

Item 202
7-22-19
(R-2020-13)

RESOLUTION NUMBER R- 312572

DATE OF FINAL PASSAGE JUL 22 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A PERMANENT EASEMENT INTEREST FOR THE CONSTRUCTION OF THE LA JOLLA COUNTRY CLUB RESERVOIR AND PUMP STATION PROJECT; 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 the existing La Jolla Country Club Reservoir, built in 1927, and the existing pump station, built in 1985, have outlived their useful life and need to be replaced and upgraded to meet the needs of the community; and

WHEREAS, on January 21, 2015, the City of San Diego, through its Director of Development Services Department as designated by the City Manager, approved a Site Development Permit and Coastal Development Permit to construct the Jolla Country Club Reservoir and Pump Station Project (Project) which is part of the City of San Diego's Public Utilities Department's Capital Improvement Program; and

WHEREAS, the Project consists of construction of a new 880,000 gallon concrete reservoir primarily within the existing reservoir footprint, replacement of the existing antiquated pump station with three new pumps, and installation of new valves, pipes and drains; and

WHEREAS, the Project will provide 76% more capacity than the existing reservoir and more than a 30% increase in pumping capacity to meet the future growth demands for domestic water supply, backup storage supply and emergency fire flow protections benefitting the La Jolla community; and

WHEREAS, on January 21, 2015, the Director of the Planning Department as designated by the City Manager, adopted a Mitigated Negative Declaration for this Project in compliance with the California Environmental Quality Act of 1970 (CEQA) (Pub. Res. Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.) and the time to appeal that action has expired; and

WHEREAS, on July 21, 2015, the City Council unanimously adopted a Resolution of Necessity to acquire by eminent domain, a 6,037.09 square foot parcel of property immediately adjacent to the existing reservoir owned by Wells Fargo Bank, N.A. as trustee for Joan Waitt, to provide for the new reservoir subdrain/leak detection manholes, drainage piping, water supply and bypass piping, emergency isolation shutoff valves, pressure regulation valves, electrical equipment systems for power and monitoring/controls, altitude valve vaults, an emergency backup power generator, and landscaping/irrigation systems ("Original Acquisition Area"); and

WHEREAS, the City initiated an eminent domain action in the San Diego Superior Court to acquire the Original Acquisition Area and obtained possession of the Original Acquisition Area on April 22, 2016; and

WHEREAS, the eminent domain action to determine the amount of probable compensation to be paid to Wells Fargo Bank for the Original Acquisition Area is still pending in the Superior Court; and

WHEREAS, demolition of the existing reservoir is underway and construction on the Project has commenced; and

WHEREAS, the Public Utilities Department has determined that additional property interests need to be acquired from Wells Fargo Bank to complete construction of the Project which were not known or anticipated when the City Council first approved a Resolution of Necessity for the Original Acquisition Area; and

WHEREAS, the City now seeks to acquire a permanent easement over an additional 6,791 square foot portion of Wells Fargo Bank's property which lies directly south of the existing reservoir site as more particularly described in Exhibit 1 attached hereto ("Additional Acquisition Area"); and

WHEREAS, the Additional Acquisition Area is largely encumbered by a pre-existing City access easement and other utility easements and has long been segregated from the remainder of Wells Fargo Bank's remainder property by a fence the property owner installed decades ago; and

WHEREAS, the City needs the Additional Acquisition Area to increase the width of the existing access driveway to meet SDG&E access and siting requirements to install a permanent power generator on the reservoir site and further needs to use the additional area adjacent to the existing driveway as a natural retention basin for storm-water runoff to satisfy new storm-water permit requirements imposed by the Regional Water Quality Control Board; and

WHEREAS, the Project cannot be completed without a permanent power generator; and

WHEREAS, the City must comply with the current storm-water permit requirements which did not exist when the City first obtained approval of the Project; and

WHEREAS, the City negotiated with the property owner and made an offer to purchase the Additional Acquisition Area necessary for the Project at an amount consistent with the appraised fair market value of the property as determined by an MAI-accredited independent appraiser in compliance with California Government Code section 7267.2(a), and the negotiations with the property owner 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 CIP A-BL.0001, Annual Allocation Standpipe and Reservoir Rehabilitations (B11024), Fund 700010 (Water Utilities CIP Funding Source); 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 proposed is the least amount of real property necessary to complete the Project and is limited to real property already heavily encumbered by an access easement in favor of the City of San Diego and other utility easements and is not susceptible for other development or improvements; and

