

319

DOC# 2024-0205987



RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City Clerk's Office
City of Escondido
Attn: City Engineer
201 North Broadway
Escondido, California 92025
ATTN: City Engineer With Copy to:

County of San Diego
Department of General Services
Attn: Tom McCabe
5560 Overland Avenue, Suite 410
San Diego, CA 92123

No Fee Document – per Gov't Code §§ 6103, 27383,
and 27288.1 (filing requested by municipality)
No Document Transfer Tax – per R&T Code § 11922

Aug 02, 2024 03:39 PM
OFFICIAL RECORDS
JORDAN Z. MARKS,
SAN DIEGO COUNTY RECORDER
FEES: \$0.00 (SB2 Atkins: \$0.00)
PCOR: N/A
PAGES: 39

APN: 238-380-06-00
County RP# 2024-0002-A
NO TRANSFER TAX DUE
Document Transfer Tax: \$0
Exempt Per R & T Code § 11922

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DRAINAGE EASEMENT AGREEMENT

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DRAINAGE EASEMENT AGREEMENT

APN: 238-380-06-00
County RP# 2024-0002-A

This Drainage Easement Agreement ("Agreement") is entered into as of JUNE 24, 2024 ("Effective Date") by and between the City of Escondido ("CITY") as grantee, and the County of San Diego, a political subdivision of the State of California ("COUNTY") as grantor (collectively the "Parties").

RECITALS

A. COUNTY is the record owner of real property located at 742 Clarence Lane, Escondido, California 92029, designated as Assessor Parcel Number 238-380-06-00, consisting of 52.05 acres, and commonly known as Felicita County Park ("Felicita Park"). Felicita Park and vicinity are depicted in **EXHIBIT "A" FELICITA PARK attached to this Agreement**. Felicita Park contains perennial creeks with natural and developed recreational areas. Felicita Park has seven picnic areas, 1.5 miles of walking trails with foot bridges, two vehicular bridges diverging from Clarence Lane onto parking lots, and playgrounds.

B. CITY seeks to acquire a drainage easement in the northerly most portion of Felicita Park along the west side of Felicita Road just south of Park Drive ("Drainage Easement"). The Drainage Easement area is slightly trapezoidal in shape containing approximately 1,780 square feet. The legal description and a depiction of the Drainage Easement area are set forth in **EXHIBIT "B" DRAINAGE EASEMENT LEGAL DESCRIPTION AND DEPICTION attached to this Agreement**.

The Drainage Easement is for the operation and maintenance of improvements to existing drainage facilities. The drainage improvements consist of a 60-inch diameter reinforced concrete

drainage pipe beneath and across Felicita Road parallel to an existing 72-inch corrugated metal pipe (CMP), and an approximately 13-ft by 19-ft concrete headwall and large boulder rip rap energy dissipater in the easement area west of the pipes (collectively, the drainage “Improvements”).

C. CITY seeks the Drainage Easement in connection with the previously approved Oak Creek Project, and to improve existing drainage in the area. The Oak Creek Project is a 65-residential-unit subdivision project on a tract of land located immediately north across Felicita Road from Felicita Park, known as Tentative Tract No. SUB13-0002 and further depicted on Exhibit “A”. On March 4, 2015, the CITY approved the Oak Creek Project through Resolution No. 2015-27, which included approval of the Tentative Map and certification of an Environmental Impact Report (“EIR”) for the subdivision. Pursuant to, and as depicted on, the Tentative Map, and as a condition of the subdivision’s approval, the subdivider is required to make the drainage Improvements on COUNTY property. These requirements implement a 1995 Drainage Master Plan for the City of Escondido (“DMP”), which recommended the addition of a drainage pipe parallel to the existing pipe in order to deliver drainage to Felicita Creek efficiently.

D. The EIR for the Oak Creek Project included an analysis of the potential impacts of the drainage Improvements. According to the Oak Creek Project EIR, under existing flow patterns, some of the surface water runoff leaving the Oak Creek site at Felicita Road is conveyed through the existing culvert crossing under Felicita Road, while the balance overtops Felicita Road and heads southerly along Felicita Road toward its intersection with Miller Avenue. Felicita Road begins to super-elevate along this reach, which results in the overtopping flow crossing Felicita Road and entering Felicita Park. The runoff from the culvert crossing and overtopping commingles by the time it reaches the central portion of Felicita Park and continues to flow through the downstream portion of Felicita Park toward Via Rancho Parkway. The EIR found that the Improvements to the culvert crossing at Felicita Road would reduce the amount of overtopping flow and increase the amount conveyed through the culvert crossing. The environmental analysis showed no adverse impacts to Felicita Park.

E. The COUNTY hired Rick Engineering to prepare a Limited Preliminary Engineering Report for Felicita County Park, dated June 10, 2022 (“PER”). As stated in the PER, the existing storm drain infrastructure consists of the 72-inch CMP culvert beneath Felicita Road. Also, downstream within Felicita Park is an existing 6-ft (wide) x 5-ft (tall) RCB culvert and an existing 84-inch CMP culvert (“Existing Drainage Improvements”).

As stated in the PER, Felicita Park is subject to flooding in the before condition. The flood condition at Felicita Park before installation of the drainage Improvements is shown in the “No-Build Alternative (Existing Condition)” in the PER. Under this condition, all three (3) culverts overtop and do not have adequate capacity to convey the 100-year peak flow. In addition, the PER states that in the before condition, the existing park pedestrian crossings will be overtopped during a 100-year storm event; the existing park culverts will continue to be overtopped during events equal to or greater than approximately a 5-year storm event; and some recreational amenities, such as the trail northwest of the park entrance road, will be inundated during a 5-year storm event.

The PER, under Alternative 1 – No Park Improvements, shows that installation of the Improvements would convey the 100-year peak storm water flows through the existing 72-inch and proposed 60-inch Felicita Road culverts without any overtopping of Felicita Road. The PER further shows that the Improvements would increase the peak flow within the creek through Felicita Park, which could lead to additional erosion, sedimentation and scouring. According to the PER, with the Improvements, the existing park pedestrian crossings will be overtopped during a 50-year storm event; the existing park culverts will be overtopped during events equal to or greater than approximately a 2-year storm event; and some recreational amenities, such as the trail northwest of the park entrance road, will be inundated during a 2-year storm event. The PER also notes that the Improvements would result in less frequent inundation at the intersection of Felicita Road and Park Drive.

F. As also stated in the PER hydrology report: The existing hydraulic models for Felicita Park begins immediately upstream of the existing 72-inch Felicita Road culvert in the Oak Creek and extends downstream of this culvert through Felicita Park as it meanders to a 6' wide by 5' tall RCB culvert under park road and the parking areas. Downstream of the 6' x 5' RCB culvert is a grouted riprap lined trapezoidal channel before a western tributary confluence with the Oak Creek. After the confluence, Oak Creek flows further south to an access road that includes an existing 84" CMP culvert. Downstream of this culvert, Oak Creek continues further south before accepting an eastern tributary that starts just south of the Felicita Road culvert. This eastern tributary collects runoff from the eastern portion of Felicita Park and the overtopped split flow from the Felicita Road culvert. This overflow runs south over the pickle ball court area, grass fields and across the only public driveway at Clarence Lane before its confluence with the Oak Creek. Downstream of this confluence, Oak Creek runs further south as it leaves the park limits and this marks the end of the hydraulic model limit.

G. On December 1, 2021, CITY adopted Resolution No. 2021-174R, declaring that the public interest and necessity require the acquisition, by eminent domain proceedings, of the Drainage Easement to construct the proposed drainage Improvements. Prior to adopting the Resolution, the CITY obtained an appraisal report for the Drainage Easement with Improvements in Felicita Park, dated August 17, 2021. The appraisal report states that the Improvements will allow a greater volume of water to flow under Felicita Road, and assumes that placement of the Drainage Easement and construction of the Improvements will not adversely impact Felicita Park. The appraisal report states that the fair market value for the Drainage Easement is one thousand, four hundred fifty dollars (\$1,450.00). The appraisal report also concludes that there will be no additional damages or “permanent severance damages” to Felicita Park due to the Drainage Easement.

H. On or about April 12, 2022, CITY filed an eminent domain proceeding to acquire the Drainage Easement entitled *City of Escondido v. County of San Diego* in San Diego County Superior Court, Case No. 37-2022-00013777-CU-EI-NC (“Eminent Domain Action”).

