


EXHIBIT 'B'

LEGEND

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

APN: 331-330-21

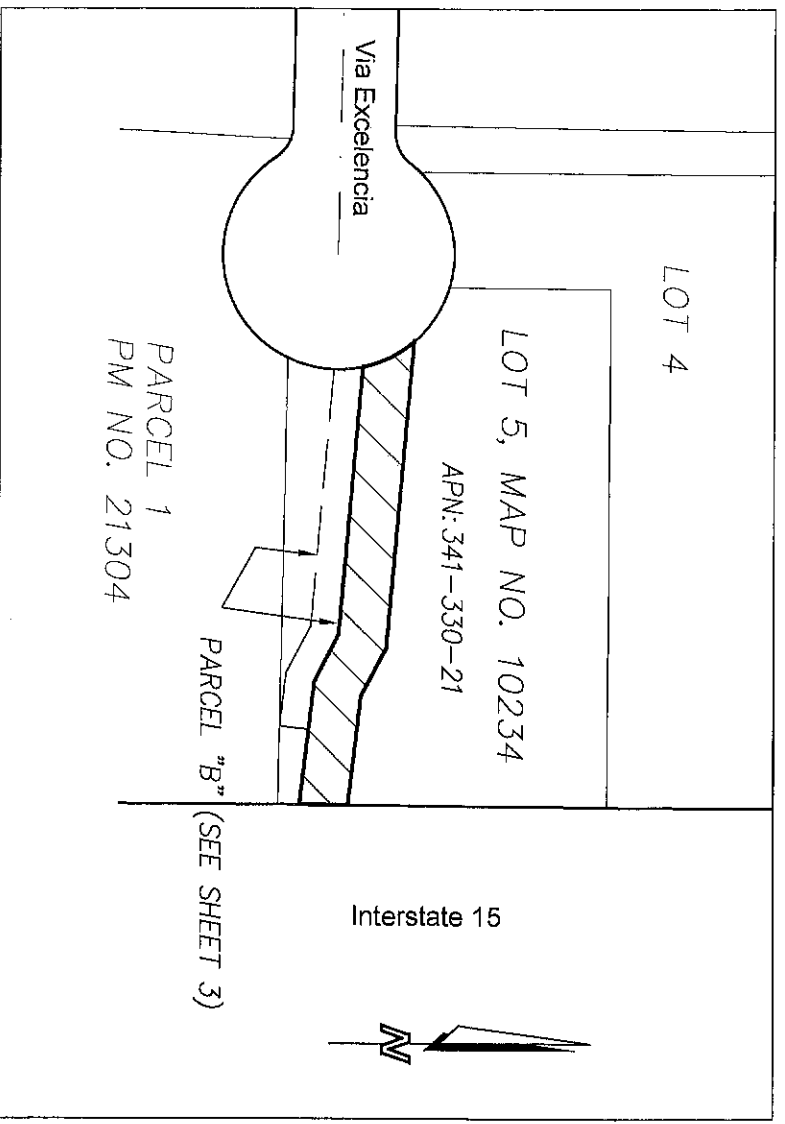
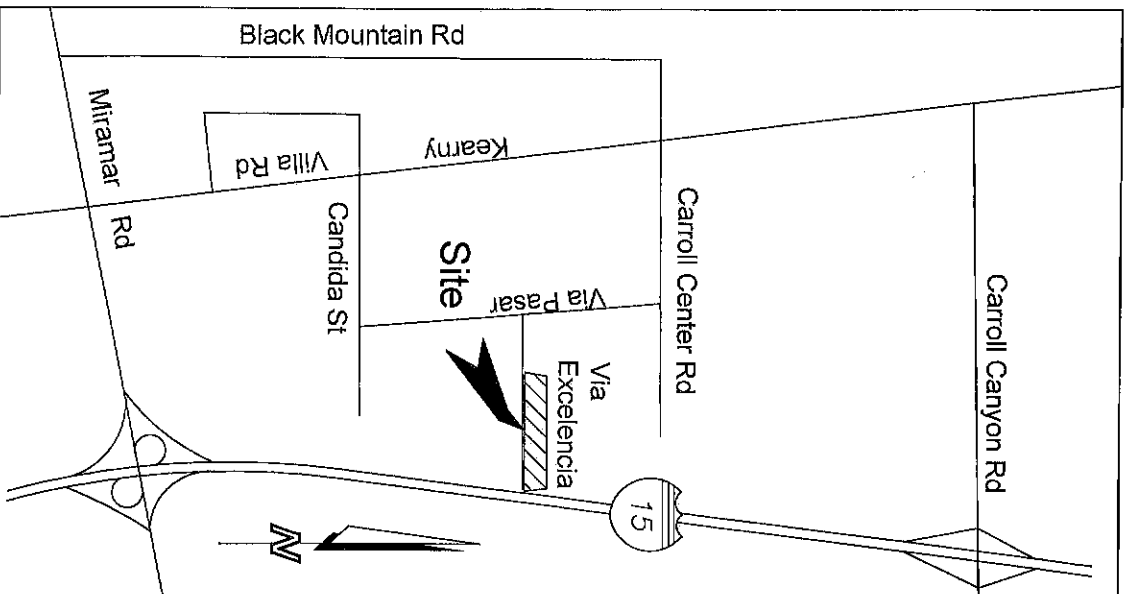
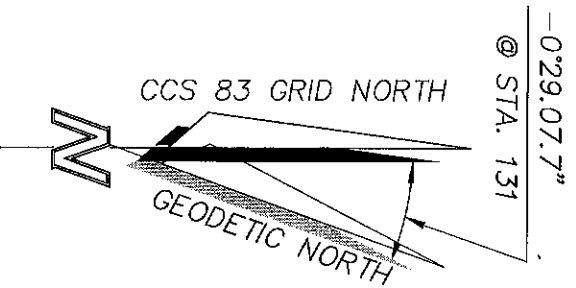
OWNER:
Excelencia LLC, a California limited liability company.

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 14492, I.E. N 51°23'20" E. SAID BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPOCH 1991.35), ZONE 6.

THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999607. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR.

ELEVATION AT STATION 131 IS 455.81' (NGVD29).



Vicinity Maps
n.t.s.

LANDMARK CONSULTING
9555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 587-8070

Mark A. Brennick
06/28/2018
MARK A. BRENNICK, L.S. 7226 DATE




Doc. No: 2019-040518 o.r.
Recorded: September 18, 2019.

