

RESOLUTION NO. 2024 - XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS
DECLARING THE PUBLIC INTEREST AND NECESSITY TO ACQUIRE
PROPERTY BY EMINENT DOMAIN FOR THE IMPLEMENTATION OF
THE UNIVERSITY DISTRICT SPECIFIC PLAN, NORTH CITY DRIVE AND
STREET "A" RIGHT-OF-WAY AND RELATED PUBLIC IMPROVEMENTS
PROJECT

WHEREAS, the City of San Marcos is a chartered municipal corporation, organized and existing under California law in San Diego County, California; and

WHEREAS, pursuant to its statutory authority, City of San Marcos intends to implement the University District Specific Plan, North City Drive and Street "A" Right-Of-Way and Related Public Improvements Project, including incidental, appurtenant, and related works or facilities pursuant to Code of Civ. Proc. § 1240.120 (the Project).

WHEREAS, in compliance with the California Environmental Quality Act, the City Council previously adopted and certified programmatic Final Environmental Impact Report (FEIR) for the University District Specific Plan and the 2022 Addendum to said FEIR (State Clearinghouse No. 2008101083) prepared for the project pursuant to the California Environmental Quality Act (CEQA) regarding the Project; and

WHEREAS, implementation of the Project requires acquisition of the real property described and depicted in Exhibits A and B to this Resolution (the Property), and said Property is located entirely within the City of San Marcos, State of California. The Property will be used for public use purposes, specifically for the Project construction of planned road right-of-way, transportation improvements, and appurtenances to accommodate present and future development in the community; and

WHEREAS, City of San Marcos is authorized to acquire the Property by eminent domain pursuant to the California Constitution, the California Eminent Domain Law and, *inter alia*, California Code of Civil Procedure sections 1240.010, 1240.050, 1240.110, 1240.120, and 1255.410; and

WHEREAS, on March 22, 2024, pursuant to Code of Civil Procedure section 1245.235, a written notice of the meeting and hearing of the City Council to consider this resolution was given in accordance with applicable law by mail to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the subject real Property, sent to the address appearing on said Roll, and, pursuant to and consistent with Code of Civil Procedure sections 1240.030 and 1245.230, advised said persons of their right to be heard on the matters referred to therein; and

WHEREAS, City of San Marcos obtained an independent appraisal to establish the just compensation for the Property, has provided the owner of the Property to be acquired a written statement and summary of the basis for the amount established as just compensation, and has made an offer to acquire the Property for the full amount established by the appraisal as just compensation; and

WHEREAS, the hearing set out in the notice of hearing was held on April 9, 2024 at the time and place stated therein, and all interested parties who timely filed a request to be heard were given an opportunity to be heard, and the hearing was then closed; and

WHEREAS, funds have been budgeted and appropriated sufficient for payment of just compensation for the Property and implementation of the Project.

NOW, THEREFORE, BE IT RESOLVED THAT based on the evidence presented, the City Council of the City of San Marcos, by vote of two-thirds or more, finds, determines, declares, and resolves the following:

1. The above recitations are true.
2. The public interest and necessity require the Project.
3. The Project has been planned and located in a manner most compatible with the greatest public good and the least private injury.
4. The Property is necessary for the Project.
5. The City of San Marcos has complied with the requirements of Government Code § 7267.2, made the required offer to acquire the Property together with the accompanying statement of and summary of the basis for the amount established as just compensation to the owner or owners of record, which offer and accompanying statement/summary were in a form and contained all of the factual disclosures required by law, and complied with all conditions and statutory requirements necessary to exercise of the power of eminent domain to acquire the Property.
6. The City of San Marcos has an urgent and overriding need for immediate possession of the Property for purposes of construction of Project public improvements.
7. The City of San Marcos hereby finds and declares that the acquisition by condemnation of the subject Property is in conformity with the General Plan.
8. The City Attorney of the City of San Marcos, and/or special legal counsel Dean Gazzo Roistacher, LLP, are hereby AUTHORIZED and EMPOWERED:
 - A) To acquire in the name of the City of San Marcos, by condemnation, the Property described in Exhibit “A” and generally depicted on the map shown on Exhibit “B” and incorporated herein by this reference in accordance with

the provisions of the California Eminent Domain Law and the Constitution of California;

- B) To acquire the entire Property in fee simple absolute, including the appurtenant access easement along Shubin Lane;
- C) To prepare or have prepared and to prosecute in the name of the City of San Marcos such proceedings in the proper court as are necessary for such acquisition of the Property;
- D) To deposit the probable amount of compensation, based on the appraisal, and to apply to said court for an order permitting the City of San Marcos to take immediate pre-judgment possession and use of said Property for said public uses and purposes.

9. The City Attorney, directly or through special counsel Dean Gazzo Roistacher LLP, is authorized and directed, on behalf of the City, to acquire the entire Property by eminent domain, in fee simple absolute, and to commence and prosecute an eminent domain action or actions for that purpose, to retain attorneys and experts, and to take such other actions as the City Attorney determines necessary for acquisition of the Property.

