

RESOLUTION NO. 514

**RESOLUTION OF THE OF SUNNYSLOPE COUNTY WATER DISTRICT
AUTHORIZING THE EXERCISE OF THE OPTION TO ACQUIRE PROPERTY
SURROUNDING WELL #5; AUTHORIZING ACCEPTANCE OF THE DEED; AND
AUTHORIZING THE FILING OF A NOTICE OF EXEMPTION**

WHEREAS, the Board of Directors (“Board”) of Sunnyslope County Water District (“SSCWD”) FINDS AND DETERMINES AS FOLLOWS:

1. SSCWD is a public agency engaged in providing a the water supply and water service for properties located within SSCWD’s service area jurisdiction; and
2. Section 31040 of the California Water Code authorizes the SSCWD to take any property necessary to carry out the business of the district by grant, purchase, gift, devise, condemnation, or lease with or without the privilege of purchase.
3. Lynn G. Hilden and Robert Fowler (“Hilden/Fowler”) are the owners of improved and unimproved real property in San Benito County, California, commonly referred to as Assessor Parcel Number 020-330-029 and more particularly described on **Exhibit A** attached hereto (“Hilden/Fowler Property”);
4. Hilden/Fowler are in the process of subdividing the Hilden/Fowler Property as shown on the unrecorded tentative subdivision map (Hilden/Fowler map) attached hereto as **Exhibit B**;
5. SSCWD is the owner of real property in San Benito County commonly known as Assessors Parcel Number 020-330-066 on which SSCWD’s Well #5 is located (Well #5 Parcel)
6. SSCWD seeks to obtain that portion of the Hilden/Fowler Property depicted as Lot 1 on the Hilden/Fowler map (“Lot 1 area”), as more particularly described in **Exhibit C**, attached hereto, to better enable SSCWD to maintain SSCWD’s Well #5 and to maintain a permanent undeveloped buffer zone from residential development around the well. SSCWD intends to devote the Hilden/Fowler Property to this public use. In addition, in the future, when SSCWD may need to replace Well #5, the replacement well will be required to be drilled 50 feet from an existing property line, which is not possible under the existing conditions. The acquisition of the Lot 1 area will preserve the land in its natural condition and exclude development from this land, and will also allow SSCWD to replace Well #5 on the same site at a future date, if needed. Drilling and development of a replacement well would be analyzed under separate CEQA review at a future date when, and/or if, the well replacement is required;
7. On January 26, 2010 the Board authorized SSCWD to enter into an Option Agreement with Hilden/Fowler (“Option Agreement”) for SSCWD to obtain an option to acquire the Lot 1 area from Hilden/Fowler;
8. On January 27, 2010, SSCWD entered into an Option Agreement with Hilden/Fowler for an option to acquire the Lot 1 area, consistent with the Board’s action. The Option Agreement provides that:
 - (a) To effectuate the acquisition, SSCWD may first obtain an exclusive easement over the Lot 1 area and then, at SSCWD’s sole cost and expense, SSCWD can proceed with a Lot-Line Adjustment to adjust the boundaries of the Hilden/Fowler Property to include the Lot 1 area within the boundary of SSCWD’s Well #5 Parcel;
 - (b) The consideration for the Lot 1 area property, whether fee simple title or an exclusive easement, is One Hundred Thirty-Two Thousand Eight Hundred and Thirty Dollars (\$132,830.00) which shall be paid to Hilden/Fowler on or before the Closing Date as outlined in the Option Agreement, which consideration the Board determines to be fair based on the appraisal of the Hilden/Fowler Property and the cost of litigation to condemn the property;

- (c) The option term is 180 days from the effective date of January 27, 2010 and the option can be exercised anytime before the expiration of the term upon the delivery to Hilden/Fowler of a written notice of such exercise (“Exercise Notice”).