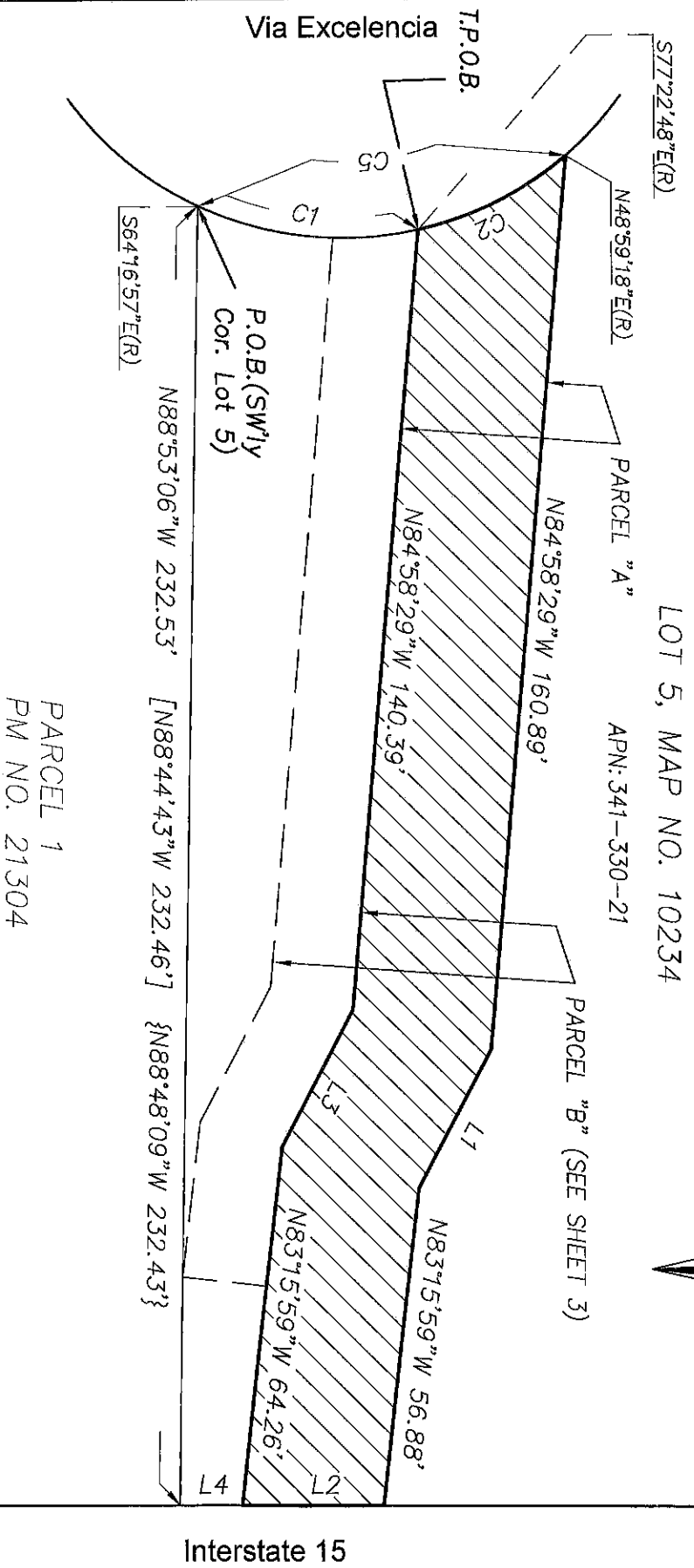
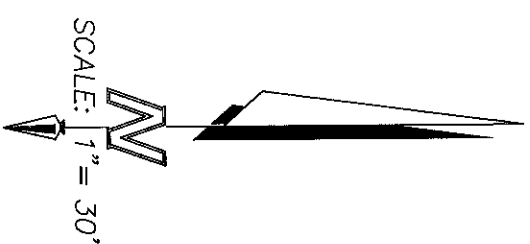
WATER EASEMENT:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.O. N/A
ORIGINAL	LMCO			SHEET 1 OF 4 SHEET	P.T.S. 576655
				<i>Full R. Ray</i> 7/6/18 FOR CITY ENGINEER DATE	1906-6293
					CCS 83 COORDINATES 266-1733
					LAMBERT COORDINATES 40493-1-B
	COMPLETE			STATUS	

EXHIBIT 'B'

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- [] 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"	69.88'

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

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.O.
ORIGINAL	LMCO			SHEET 2 OF 4 SHEET	N/A
				FOR CITY ENGINEER	P.T.S. 576655
				<i>Y. L. R. R. Q.</i>	1906-6293
				DATE	CCS 83 COORDINATES
					266-1733
					LAMBERT COORDINATES
					40493-2-B
					STATUS

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INDICATES PARCEL 'B', TEMPORARY CONSTRUCTION AREA 0.066 ACRE

APN: 331-330-21

OWNER:
Excelencia LLC, a California limited liability company.

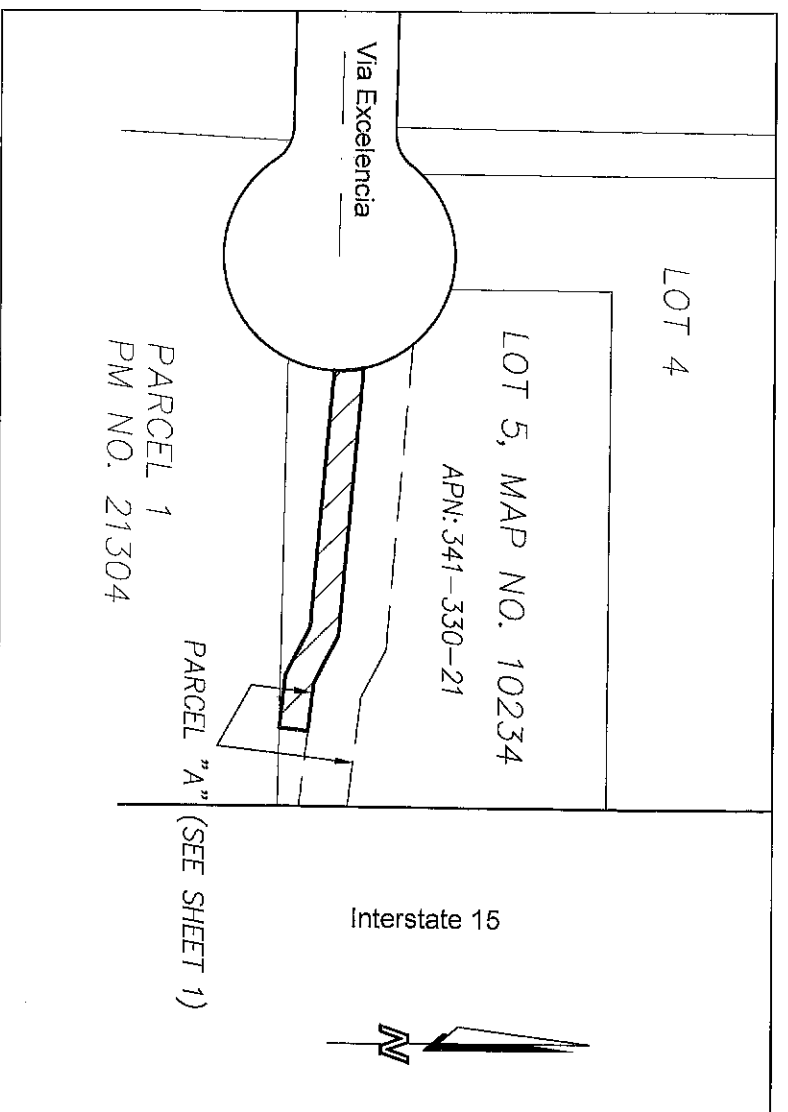
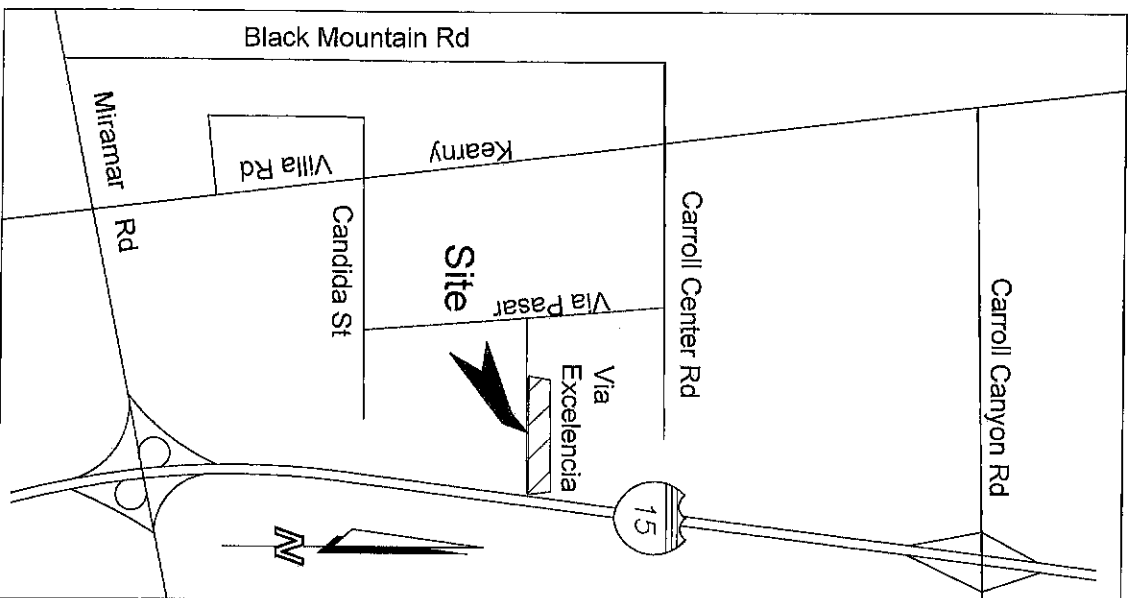
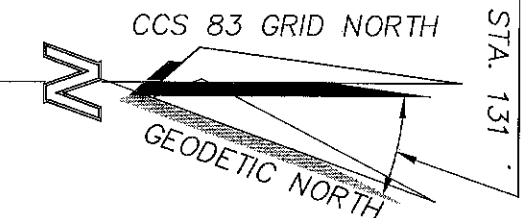
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ELEVATION AT STATION 131 IS 455.81' (NGVD29).