WHEREAS, obtaining the Additional Acquisition Area is a subsequent discretionary action but not a separate project pursuant to CEQA Guidelines §15378(c) and is covered under the Final MND prepared for the La Jolla Country Club Reservoir and Pump Station Project (No. 327584, dated December 22, 2014); and

WHEREAS, on June 20, 2019, the City mailed a notice of hearing, and of its intent to adopt this Resolution of Necessity, to the record owners of the Additional Acquisition Area, 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 of 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 request to appear and be heard within 15 days after the date the City mailed the notice, all in compliance with California Code of Civil Procedure section 1245.235; and

WHEREAS, the hearing set out in said notice of hearing was held on July 22, 2019, 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 City Council, as a result of said hearing, has determined that the public health, safety and welfare require the City to acquire the permanent easement property interest described in the attached Exhibit 1 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 City 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 City Council of the City of San Diego, that the public interest and necessity require acquisition of the property interests consisting of a permanent easement over a portion of property located on APN 352-311-10 to complete the Project as more particularly described in Exhibit 1 hereto.

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

BE IT FURTHER RESOLVED, that the property interests proposed to be acquired 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, 1240.040, 1240.110, 1240.120, 1240.140, 1240.510, 1240.610 and 1255.410; California Government Code section 5023.1).

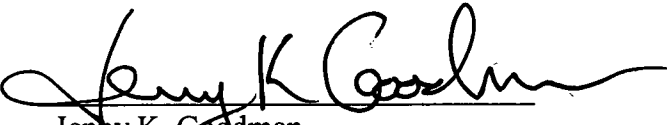
BE IT FURTHER RESOLVED, that an offer to acquire the real property interests, pursuant to California Government Code section 7267.2, at the appraised fair market value, has been made to each party claiming an ownership interest(s) in the property interests sought.

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.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend \$193,500 in funds from CIP A-BL.0001, Annual Allocation Standpipe and Reservoir Rehabilitations (B11024), Fund 700010 (Water Utilities CIP Funding Source) to acquire the property interests found necessary for the Project, and for deposit into the State Treasury's State Condemnation Fund, as necessary, to obtain possession of the Acquisition Area. This is the probable amount of compensation to be paid by the City for the necessary real property interests to be acquired as determined by an MAI-accredited appraiser although the final amount of

probable compensation will be determined by the Court or through further negotiation with the property owner.


APPROVED: MARA W. ELLIOTT, City Attorney

By 
Jenny K. Goodman
Deputy City Attorney

JKG:
07/08/19
Or. Dept: READ
Doc. No. 2045695

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 22 2019.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

PROPERTY ACQUISITION

APN: 352-311-10

All that portion of Pueblo Lot 1264 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California according to the Map thereof by James Pascoe, a copy of which was filed in the Office of the County Recorder of said San Diego County on November 14, 1921, as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at a point on the westerly line of said Pueblo Lot 1264, lying distant thereon South 16°01'18" East 463.62 feet from the northwest corner of said Pueblo Lot 1264, said point also being on the southerly line of Parcel 1 as described in deed to the City of San Diego recorded on June 27, 1985 as Document No. 85-228907 in the said Office of the County Recorder; Thence leaving the said westerly line of Pueblo Lot 1264 North 47°34'07" East 0.65 feet along the said southerly line of Parcel 1 to the beginning of a tangent 15.00 foot radius curve, concave southerly; Thence northeasterly along the arc of said curve through a central angle of 52°19'23" a distance of 13.70 feet to a point to which a radial bears North 09°53'30" East; Thence non-tangent to said curve and continuing along the said southerly line of Parcel 1 North 51°00'33" East 23.58 feet to the northerly corner of that certain easement described in said Document No. 85-228907 as Parcel 2; Thence southeasterly and southerly along the northeasterly, easterly and southeasterly lines of said Parcel 2 South 61°01'18" East 3.50 feet; Thence South 16°01'18" East 45.16 feet; Thence South 20°26'15" East 17.65 feet to the beginning of a tangent 800.94 foot radius curve, concave southwesterly; Thence southeasterly along the arc of said curve through a central angle of 7°04'17" a distance of 98.85 feet to a point to which a radial bears North 76°38'02" East; Thence leaving the said southeasterly line of Parcel 2 South 43°25'13" East 4.47 feet; Thence South 20°25'04" East 5.82 feet; Thence South 61°10'48" West 17.24 feet; Thence South 74°39'45" West 4.95 feet; Thence South 79°47'35" West 12.94 feet; Thence North 25°18'02" West 2.51 feet; Thence South 84°25'21" West 8.49 feet to said westerly line of Pueblo Lot 1264; Thence Northwesterly along the said westerly line of Pueblo Lot 1264 North 16°01'18" West 162.67 feet to the **Point of Beginning**.