9. SSCWD now desires to exercise its option under the Option Agreement, deliver the Exercise Notice to Hilden/Fowler and proceed with the acquisition of Lot 1 area as set forth in the Option Agreement, which includes the initial acquisition of an exclusive easement and the subsequent processing of a Lot-Line Adjustment to add the Lot 1 area property to SSCWD’s Well #5 Parcel.

10. The exercise of the Option and the acquisition of the Lot 1 area property is exempt Categorically Exempt under the California Environmental Quality Act Title 14, California Code of Regulations Class 1, Section 15301; Existing Facilities; Class 5, Minor Alterations in Land Use Limitations, Section 15305; Class 7, Section 15307, Actions by Regulatory Agencies for Protection of Natural Resources; and Class 25, Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources.

- (a) Class 1 consists of minor actions related to existing facilities. SSCWD Well #5 is an existing use, and the project would not expand the use of the well or associated facilities.
- (b) Class 5 allows minor-lot line adjustments in areas of less than 20% slope which do not result in any changes in land use or density and not resulting in the creation of any new parcels.
- (c) Class 7 addresses actions to assure the maintenance of natural resources. Recently, the California Code of Regulations Title 22 Division 4 Environmental Health, Chapter 16 California Waterworks Standards, Article 3 Water Sources was amended to include a provision requiring a 50-foot buffer zone around water wells to establish protection of the water source from vandalism, tampering, or other threats. The SSCWD acquisition of the Well #5 buffer land complies with this provision. The current well is located less than 50 feet away from SSCWD’s existing property line.
- (d) Class 25 consists of the transfer of ownership of interest in land to preserve existing natural conditions. The acquisition of the Lot 1 area is to preserve the existing natural conditions and prevent development from encroaching into the 50-foot buffer now required for the modification of existing wells. In addition, in the future, when SSCWD may need to replace Well #5, the replacement well will be required to be drilled 50 feet from an existing property line, which is not possible under the existing conditions. The acquisition of the Lot 1 area will preserve the land in its natural condition and exclude development from this land, and will also allow SSCWD to replace Well #5 on the same site at a future date, if needed. Drilling and development of a replacement well would be analyzed under separate CEQA review at a future date when, and/or if, the well replacement is required;

The proposed acquisition of the Lot 1 area complies with CEQA Guidelines Section 15301, 15305, 15307, and 15325, and will not result in any significant impacts and, therefore, is categorically exempt from CEQA.

NOW, THEREFORE, BE IT RESOLVED the Board hereby resolves as follows:

1. The Board adopts the above findings.
2. The Board authorizes and directs the Secretary to deliver written notice of the exercise of the option (“Exercise Notice”) to Hilden/Fowler to acquire the Lot 1 area property in accordance with this Resolution.
3. The Board authorizes and directs the President and Secretary to accept an Easement Grant Deed from Hilden/Fowler for the Lot 1 area property and authorizes the recording of the Deed, upon satisfaction by the District’s Engineer and General Manager that the property for which the easement is being granted is not encumbered in a manner that would render the property unusable for public purposes or could cause SSCWD’s interest in the property to be foreclosed.

4. The Board authorizes and directs the Secretary to issue payment to Hilden/Fowler, or their designee(s), in the amount of One Hundred Thirty-Two Thousand Eight Hundred and Thirty Dollars (\$132,830.00) for the Lot 1 area property upon the successful recordation of an Easement Grant Deed which is not subject to prior encumbrances which would render the property unusable for public purposes or could cause SSCWD's interest in the property to be foreclosed.

5. The Board authorizes and directs the Secretary to open an escrow at First American Title Company in Hollister, California to handle the property transfer, the recording of the Easement Grant Deed, the payment to Hilden/Fowler, or their designee(s), and to take whatever actions are necessary to provide escrow instructions to the Title Company and/or complete the transaction consistent with the terms of this Resolution.