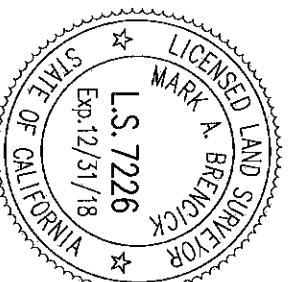
-0°29.07.7"
@ STA. 131



Vicinity Maps
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LANDMARK CONSULTING
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SAN DIEGO, CA 92121
(858) 587-8070

06/28/2018
MARK A. BRENCICK, L.S. 7226 DATE




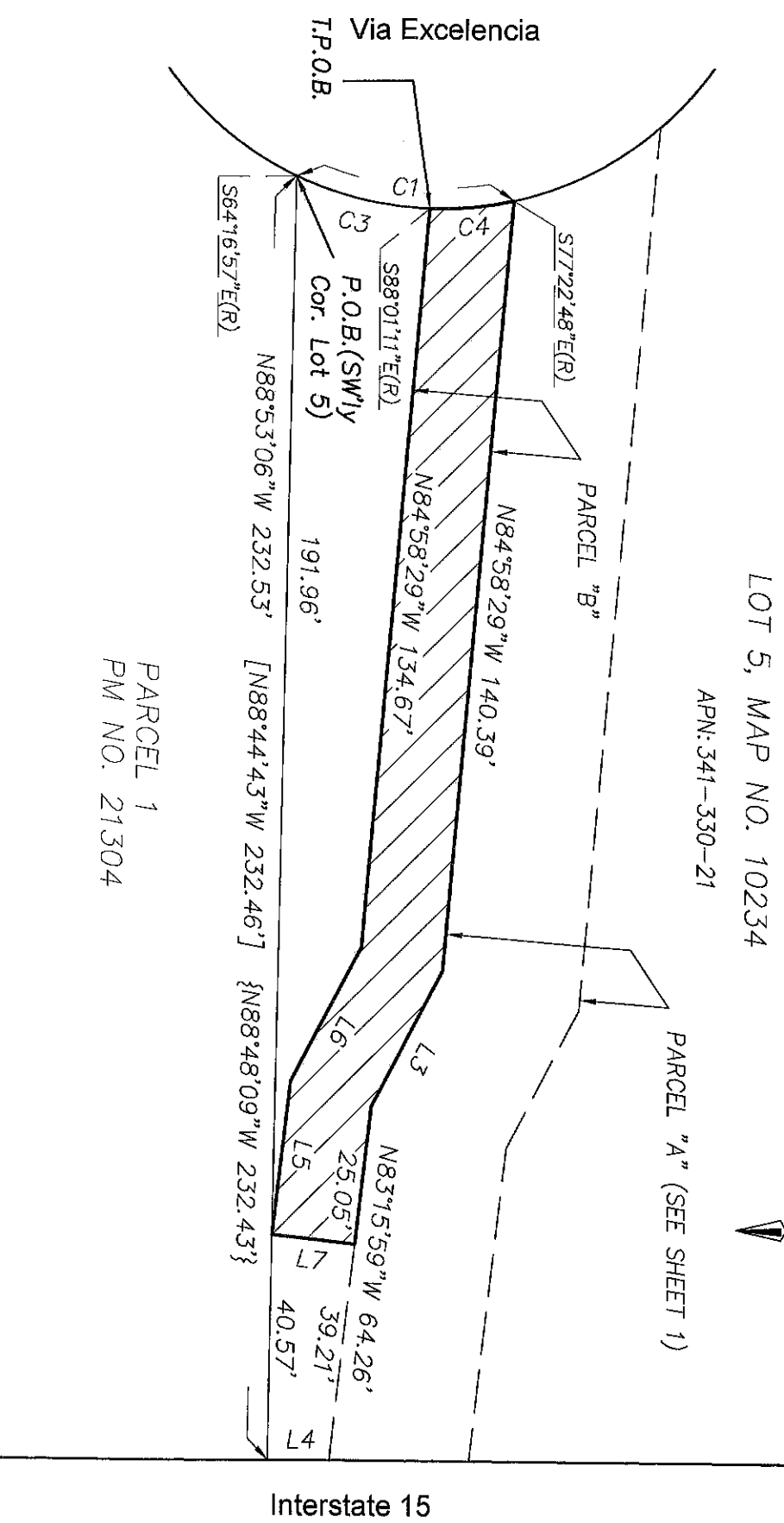
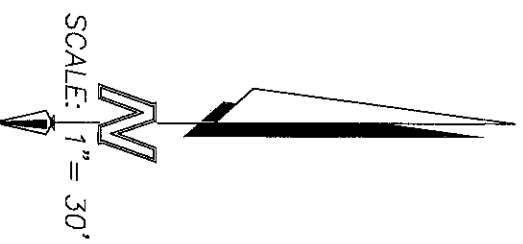
TEMPORARY CONSTRUCTION AREA:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.O.	N/A
ORIGINAL	LMCO				SHEET 3 OF 4 SHEET	P.T.S.	576655
					FOR CITY ENGINEER	DATE	1906-6293
						CCS 83 COORDINATES	266-1733
						LAMBERT COORDINATES	40493-3-B
					STATUS		

EXHIBIT 'B'

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LINE DATA

NO.	BEARING	DISTANCE
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L4	N00°21'12"E	11.09'
L5	N83°15'59"W	27.80'
L6	N62°28'29"W	27.35'
L7	N06°44'01"E	15.00'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C3	60.00'	23°44'14"	24.86'
C4	60.00'	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.O.
ORIGINAL	LMCO			SHEET 4 OF 4 SHEET	N/A
				FOR CITY ENGINEER	P.T.S. 576655
				DATE	1906-6293
					CCS 83 COORDINATES
					266-1733
					LAMBERT COORDINATES
					40493-4-B

COMPLETE STATUS

OFFICIAL BUSINESS
Document entitled to free
Recording per Government
Code Section 6103.

Recording Requested by and
When Recorded Mail to:

Lynn M. Beekman
Office of the City Attorney
1200 Third Ave., Suite 1100
San Diego, CA 92101

DOC# 2019-0408518



Sep 18, 2019 12:03 PM

OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$0.00 (SB2 Atkins: \$0.00)
PCOR: N/A
PAGES: 22

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**ORDER FOR IMMEDIATE POSSESSION OF
PROPERTY PURSUANT TO STIPULATION
WITH EXCELENCIA, LLC**

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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
06/28/2019 at 04:14:00 PM
Clerk of the Superior Court
By Jessica Pascual, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CITY OF SAN DIEGO, a Charter City and
Municipal Corporation,

Plaintiff,

v.