Said Parcel contains 6791 Square Feet, 0.1559 Acres.

PROPERTY ACQUISITION

Exhibit "B" (City of San Diego Drawing No. 40481-B attached and by this reference is made a part hereto.

Richard T. McCormick 7-11-2018

Richard T. McCormick LS 7450 Date
Senior Land Surveyor, Field Engineering
My Registration Expires 12-31-2018



File: APN 352-311-10 Electrical Easement legal.docx
WBS B-11024 -May 2018

APN: 352-311-10
 Owner: Wells Fargo Bank, N.A., as Successor Trustee of Trust No. 00-9174

LEGEND

- () Indicates record data per Map No. 1975
- [] Indicates record or calculated data per Doc. No. 85-228907 rec. 6/27/1985 O.R.
- P.O.B. Point Of Beginning
- Existing Lot Line
- · · · · Subdivision Line
- - - - - Easement line

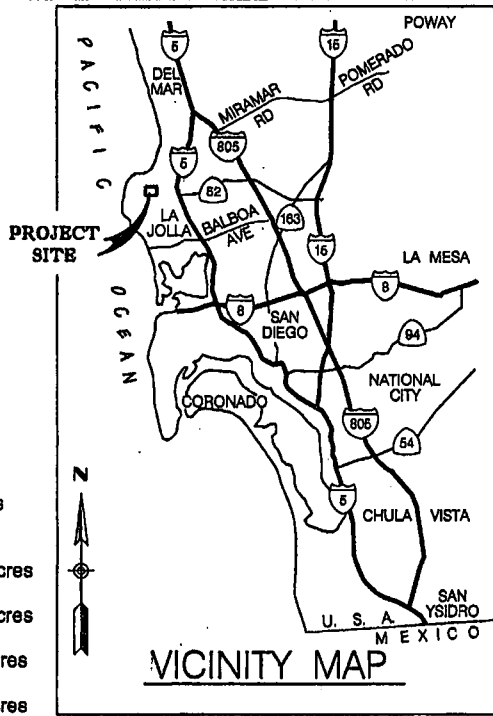
 Indicates Parcel to be acquired, Area = 6,791 Sq. Ft., 0.1559 Acres

Overlap portion of easement No. 1, Area = 2450 Sq. Ft., 0.0562 Acres




Overlap portion of easement No. 6, Area = 3357 Sq. Ft., 0.0771 Acres

Overlap portion of easement No. 21, Area = 481 Sq. Ft., 0.0110 Acres

Overlap portion of easement No. 26, Area = 782 Sq. Ft., 0.0180 Acres



EASEMENT NOTES

-  An easement for Right of Way and access road and water mains recorded on June 27, 1985 as Parcel 2, per document No. 85-228907 O.R. See City of San Diego Dwg. 20929-D
-  Land conveyed to the City of San Diego in Book 2143, Page 178 recorded May 13, 1946 as document No. 50995 reserving an easement for driveway, road and utility purposes over the southerly 129' of Lot 4, Block "F" of Map 1975 and the northerly 6' of Lot 5, Block "F" of Map 1975 O.R.
-  Land conveyed to the City of San Diego as adopted by the Resolution No. 83137 on May 7, 1946 by the Council of City of San Diego, recorded on May 13, 1946 O.R.