6. The Board authorizes and directs the Secretary to file a Notice of Exemption for this action pursuant to Title 14, California Code of Regulations (CEQA Guidelines) Section 15061 and 15062, based on the project being exempt from CEQA under CEQA Guidelines Sections 15301, 15305, 15307, and 15325

THE FOREGOING RESOLUTION was passed and adopted by a vote of the SSCWD Board of Directors at its regularly held meeting on February 11, 2010, by the following vote:

AYES: Keck, Nelson, Hailstone, Anderson, and Meraz

NAYS: None

ABSENT: None

SUNNYSLOPE COUNTY WATER DISTRICT

By 
Doug Keck, President

(S E A L)

ATTEST:


Bryan M. Yamaoka, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of Directors of the Sunnyslope County Water District hereby certifies that the foregoing is a full, true and correct copy of the resolution adopted on February 11, 2010, as Resolution No. 514.

Dated: February 12, 2010


Bryan M. Yamaoka, Secretary

EXHIBIT A

EXHIBIT A

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of San Benito, State of California, described as follows:

ALL THAT CERTAIN "REMAINDER" PARCEL, AS SHOWN ON THAT PARCEL MAP FOUND RECORDED NOVEMBER 25, 1998, IN BOOK 9 OF PARCEL MAPS, AT PAGE 23, SAN BENITO COUNTY RECORDS.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL 1 AS FOUND RECORDED OCTOBER 29, 1970 IN BOOK 7 OF MAPS, PAGE 75, SAN BENITO COUNTY RECORDS AND RUNNING THENCE ALONG THE NORTH LINE THEREOF NORTH 89° 47' 20" WEST 641.74 FEET TO A POINT, THENCE LEAVING SAID NORTH LINE NORTH 2° 10' 30" EAST 30.02 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL 3 AS FOUND RECORDED OCTOBER 29, 1970 IN BOOK 7 OF MAPS, PAGE 75, SAN BENITO COUNTY RECORDS, THENCE ALONG THE SOUTH LINE OF PARCEL 3 SOUTH 89° 47' 20" EAST 640.78 FEET TO THE SOUTHEAST CORNER THEREOF, THENCE SOUTH 00° 12' 40" WEST 30.00 FEET TO THE POINT OF BEGINNING.