I. On or about September 26, 2022, the Court signed an order granting the CITY prejudgment possession of the Drainage Easement and on or around September 18, 2023,

construction began on the drainage Improvements with notice to the COUNTY. The Improvements were completed by CITY in December 2023.

J. The Parties now desire to resolve the Eminent Domain Action through the acquisition of this Drainage Easement by CITY and the payment of compensation to the COUNTY on the terms set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for valuable consideration, the receipt and sufficiency of which are acknowledged by both parties hereto, COUNTY and CITY hereby agree as follows:

1. Grant of Drainage Easement. Subject to the conditions and limitations herein contained, as of the Effective Date, COUNTY hereby declares, grants and conveys to CITY a Drainage Easement upon, under, over and across the COUNTY property. The Drainage Easement is granted to CITY for the sole and exclusive purpose for the right to maintain and repair the drainage Improvements. No building or other permanent structure or obstruction shall be permitted or maintained in the easement area that interferes with the uses of the Drainage Easement granted herein for the purposes provided herein.
2. Compliance with Laws. CITY and its contractors and subcontractors shall use and maintain the Improvements and Drainage Easement area in compliance with all applicable laws, statutes, ordinances, rules and regulations promulgated by the COUNTY and all other governmental authorities having jurisdiction over the COUNTY property, including but not limited to the requirements of the County Code of Regulatory Ordinances, the Escondido Municipal Code, the Subdivision Map Act of the State of California, as well as applicable requirements with respect to drainage, erosion control, storm water pollution prevention, and the National Pollution Discharge Elimination System and Storm Water Pollution Prevention Plans, if applicable.
 - a. CITY shall comply with all applicable mitigation measures identified in the Oak Creek Project Final EIR, including Cul-1, which requires a mitigation monitoring program to address potential impacts to undiscovered buried archaeological resources off site of the Oak Creek Project.
 - b. CITY and its contractors and subcontractors shall comply with the reasonable regulations, requirements and recommendations of any insurance underwriter of COUNTY, inspection bureau, resource agency, or similar agency, pertaining to the Drainage Easement area; provided that such regulations, requirements and recommendations are furnished in writing by COUNTY to CITY.
 - c. CITY shall be solely responsible for any and all administrative, civil, and/or criminal penalties assessed as a result of its failure to comply with any applicable rules, regulations, restrictions, ordinances, statutes, laws, orders, directives and/or conditions related to the use of the Drainage Easement as provided for in this Drainage Easement Agreement.

3. Maintenance Obligations of CITY. From the Effective Date until such time as this Agreement and the easement granted hereunder terminate, CITY shall be responsible, at its sole cost and expense, for maintaining the Drainage Easement surface areas, and the drainage Improvements, in good order, condition and repair and in compliance with all applicable laws and regulations. Any maintenance shall be carried out in a good and workmanlike manner according to the industry standards, by qualified and licensed contractors and subcontractors, and in compliance with all approved plans, permits, and conditions, including the Improvement Plans For: Felicita Road, Hamilton Lane & Miller Avenue (P18-0010) approved by the City Engineer on March 3, 2021. CITY and its contractors and subcontractors shall be solely responsible for the transportation, safekeeping and storage of materials and equipment used in the exercise of the easement rights granted herein, for the removal of waste and debris resulting therefrom, and for the prompt repair of any damage caused by CITY, its contractors and subcontractors.
4. Encumbrances. The Drainage Easement is granted subject to all covenants, conditions, restrictions, encumbrances, rights-of-way and easements of record as of the date of recording.
5. Dismissal of Eminent Domain Action. Upon the execution and recordation of this Drainage Easement, the CITY shall dismiss the Eminent Domain Action with prejudice. Each Party shall be responsible for all of their own costs, litigation expenses, and attorney fees incurred in the Eminent Domain Action.
6. Payment. CITY shall pay COUNTY the total sum of one thousand, four hundred fifty dollars (\$1,450.00) for the acquisition and use of this Drainage Easement ("Payment"). Payment of said amount is inclusive of all interest, costs, attorneys' fees, and Litigation Expenses incurred by the County in the Eminent Domain Action. The Payment, and CITY's agreement to the terms and conditions herein, constitutes the full and final payment for the acquisition of the Drainage Easement. The Parties will file a stipulation for release to COUNTY of the Payment funds held by the State Treasurer's Office in the Condemnation Deposits Fund following execution of this Agreement and said funds shall be paid to the COUNTY.
7. Release of Eminent Domain Claims. Except as set forth in this Agreement, the Parties hereby release all issues, claims and disputes, defenses, and/or allegations asserted in the Eminent Domain Action or which could have been raised in the Eminent Domain Action. The Parties have denied, and continue to deny, any wrongdoing in connection with the actions or inactions alleged in the Eminent Domain Action. Neither this Drainage Easement nor any action taken pursuant to this Drainage Easement shall constitute any admission of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Parties, or any admission by and of the Parties of any claim or allegations made in any action against such party, subject to Section 8 below.
8. Indemnification. CITY shall defend, indemnify, and hold harmless COUNTY, and its Board of Supervisors, officers, directors, employees, and authorized agents and representatives (collectively, "Indemnitees") from and against any and all damages,

liabilities, losses, claims, demands, causes of action, liens, costs and expenses (collectively, "Claims"), that COUNTY may sustain, incur or become liable for, resulting in any manner from the granting of the Drainage Easement or the maintenance, use, state of repair or presence of the drainage Improvements and all necessary and proper fixtures and equipment for use in connection with the drainage Improvements, or CITY's and any of its authorized agents' entry and activities on the Drainage Easement area or Felicita Park property in any way related to this Agreement or the drainage Improvements, including any Claims arising out of or related to: (a) damage substantially caused to the remainder of Felicita Park by the drainage Improvements; (b) the violation of any local, state or federal law, regulation or code by CITY or any of its authorized agents in connection with the Drainage Easement; and (c) any alleged failure to comply with the California Environmental Quality Act ("CEQA"). However, notwithstanding the foregoing, CITY shall have no obligation to defend or indemnify Indemnitees from a Claim to the extent it is determined by a court of competent jurisdiction that the Claim was caused by the sole negligence or willful misconduct of any of the Indemnitees. The following provisions apply to this Section 8:

- a) CITY would be entitled to offer evidence of benefits, as defined by Section 1263.430 of the Code of Civil Procedure, to Felicita Park caused by the Improvements in the manner proposed. The compensation to COUNTY for damage, if any, to the remainder of Felicita Park shall be reduced by the amount of benefit to the remainder and to other County facilities, including Felicita Road.
- b) The Parties agree that Felicita Park was subject to flooding in the before condition and that the flood condition at Felicita Park before installation of the drainage Improvements ("Baseline") is as provided by in the modeling for the "No-Build Alternative (Existing Condition)" as contemplated by RICK Engineering's June 10, 2022 Limited Preliminary Engineering Report for Felicita County Park and that any COUNTY claim for flood damage will be limited to those damages attributable to the Improvements and in excess of the Baseline.
- c) Any Claim or other dispute, question or disagreement arising from or relating to the Drainage Easement shall be handled subject to the following Dispute Resolution Process. Representatives from each Party shall meet and use reasonable efforts to settle any Claim or dispute. To that end, the Parties' representatives shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to the Parties. If the Parties do not reach such a solution within a period of thirty (30) days after the first notice of the Claim is received by the non-disputing Parties, then the Parties shall pursue non-binding mediation to be completed within one-hundred twenty (120) days after the notice of the Claim is received by the non-disputing Parties. If the Parties do not settle the Claim within the one-hundred twenty (120) day period, any Party may pursue any and all available legal and equitable remedies. The Parties agree to bear their own attorney's fees, and any award of litigation expenses and costs would be governed by eminent domain law.

