PROPERTY A WATER EASEMENT ACROSSING LOT 5 OF 4024
- INDICATED RECORD DATA PER MAP NO. 10234
- INDICATES RECORD DATA PER MAP NO. 10234
- NON-RECORD PAVEN BEARING

ROW 20'-150'-2'

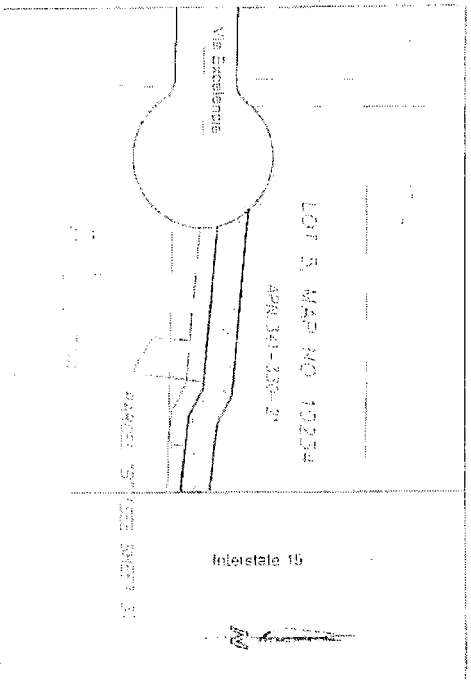
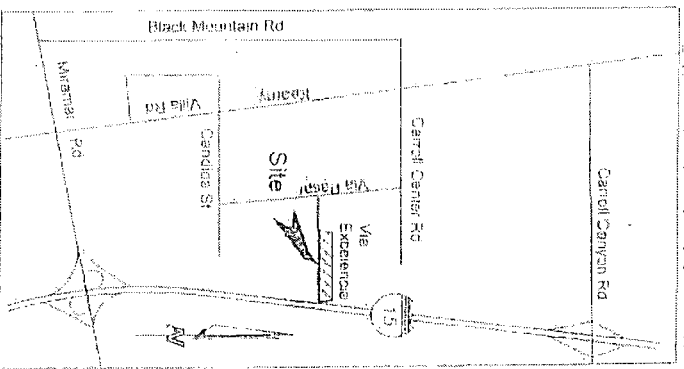
PROPERTY
EASEMENTS AND Easements within ROWS
CORRIDORS

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS EASEMENT IS THE GRID BEARING BETWEEN STATION 100 AND STATION 107 AS SHOWN ON RECORD 17 SURVEY 14822. E. N. SECTION 5, T. 36N. R. 13E. BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM 02S 83 (22P)004 (1991.55) ZONE 8

THE CORRECTION SCALE FACTOR AT STATION 100 IS 0.9999802. GRID DISTANCE = GROUND DISTANCE X CORRECTION SCALE FACTOR
ELEVATION AT STATION 100 IS 455.81' (MAD0229)

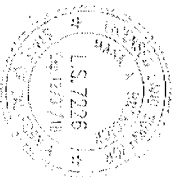
0209 07 21
@ STA. 100



Vicinity Maps
n.s.

LANDMARK CONSULTING
3603 GENESSEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(619) 587-2000

36 36 36 36
MARK A. BRONCKON, L.S. 7226 GATE



WATER EASEMENT:

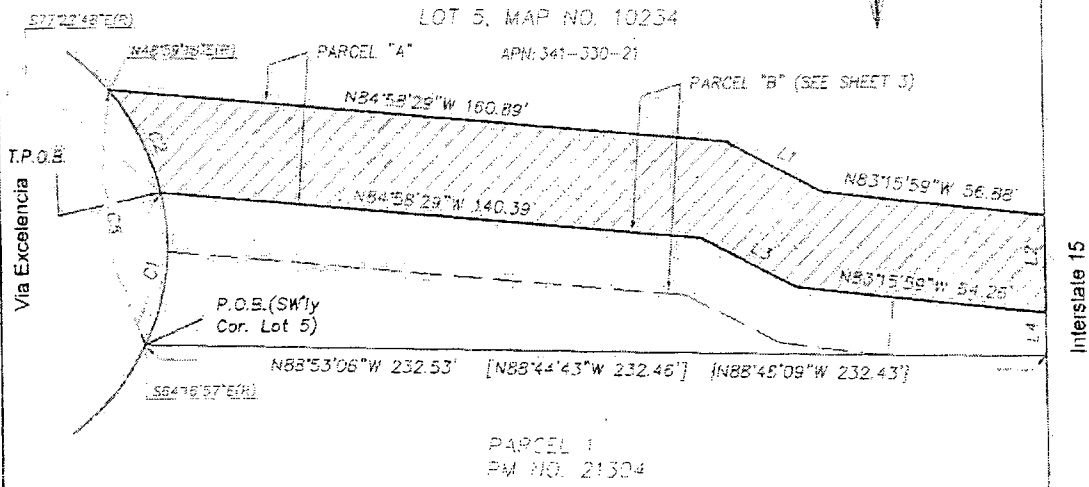
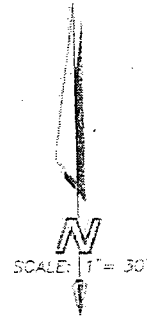
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED DATE	FILED
GRANTING	LAND		
CITY OF SAN DIEGO, CALIFORNIA			NO. 4
SHEET 1 OF 1 SHEET			578626
			FORM 8297
			202 - 173
			LANDMARK CONSULTING
			40493-1-B

EXHIBIT 'B'

LEGEND

- T.P.O.B. INDICATES TRUE POINT OF BEGINNING
- P.O.B. INDICATES POINT OF BEGINNING
- [Hatched Area] INDICATES PARCEL 'A' WATER EASEMENT ACQUIRED 0.136 ACRE
- [] INDICATES RECORD DATA PER MAP NO. 10234
- [] INDICATES RECORD DATA PER PM NO. 21304
- (R) INDICATES RADIAL BEARING



LINE DATA

NO.	BEARING	DISTANCE
L1	N62°28'29"W	27.97'
L2	N00°21'12"E	25.16'
L3	N62°28'29"W	27.59'
L4	N00°21'12"E	11.09'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C2	60.00'	28°23'31"	29.73'
C5	60.00'	66°43'45"	66.88'

WATER EASEMENT:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.D.
ORIGINAL	LMCO			SHEET 2 OF 4 SHEET	N/A
				PLUCK RD	578655
					1906-5293
					CCS 83 COORDINATES
					266-1733
					LANGBERT COORDINATES
					40493-2-9

TEMPORARY CONSTRUCTION AREA PERMIT

This TEMPORARY CONSTRUCTION AREA PERMIT ("Permit") is entered into by and between EXCELENCIA, LLC, a California limited liability company ("Property Owner"), and the CITY OF SAN DIEGO, a California municipal corporation ("CITY"), to be effective as of _____, 2018, when signed by the parties and approved by the San Diego City Attorney (the "Effective Date").

RECITALS

- A. **Property Owner** is the owner of that certain real property with an address of 9862 Via Excelencia, San Diego, California 92126, and which is identified by Assessor's Parcel No. 341-330-21 (the "Property").
- B. The CITY has requested permission from Property Owner to enter upon, use, and occupy a portion of the Property to perform work associated with the CITY's North City Pure Water Pipeline, Project #WBS-B16035 (the "Project").

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, Property Owner hereby grants CITY the right to enter upon the Property, based upon the following terms and conditions:

1. Property Owner hereby grants to CITY and its agents, employees, and contractors, permission to enter and use a **Temporary Construction Area ("TCA")** on the Property, as described on attached Exhibit A and depicted on attached Exhibit B, which shall include the right to store and stage equipment, materials, and vehicles, and the right to remove and reconstruct improvements thereon and therein, along with the right to conduct all activities reasonably related to such improvements (collectively, "the Work").
2. The parties understand and agree that the Work will be performed in conjunction with the Project. The Work shall commence upon CITY Resident Engineer's issuance of a Notice to Proceed.
3. This Permit shall be effective upon the Effective Date and shall expire on the date of completion of the Work (estimated to be six (6) months, not including rain days), as determined by the City's Resident Engineer.
4. CITY shall pay Property Owner **\$4,269.00** in consideration for this Permit. If City's use of the TCA exceeds six (6) months after the CITY Resident Engineer's issuance of a Notice to Proceed, the CITY will pay Property Owner **\$711.58 per month, or the prorated amount for the portion of any month**, after month six (6) until CITY no longer requires use of the TCA, as determined by the CITY's Resident Engineer.
5. CITY agrees to give Property Owner written notice fourteen (14) days prior to the estimated start of the Work **and prior to any extension of use of the TCA**. CITY shall provide contact information for the CITY's Resident Engineer and the onsite contractor prior to the start of the Work.