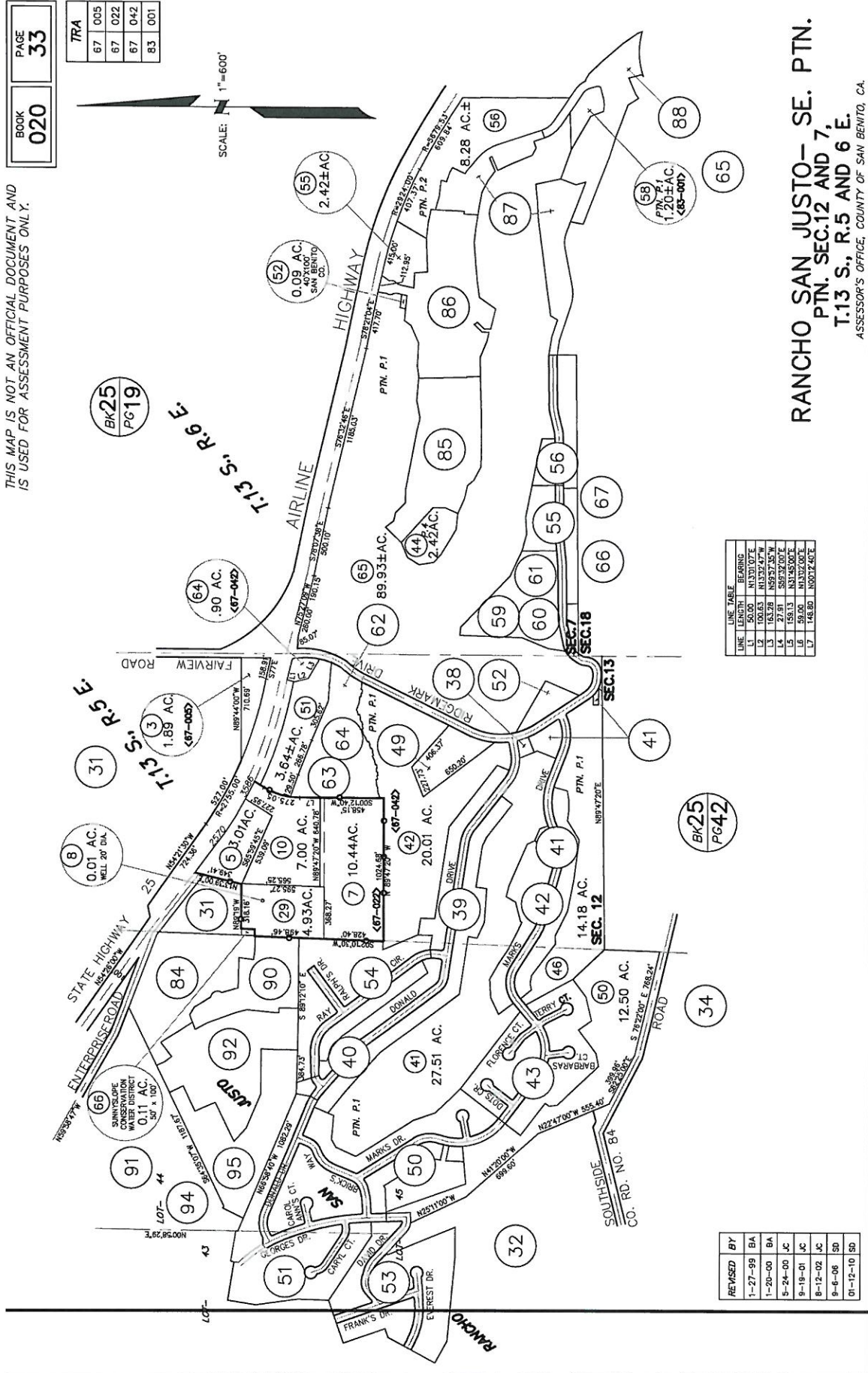
APN: 020-540-037 and 020-330-029 and 020-330-008

EXHIBIT A

THIS MAP IS NOT AN OFFICIAL DOCUMENT AND IS USED FOR ASSESSMENT PURPOSES ONLY.

BOOK 020 PAGE 33

TRA
67 005
67 022
67 042
83 001



LINE	LENGTH	BEARINGS
L1	50.00	N13°01'07"E
L2	100.63	N13°32'47"W
L3	163.28	N58°57'35"W
L4	27.91	S59°32'00"E
L5	59.00	N33°03'00"E
L6	148.80	N00°12'40"E