9. Entire Agreement. This Agreement and any exhibits attached to this Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by all parties to this Agreement, which is recorded in the County Recorder's office. This Agreement and any exhibits attached to this Agreement constitutes the entire agreement between the Parties with respect to the matters set forth herein and supersedes all prior negotiations, discussions, writings and agreements between them in connection therewith.
10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
11. Captions. The paragraph or section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
12. Notice. All notices, claims, demands, approvals, or consents provided for in this Agreement shall be in writing and shall be deemed given: (a) upon delivery if delivered by E-Mail, provided such delivery is evidenced by electronic confirmation of delivery to the noticed party; (b) as of the first business day after delivery to an overnight delivery service; or (c) as of the second business day after mailing by U.S. mail, postage paid, by certified or registered mail, return receipt requested, correctly addressed to the Parties as follows:

If to COUNTY: County of San Diego
Department of Parks & Recreation
Attention: Crystal Benham, Chief, Resource Management
Division
5500 Overland Avenue, Suite 410
San Diego, CA 92123
Crystal.Benham@sdcounty.ca.gov

With a copy to: County of San Diego
Office of County Counsel
Attention: Michael P. Masterson, Senior Deputy
1600 Pacific Highway, Room 355
San Diego, CA 92101
michael.masterson@sdcounty.ca.gov

If to CITY: City of Escondido
City Attorney's Office
Attention: Michael R. McGuinness
201 North Broadway
Escondido, CA 92025
mmcguinness@escondido.org

With a copy to: Best Best & Krieger
Attention: James Gilpin
655 West Broadway, 15th Floor
San Diego, CA 92101
James.Gilpin@bbklaw.com

or to such other address or person as a Party may designate to the other from time to time in the manner set forth herein.

13. Governing Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California and any applicable federal laws and regulations.
14. Recitals and Exhibits. All recitals and exhibits referred to herein and attached hereto shall be deemed part of this Agreement as though fully set forth herein.
15. No Partnership or Third-Party Beneficiary. This Agreement and any further documents or actions executed by the Parties in connection with this Agreement shall not create nor be deemed under any circumstances to create any joint venture or partnership between the Parties. This Agreement is made solely for the benefit of the Parties to this Agreement, and no other person or entity shall have or acquire any rights or remedies under this Agreement.
16. No Waiver. The waiver by one party of the performance of any term, provision, covenant or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by the party of any other term, provision, covenant or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent the party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
17. Further Assurances. Each Party agrees to execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes of this Agreement.
18. Severability. If any term, provision or condition of this Agreement is held to be invalid or unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
19. Authority. The Parties represent that they have the legal power, right, and authority to enter into this Agreement and consummate the transaction(s) contemplated hereby. By signing below, the undersigned represents, warrants, and certifies that the person is

authorized to execute this Agreement and is taking this action with full authority from the principal.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK
THE SIGNATURES ARE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the COUNTY and CITY have executed this Easement Agreement as of the day and year first above written.

GRANTOR:

County of San Diego

By: Carrie Ellen Hoff
Name: Carrie Hoff, Deputy Director
For: Marko Medved, P.E., CEM
Title: Director, Department of General Services

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO ss.

On MAY 13TH, 2024 before me, Thomas J. McCabe,
Deputy County Clerk of the County of San Diego, personally appeared
CARRIE ELLEN HOFF, who proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

JORDAN Z. MARKS
RECORDER/COUNTY CLERK

Signature [Signature]
Deputy County Clerk



GRANTEE:

CITY OF ESCONDIDO

By: Sean McGlynn
Name: _____
Title: City Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO ss.

On JUNE 24, 2024 before me, SARAH JIMENEZ, NOTARY PUBLIC personally appeared SEAN MCGLYNN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

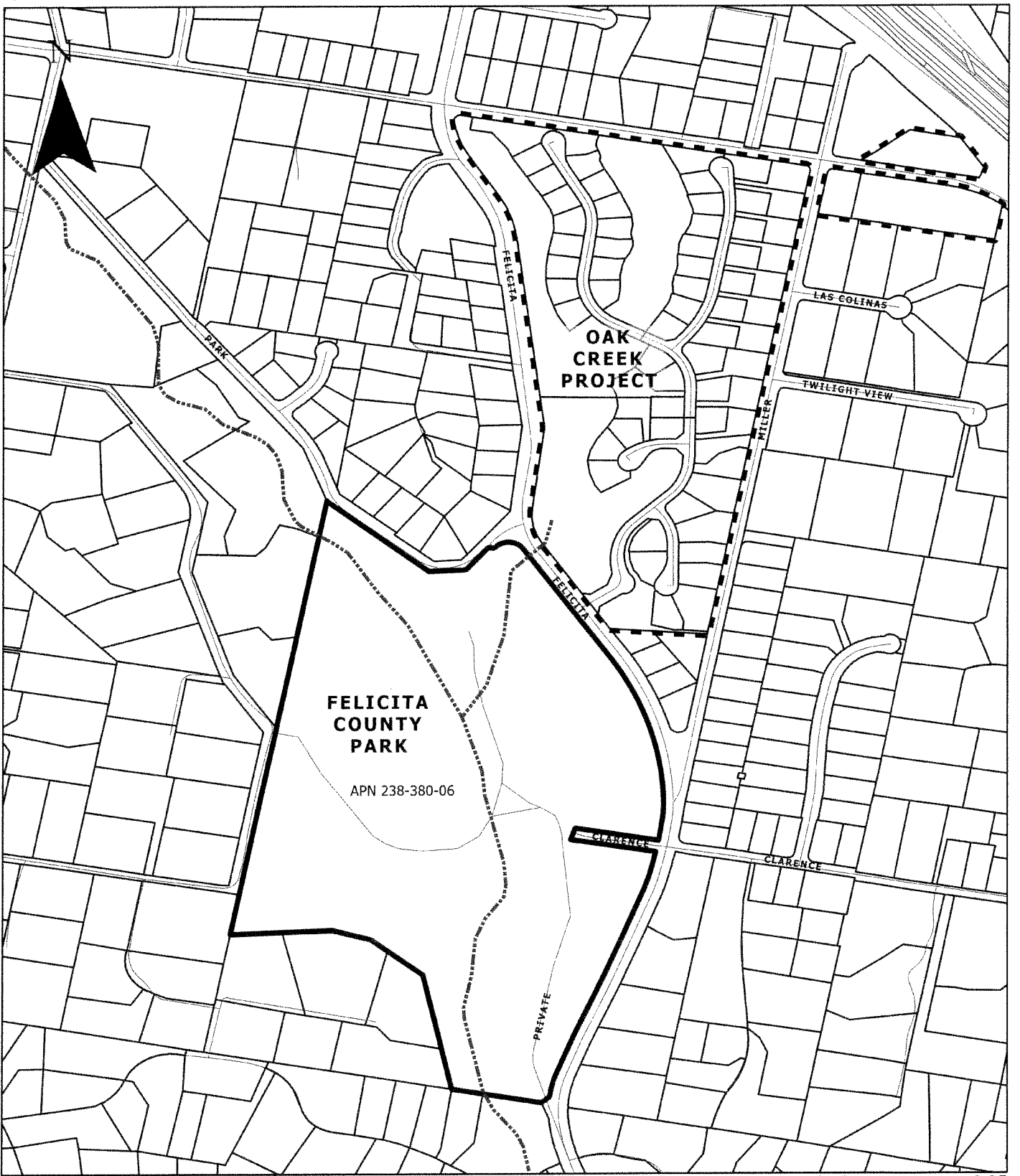
Signature Sarah Jimenez

My commission expires: JULY 30, 2027



EXHIBIT A

Felicita Park



- Legend**
- Felicita Creek
 - ▭ Felicita County Park
 - ▭ Oak Creek Project

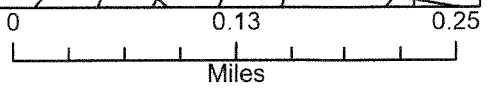


EXHIBIT B

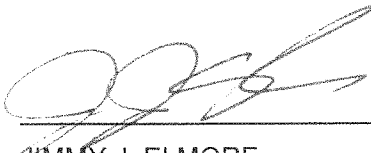
Drainage Easement Legal Description and Depiction

**EASEMENT
LEGAL DESCRIPTION**

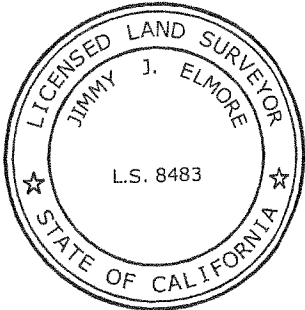
THAT PORTION OF LOT 1, BLOCK 9 OF HOMELAND ACRES ADDITION TO ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1205 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY SEPTEMBER 1, 1909, SHOWN ON RECORD OF SURVEY NO. 21003 FILED IN THE OFFICE OF SAID COUNTY RECORDER JUNE 11, 2011, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