SCRIPPS RANCH TECHNOLOGY PARK,
LLC, a California Limited Liability Company;
EXCELENCIA, LLC, a California Limited
Liability Company; ANTONIA MICHELE
MACFARLANE, as the Trustee of the Antonia
Michele Macfarlane Revocable Trust dated
October 17, 2013; SAN DIEGO UNIFIED
SCHOOL DISTRICT OF SAN DIEGO
COUNTY, a California public school district
organized and existing under the law of the State
of California and DOES 1 through 100, and all
persons unknown claiming an interest in the
property described herein

Defendants.

Case No. 37-2019-00006793-CU-EI-CTL

**[PROPOSED] ORDER FOR
IMMEDIATE POSSESSION OF
PROPERTY PURSUANT TO
STIPULATION WITH EXCELENCIA,
LLC**

[RE: APN 341-330-21]

[IMAGED FILE]

Date: July 19, 2019
Time: 8:30 a.m.
Judge: Ronald L. Styn
Dept.: 74

Action Date: February 5, 2019
Trial Date: Not set yet

Plaintiff City of San Diego (City), by and through its attorney of record, Lynn M.
Beekman of the City Attorney's Office, and defendant Excelencia, LLC (Excelencia), by and
through its attorney of record, James Sandler of Sandler Lasry Laube Byer, executed a
"Stipulation Between Plaintiff, City of San Diego, and Defendant, Excelencia, LLC, For Order
For Immediate Possession Of Property And Withdrawal Of Deposit". A copy of the
"Stipulation" is attached as **Exhibit A** to the "Order For Withdrawal Of Deposit Pursuant To

1 Stipulation" submitted simultaneously herewith. Having read the Stipulation and the pleadings
2 on file herein, the Court hereby finds that:

- 3 1. The City is authorized to, and entitled to, acquire and take possession by eminent
4 domain of the real property interests over Assessor's Parcel Number 341-330-21 as
5 more particularly described in the legal descriptions and plats attached hereto as
6 **Exhibit A**; and,
7 2. there is an overriding need for the City to acquire the real property interests described
8 in **Exhibit A** prior to the issuance of final judgment in this proceeding.

9 IT IS THEREFORE ORDERED that the City is authorized and empowered to take
10 possession of, and use, the real property interests described in **Exhibit A** attached hereto and
11 incorporated by this reference, and to remove from that portion of Assessor's Parcel Number
12 341-330-21 any and all obstacles or improvements of every kind or nature situated thereon
13 effective on the 30th day following the date of service of this Order.

14
15 **IT IS SO ORDERED.**

16
17 Dated: 6/28/19



18 The Honorable Ronald L. Styn
19 JUDGE OF THE SUPERIOR COURT
20 Judge Ronald L. Styn

EXHIBIT A

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

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- (R) INDICATES RADIAL BEARING

APN: 331-330-21

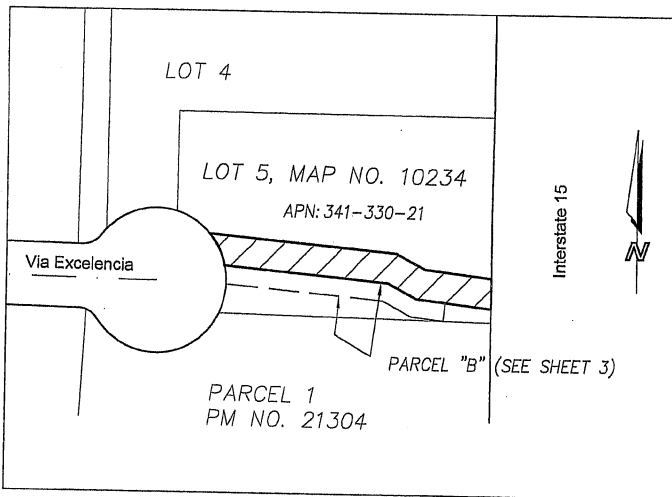
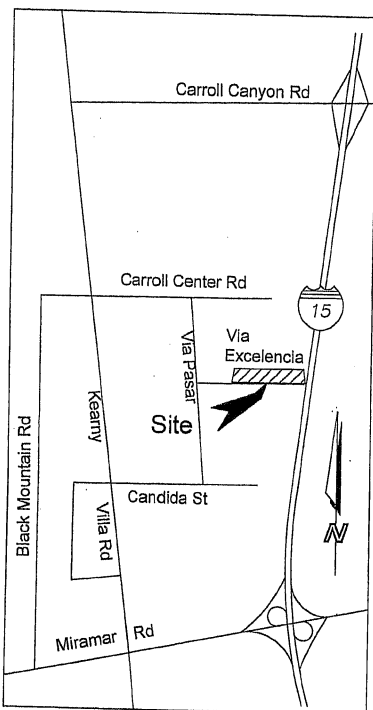
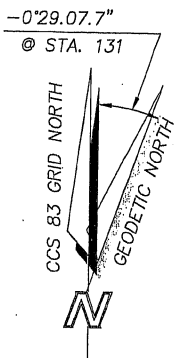
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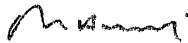
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Vicinity Maps

n.t.s.

LANDMARK CONSULTING
9555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 587-8070


06/28/2018
MARK A. BRENCICK, L.S. 7226 DATE



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


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ORIGINAL	LMCO				SHEET 1 OF 4 SHEET	N/A
					<i>Mark A. Brencick</i> FOR CITY ENGINEER	P.T.S. 576655
					7/6/18 DATE	1906-6293
						CCS 83 COORDINATES
						266-1733
						LAMBERT COORDINATES
						40493-1-B
STATUS						

EXHIBIT 'B'

LEGEND

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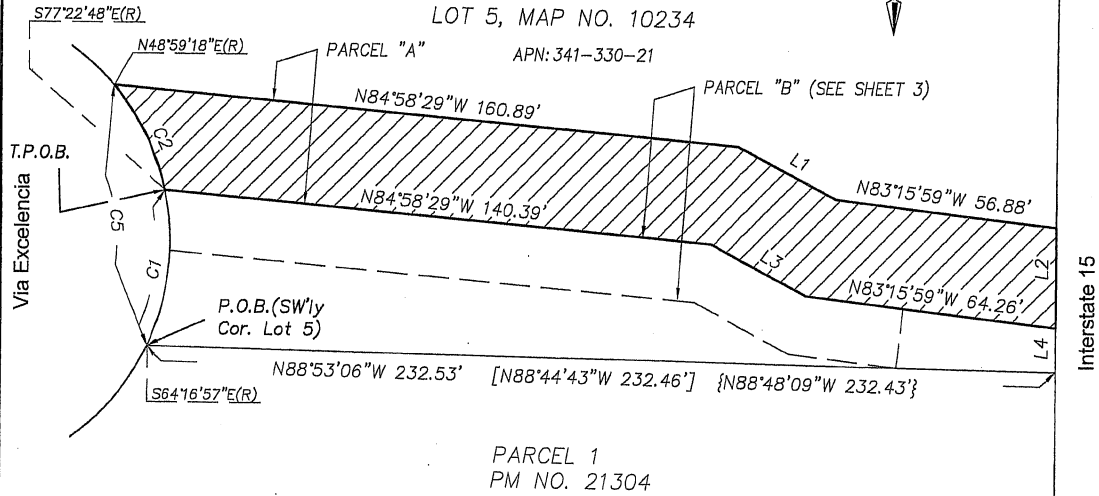
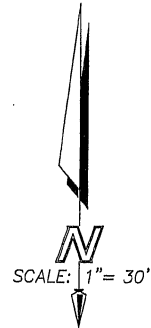
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					<i>[Signature]</i>	576655
					FOR CITY ENGINEER	1906-6293
					DATE	7/6/18
						CCS 83 COORDINATES
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STATUS

