

RESOLUTION NUMBER R- 316301

DATE OF FINAL PASSAGE JUN 17 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A PERMANENT SEWER EASEMENT AND A TEMPORARY CONSTRUCTION AREA EASEMENT OVER PRIVATE PROPERTY FOR THE CONSTRUCTION OF THE MURPHY CANYON TRUNK SEWER REPAIR AND REHABILITATION PROJECT, PHASE 2, CIP PROJECT B-17005; 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 AND RELATED LITIGATION EXPENSES.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. The Murphy Canyon Trunk Sewer Repair and Rehabilitation Project, CIP Project B-17005 (Project) improves the capacity of existing sewer infrastructure by installing approximately 1.4 miles of new gravity sewer lines, rehabilitating approximately 5.2 miles of existing sewer pipelines, and abandoning approximately 1.1 miles of existing sewer pipelines and manholes within the Tierrasanta, Kearny Mesa, Mission Valley, and Serra Mesa Communities.

B. The existing trunk sewer is located parallel to I-15, mainly on or near Murphy Canyon Road from Clairemont Mesa Boulevard to south of Friars Road and the Project includes sewer rehabilitation on Ruffin Road from Balboa Avenue to Aero Drive and on Aero Drive from Ruffin Road to Sandrock Road.

C. The Project will bring the existing mains up to modern standards, accommodate community growth and reduce maintenance requirements and supports the City's continuing

effort to replace all existing asbestos cement pipelines within the City in accordance with the California Department of Public Health's Compliance Order No. 04-14-96CO-022.

D. The Project work will take place primarily within existing City right-of-way (streets) and other paved surfaces but does require some work within existing easements located on privately owned properties and will require acquisition of additional permanent easement rights and/or acquisition of temporary easement rights over privately owned property.

E. The Project requires acquisition of portions of property owned by Daley Square Dolphin (Owner) located at 3755 Murphy Canyon Road, San Diego, California (APNs 421-333-08, 421-333-10) (Subject Property), including appurtenant reciprocal access and parking rights, which is needed to construct the Project.

F. On June 14, 2018, the Council authorized an Agreement between the City of San Diego and Michael Baker International to provide engineering services for design, construction support, and related work for the Project (Ordinance O-20949).

G. The City made significant effort to minimize any impacts to private property during the design phase of the Project.

H. The Project's pipeline alignment is constrained by multiple factors making utilization of the Subject Property the only feasible alignment considering existing pipeline alignments and minimizing negative environmental impacts.

I. The City has attempted in good faith to acquire the needed property interests from Daley Square Dolphin, a California General Partnership, the owner of APNs 421-333-08, 421-333-10 (Owner) but has been unable to secure the necessary property interests from the Owner.

J. The City needs to acquire the following property rights over a portion of the Subject Property to proceed with the construction of the Project, to wit:

- a. A 5,645.4 square foot permanent sewer easement to construct, maintain, and operate the pipelines for the Project as more particularly described and depicted in Exhibit A – Legal Description and Exhibit B – Plat Map attached hereto. The proposed permanent easement overlaps 1,540 square feet of an existing 1966 sewer easement resulting in a net new burden of 4,105.4 square feet.
- b. A 8,150.59 square foot temporary construction area easement as more particularly described and depicted in Exhibit A – Legal Descriptions and Exhibit B – Plat Map attached hereto.

K. The temporary construction area proposed above will allow the City, its successors and assigns, the right, on a temporary basis, to enter and utilize the proposed temporary construction area and would include the right and privilege of the City and its employees, agents, representatives, contractors, subcontractors, and workmen (collectively “Authorized Personnel”) to: (i) use, control, and occupy the temporary construction area to perform all activities as may be necessary for construction of the Project; (ii) use and temporarily place and operate tools, equipment, machinery, and materials on and within the temporary construction area; (iii) and trim, cut, or clear away any trees, brush, or other vegetation or flora within the temporary construction area.