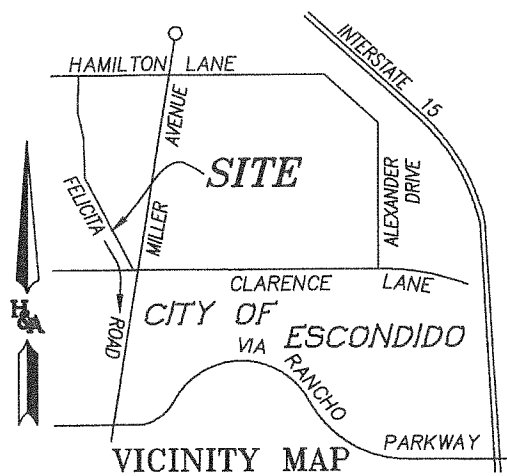
BEGINNING AT A POINT ON THE WESTERLY LINE OF FELICITA ROAD AS SHOWN ON SAID RECORD OF SURVEY NO. 21003, SAID POINT BEING THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE BEARING NORTH 31°28'10" WEST, 587.57 FEET; THENCE ALONG SAID WESTERLY LINE SOUTH 31°26'57" EAST, 28.02 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 66°00'48" WEST, 44.80 FEET; THENCE NORTH 36°54'31" WEST, 33.87 FEET; THENCE NORTH 53°05'29" EAST, 46.03 FEET TO A POINT ON SAID WESTERLY LINE, BEING A POINT ON A NON-TANGENT 70.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 45°25'47" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°07'16", A DISTANCE OF 16.03 FEET TO THE **POINT OF BEGINNING**.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 1,780 SQUARE FEET, MORE OR LESS.


5-6-2024

JIMMY J. ELMORE P.L.S. 8483
HUNSAKER & ASSOCIATES SAN DIEGO, INC.

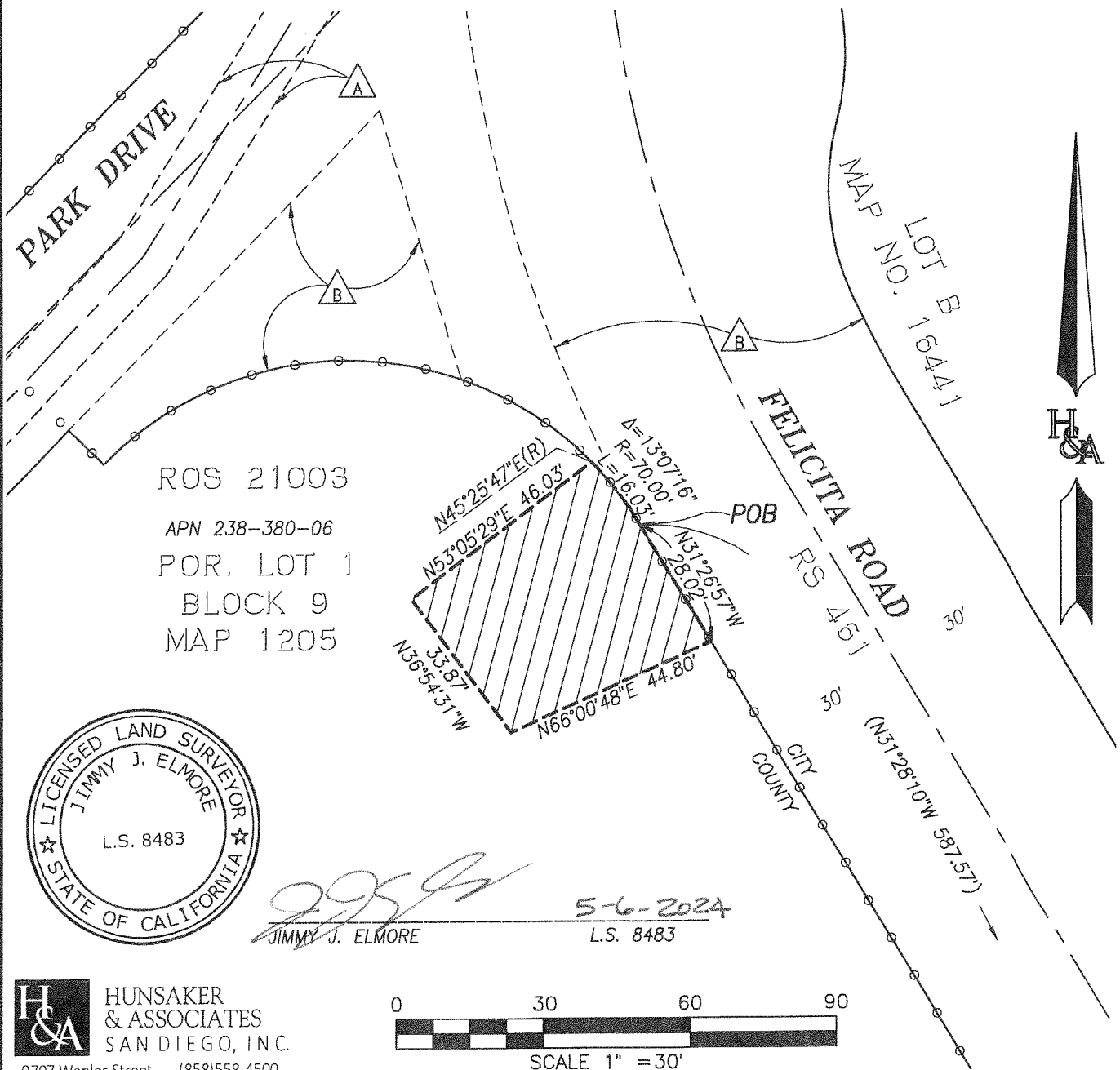




VICINITY MAP
NOT TO SCALE

LEGEND

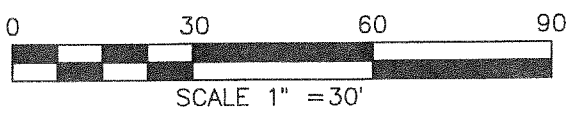
- EASEMENT AREA = 1,780 S.F.
- POB** POINT OF BEGINNING
- CITY/COUNTY LIMITS
- () RECORD INFORMATION PER ROS 21003
- EASEMENT TO SDG&E FOR LINE OF POLES REC. 6/28/1960 AS DOC. NO. 131203, O.R.
- EASEMENT TO COUNTY OF SAN DIEGO FOR ROAD PURPOSES REC. 7/6/1956, IN BOOK 6169, PAGE 194, O.R.



ROS 21003
APN 238-380-06
POR. LOT 1
BLOCK 9
MAP 1205



Jimmy J. Elmore
JIMMY J. ELMORE
5-6-2024
L.S. 8483



H&A
HUNSAKER
& ASSOCIATES
SAN DIEGO, INC.
9707 Waples Street (858)558-4500
San Diego, CA 92121

CITY OF ESCONDIDO

CERTIFICATE OF ACCEPTANCE

This Certificate of Acceptance pertains to the interests in real property conveyed by the DRAINAGE EASEMENT AGREEMENT, dated 6/24/24, to which this Certificate of Acceptance is attached.

from: **THE COUNTY OF SAN DIEGO ("Grantor")**

to: **THE CITY OF ESCONDIDO ("Grantee")**


Said Grant of Easements is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee's governing board on 6/19/24, and Grantee hereby consents to recordation of said Grant of Easement.

Dated: 7/15/24, 2024

CITY OF ESCONDIDO

By: 

ATTEST:


Zack Beck

City Clerk

RESOLUTION NO. 2024-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, GRANTING THE CITY MANAGER AUTHORITY TO EXECUTE THE CERTIFICATE OF ACCEPTANCE OF A DRAINAGE EASEMENT AGREEMENT RELATED TO APN 238-380-06-00 AND RELATED DOCUMENTS

WHEREAS, on December 1, 2021, the City Council of the City of Escondido approved and adopted Resolution No. 2021-174R declaring the public interest and necessity required for the acquisition, by eminent domain proceedings, of a drainage easement on a portion of Felicita Park along the west side of Felicita Road whose record owner is the County of San Diego ("County"), a political subdivision of the State of California, to construct certain proposed drainage improvements ("Drainage Easement"); and

WHEREAS, the Drainage Easement sought was slightly trapezoidal in shape containing approximately 1,780 square feet and is for the operation and maintenance of improvements to existing drainage facilities, including a 60-inch diameter reinforced concrete drainage pipe beneath and across Felicita Road parallel to an existing 72-inch corrugated metal pipe, and an approximately 13-foot by 19-foot concrete headwall and large boulder rip rap energy dissipater in the easement area west of the pipes; and

WHEREAS, on or about April 12, 2022, the City of Escondido ("City") filed an eminent domain action to acquire the Drainage Easement entitled *City of Escondido v. County of San Diego*, in San Diego Superior Court Case No. 37-2022-00013777-CU-EI-NC ("Lawsuit"); and