REVISED	BY
1-27-99	BA
1-20-00	BA
5-24-00	JC
9-19-01	JC
8-12-02	JC
9-6-06	SD
01-12-10	SD

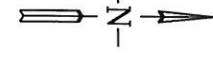
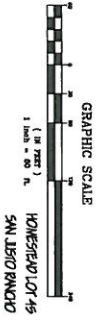
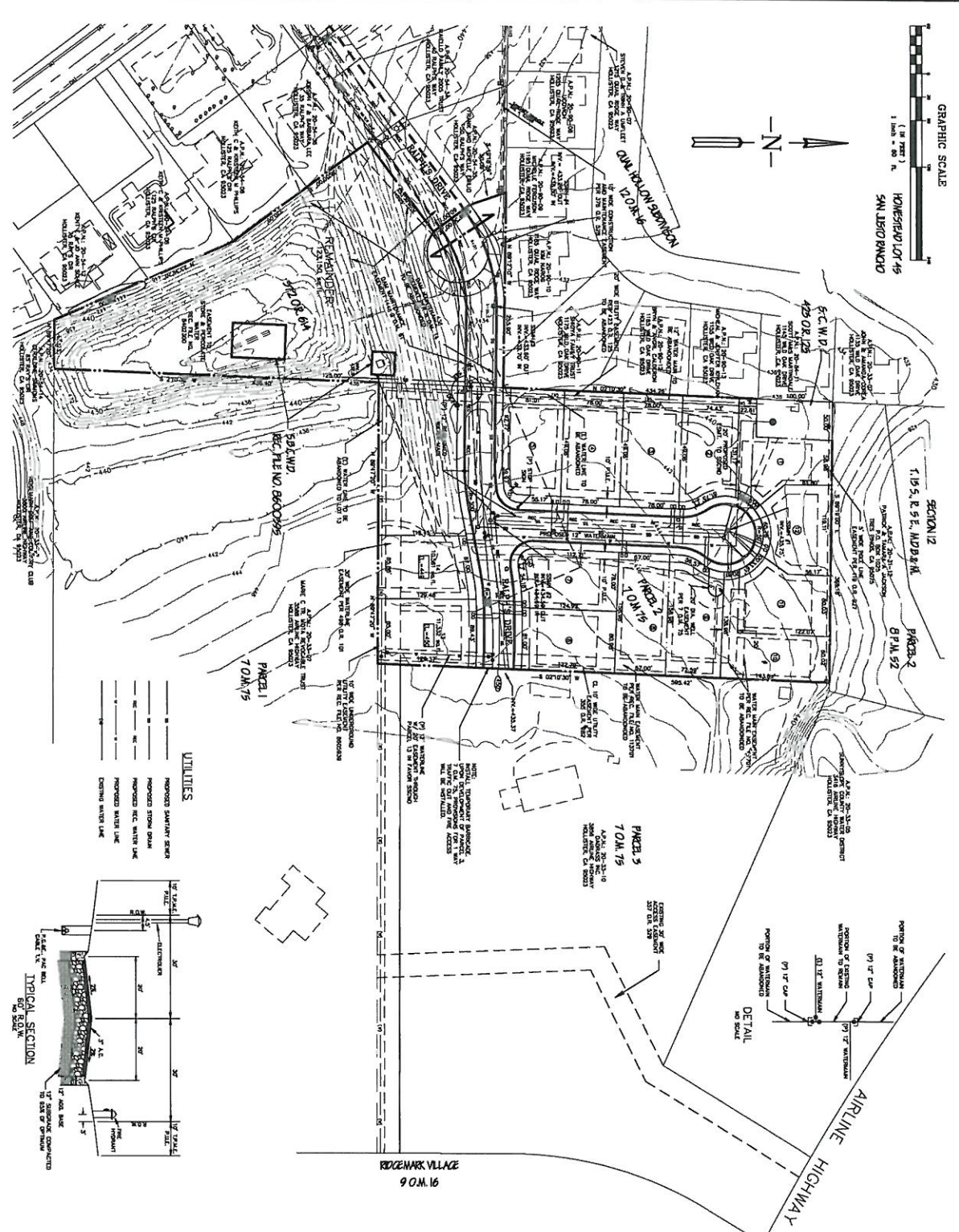
RANCHO SAN JUSTO- SE. PTN.
PTN. SEC.12 AND 7,
T.13 S., R.5 AND 6 E.
ASSESSOR'S OFFICE, COUNTY OF SAN BENITO, CA.

SAN BENITO ENGINEERING & SURVEYING, INC.
 502 Monterey Street Hollister, California 95023
 (831) 937-2783 FAX (831) 937-6855 E-MAIL: info@seinc.com

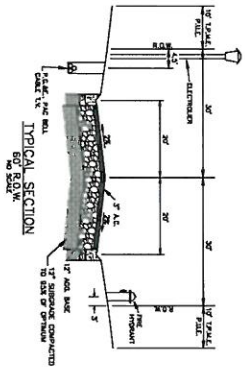
PROJECT: 1999-22-1001
 DATE: 13 July 2009 at 4:30pm
 DRAWING: 1999-22-1001-04