L. The anticipated term of the temporary construction area easement is thirteen months beginning thirty days from the date the City provides notice to the Owner that work is ready to commence on the Subject Property. Actual physical use of and occupation of the temporary construction area, and all uses appurtenant thereto, shall commence following thirty-day written notice provided to the property owner(s) by the City or Authorized Personnel. At the expiration of the temporary construction area easement duration, the City shall restore such property to a condition as near as practicable to the condition that existed immediately prior to

City's operations. The City will at all times during the temporary construction area term allow the property owner(s) to have and maintain reasonable access to and from the larger parcel. City will provide a five-foot access path adjacent to the temporary construction area to allow access to the back entrance of the adjacent tenant suite. Upon completion of the Work, City will cause all of the equipment, materials, tools, trash, and debris to be removed from the temporary construction area.

M. The Project is addressed in the City's November 4, 2022, Notice of Exemption for the Project. The City posted a Notice of Right to Appeal on November 4, 2022, and removed it on November 14, 2022, during which time no appeals of the exemption determination were filed.

N. The acquisition of property interests sought in this Resolution is also addressed in the companion Resolution (R-2025-587) for determination of CEQA exemption.

O. The City negotiated with the Owner and made several offers to purchase the property interests 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 Owner has not been successful as of the date of this Resolution.

P. Funds are available to acquire the necessary real property interests sought for the construction of the Project from the existing CIP budget, specifically B-17005, Murphy Canyon Trunk Sewer Repair and Rehabilitation, Fund 700008, Muni Sewer CIP.

Q. Funding shall be used for the purposes of property acquisition and related expenses including any negotiated settlements with the property owners as to the amount of just compensation owed to them for the property rights the City seeks to acquire or any Court orders or judgments relating to just compensation. Funding shall also be used for the anticipated costs

of eminent domain litigation including the cost of experts and updated appraisals or other related litigation expenses.

R. 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.

S. The acquisition of the property rights proposed is the least amount of real property interests necessary to complete the Project as more fully described in the real property descriptions attached hereto as Exhibit 1 (inclusive of Exhibits A and B thereto).

T. On May 23, 2025, the City mailed a notice of hearing, and of its intent to adopt this Resolution of Necessity, to the record owners of the property interests to be acquired, 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.

U. The hearing set out in said notice of hearing was held on June 17, 2025, 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

V. 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 sewer easement and temporary construction area easement as described and depicted in Exhibits A and B attached hereto for the Project.

W. 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.

X. Under Code of Civil Procedure section 1245.240, this Resolution requires a vote of two-thirds of all the members of the governing body of the public entity.

Y. The Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate.

#### ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The public interest and necessity require acquisition of the property interests described above consisting of a permanent sewer easement and a temporary construction area easement over APNs 421-333-08 and 421-333-10 including any appurtenant reciprocal parking and access rights, to construct the Project as more particularly described and depicted in Exhibit

A-Legal Descriptions and Exhibit B-Plat Map attached hereto and incorporated herein by this reference.

2. The Project is planned and located in a manner that will be the most compatible with the greater public good and least private injury.

3. The taking of the property interests proposed are necessary for the Project and such taking is 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).

4. 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.

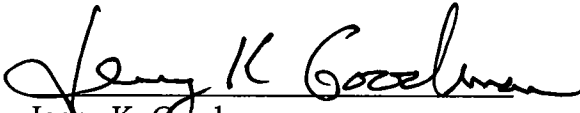
5. The City Attorney of the City of San Diego is hereby authorized and directed to commence an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of and on behalf of the City of San Diego, against all claimants with any interest(s) in the real property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