WHEREAS, the City and the County, the Parties to the Lawsuit, have resolved the allegations and defenses in the case and have agreed to execute a Drainage Easement Agreement ("Agreement") whereby the County would convey to the City a Drainage Easement upon, under, over and across the County's property for the sole and exclusive purpose to maintain and repair the drainage improvements

contemplated under the Agreement. In exchange for that conveyance, the City has certain responsibilities and duties related to the improvements and easement area that are specified in the Agreement; and

WHEREAS, attached as Exhibit "A" to the Agreement ("Agreement Exhibit A") is a map reflecting the location of Felicita Park in relation to the project giving rise for the need for the drainage improvements and Drainage Easement which is the County's real property designated as Assessor Parcel Number 238-380-06-00 and attached as Exhibit "B" to the Agreement ("Agreement Exhibit B"), and made a part thereof, is the Drainage Easement legal description and depiction affecting that property; and

WHEREAS, the City Council in closed session on May 22, 2024, approved the resolution of the Lawsuit to include the execution of the Agreement and all exhibits thereto, including its recording with the San Diego County Recorder's Office ("Recorder's Office") and consents to the recording of the easement and further authorizes the City Manager to execute a Certificate of Acceptance in any form required by the Recorder's Office or state law, including but not limited to Government Code § 27281, to perfect the provisions of the Agreement, Drainage Easement and the intent of the Parties to resolve the Lawsuit.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Escondido, California, as follows:

1. The above recitations are true and are incorporated herein as though fully set forth.
2. That the City Council of the City of Escondido hereby agrees, accepts and consents to the recordation of the Drainage Easement Agreement, a copy of which is attached to this Resolution as Exhibit "A."
3. That the City Council of the City of Escondido hereby grants the City Manager authority to execute Exhibit "B" attached to this Resolution and/or any other documents as may be required by

state law or the Recorder's Office to perfect and record the Drainage Easement Agreement and such other documents required to comply with the settlement terms for the Lawsuit or as required by the County of San Diego and Recorder Office.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof the 19th day of JUNE, 2024 by the following vote to wit:

AYE : Councilmembers: GARCIA, GARCIA, MARTINEZ, MORASCO, WHITE

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Dane White
19FFE5DB8C3B409...
DANE WHITE, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
A58535D0BDC1430...

ZACK BECK, City Clerk of the
City of Escondido, California

RESOLUTION NO. 2024-67

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City Clerk's Office
City of Escondido
Attn: City Engineer
201 North Broadway
Escondido, California 92025
ATTN: City Engineer With copy to:

County of San Diego
Department of General Services
Attn: Tom McCabe
5560 Overland Avenue, Suite 410
San Diego, CA 92123

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DRAINAGE EASEMENT AGREEMENT

APN: 238-380-06-00
County RP# 2024-0002-A

This Drainage Easement Agreement ("Agreement") is entered into as of _____, 2024 ("Effective Date") by and between the City of Escondido ("CITY") as grantee, and the County of San Diego, a political subdivision of the State of California ("COUNTY") as grantor (collectively the "Parties").

RECITALS

A. COUNTY is the record owner of real property located at 742 Clarence Lane, Escondido, California 92029, designated as Assessor Parcel Number 238-380-06-00, consisting of 52.05 acres, and commonly known as Felicita County Park ("Felicita Park"). Felicita Park and vicinity are depicted in **EXHIBIT "A" FELICITA PARK attached to this Agreement**. Felicita Park contains perennial creeks with natural and developed recreational areas. Felicita Park has seven picnic areas, 1.5 miles of walking trails with foot bridges, two vehicular bridges diverging from Clarence Lane onto parking lots, and playgrounds.

B. CITY seeks to acquire a drainage easement in the northerly most portion of Felicita Park along the west side of Felicita Road just south of Park Drive ("Drainage Easement"). The Drainage Easement area is slightly trapezoidal in shape containing approximately 1,780 square feet. The legal description and a depiction of the Drainage Easement area are set forth in **EXHIBIT "B" DRAINAGE EASEMENT LEGAL DESCRIPTION AND DEPICTION attached to this Agreement**.

The Drainage Easement is for the operation and maintenance of improvements to existing drainage facilities. The drainage improvements consist of a 60-inch diameter reinforced concrete

drainage pipe beneath and across Felicita Road parallel to an existing 72-inch corrugated metal pipe (CMP), and an approximately 13-ft by 19-ft concrete headwall and large boulder rip rap energy dissipater in the easement area west of the pipes (collectively, the drainage "Improvements").

C. CITY seeks the Drainage Easement in connection with the previously approved Oak Creek Project, and to improve existing drainage in the area. The Oak Creek Project is a 65-residential-unit subdivision project on a tract of land located immediately north across Felicita Road from Felicita Park, known as Tentative Tract No. SUB13-0002 and further depicted on Exhibit "A". On March 4, 2015, the CITY approved the Oak Creek Project through Resolution No. 2015-27, which included approval of the Tentative Map and certification of an Environmental Impact Report ("EIR") for the subdivision. Pursuant to, and as depicted on, the Tentative Map, and as a condition of the subdivision's approval, the subdivider is required to make the drainage Improvements on COUNTY property. These requirements implement a 1995 Drainage Master Plan for the City of Escondido ("DMP"), which recommended the addition of a drainage pipe parallel to the existing pipe in order to deliver drainage to Felicita Creek efficiently.

D. The EIR for the Oak Creek Project included an analysis of the potential impacts of the drainage Improvements. According to the Oak Creek Project EIR, under existing flow patterns, some of the surface water runoff leaving the Oak Creek site at Felicita Road is conveyed through the existing culvert crossing under Felicita Road, while the balance overtops Felicita Road and heads southerly along Felicita Road toward its intersection with Miller Avenue. Felicita Road begins to super-elevate along this reach, which results in the overtopping flow crossing Felicita Road and entering Felicita Park. The runoff from the culvert crossing and overtopping commingles by the time it reaches the central portion of Felicita Park and continues to flow through the downstream portion of Felicita Park toward Via Rancho Parkway. The EIR found that the Improvements to the culvert crossing at Felicita Road would reduce the amount of overtopping flow and increase the amount conveyed through the culvert crossing. The environmental analysis showed no adverse impacts to Felicita Park.

E. The COUNTY hired Rick Engineering to prepare a Limited Preliminary Engineering Report for Felicita County Park, dated June 10, 2022 ("PER"). As stated in the PER, the existing storm drain infrastructure consists of the 72-inch CMP culvert beneath Felicita Road. Also, downstream within Felicita Park is an existing 6-ft (wide) x 5-ft (tall) RCB culvert and an existing 84-inch CMP culvert ("Existing Drainage Improvements").

As stated in the PER, Felicita Park is subject to flooding in the before condition. The flood condition at Felicita Park before installation of the drainage Improvements is shown in the "No-Build Alternative (Existing Condition)" in the PER. Under this condition, all three (3) culverts overtop and do not have adequate capacity to convey the 100-year peak flow. In addition, the PER states that in the before condition, the existing park pedestrian crossings will be overtopped during a 100-year storm event; the existing park culverts will continue to be overtopped during events equal to or greater than approximately a 5-year storm event; and some recreational amenities, such as the trail northwest of the park entrance road, will be inundated during a 5-year storm event.

The PER, under Alternative 1 – No Park Improvements, shows that installation of the Improvements would convey the 100-year peak storm water flows through the existing 72-inch and proposed 60-inch Felicita Road culverts without any overtopping of Felicita Road. The PER further shows that the Improvements would increase the peak flow within the creek through Felicita Park, which could lead to additional erosion, sedimentation and scouring. According to the PER, with the Improvements, the existing park pedestrian crossings will be overtopped during a 50-year storm event; the existing park culverts will be overtopped during events equal to or greater than approximately a 2-year storm event; and some recreational amenities, such as the trail northwest of the park entrance road, will be inundated during a 2-year storm event. The PER also notes that the Improvements would result in less frequent inundation at the intersection of Felicita Road and Park Drive.