EXHIBIT "A"
Temporary Construction Area

APN: 341-330-21

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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

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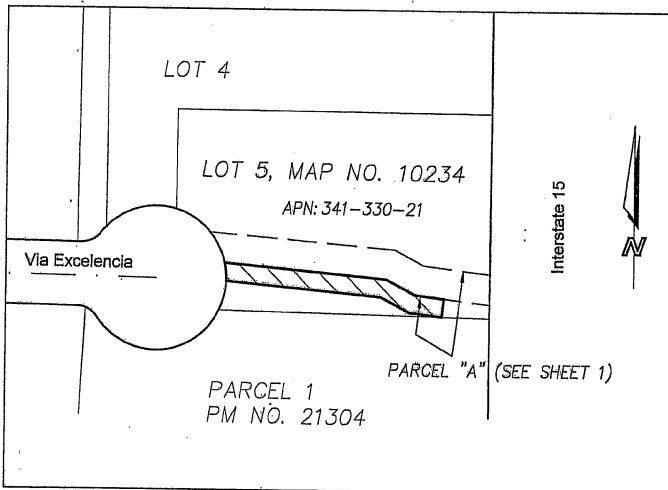
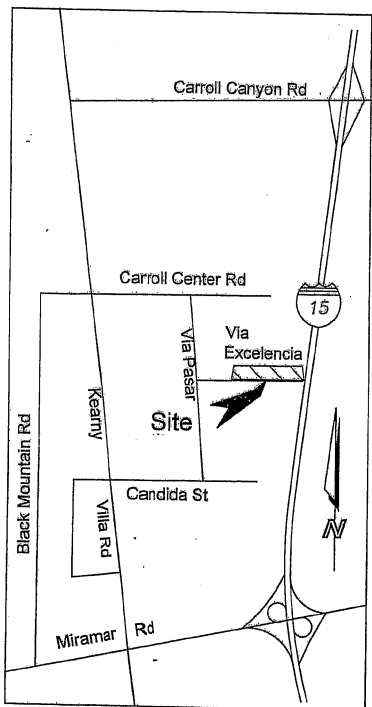
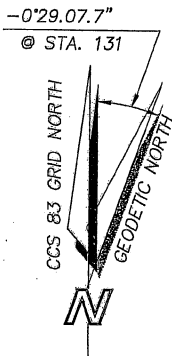
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Mark A. Brencick

06/28/2018

MARK A. BRENCICK, L.S. 7226 DATE




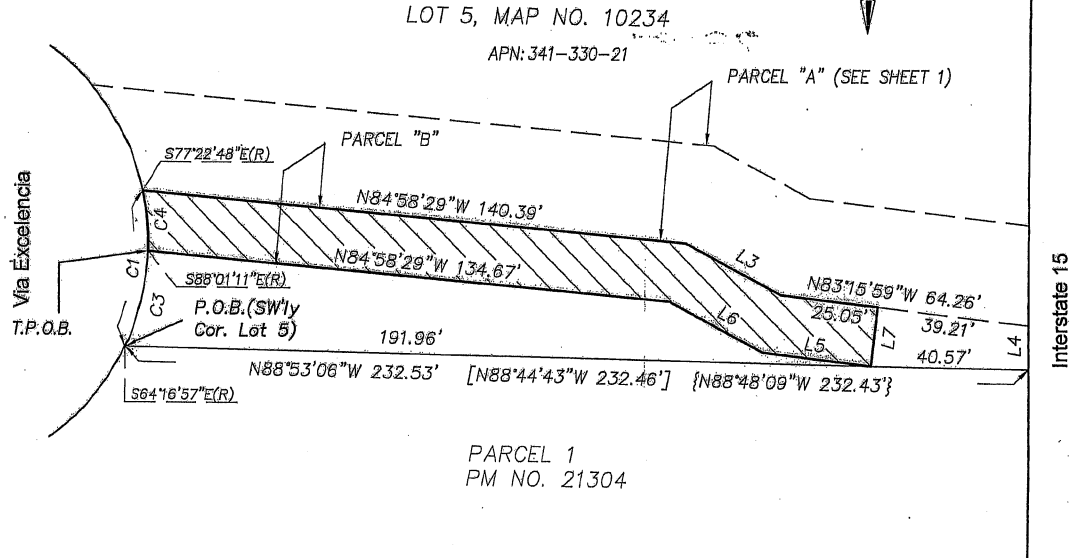
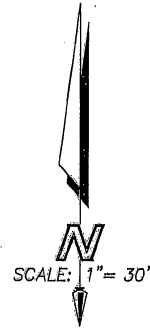
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NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C3	60.00'	23°44'14"	24.86'
C4	60.00'	14°36'00"	15.29'

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

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I. O.
ORIGINAL	LMCO				SHEET # OF 4 SHEET	N/A
					<i>Frank R. Kelly</i>	576655
					FOR CITY ENGINEER	1906-6293
					DATE	7/6/18
						CCS 83 COORDINATES
						266-1733
						LAMBERT COORDINATES
						40493-4-B
STATUS						

EXHIBIT A

EXHIBIT "A" Water Easement

APN: 341-330-21

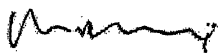
Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

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

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

APN: 331-330-21

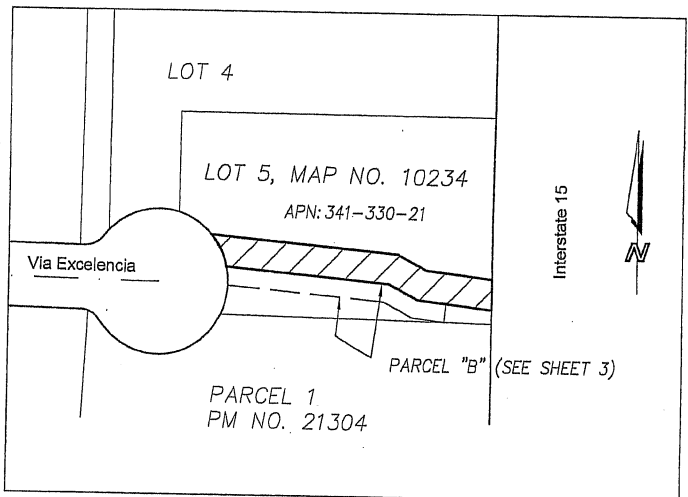
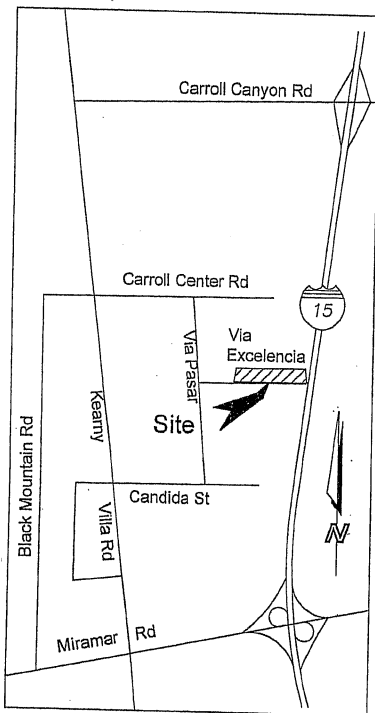
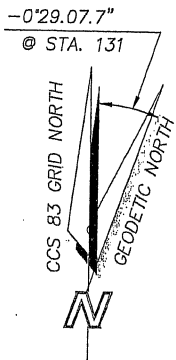
OWNER:
Excelencia LLC, a California limited liability company.

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 14492, I.E. N 51°23'20" E. SAID BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPOCH 1991.35), ZONE 6.

THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999607. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR.

ELEVATION AT STATION 131 IS 455.81' (NGVD29).