6. The Chief Financial Officer is authorized to expend funds from CIP Project B-17005, Murphy Canyon Trunk Sewer Repair and Rehabilitation Project, Fund 700008, to acquire the property interests found necessary for the Project, and to deposit into the State Treasury's Condemnation Fund the amount of probable compensation to be paid to the property owner, as necessary, to obtain possession of the proposed property interests. The probable amount of just compensation to be paid by the City for the necessary real property interests to be acquired has been determined to be \$650,000 and includes just compensation for the temporary construction damages although the final amount of probable compensation will be determined by the Court or

through further negotiation with the property owner and is subject to increase once a date of value is established in the eminent domain action or if the Court orders an increase in the amount of probable compensation. This authorization includes payment of any increased property acquisition amounts determined through updated appraisals after the litigation is commenced, further negotiations with the property owner and/or increased deposits ordered by the court.

7. The Chief Financial Officer is authorized to expend funds from CIP Project B-17005, Murphy Canyon Trunk Sewer Repair and Rehabilitation Project, Fund 700008 to pay all related litigation expenses incurred in the eminent domain action including, but not limited to, expert fees, deposition expenses, and all other litigation related expenses as necessary.

APPROVED: HEATHER FERBERT, City Attorney

By   
Jenny K. Goodman  
Lead Deputy City Attorney

JKG:jg  
May 20, 2025  
Or. Dept: DREAM  
Doc. No. 4066176

I certify that the Council of the City of San Diego adopted this Resolution by a two-thirds vote at a meeting held on **JUN 17 2025**.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk



**EXHIBIT A**

**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**  
**SEWER EASEMENT & TEMPORARY CONSTRUCTION AREA**

Portions of Parcel 3 in the City of San Diego, County of San Diego, State of California, according to Parcel Map thereof no. 14509 filed in the Office of the County Recorder of San Diego County October 14, 1986, more particularly described as follows:

**SEWER EASEMENT**

A 30.00-foot wide strip of land lying 15.00 feet on each side of the following described centerline:

**COMMENCING** at the southeast corner of said Parcel 3, said point being a point on a 6074.00 foot radius curve concave southerly, a radial line to said point bears North 21°29'09" West;

thence westerly along the southerly line of said Parcel 3 and said curve through a central angle of 00°48'00" an arc length of 84.81 feet to the **TRUE POINT OF**

**BEGINNING**;

thence leaving said southerly line and said curve North 04°00'00" West 61.56 feet;

thence North 56°00'00" East 126.03 feet to a point on the easterly line of said Parcel 3, said easterly line being also the westerly right of way of frontage road Murphy Canyon Road, relinquished to the City of San Diego by file/page 81-320297 recorded October 8, 1981 of official records, and the **POINT OF TERMINUS**.

The sidelines of said strip shall be prolonged or shortened to begin on said southerly line of Parcel 3 and end on said easterly line of Parcel 3 and said westerly right of way of frontage road.

**CONTAINS:** 5,645.40 SF ( 0.130 acre) more or less.

**TEMPORARY CONSTRUCTION AREA (TCA)**

**BEGINNING** at the southeast corner of said Parcel 3, said point being a point on a 6074.00- foot radius curve concave southerly, a radial line to said point bears North 21°29'09" West;

thence westerly along the southerly line of said Parcel 3 and said curve through a central angle of 00°39'04" an arc length of 69.03 feet;

thence leaving said southerly line and said curve North 04°00'00" West 18.11 feet;

thence South 76° 07' 42" West 27.08 feet;

thence North 33° 53' 17" West 39.51 feet;

thence South 79° 04' 48" West 9.15 feet;

thence North 10° 55' 12" West 50.67 feet;

thence North 81° 44' 42" East 54.03 feet;

thence North 47° 41' 34" East 25.11 feet;

thence North 76° 38' 04" East 31.00 feet;