F. As also stated in the PER hydrology report: The existing hydraulic models for Felicita Park begins immediately upstream of the existing 72-inch Felicita Road culvert in the Oak Creek and extends downstream of this culvert through Felicita Park as it meanders to a 6' wide by 5' tall RCB culvert under park road and the parking areas. Downstream of the 6' x 5' RCB culvert is a grouted riprap lined trapezoidal channel before a western tributary confluence with the Oak Creek. After the confluence, Oak Creek flows further south to an access road that includes an existing 84" CMP culvert. Downstream of this culvert, Oak Creek continues further south before accepting an eastern tributary that starts just south of the Felicita Road culvert. This eastern tributary collects runoff from the eastern portion of Felicita Park and the overtopped split flow from the Felicita Road culvert. This overflow runs south over the pickle ball court area, grass fields and across the only public driveway at Clarence Lane before its confluence with the Oak Creek. Downstream of this confluence, Oak Creek runs further south as it leaves the park limits and this marks the end of the hydraulic model limit.

G. On December 1, 2021, CITY adopted Resolution No. 2021-174R, declaring that the public interest and necessity require the acquisition, by eminent domain proceedings, of the Drainage Easement to construct the proposed drainage Improvements. Prior to adopting the Resolution, the CITY obtained an appraisal report for the Drainage Easement with Improvements in Felicita Park, dated August 17, 2021. The appraisal report states that the Improvements will allow a greater volume of water to flow under Felicita Road, and assumes that placement of the Drainage Easement and construction of the Improvements will not adversely impact Felicita Park. The appraisal report states that the fair market value for the Drainage Easement is one thousand, four hundred fifty dollars (\$1,450.00). The appraisal report also concludes that there will be no additional damages or "permanent severance damages" to Felicita Park due to the Drainage Easement.

H. On or about April 12, 2022, CITY filed an eminent domain proceeding to acquire the Drainage Easement entitled *City of Escondido v. County of San Diego* in San Diego County Superior Court, Case No. 37-2022-00013777-CU-EI-NC ("Eminent Domain Action").

I. On or about September 26, 2022, the Court signed an order granting the CITY prejudgment possession of the Drainage Easement and on or around September 18, 2023,

construction began on the drainage Improvements with notice to the COUNTY. The Improvements were completed by CITY in December 2023.

J. The Parties now desire to resolve the Eminent Domain Action through the acquisition of this Drainage Easement by CITY and the payment of compensation to the COUNTY on the terms set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for valuable consideration, the receipt and sufficiency of which are acknowledged by both parties hereto, COUNTY and CITY hereby agree as follows:

1. Grant of Drainage Easement. Subject to the conditions and limitations herein contained, as of the Effective Date, COUNTY hereby declares, grants and conveys to CITY a Drainage Easement upon, under, over and across the COUNTY property. The Drainage Easement is granted to CITY for the sole and exclusive purpose for the right to maintain and repair the drainage Improvements. No building or other permanent structure or obstruction shall be permitted or maintained in the easement area that interferes with the uses of the Drainage Easement granted herein for the purposes provided herein.
2. Compliance with Laws. CITY and its contractors and subcontractors shall use and maintain the Improvements and Drainage Easement area in compliance with all applicable laws, statutes, ordinances, rules and regulations promulgated by the COUNTY and all other governmental authorities having jurisdiction over the COUNTY property, including but not limited to the requirements of the County Code of Regulatory Ordinances, the Escondido Municipal Code, the Subdivision Map Act of the State of California, as well as applicable requirements with respect to drainage, erosion control, storm water pollution prevention, and the National Pollution Discharge Elimination System and Storm Water Pollution Prevention Plans, if applicable.
 - a. CITY shall comply with all applicable mitigation measures identified in the Oak Creek Project Final EIR, including Cul-1, which requires a mitigation monitoring program to address potential impacts to undiscovered buried archaeological resources off site of the Oak Creek Project.
 - b. CITY and its contractors and subcontractors shall comply with the reasonable regulations, requirements and recommendations of any insurance underwriter of COUNTY, inspection bureau, resource agency, or similar agency, pertaining to the Drainage Easement area; provided that such regulations, requirements and recommendations are furnished in writing by COUNTY to CITY.
 - c. CITY shall be solely responsible for any and all administrative, civil, and/or criminal penalties assessed as a result of its failure to comply with any applicable rules, regulations, restrictions, ordinances, statutes, laws, orders, directives and/or conditions related to the use of the Drainage Easement as provided for in this Drainage Easement Agreement.

3. Maintenance Obligations of CITY. From the Effective Date until such time as this Agreement and the easement granted hereunder terminate, CITY shall be responsible, at its sole cost and expense, for maintaining the Drainage Easement surface areas, and the drainage Improvements, in good order, condition and repair and in compliance with all applicable laws and regulations. Any maintenance shall be carried out in a good and workmanlike manner according to the industry standards, by qualified and licensed contractors and subcontractors, and in compliance with all approved plans, permits, and conditions, including the Improvement Plans For: Felicita Road, Hamilton Lane & Miller Avenue (P18-0010) approved by the City Engineer on March 3, 2021. CITY and its contractors and subcontractors shall be solely responsible for the transportation, safekeeping and storage of materials and equipment used in the exercise of the easement rights granted herein, for the removal of waste and debris resulting therefrom, and for the prompt repair of any damage caused by CITY, its contractors and subcontractors.
4. Encumbrances. The Drainage Easement is granted subject to all covenants, conditions, restrictions, encumbrances, rights-of-way and easements of record as of the date of recording.
5. Dismissal of Eminent Domain Action. Upon the execution and recordation of this Drainage Easement, the CITY shall dismiss the Eminent Domain Action with prejudice. Each Party shall be responsible for all of their own costs, litigation expenses, and attorney fees incurred in the Eminent Domain Action.
6. Payment. CITY shall pay COUNTY the total sum of one thousand, four hundred fifty dollars (\$1,450.00) for the acquisition and use of this Drainage Easement ("Payment"). Payment of said amount is inclusive of all interest, costs, attorneys' fees, and Litigation Expenses incurred by the County in the Eminent Domain Action. The Payment, and CITY's agreement to the terms and conditions herein, constitutes the full and final payment for the acquisition of the Drainage Easement. The Parties will file a stipulation for release to COUNTY of the Payment funds held by the State Treasurer's Office in the Condemnation Deposits Fund following execution of this Agreement and said funds shall be paid to the COUNTY.
7. Release of Eminent Domain Claims. Except as set forth in this Agreement, the Parties hereby release all issues, claims and disputes, defenses, and/or allegations asserted in the Eminent Domain Action or which could have been raised in the Eminent Domain Action. The Parties have denied, and continue to deny, any wrongdoing in connection with the actions or inactions alleged in the Eminent Domain Action. Neither this Drainage Easement nor any action taken pursuant to this Drainage Easement shall constitute any admission of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Parties, or any admission by and of the Parties of any claim or allegations made in any action against such party, subject to Section 8 below.
8. Indemnification. CITY shall defend, indemnify, and hold harmless COUNTY, and its Board of Supervisors, officers, directors, employees, and authorized agents and representatives (collectively, "Indemnitees") from and against any and all damages,

liabilities, losses, claims, demands, causes of action, liens, costs and expenses (collectively, "Claims"), that COUNTY may sustain, incur or become liable for, resulting in any manner from the granting of the Drainage Easement or the maintenance, use, state of repair or presence of the drainage Improvements and all necessary and proper fixtures and equipment for use in connection with the drainage Improvements, or CITY's and any of its authorized agents' entry and activities on the Drainage Easement area or Felicita Park property in any way related to this Agreement or the drainage Improvements, including any Claims arising out of or related to: (a) damage substantially caused to the remainder of Felicita Park by the drainage Improvements; (b) the violation of any local, state or federal law, regulation or code by CITY or any of its authorized agents in connection with the Drainage Easement; and (c) any alleged failure to comply with the California Environmental Quality Act ("CEQA"). However, notwithstanding the foregoing, CITY shall have no obligation to defend or indemnify Indemnitees from a Claim to the extent it is determined by a court of competent jurisdiction that the Claim was caused by the sole negligence or willful misconduct of any of the Indemnitees. The following provisions apply to this Section 8:

- a) CITY would be entitled to offer evidence of benefits, as defined by Section 1263.430 of the Code of Civil Procedure, to Felicita Park caused by the Improvements in the manner proposed. The compensation to COUNTY for damage, if any, to the remainder of Felicita Park shall be reduced by the amount of benefit to the remainder and to other County facilities, including Felicita Road.
- b) The Parties agree that Felicita Park was subject to flooding in the before condition and that the flood condition at Felicita Park before installation of the drainage Improvements ("Baseline") is as provided by in the modeling for the "No-Build Alternative (Existing Condition)" as contemplated by RICK Engineering's June 10, 2022 Limited Preliminary Engineering Report for Felicita County Park and that any COUNTY claim for flood damage will be limited to those damages attributable to the Improvements and in excess of the Baseline.
- c) Any Claim or other dispute, question or disagreement arising from or relating to the Drainage Easement shall be handled subject to the following Dispute Resolution Process. Representatives from each Party shall meet and use reasonable efforts to settle any Claim or dispute. To that end, the Parties' representatives shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to the Parties. If the Parties do not reach such a solution within a period of thirty (30) days after the first notice of the Claim is received by the non-disputing Parties, then the Parties shall pursue non-binding mediation to be completed within one-hundred twenty (120) days after the notice of the Claim is received by the non-disputing Parties. If the Parties do not settle the Claim within the one-hundred twenty (120) day period, any Party may pursue any and all available legal and equitable remedies. The Parties agree to bear their own attorney's fees, and any award of litigation expenses and costs would be governed by eminent domain law.