COUNTY OF SAN BENITO
TYLER KNOLL
 STATE OF CALIFORNIA

DESIGNER: TSM 08-77; LYNN HIDDEN
 HORIZONTAL SCALE: 1" = 60'



- UTILITIES**
- PROPOSED SANITARY SEWER
 - PROPOSED STORM SEWER
 - PROPOSED REC. WATER LINE
 - EXISTING WATER LINE



Parcel #	Area (sq. ft.)	Area (sq. ft.)
1	10000	444
2	10000	444
3	11000	444
4	11000	444
5	11000	444
6	11000	444
7	11000	444
8	11000	444
9	11000	444
10	11000	444
11	11000	444
12	11000	444

NOTES:

- 1. PARCEL P.C. AS SHOWN ON THIS PLAN SHALL BE RESERVED FOR SALE TO THE DEVELOPER'S CHIEF ENGINEER.
- 2. ALL UTILITIES SHALL BE DEEPER THAN THE PROPOSED FOUNDATION.
- 3. ALL UTILITIES SHALL BE DEEPER THAN THE PROPOSED FOUNDATION.
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- 11. ALL UTILITIES SHALL BE DEEPER THAN THE PROPOSED FOUNDATION.
- 12. ALL UTILITIES SHALL BE DEEPER THAN THE PROPOSED FOUNDATION.