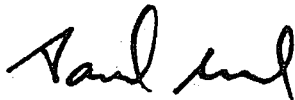
thence North 65° 25' 49" East 34.05 feet;  
thence North 67° 41' 12" East 33.71 feet to a point on the easterly line of said Parcel 3,  
said easterly line being also the westerly right of way of frontage road Murphy Canyon  
Road, relinquished to the City of San Diego by file/page 81-320297 recorded October 8,  
1981 of official records. Said point being the beginning of a non-tangent 330.00-foot  
radius curve, concave easterly, a radial line to said point bears North 64° 49' 46" West;

thence southerly along said easterly line and said right of way the following courses:  
along said curve through a central angle of 18°40'14" an arc length of 107.53 feet;  
thence South 06° 30' 00" West 16.64 feet to the beginning of a tangent 57.00-foot  
radius curve concave westerly;  
thence along said curve through a central angle of 06° 06' 42" an arc length of 6.08 feet  
to the **POINT OF BEGINNING.**

**EXCEPTING THEREFROM** the portion lying within the above-described Sewer  
Easement. Said portion contains 5,021.74 square feet.

**TCA CONTAINS:** 8,150.59 square feet (0.187 acre) more or less.

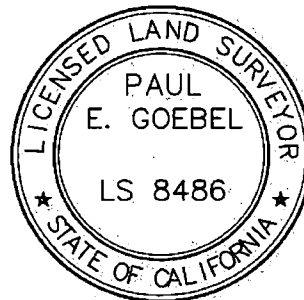
**ATTACHED** hereto is a Drawing No. 42252-B, labeled EXHIBIT 'B', consisting of 2  
sheets and by this reference made a part hereof.



10/30/2023

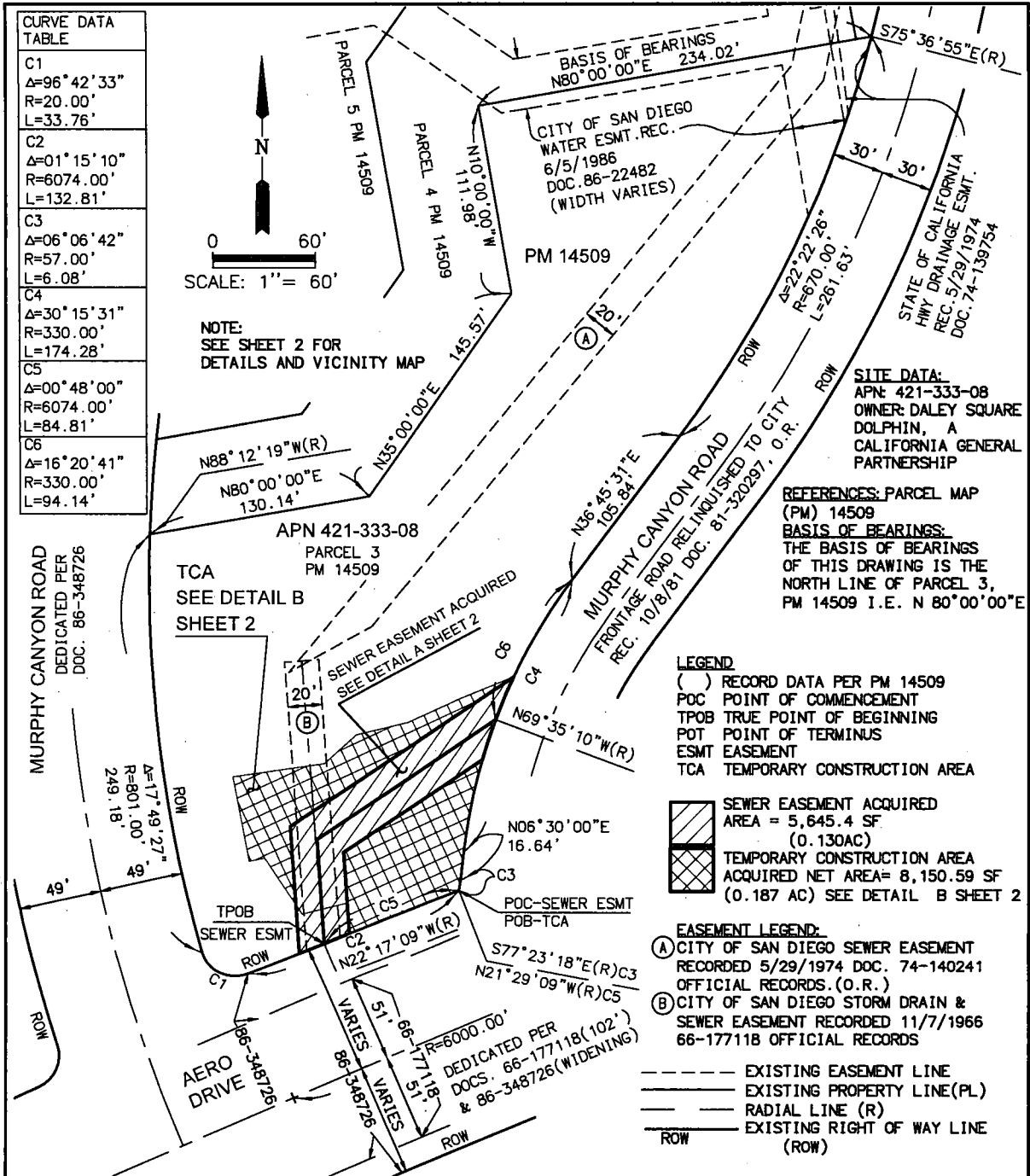
Paul E. Goebel, LS 8486      Date  
MBI 168425-APN 421-333-08