- 9. Entire Agreement. This Agreement and any exhibits attached to this Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by all parties to this Agreement, which is recorded in the County Recorder's office. This Agreement and any exhibits attached to this Agreement constitutes the entire agreement between the Parties with respect to the matters set forth herein and supersedes all prior negotiations, discussions, writings and agreements between them in connection therewith.
- 10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 11. Captions. The paragraph or section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
- 12. Notice. All notices, claims, demands, approvals, or consents provided for in this Agreement shall be in writing and shall be deemed given: (a) upon delivery if delivered by E-Mail, provided such delivery is evidenced by electronic confirmation of delivery to the noticed party; (b) as of the first business day after delivery to an overnight delivery service; or (c) as of the second business day after mailing by U.S. mail, postage paid, by certified or registered mail, return receipt requested, correctly addressed to the Parties as follows:

If to COUNTY: County of San Diego
 Department of Parks & Recreation
 Attention: Crystal Benham, Chief, Resource Management
 Division
 5500 Overland Avenue, Suite 410
 San Diego, CA 92123
 Crystal.Benham@sdcounty.ca.gov

With a copy to: County of San Diego
 Office of County Counsel
 Attention: Michael P. Masterson, Senior Deputy
 1600 Pacific Highway, Room 355
 San Diego, CA 92101
 michael.masterson@sdcounty.ca.gov

If to CITY: City of Escondido
 City Attorney's Office
 Attention: Michael R. McGuinness
 201 North Broadway
 Escondido, CA 92025
 mmcguinness@escondido.org

With a copy to: Best Best & Krieger
Attention: James Gilpin
655 West Broadway, 15th Floor
San Diego, CA 92101
James.Gilpin@bbklaw.com

or to such other address or person as a Party may designate to the other from time to time in the manner set forth herein.

13. Governing Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California and any applicable federal laws and regulations.
14. Recitals and Exhibits. All recitals and exhibits referred to herein and attached hereto shall be deemed part of this Agreement as though fully set forth herein.
15. No Partnership or Third-Party Beneficiary. This Agreement and any further documents or actions executed by the Parties in connection with this Agreement shall not create nor be deemed under any circumstances to create any joint venture or partnership between the Parties. This Agreement is made solely for the benefit of the Parties to this Agreement, and no other person or entity shall have or acquire any rights or remedies under this Agreement.
16. No Waiver. The waiver by one party of the performance of any term, provision, covenant or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by the party of any other term, provision, covenant or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent the party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
17. Further Assurances. Each Party agrees to execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes of this Agreement.
18. Severability. If any term, provision or condition of this Agreement is held to be invalid or unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
19. Authority. The Parties represent that they have the legal power, right, and authority to enter into this Agreement and consummate the transaction(s) contemplated hereby. By signing below, the undersigned represents, warrants, and certifies that the person is

authorized to execute this Agreement and is taking this action with full authority from the principal.

**THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK
THE SIGNATURES ARE ON THE FOLLOWING PAGE**

IN WITNESS WHEREOF, the COUNTY and CITY have executed this Easement Agreement as of the day and year first above written.

GRANTOR:

County of San Diego

By: Carrie Ellen Hoff
Name: Carrie Hoff, Deputy Director
For: Marko Medved, P.E., CEM
Title: Director, Department of General Services

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO ss.

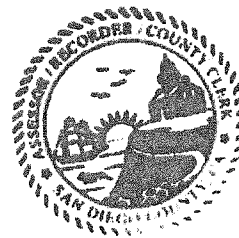
On May 13TH, 2024 before me, Thomas J. McCabe,
Deputy County Clerk of the County of San Diego, personally appeared
CARRIE ELLEN HOFF, who proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that
he/she they executed the same in his/her their authorized capacity(ies), and that by his/her their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

JORDAN Z. MARKS
RECORDER/COUNTY CLERK

Signature [Signature]
Deputy County Clerk



GRANTEE:

CITY OF ESCONDIDO

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____ ss.

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

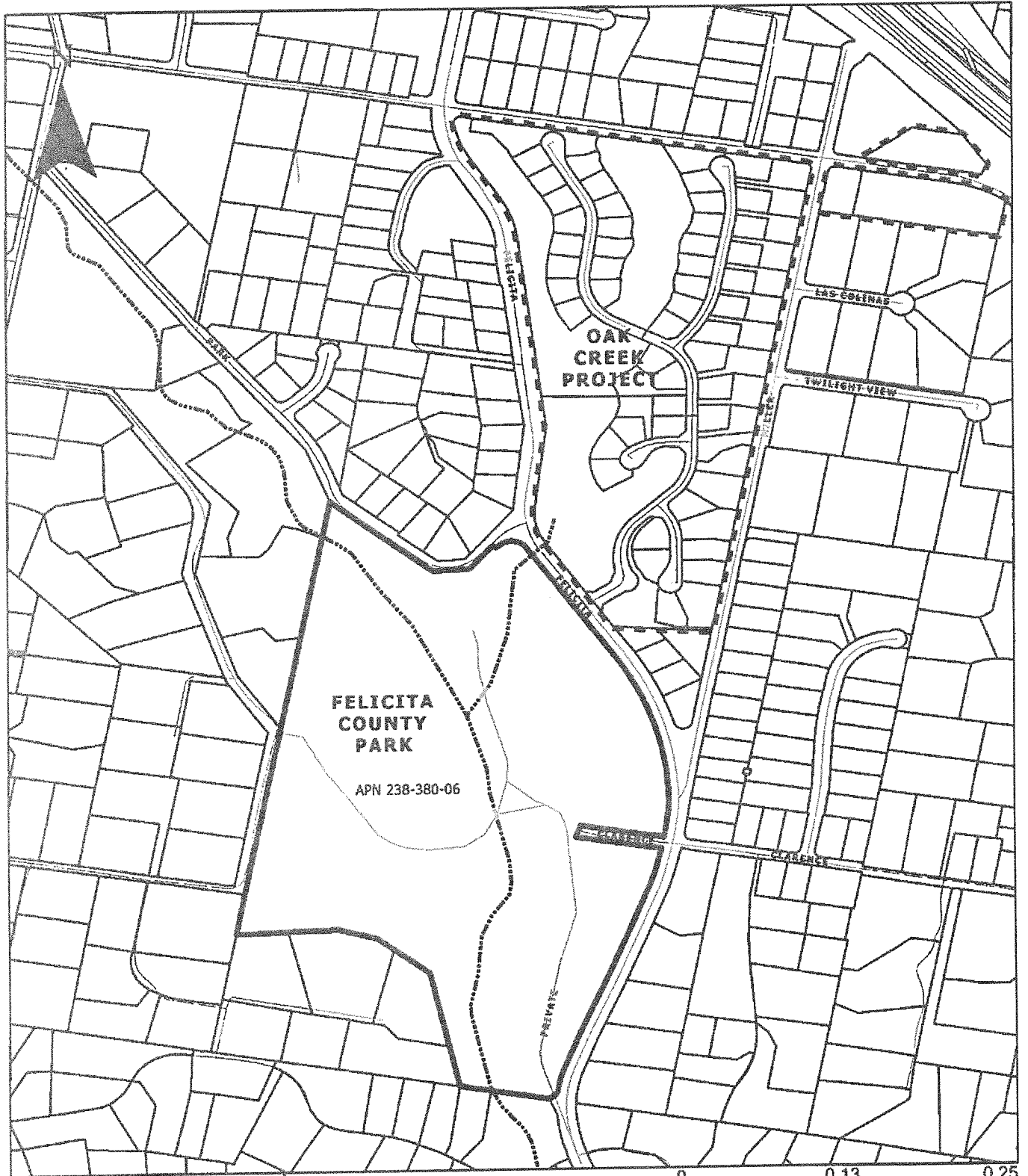
WITNESS my hand and official seal

Signature _____

My commission expires: _____.