10. The City Attorney is authorized and directed to cause the deposit from City funds the amount of probable compensation for the Property pursuant to applicable law, and to take all other actions required for acquisition of the Property.

11. The City Attorney is authorized to correct any errors and make non-material changes to the description of the Property to be acquired, or to reduce or modify the amount or interest in the Property to be acquired as needed to reduce the amount of just compensation to be paid, so long as the reduction or modification will not materially impair the implementation of the Project.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS at a regular meeting held on the 9th day of April, 2024, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Rebecca D. Jones, Mayor
City of San Marcos

CERTIFICATE OF THE ATTESTING OFFICER

The undersigned, Officer of the City Clerk's Office does hereby attest and certify that the forgoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of the City of San Marcos which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

ATTEST: _____

Signature of Attesting Officer
Phillip Scollick, City Clerk
City of San Marcos

ATTACHMENTS:

Exhibit A to Resolution – Property Legal Description

Exhibit B to Resolution – Property Map

EXHIBIT "A" TO RESOLUTION - LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF LOT 18 IN BLOCK 63 OF THE SUBDIVISION OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1 IN SAID BLOCK 63; THENCE NORTH 9°20' EAST ALONG THE EASTERLY LINE OF SAID LOT 1 AND THE EASTERLY LINE OF LOT 21 IN SAID BLOCK 63 A DISTANCE OF 923.28 FEET; THENCE; SOUTH 73°38'30" WEST PARALLEL WITH THE SOUTHEASTERLY LINE OF LOTS 1, 2 AND 3 IN SAID BLOCK 63 A DISTANCE OF 916.95 FEET TO THE TRUE POINT OF BEGINNING, BEING THE SOUTHWEST CORNER OF LAND DESCRIBED IN DEED TO MELVIN M. DE PUE, ET UX, RECORDED JANUARY 23, 1970 AS FILE/PAGE NO. 13014 OF OFFICIAL RECORDS; THENCE CONTINUING SOUTH 73°38'30" WEST 209.70 FEET TO THE WESTERLY LINE OF SAID LOT 18; THENCE NORTH 16°13'10" WEST ALONG SAID WESTERLY LINE 208.00 FEET; THENCE NORTH 73°38'30" EAST A DISTANCE OF 209.70 FEET TO THE NORTHWEST CORNER OF SAID DE PUE'S LAND; THENCE ALONG THE WESTERLY LINE OF SAID DE PUE'S LAND; SOUTH 16°26'20" EAST 208.00 FEET TO THE TRUE POINT OF BEGINNING. EXCEPT THEREFROM THAT PORTION, IF ANY, THAT LIES WITHIN A PARCEL OF LAND

DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 18; THENCE NORTH 73°34' EAST ALONG THE NORTHERLY LINE OF SAID LOTS 18 AND 19, A DISTANCE OF 412.78 FEET; THENCE SOUTH 9°20' WEST 456.97 FEET; THENCE SOUTH 73°38'30" WEST 215.78 FEET MORE OR LESS TO THE WESTERLY LINE OF SAID LOT 18; THENCE NORTH 16°13'10" WEST ALONG SAID WESTERLY LINE 411.51 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG AND ACROSS THOSE PORTIONS OF LOTS 18 AND 19 IN BLOCK 63 OF THE SUBDIVISION OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, LYING WITHIN A STRIP OF LAND 20.00 FEET IN WIDTH, THE SOUTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

EXHIBIT “A” LEGAL DESCRIPTION (Continued)

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1 IN SAID BLOCK 63; THENCE ALONG THE EASTERLY LINE OF SAID LOT 1 AND THE EASTERLY LINE OF SAID LOT 21; NORTH 09°20' WEST 923.28 FEET; THENCE PARALLEL WITH THE SOUTHEASTERLY LINE OF LOTS 1, 2 AND 3 IN BLOCK 63; SOUTH 73° 38'30" WEST, 552.66 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED LINE BEING A POINT ON THE EASTERLY LINE OF LOT 19 OF SAID BLOCK 63; THENCE CONTINUING SOUTH 73°38'30" WEST 364.29 FEET TO THE SOUTHWESTERLY CORNER OF LAND DESCRIBED IN PARCEL 1 IN DEED TO WILLIAM F. SHUBIN, ET AL, RECORDED JANUARY 30, 1959 IN BOOK 7472, PAGE 203 OF OFFICIAL RECORDS,

PARCEL 3:

AN EASEMENT AND RIGHT OF WAY FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG AND ACROSS A STRIP OF LAND 20.00 FEET WIDE LYING LOTS 20 AND 21 IN BLOCK 63 OF THE SUBDIVISION OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, THE SOUTHERLY LINE OF SAID 20.00 FOOT STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 IN SAID BLOCK 63; THENCE NORTH 9°20' EAST ALONG THE EASTERLY LINE OF SAID LOT 1 AND LOT 21 OF SAID BLOCK A DISTANCE OF 923.28 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 73°38'30" WEST PARALLEL WITH THE SOUTHEASTERLY LINE OF LOTS 1, 2 AND 3 IN SAID BLOCK 63 OF DISTANCE OF 552.66 FEET, MORE OR LESS TO THE EASTERLY LINE OF LOT 19 OF SAID BLOCK 63. SAID 20.00 FOOT STRIP BEGINS IN THE EASTERLY LINE OF SAID LOT 21 AND ENDS IN THE EASTERLY LINE OF LOT 19.