PRJ No. 683040  
DWG No. 42252-B



## EXHIBIT B

# EXHIBIT 'B'



MICHAEL BAKER INTL.  
9635 GRANITE RIDGE DR  
SAN DIEGO, CA 92123  
PHONE: 858.614.5000  
168425 SIZZLER

*Paul E. Goebel*

10/30/2023

PAUL E. GOEBEL LS 8486



DOCUMENT NO. \_\_\_\_\_

RECORDED \_\_\_\_\_

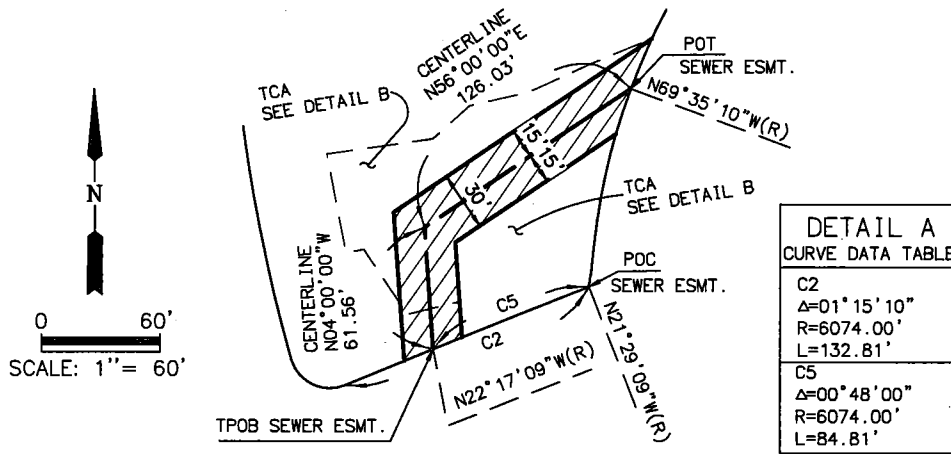
## SEWER EASEMENT & TEMPORARY CONSTRUCTION AREA IN A PORTION OF PARCEL 3 PARCEL MAP 14509 SAN DIEGO, CA