Vicinity Maps

n.t.s.

LANDMARK CONSULTING
9555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 587-8070

Mark A. Brencick
06/28/2018
MARK A. BRENCICK, L.S. 7226 DATE



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


DESCRIPTION	BY	APPROVED	DATE	FILMED		
ORIGINAL	LMCO				CITY OF SAN DIEGO, CALIFORNIA	I.O. <u>N/A</u>
					SHEET 1 OF 4 SHEET	P.T.S. <u>576655</u>
					<i>Andrew R. LaPey</i> FOR CITY ENGINEER	<u>7/6/18</u> DATE
						<u>1906-6293</u>
						CCS 83 COORDINATES
						<u>266-1733</u>
						LAMBERT COORDINATES
						<u>40493-1-B</u>
STATUS						

EXHIBIT 'B'

LEGEND

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

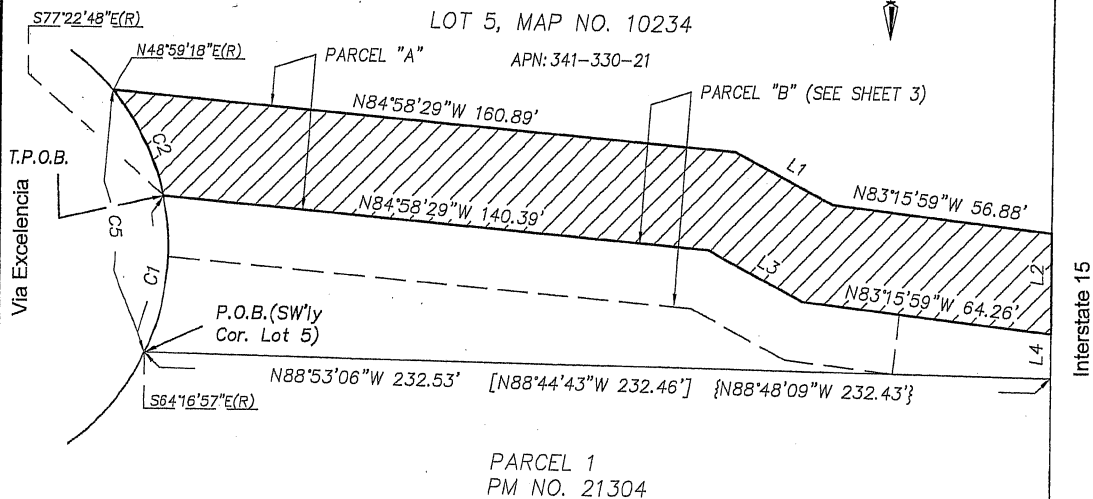
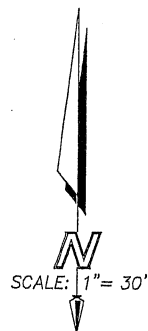
P.O.B. INDICATES POINT OF BEGINNING

 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"	69.88'

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

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I. O.
ORIGINAL	LMCO				SHEET 2 OF 4 SHEET	N/A
					<i>Ford R. Ford</i>	1906-6293
					FOR CITY ENGINEER	DATE 7/6/18
						CCS 83 COORDINATES
						266-1733
						LAMBERT COORDINATES
						40493-2-B
STATUS						

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'

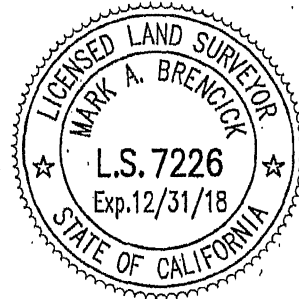
Beginning at the Southwesterly corner of said Lot 5 and the beginning of a nontangent 60.00 foot radius curve concave Westerly with a radial line to said beginning bearing South 64°16'57" East; thence Northerly along the Westerly property line of said Lot 5 and said curve through a central angle of 23°44'14" 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'

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
- (R) INDICATES RADIAL BEARING

APN: 331-330-21

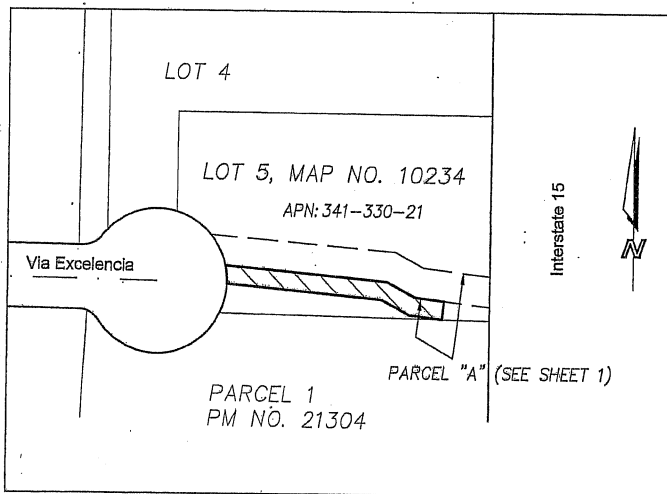
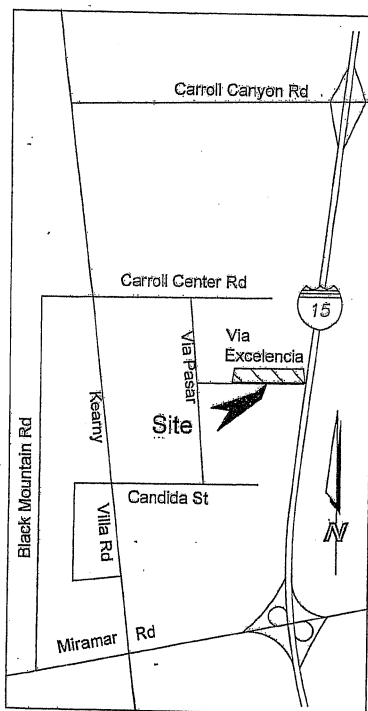
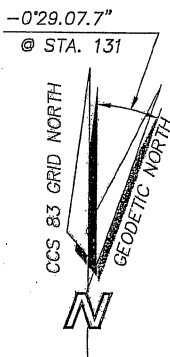
OWNER:
Excelencia LLC, a California limited liability company.

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 14492, I.E. N 51°23'20" E. SAID BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPOCH 1991.35), ZONE 6.

THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999607. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR.

ELEVATION AT STATION 131 IS 455.81' (NGVD29).



Vicinity Maps

n.t.s.

LANDMARK CONSULTING
9555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 587-8070