Continued on sheet 2

REFERENCES

Maps: 1975, 7259, MM36
 P.M.: 5524, 12498
 R.O.S.: 2988
 City Dwg.: 1779-B, 2977-B, 3409-W,
 7019-W, 15060-B, 20929-D, 38041-B,
 38480-B,

BASIS OF BEARING

The Basis of Bearing for this Survey is the grid bearing from City GPS Stations 135 and 17 per ROS 14492 IE: S 75°30'06" E.

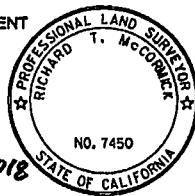


CGF= .9999853 @ GPS 135
 Mapping Angle= -0° 33' 17.98"
 Elevation= 642.72' (NGVD29)

PREPARED BY:

THE CITY OF SAN DIEGO ENGINEERING DEPARTMENT
 FIELD DIVISION - SURVEY SECTION, UNDER THE
 DIRECTION OF RICHARD T. McCORMICK, LS 7450,
 SENIOR LAND SURVEYOR

Richard T. McCormick 7-11-2018
 RICHARD T. McCORMICK P.L.S. 7450 DATE



RESOLUTION No. _____
 ADOPTED: _____
 DOC. No. _____
 RECORDED: _____

**PROPERTY ACQUISITION
 IN A PORTION OF PUEBLO LOT 1264, MISCELLANEOUS MAP 36**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	T.M.
ORIGINAL	MR	RMc	12/17		SHEET 1 OF 4 SHEETS	B-11024.03.01
REVISED	DV	<i>RMc</i>	8/18			1886-6250
					<i>Richard T. McCormick</i> 7-11-2018	NAD83 COORDINATES
					FOR CITY LAND SURVEYOR DATE	246-1689
						NAD27 COORDINATES
						40481-1-B
STATUS						

EASEMENT NOTES CONTINUED

- 4 Easements for right of way and driveway and road and other purposes reserved by Union Title Insurance and Trust Company for lands quitclaimed to the City of San Diego as adopted by the Resolution No. 83137 on May 7, 1946 by the Council of City of San Diego, recorded on May 13, 1946, O.R.
- 5 An easement for a concrete water reservoir or reservoirs and water conduit, roadway and passageway and other rights recorded May 10th, 1927 in Book 1342, Page 313 of Deeds O.R.
- 6 Portion of private road access easement and for public/private utilities per Document No. 2000-0378787 recorded July 18, 2000 O.R.
- 7 An easement for water and and rights incidental thereto recorded December 30th, 2015, per Document No. 2015-0666123 O.R.
- 8 Portion of 50' wide easement reserved for road as shown on ROS 2988. Also portion of 50' wide easement for road and for public/private utilities per Book 6679, Pg. 393 recorded May 15, 1957 O.R.
- 9 An easement 14' wide for private access per Bk. 2888, P. 475 recorded July 27, 1948 O.R. as shown on PM 5524.
- 10 An easement 20' wide for road purposes recorded June 25, 1957 as Document No. 94316 In Book 6635, Page 431 O.R. as shown on Map 7259.
- 11 City of San Diego property Deed dated March 8, 1946 and recorded May 13, 1946 in Book 2143, Page 178 O.R.
- 12 An easement 14' wide for access and incidental purposes recorded July 27, 1948 as Document No. 74575 O.R.
- 13 An easement with the right of ingress and egress for the construction and maintenance of water facilities per Map 7259
- 14 An easement for road purposes over the southerly 6' of Lot 4 and over the northerly 6' of Lot 5 in Block "F" of Map 1975 recorded December 3rd, 1954 in Book 5449, Page 197 as Document No. 161696 O.R.
- 15 Portion of a 12' wide easement for water as shown on the City of San Diego Dwg. 7019-W and Dwg. 20929-1-D per City of San Diego Resolution Number 129967, November 30, 1955 O.R.
- 16 An easement for road, ingress and egress purposes recorded June 10th, 1977 as Document No. 77-227923 O.R. Parcel "A" reservation
- 17 A 15' wide easement for water per document number 80-409281 recorded December 4, 1980 O.R. See City of San Diego Dwg. 15060-B
- 18 A 20' wide easement and right of way for road purposes recorded June 10th, 1977 as Document No. 77-227923 O.R. Parcel "B"
- 19 A 6' wide easement and right of way for road purposes recorded June 10th, 1977 as Document No. 77-227923 O.R. Parcel "C"