APN 221-100-09-00

END OF LEGAL DESCRIPTION OF REAL PROPERTY

(Assessor's Parcel No. 221-100-09-00)

EXHIBIT "B" TO RESOLUTION – MAP OF APN 221-100-09-00

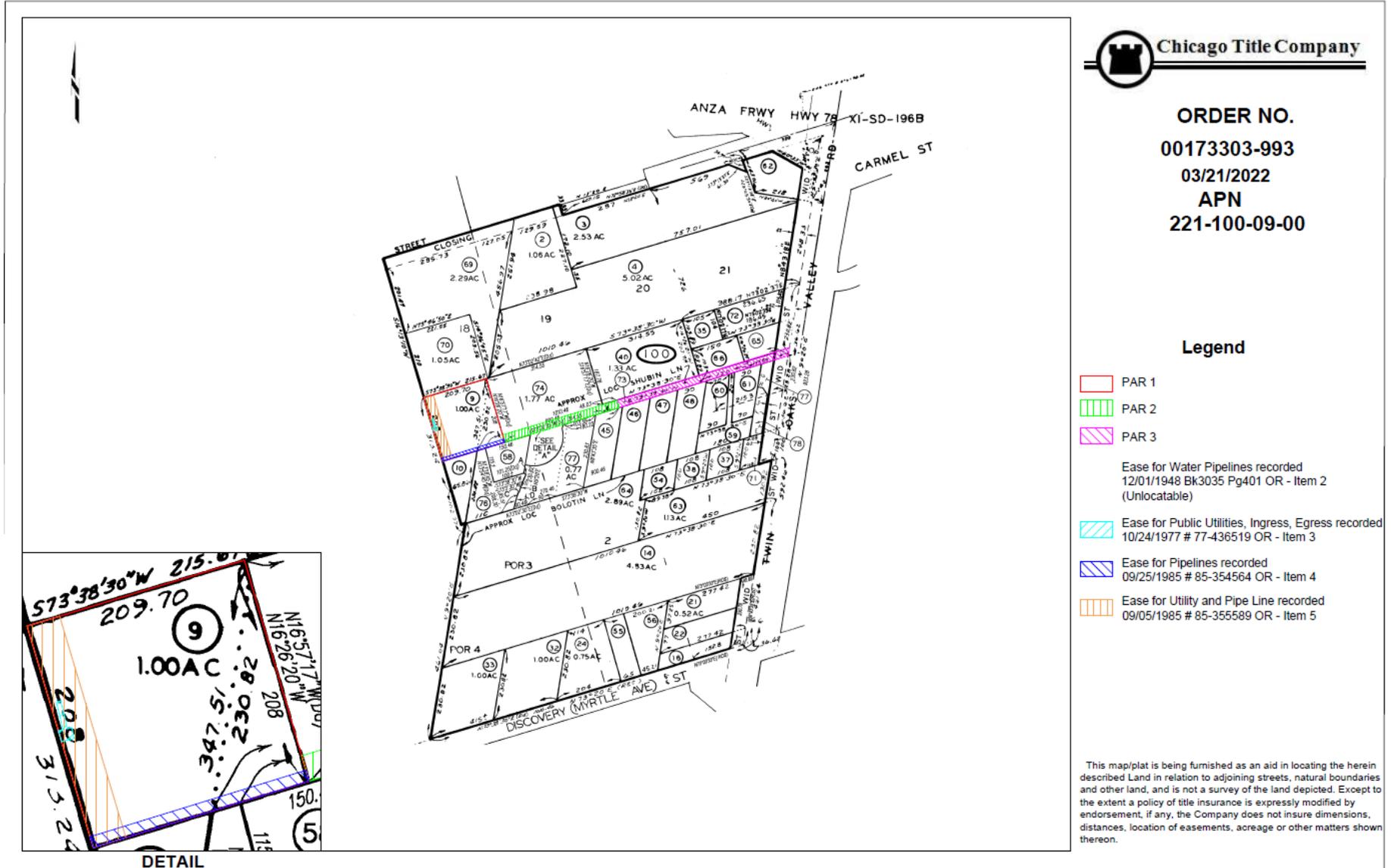


EXHIBIT "B" TO RESOLUTION – MAP OF APN 221-100-09-00