Mark A. Brencick
06/28/2018
MARK A. BRENCICK, L.S. 7226 DATE




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

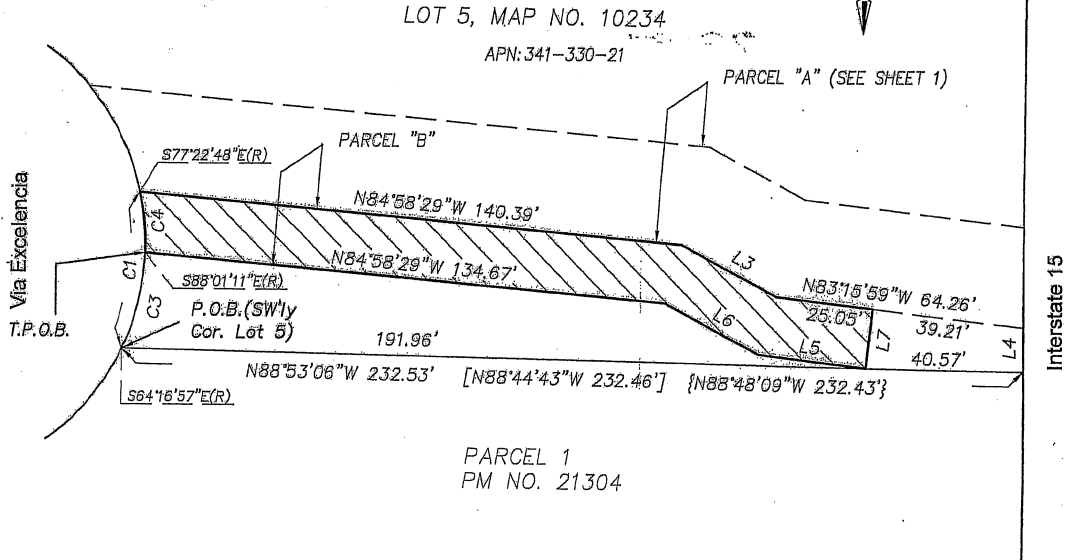
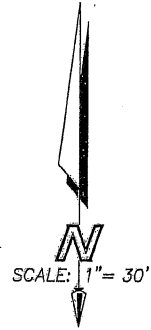
DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	I. O. N/A
ORIGINAL	LMCO				SHEET 3 OF 4 SHEET	P.T.S. 576655
					<i>Mark A. Brencick</i> FOR CITY ENGINEER	1906-6293
					7/4/18 DATE	CCS 83 COORDINATES
						266-1733
						LAMBERT COORDINATES
						40493-3-B

STATUS

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
- (R) 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	N82°28'29"W	27.35'
L7	N06°44'01"E	15.00'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C3	60.00'	23°44'14"	24.86'
C4	60.00'	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.O. N/A
ORIGINAL	LMCO			SHEET 4 OF 4 SHEET	P.T.S. 576655
				<i>T. L. B. to D.</i> FOR CITY ENGINEER	1906-6293
				7/6/18 DATE	CCS 83 COORDINATES
					266-1733
					LAMBERT COORDINATES
					40493-4-B
STATUS					

1 MARA W. ELLIOTT, City Attorney
2 GEORGE F. SCHAEFER, Assistant City Attorney
3 LYNN M. BEEKMAN, Deputy City Attorney
4 California State Bar No. 149325
5 Office of the City Attorney, Civil Division
6 1200 Third Avenue, Suite 1100
7 San Diego, California 92101
8 (619) 533-5800; Fax (619) 533-5856

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
06/28/2019 at 04:14:00 PM
Clerk of the Superior Court
By Jessica Pascual, Deputy Clerk

9 Attorneys for Plaintiff, City of San Diego

10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

11 **DECLARATION OF SERVICE**

12 **Case Name: *City of San Diego v. Scripps Ranch***
Technology Park, et al.
Case No. 37-2019-00006793--CU-EI-CTL
Judge: Ronald L. Styn

13 **[IMAGED FILE]**

14 I, the undersigned declare that I am, and was at the time of service of the papers herein
15 referred to, over the age of eighteen years and not a party to the action; and I am employed in the
16 County of San Diego, California, in which county the within-mentioned service occurred. My
17 business address is 1200 Third Avenue, Suite 1100, San Diego, California, 92101.

18 I served the following document(s):

19 **[PROPOSED] ORDER FOR IMMEDIATE POSSESSION OF PROPERTY**
PURSUANT TO STIPULATION WITH EXCELENCIA, LLC

20 on the following interested parties in this action:

21 James G. Sandler, Esq. 22 SANDLER LASRY LAUBE BYER 23 402 West Broadway, Suite 1700 24 San Diego, CA 92101 25 Tele: (619) 235-5655 26 Fax: (619) 235-5648 27 Email: jsandler@sllbv.com 28 Counsel for Excelencia, LLC	Andra M. Greene, General Counsel Kimberly A. Chapin, Asst. General Counsel, II SAN DIEGO UNIFIED SCHOOL DISTRICT 4100 Normal Street, Room 2148 San Diego, CA 92103 Tele: (619) 725-5630 Fax: (619) 725-5639 Email: agreene@sandi.net kchapin@sandi.net Counsel for San Diego Unified School District
John W. Howard, Esq. Michelle D. Volk, Esq. Andrew Nagurney, Esq. JW Howard/Attorneys 3033 Fifth Avenue, Suite 400	NON-PARTY/ OCCUPANT ON VIA EXCELENCIA LLC PROPERTY Tri-Signal Integration 9682 Via Excelencia Ste 105 San Diego, CA 92126

PROOF OF SERVICE

1 San Diego, CA 92103
2 Tele: (619) 234-2842
3 Fax: (619) 234-1716
4 Email: johnh@whowardattorneys.com
drew@jwhowardattorneys.com
5 *Counsel for Scripps Ranch Technology Park*
6
7 Rhonda J. Holmes, Esq.
8 Holmes Law Group
9 1030 La Bonita Drive, Suite 314
10 San Marcos, CA 92078-5291
11 Tele: (760) 539-7315
12 Email: rholmes@hlgttriallawyers.com
13 *Co-Counsel for Scripps Ranch Technology Park*

Tele: (858) 537-3444
Agent for Service:
ROBERT MCKIBBEN
15853 MONTE STREET
Sylmar, CA 91342
Tele: (818) 581-2718
bob@tri-signal.com
Agreed to Email Service

10 [] **(BY U.S. MAIL)** I served the individual(s) named by placing a true and correct copy
11 of the documents in a sealed envelope and placed it for collection and mailing with the
12 United States Postal Service this same day, at my address shown above, following
13 ordinary business practices. [CCP § 1013(a)]

14 I further declare that I am readily familiar with the business' practice for collection and
15 processing of correspondence for mailing with the United States Postal Service; and
16 that the correspondence shall be deposited with the United States Postal Service this
17 same day in the ordinary course of business.

16 [] **(BY FAX)** On _____, I transmitted the above-described documents by
17 facsimile machine to the fax number(s) set forth above or as stated on the attached
18 service list. The transmission originated from facsimile phone number (619) 533-5856
19 and was reported as complete and without error. The facsimile machine properly
20 issued a transmission report, a copy of which is attached hereto. [CCP § 1013(e); CRC
21 Rule 2008]

20 [] **(BY E-MAIL)** I caused to be served by electronically mailing a true and correct copy
21 through electronic mail system to the e-mail addressee(s) set forth above, or as stated
22 on the attached service list per agreement in accordance with Code of Civil Procedure
23 section 1010.6. [CCP § 1010.6]

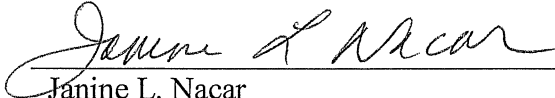
23 **[XX] (BY ELECTRONIC SERVICE)** By submitting an electronic version of the
24 document(s) to One Legal, LLC through the user interface at www.onelegal.com.
25 [CCP § 1010.6]

25 [] **(BY OVERNIGHT DELIVERY)** I served the individual(s) named by placing a true
26 and correct copy of the documents in a sealed envelope(s) to be delivered overnight via
27 an overnight delivery service in lieu of delivery by mail to the addressee(s) listed
28 above, or as stated on the attached service list: [CCP § 1013]

PROOF OF SERVICE

1 [] **(BY PERSONAL SERVICE)** I provided copies to Nationwide Legal for personal
2 service on this date, _____, as to the law office of _____ at the
3 address indicated above. A certificate of service signed by DLS will be filed with the
Court upon request. [CCP § 1011]

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed on this 19th day of **June 2019**, at San Diego, California.

6 
7 Janine L. Nacar
Legal Secretary

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 June 19, 2019, 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 on the date the CITY's construction contractor mobilizes onto the Property ("Commencement Date").
3. This Permit shall be effective upon the Effective Date and shall expire on the date of completion of the Work, as determined by the CITY's Resident Engineer. The Work shall not to exceed twelve (12) months from the Commencement Date without the prior consent of Property Owner.
4. CITY has deposited **\$4,269.00** with the State Treasury's State Condemnation Fund in consideration for this Permit. If the Work exceeds **six (6) months** from the Commencement Date, 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. Property Owner reserves the right to seek greater compensation for the TCA as part of the ongoing eminent domain litigation (City of San Diego v. Excelencia, LLC, San Diego Superior Court Case No. 37-2019-00006793).