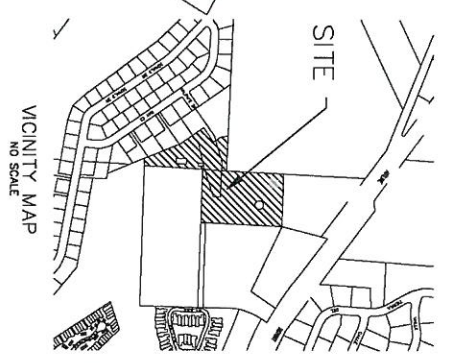


EXHIBIT C

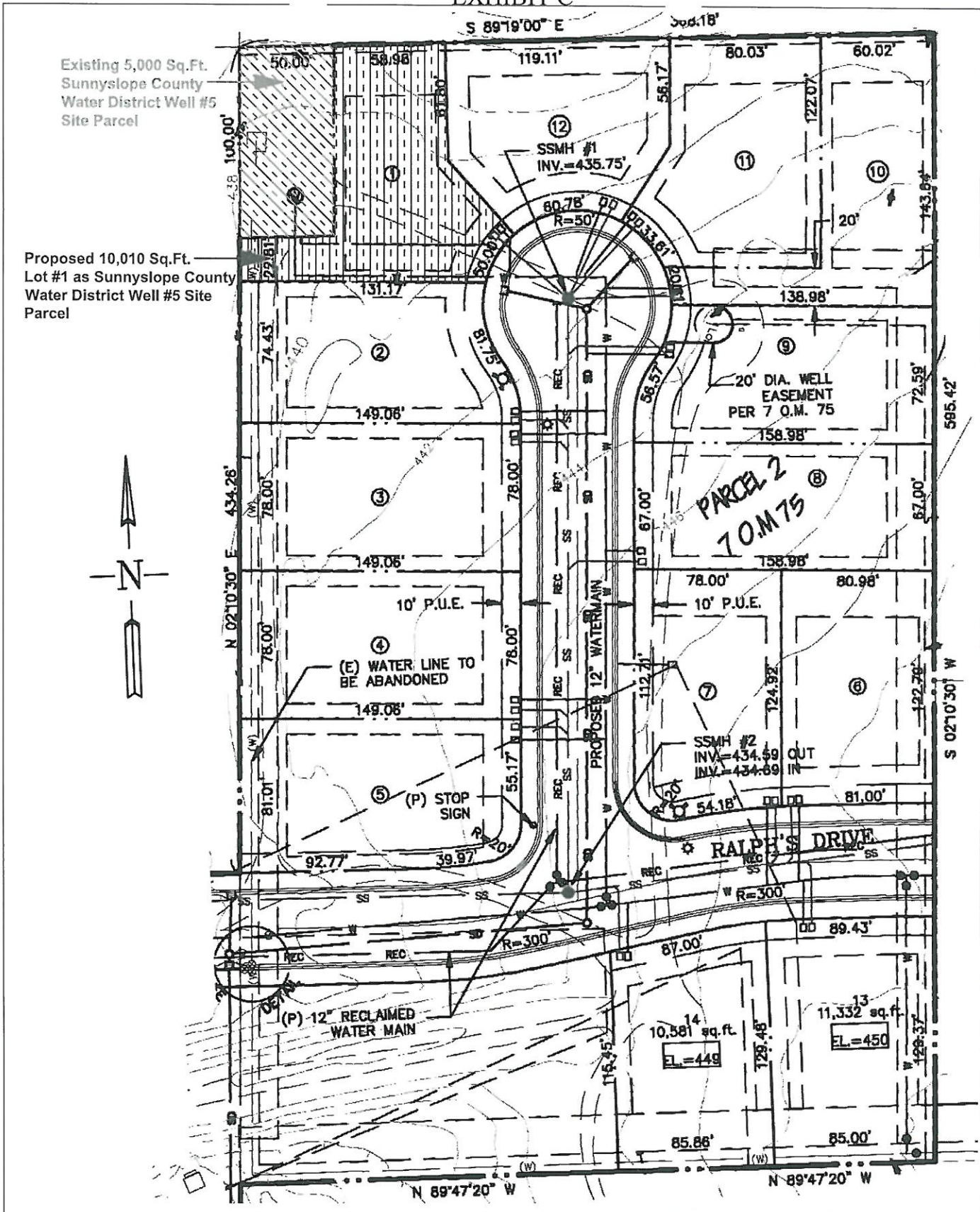
Exhibit A

An exclusive easement over, under, and through the entire property described in Exhibit A for water system facilities, including the installation, maintenance, operation, repair and replacement of water system facilities, well sites, and water wells, and the right to take water therefrom.

BEING A PORTION of Homestead Lot 45 of the San Justo Rancho according to the Map thereof filed July 21, 1876, in Volume 1 of Maps, at page 64, San Benito County Records, and being also a portion of that certain parcel of land designated as (Remainder) as shown on Parcel Map No. 1099-98 and recorded November 25, 1998 in Book 9 of Parcel Maps, at page 23, San Benito County Records, and being bounded by a line more particularly described as follows:

BEGINNING at the northwesterly corner of said Remainder parcel, being also the northeasterly corner of that certain parcel of land (designated as Parcel A) conveyed to Sunnyslope County Water District, by Grant Deed and Deed of Easement, recorded October 18, 1977 in Volume 423 of Official Records, at page 125, San Benito County Records, and running thence along the northerly line of said Remainder parcel South 89° 19' 00" East 59.00 feet; thence South 00° 41' 00" West 61.80 feet; thence South 40° 02' 27" East 51.93 feet; thence along a non-tangent curve to the left from a radial bearing that bears North 40° 02' 27" West, having a radius of 50.00 feet, through a central angle of 34° 20' 45", for a distance of 29.97 feet; thence North 87° 49' 30" West 130.43 feet to a point in the westerly line of said Remainder parcel; thence along the westerly line of said Remainder parcel North 2° 10' 30" East 22.81 feet to the southwesterly corner of said Parcel A; thence along the southerly line of said Parcel A South 89° 19' 00" East 50.00 feet to the southwesterly corner thereof; thence along the easterly line of said Parcel A North 2° 10' 30" East 100.00 feet to the point of beginning.

EXHIBIT C



DATE: February 2, 2010
 DRAWN BY: Patrick L. Imperatrice
 SCALE: N.T.S.

WELL #5
EXHIBIT MAP