6. CITY's Project Manager shall coordinate with **Property Owner** or its representatives regarding any Work details that affect the Property. The parties understand and agree that no private utilities shall be installed in conjunction with the Project. It is also understood that access to and over the TCA, including ingress and egress to and from **Via Excelencia**, will be off the existing traveled way and CITY contractor(s) will manage a traffic plan for circulation on Property. CITY shall use reasonable efforts to minimize all such impacts.
7. CITY shall be responsible for the restoration of the TCA, and any other property damaged or disturbed as a result of the Work, to a condition as near as possible to the condition existing at the time of commencement of the Work.
8. CITY shall require CITY's contractor(s) accessing the Property to carry liability insurance as required in "Standard Specifications for Public Works Construction, 2015 Edition," as amended by all periodic supplemental amendments to said document.
9. All recitals and attached exhibits are incorporated into this Permit by this reference.
10. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

Each party is signing this Permit on the date stated opposite that party's signature.

Date: _____

EXCELENCIA, LLC, a California limited liability company

BY: _____

Name: _____

Title: _____

Date: _____

THE CITY OF SAN DIEGO, a California
municipal corporation

BY: _____

Name: CYBELE L. THOMPSON

Title: Director, Real Estate Assets

Approved as to form this _____ day of
_____, 2018.

MARA W. ELLIOTT, City Attorney

BY: _____

Name: _____

Title: _____

EXHIBIT "A"
Temporary Construction Area

APN: 341-330-21

Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

Parcel 'B'

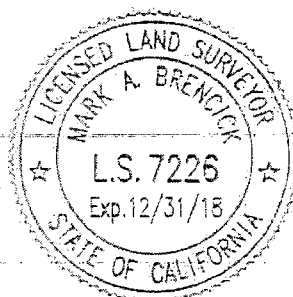
Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 23°44'14" an arc distance of 24.86 feet to the **True Point of Beginning**, with a radial line to said point bearing South 88°01'11" East; thence continuing Northerly along said Westerly property line and said curve through a central angle of 14°36'00" an arc distance of 15.29 feet to the terminus of said curve and the beginning of a nontangent line, with a radial line to said terminus bearing North 77°22'48" East; thence leaving said Westerly line, South 84°58'29" East 140.39 feet; thence South 62°28'29" East 27.59 feet; thence South 83°15'59" East 25.05 feet; thence South 06°44'01" West 15.00 feet to the Southerly property line of said Lot 5, whence the Southeasterly corner of said Lot 5 bears South 88°53'06" East 40.57 feet; thence leaving said Southerly property line, North 83°15'59" West 27.80 feet; thence North 62°28'29" West 27.35 feet; thence North 84°58'29" West 134.67 feet to the True Point of Beginning.

The hereinabove described area contains 0.066 acre more or less.

Exhibit 'B' (City of San Diego Drawing No. 40493-B) attached and by this reference is made a part hereto.