Continued on sheet 3

**PROPERTY ACQUISITION
IN A PORTION OF PUEBLO LOT 1264, MISCELLANEOUS MAP 36**

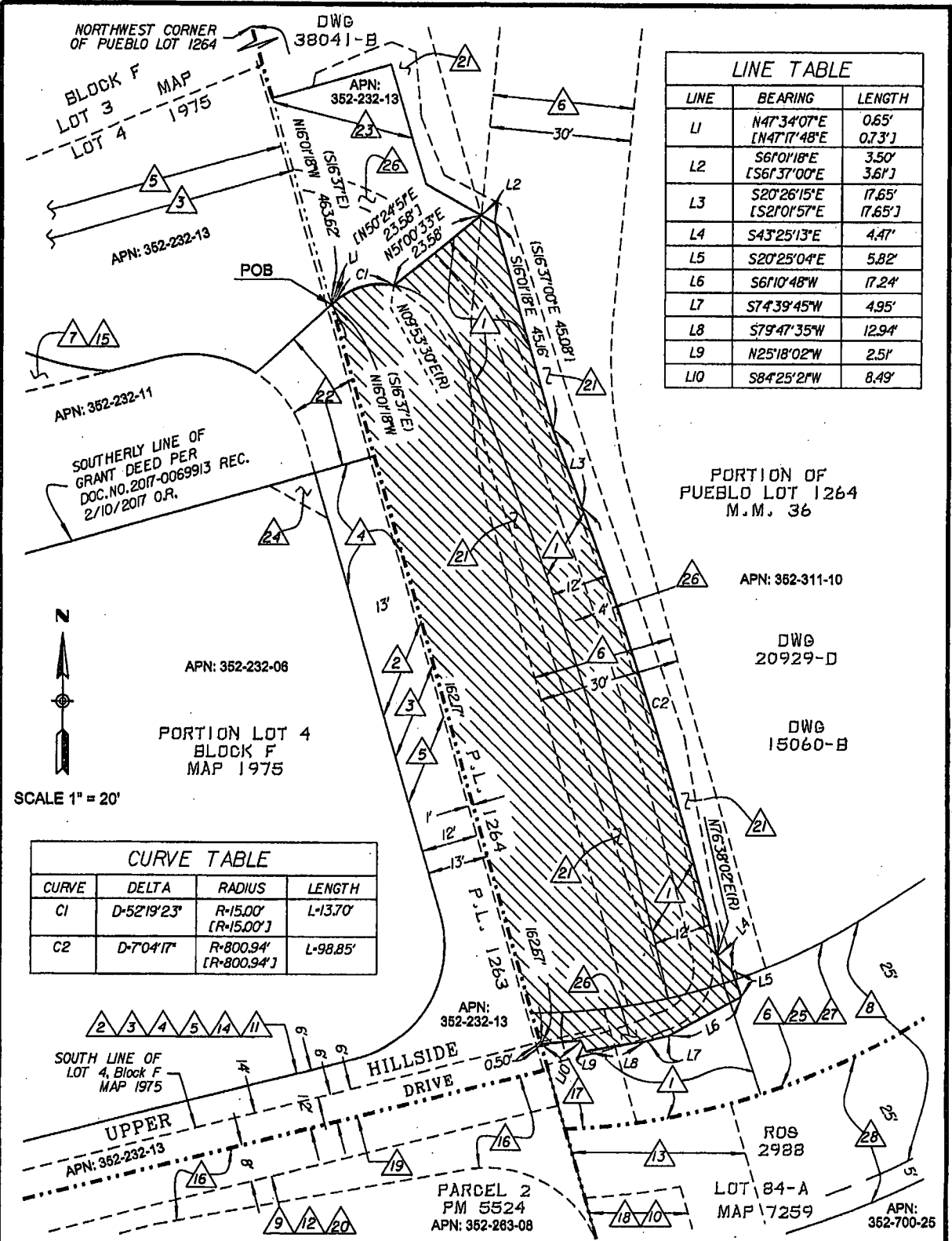
DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	T.M.
ORIGINAL	MR	RMc	12/17		SHEET 2 OF 4 SHEETS	B-11024.03.01
REVISED	DV	<i>RMC</i>	6/18			
					<i>Rada D. Manuel</i> FOR CITY LAND SURVEYOR	7-11-2018 DATE
						1888-6250 NAD83 COORDINATES
						246-1689 NAD27 COORDINATES
					STATUS	40481-2-B