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 Commencement Date.
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: June 18, 2019

EXCELENCIA, LLC, a California limited liability company


BY:  _____

Name: Benjamin Handler

Title: Manager

Date: 6/19/19

THE CITY OF SAN DIEGO, a California
municipal corporation

BY: 
CYBELE L. THOMPSON
Director, Real Estate Assets

Approved as to form this 19th day of
June, 2019.

MARA W. ELLIOTT, City Attorney

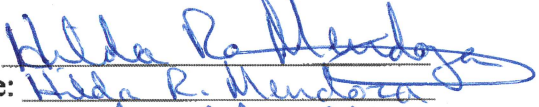
BY: 
Name: Hilda R. Mendez
Title: Deputy City Attorney

EXHIBIT "A"
Temporary Construction Area

APN: 341-330-21

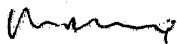
Being a portion of Lot 5 of Miramar Wood, in the City of San Diego, County of San Diego, State of California, according to Map No. 10234, filed in the office of the County Recorder on October 2, 1981, described as follows:

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'

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
- (R) INDICATES RADIAL BEARING

APN: 331-330-21

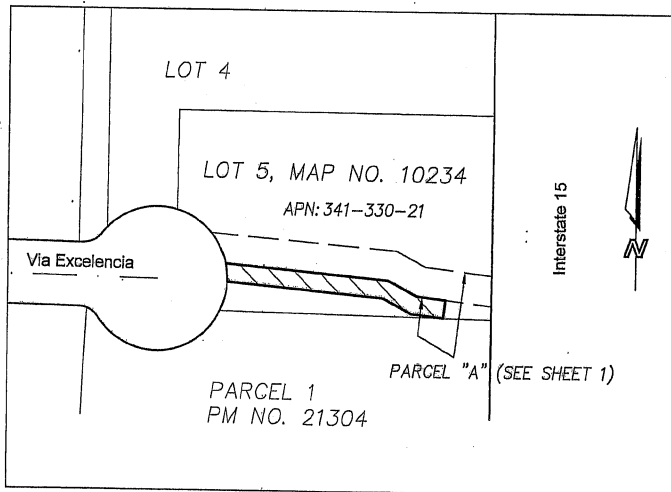
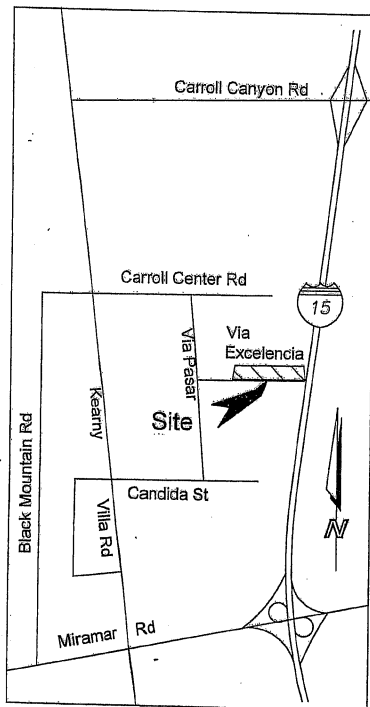
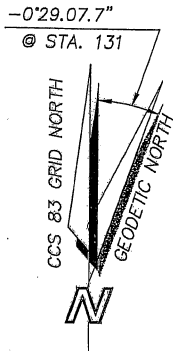
OWNER:
Excelencia LLC, a California limited liability company.

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 14492, I.E. N 51°23'20" E. SAID BEARING IS BASED ON THE CALIFORNIA COORDINATE SYSTEM CCS 83 (EPOCH 1991.35), ZONE 6.

THE COMBINED SCALE FACTOR AT STATION 131 IS 0.9999607. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR.

ELEVATION AT STATION 131 IS 455.81' (NGVD29).



Vicinity Maps

n.t.s.

LANDMARK CONSULTING
9555 GENESEE AVENUE, SUITE 200
SAN DIEGO, CA 92121
(858) 587-8070

Mark A. Brencick
06/28/2018
MARK A. BRENCICK, L.S. 7226 DATE




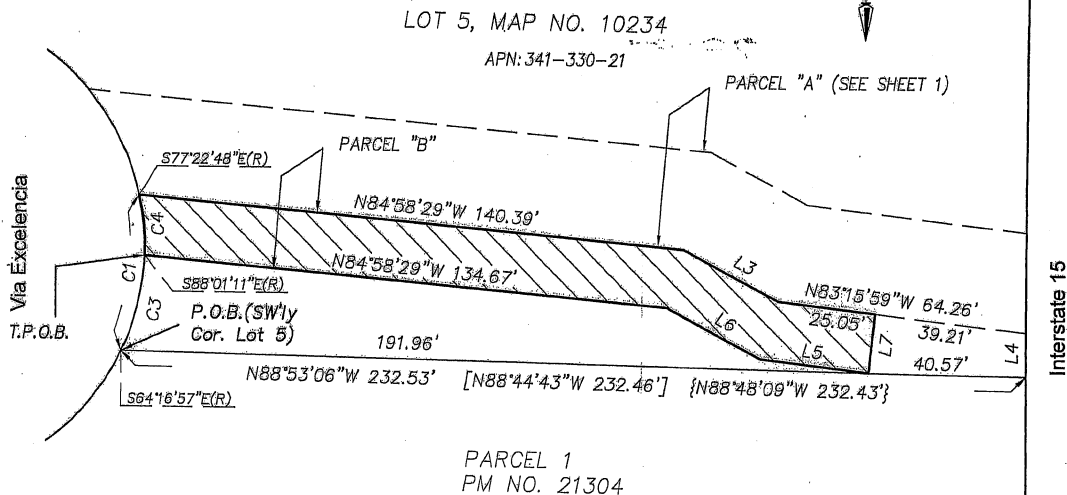
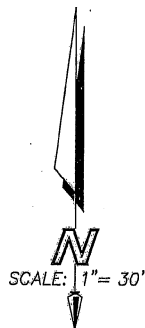
TEMPORARY CONSTRUCTION AREA:
IN LOT 5 OF MIRAMAR WOODS, MAP NO. 10234

DESCRIPTION	BY	APPROVED	DATE	FILMED		
ORIGINAL	LMCO				CITY OF SAN DIEGO, CALIFORNIA	I.O. N/A
					SHEET 3 OF 4 SHEET	P.T.S. 576655
					<i>Mark A. Brencick</i>	1906-6293
					FOR CITY ENGINEER	CCS 83 COORDINATES
					DATE 7/4/18	266-1733
						LAMBERT COORDINATES
						40493-3-B
					STATUS	

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
- (R) INDICATES RADIAL BEARING



LINE DATA

NO.	BEARING	DISTANCE
L3	N62°28'29"W	27.59'
L4	N00°21'12"E	11.09'
L5	N83°15'59"W	27.80'
L6	N62°28'29"W	27.35'
L7	N06°44'01"E	15.00'

CURVE DATA

NO.	RADIUS	DELTA	ARC
C1	60.00'	38°20'14"	40.15'
C3	60.00'	23°44'14"	24.86'
C4	60.00'	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. O.
ORIGINAL	LMCO				SHEET 4 OF 4 SHEET	N/A
					<i>J. L. A. Lopez</i>	P.T.S. 576655
					FOR CITY ENGINEER	1906-8293
					DATE 7/6/18	CCS 83 COORDINATES
						266-1733
						LAMBERT COORDINATES
						40493-4-B
STATUS						