DESCRIPTION	BY	APP'D	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS 683040
ORIGINAL	MBI		3.17.21		SHEET 1 OF 2 SHEETS	I.O. N/A
REVISE TCA	MBI		9.28.23			1874-6293
REV.COMMENTS	MBI		10.30.23			CCS 83 COORDINATES
						234-1733
						NAD27 COORDINATES
						B001
STATUS					42252-1-B	

*Frederick R. L. Pay*  
FOR CITY LAND SURVEYOR

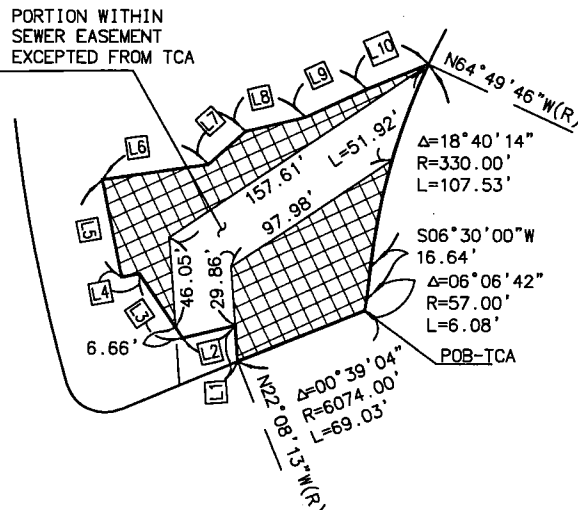
11/13/2023  
DATE

# EXHIBIT 'B'



## DETAIL A SEWER EASEMENT

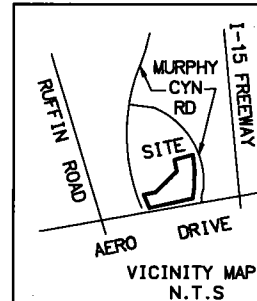
5,645.44 SF



## DETAIL B TCA

TCA GROSS AREA = 13,172.33 SF (0.302 AC)  
 [MINUS PORTION WITHIN SEWER EASEMENT  
 = 5,021.74 (0.115 AC)]  
 NET AREA TCA 8,150.59 SF (0.187 AC)

DETAIL B LINE DATA TABLE		
L1	N04°00'00"W	18.11'
L2	S76°07'42"W	27.08'
L3	N33°53'17"W	39.51'
L4	S79°04'48"W	9.15'
L5	N10°55'12"W	50.67'
L6	N81°44'42"E	54.03'
L7	N47°41'34"E	25.11'
L8	N76°38'04"E	31.00'
L9	N65°25'49"E	34.05'
L10	N67°41'12"E	33.71'



MICHAEL BAKER INTL.  
 9635 GRANITE RIDGE DR  
 SAN DIEGO, CA 92123  
 PHONE: 858.614.5000  
 168425 SIZZLER

DOCUMENT NO. \_\_\_\_\_  
 RECORDED \_\_\_\_\_

## SEWER EASEMENT & TEMPORARY CONSTRUCTION AREA IN A PORTION OF PARCEL 3 PARCEL MAP 14509 SAN DIEGO, CA

DESCRIPTION	BY	APP'D	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS 683040
ORIGINAL	MBI		3.17.21		SHEET 2 OF 2 SHEETS	I.O. N/A
REVISE TCA	MBI		9.28.23			
REV.COMMENTS	MBI		10.30.23			
					Forfeited R. L. Pay	1874-6293
					FOR CITY LAND SURVEYOR	CCS 83 COORDINATES
					DATE	234-1733
						NAD27 COORDINATES
STATUS					42252-2-B	B002

**JUN 17 2025**

Passed by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<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"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**JUN 17 2025**

Date of final passage \_\_\_\_\_.

(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:

\_\_\_\_\_  
TODD GLORIA

Mayor of The City of San Diego, California.

\_\_\_\_\_  
DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

(Seal)

By Kristine Medina, Deputy

Office of the City Clerk, San Diego, California

**316301**

Resolution Number R-\_\_\_\_\_