EASEMENT NOTES CONTINUED

- △₂₀ A 14' wide appurtenant easement for road utility and incidental purposes recorded March 19th, 1980 as Document No. 80-094665 O.R.
 - △₂₁ An easement for slope Embankment per document No. 85-228907 recorded on June 27, 1985 O.R. See City of San Diego Dwg. 20929-D
 - △₂₂ Land quitclaimed by the City of San Diego Recorded June 27, 1985 as document number 85-228906 O.R.
 - △₂₃ Land conveyed to the City of San Diego land in Grant Deed recorded June 27, 1985 as Parcel 1 in document number 85-228907 O.R.
 - △₂₄ An easement and Right of Way for road purposes recorded September 2, 1949 in Book 3308, Page 170 as Document No. 80426 O.R.
 - △₂₅ Portion of a 25' wide easement reserved for road as shown on ROS 2988. Also portion of 25' wide easement for road and public/private utilities per Book 7119, Page 232 recorded June 12, 1958 O.R.
 - △₂₆ Approximate location of 4' wide easement to Pacific Bell for public utilities, ingress and egress recorded August 13, 1985 as document number 85-290843 O.R.
 - △₂₇ An easement and right of way for road, sewer, water, gas, power purposes recorded October 29th, 1958, Bk. 7316, P. 541 O.R.
 - △₂₈ Portion of Lot 84-A reserved for future street per Map No. 7259.
- An easement to San Diego Gas and Electric for public utilities, ingress and egress recorded August 21, 1985 as document number 85-302270 O.R. (unlocatable)

**PROPERTY ACQUISITION
IN A PORTION OF PUEBLO LOT 1264, MISCELLANEOUS MAP 36**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	T.M.
ORIGINAL	MR	RMc	12/17		SHEET 3 OF 4 SHEETS	B-11024.03.01
REVISED	DV	<i>[Signature]</i>	6/18			
					<i>[Signature]</i> FOR CITY LAND SURVEYOR	1850-6271 NAD83 COORDINATES
					7-11-2018 DATE	210-1710 NAD27 COORDINATES
						40481-3-B
STATUS						



LINE	BEARING	LENGTH
L1	N47°34'07"E [N47°17'48"E]	0.65' 0.73'
L2	S6°01'18"E [S6°37'00"E]	3.50' 3.61'
L3	S20°26'15"E [S2°01'57"E]	17.65' 17.65'
L4	S43°25'13"E	4.47'
L5	S20°25'04"E	5.82'
L6	S6°10'48"W	17.24'
L7	S74°39'45"W	4.95'
L8	S79°47'35"W	12.94'
L9	N25°18'02"W	2.51'
L10	S84°25'21"W	8.49'

CURVE	DELTA	RADIUS	LENGTH
C1	D-52°19'23"	R-15.00' [R-15.00']	L-13.70'
C2	D-7°04'17"	R-800.94' [R-800.94']	L-98.85'

**PROPERTY ACQUISITION
IN A PORTION OF PUEBLO LOT 1264, MISCELLANEOUS MAP 36**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL	MR	RMc	12/17		SHEET 4 OF 4 SHEETS	
REVISED	DV	<i>RUC</i>	6/18		<i>Rafael J. M... 7-11-2018</i> FOR CITY LAND SURVEYOR DATE	
STATUS					T.M.	B-11024.03.01
					I.W.O.	
					1886-8250	
					NAD83 COORDINATES	
					248-1689	
					NAD27 COORDINATES	
					40481-4-B	

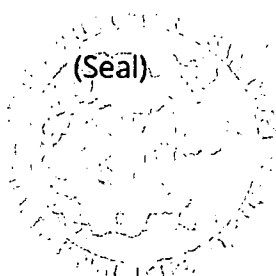
Passed by the Council of The City of San Diego on JUL 22 2019, by the following vote:

Councilmembers:	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 22 2019.

(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.

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

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **312572**