EXHIBIT A

Felicita Park



Legend

- Felicity Creek
- [Thick black outline] Felicity County Park
- [Dashed black outline] Oak Creek Project

EXHIBIT B

Drainage Easement Legal Description and Depiction


COUNTY RP# 2024-0002

**EASEMENT
LEGAL DESCRIPTION**

THAT PORTION OF LOT 1, BLOCK 9 OF HOMELAND ACRES ADDITION TO ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1205 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY SEPTEMBER 1, 1909, SHOWN ON RECORD OF SURVEY NO. 21003 FILED IN THE OFFICE OF SAID COUNTY RECORDER JUNE 11, 2011, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

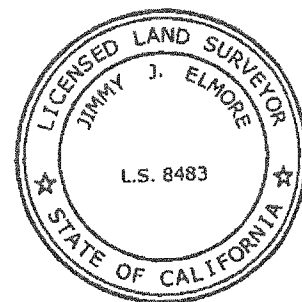
BEGINNING AT A POINT ON THE WESTERLY LINE OF FELICITA ROAD AS SHOWN ON SAID RECORD OF SURVEY NO. 21003, SAID POINT BEING THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE BEARING NORTH 31°28'10" WEST, 587.57 FEET; THENCE ALONG SAID WESTERLY LINE SOUTH 31°26'57" EAST, 28.02 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 66°00'48" WEST, 44.80 FEET; THENCE NORTH 36°54'31" WEST, 33.87 FEET; THENCE NORTH 53°05'29" EAST, 46.03 FEET TO A POINT ON SAID WESTERLY LINE, BEING A POINT ON A NON-TANGENT 70.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 45°25'47" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°07'16", A DISTANCE OF 16.03 FEET TO THE **POINT OF BEGINNING**.

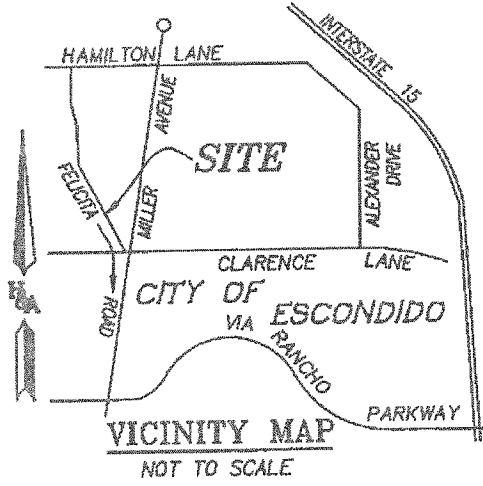
THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 1,780 SQUARE FEET, MORE OR LESS.



JIMMY J. ELMORE
HUNSAKER & ASSOCIATES SAN DIEGO, INC.

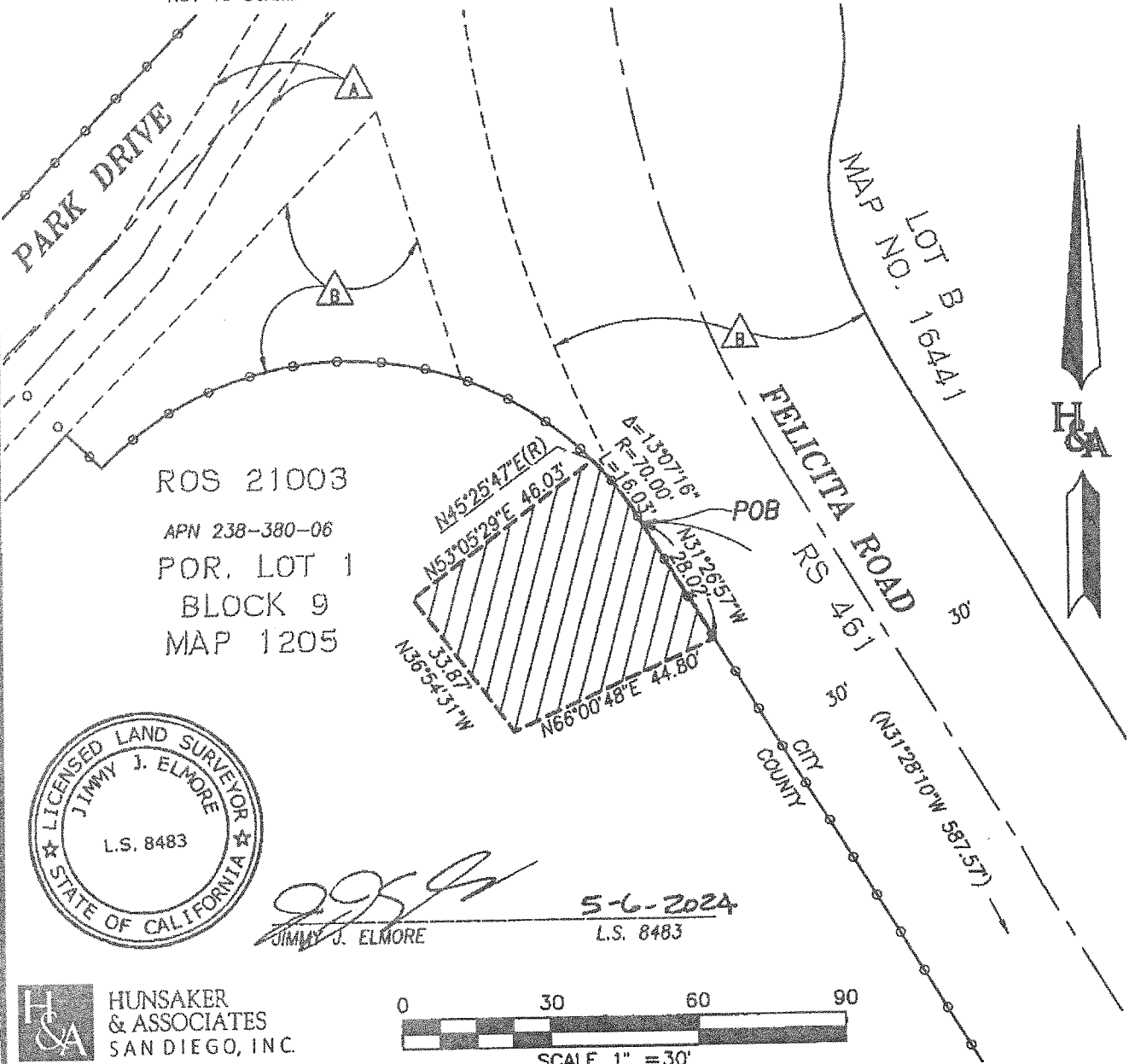
5-6-2024
P.L.S. 8483





LEGEND

- EASEMENT AREA = 1,780 S.F.
- POB** POINT OF BEGINNING
- CITY/COUNTY LIMITS
- () RECORD INFORMATION PER ROS 21003
- EASEMENT TO SDG&E FOR LINE OF POLES REC. 6/28/1960 AS DOC. NO. 131203, O.R.
- EASEMENT TO COUNTY OF SAN DIEGO FOR ROAD PURPOSES REC. 7/6/1956, IN BOOK 6169, PAGE 194, O.R.



ROS 21003
 APN 238-380-06
 POR. LOT 1
 BLOCK 9
 MAP 1205



[Signature]
 JIMMY J. ELMORE
 5-6-2024
 L.S. 8483



H & A
HUNSAKER & ASSOCIATES
 SANDIEGO, INC.
 9707 Waples Street (858)558-4500
 San Diego, CA 92121

CITY OF ESCONDIDO

CERTIFICATE OF ACCEPTANCE

This Certificate of Acceptance pertains to the interests in real property conveyed by the DRAINAGE EASEMENT AGREEMENT, dated _____, to which this Certificate of Acceptance is attached.

from: **THE COUNTY OF SAN DIEGO ("Grantor")**

to: **THE CITY OF ESCONDIDO ("Grantee")**

Said Grant of Easements is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee's governing board on _____, and Grantee hereby consents to recordation of said Grant of Easement.

Dated: _____, 2024

CITY OF ESCONDIDO

By: _____

ATTEST:

City Clerk