MARK A. BRENCICK; L.S. 7226
LANDMARK CONSULTING



PTS No. 576655

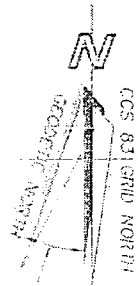
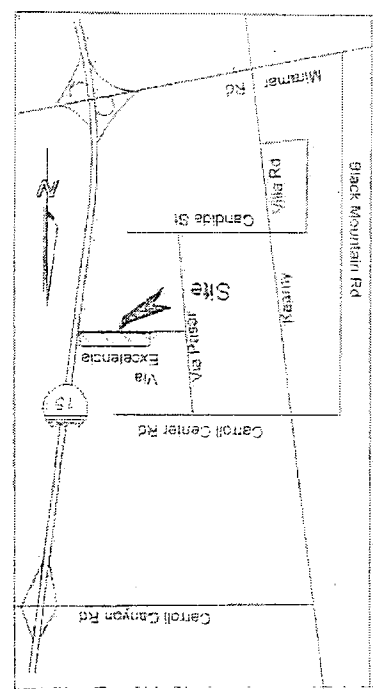
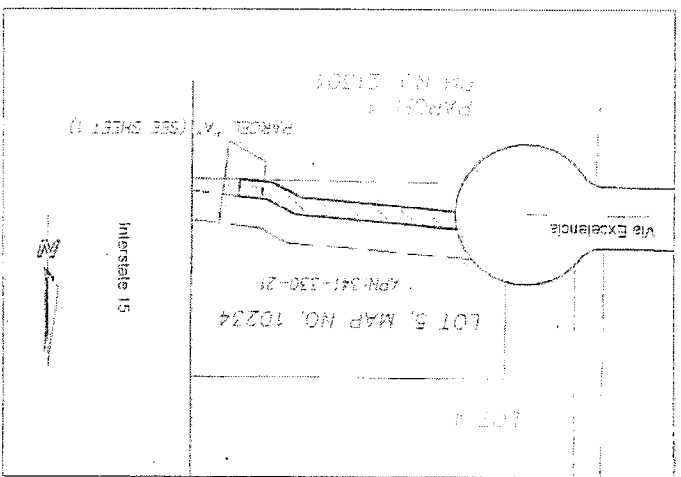
DESCRIPTION	BY	APPROVED DATE	FILMED
ORIGINAL			
LANDMARK CONSULTING			
5555 GENESSEE AVENUE, SUITE 200			
SAN DIEGO, CA 92121			
(619) 597-9078			
DATE: 08/23/2018			
MARK A. BRENDON, L.S. 7226			
DO: 08/23/2018			
L.S. 7226			
Exp: 12/31/18			
CITY OF SAN DIEGO, CALIFORNIA			
SHEET 2 OF 4 SHEET			
1908-4293			
076555			
1908-4293			
COG 83 COORDINATES			
288-123			
LAMBERT COORDINATES			
40493-3-B			

TEMPORARY CONSTRUCTION AREA
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234



MARK A. BRENDON, L.S. 7226
DATE: 08/23/2018
L.S. 7226
Exp: 12/31/18
LANDMARK CONSULTING
5555 GENESSEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(619) 597-9078

Vicinity Maps



BASIS OF BEARINGS
THE BASIS OF BEARINGS FOR THIS SURVEY IS THE GRID BEARING BETWEEN STATION 131 AND STATION 127 AS SHOWN ON RECORD OF SURVEY 14492, BE. IN 8123, 201 E. SHAD BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPPOH 1981.05), ZONE B.
THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999602. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR.
ELEVATION AT STATION 131 IS 455.81' (NGVD29).

- LEGEND
- 1.0.0 INDICATES TRUE POINT OF BEGINNING
 - 1.0.1 INDICATES POINT OF BEGINNING
 - INDICATES PARCEL "E", TEMPORARY CONSTRUCTION AREA, 0.088 ACRE
 - INDICATES RECORD DATA FOR MAP NO. 10234
 - INDICATES RECORD DATA PER PM NO. 21304
 - (R) INDICATES RADIAL BEARINGS

APN: 321-330-01

OWNER: EXCELLENCE LLC, a California limited liability company

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000011516
 DEPT. NO. 1613

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____

Purpose: _____

Date: _____ By: _____
 COMPTROLLER'S DEPARTMENT

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$1,612,900.00

Vendor: State Condemnation Fund

Purpose: To authorize the expenditure of funds not to exceed \$1,612,900.00 to the State Condemnation Fund for eminent domain proceedings for the acquisition of easements for the Pure Water North City Project.

Date: September 28, 2018

By: Yeshi Bezuneh
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
1	B16035	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-WU	2013	2013180001	B-16035.03.02	\$684,000.00
2	B16035	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-WU	2013	2013180001	B-16035.03.02	\$98,100.00
3	B16035	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-WU	2013	2013180001	B-16035.03.02	\$109,000.00
4	B16035	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-WU	2013	2013180001	B-16035.03.02	\$650,000.00
5	B15141	700009	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$51,090.00
6	B15141	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$14,410.00
7	B15141	700009	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$3,432.00
8	B15141	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$968.00
9	B15141	700009	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$1,482.00
10	B15141	700010	NOT_RELEVANT_GRANT	512200	OTHR-00000000-PR	2012	2012111215	B-15141.03.02	\$418.00
TOTAL AMOUNT									\$1,612,900.00

Passed by the Council of The City of San Diego on OCT 30 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 30 2018.

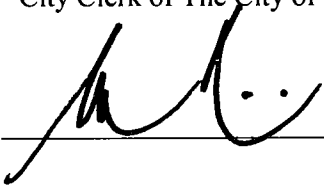
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 312036