

Recording Requested by:

**City Clerk
City of Hercules
111 Civic Drive
Hercules, CA 94547**

RESOLUTION NO. 20-_____

**A RESOLUTION OF THE CITY COUNCIL APPROVING THE VACATION
AND ABANDONMENT OF PUBLIC RIGHT-OF-WAY WITHIN THE
EASTERLY PORTIONS OF SAN PABLO AVENUE ABUTTING THE
HILLTOWN VESTING TENTATIVE MAP #VTM 9533**

WHEREAS, the California Streets and Highways Code (“S&H Code”) Sections 8300 *et seq.* allows the City of Hercules’s legislative body to vacate all or part of a street, highway, or public service easement within the City; and

WHEREAS, the City desires to vacate and abandon a portion of the existing street right-of-way for San Pablo Avenue located adjacent to the western side of that certain property commonly known as the Hill Town project site bearing assessor’s parcel number 404-040-064 and subject to Vesting Tentative Map application number #VTM 9533. The portion of the San Pablo Avenue right-of-way to be abandoned (the “Abandonment Area”) is comprised of three separate parcels which are defined on the attached legal description and plats and described as:

- 1) Parcel A; approximately .11 acres along the east side of San Pablo Avenue, and
- 2) Parcel B, approximately .95 acres along the east side of San Pablo Avenue, and
- 3) Parcel C, approximately .06 acres along the east side of San Pablo Avenue.

The Abandonment Area is part of the right-of-way described by that certain Grant Deed recorded in Book 3670, at page 77, of the official records of Contra Costa County; and

WHEREAS, on February 12, 2020, the City Council adopted Resolution 20-007 declaring a Notice of Intent to vacate unnecessary public right-of-way within the easterly portion of San Pablo Avenue and set a Public Hearing for March 24, 2020 in accordance with said sections of the S&H Code; and

WHEREAS, on February 13, 2020, in accordance with S&H Code Sections 8347 and 8321, the City provided written notice, by certified mail, return receipt requested, of the proposed vacation and abandonment of public right-of-way to the public utility entities commonly known to provide service in the City and its surrounding area, including Pacific Gas & Electric company, East Bay Municipal Utility District, AT&T, Comcast, Verizon, Phillips 66, and Zayo Group; and

WHEREAS, on March 2, 2020, in accordance with S&H Code Section 8313 and pursuant to Government Code Section 65402, the Planning Commission passed Resolution #20-02 finding

the proposed vacation and abandonment of the Abandonment Area along the easterly portion of San Pablo Avenue is in conformance with the City's General Plan, and that the Abandonment Area is excess right-of-way which is unnecessary and no longer required for public street and highway purposes; and

WHEREAS, notice of public hearing was published in the Contra Costa Times on March 3rd and March 10th, 2020; and

WHEREAS, in accordance with S&H Code Section 8323 notices were also posted in the field every 300' on the premises of the areas proposed to be vacated on March 2, 2020 along San Pablo Avenue and notices were sent to property owners within 300' of the site; and

WHEREAS, on March 24, 2020, the City Council conducted a Public Hearing to consider testimony and evidence from interested parties regarding the proposed vacation and abandonment and other applications for the proposed Hill Town project.

WHEREAS, pursuant to the requirements of the California Environmental Quality Act ("CEQA") and its implementing regulations (the "CEQA Guidelines"), the potential environmental effects from the proposed vacation and abandonment of the Abandonment Area were evaluated in an Initial Study and the City determined that no further environmental review is required to vacate and abandon the Abandonment Area, as documented in the Initial Study and Addendum to the Redevelopment Plan EIR and updated Mitigation Monitoring and Reporting Program dated 2/14/2020 (the "Updated MMRP") (collectively, "CEQA Addendum #IS 19-01").

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

1. Location—The project site is within the boundaries of the Hercules General Plan and near the I-80 and SR-4 interchange. One of the four major concepts that guide the Land Use Element of the General Plan is the designation of land near that junction for mixed use residential commercial use. The proposed vacations are necessary for the proposed project, ponding basins which will provide for a mix of residential and neighborhood commercial, consistent with the General Plan.
2. Purpose—Among other relevant General Plan objectives, Land Use Element Objective 5 calls to develop and maintain a pattern of residential land uses which provide for a variety and balance of densities and opportunities for a mix of dwelling and residential type.
3. Extent—The project proposes a minimum amount of right-of-way vacation—1.12 acres— to both accomplish the project objectives to maximize the residential yield given the on-site storm-water retention requirements while retaining the ability to provide and landscape strip adjacent to San Pablo and sidewalk within the remaining right-of-way.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of Hercules as follows:

1. The foregoing facts and circumstances are true and correct and incorporated herein by reference; and
2. The Council finds that based on all the evidence submitted that the easterly portion of San Pablo Avenue vacation Area is “unnecessary for present or prospective public use” as a public street and determines that “the vacation area is not useful as a nonmotorized transportation facility” (per Sections 8324 and 892 respectively of the Streets and Highways Code); and
3. The portions of San Pablo Avenue shown and legally described herein in Exhibits A & B are vacated, effective upon the occurrence of all the following conditions:
 - a) The existing utilities located within the vacation area shall be abandoned, relocated or retained in an appropriate new easement established that is necessary to maintain, operate, replace, remove, or renew the public utility facilities as determined by the City Engineer with any new easements being accepted by the City Engineer and City Clerk without going back to the City Council.
 - b) The abandonment shall only be considered for recordation with the proposed Hilltown Project moving forward triggered concurrently with the recordation of any Final Map for any of the project phases.
4. Upon the occurrence of the foregoing conditions contained in 3a and 3b above, the City Clerk is directed to record a certified copy of this Resolution in the office of the County Recorder to complete the abandonment.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 24th day of March, 2020, by the following vote of the City Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

Roland Esquivias, Mayor

ATTEST:

Lori Martin
City Clerk & Administrative Services Director

Abandonment Exhibits:

Exhibit A: Legal Description
Exhibit B: Plats of the 3 Areas

**EXHIBIT A
PUBLIC RIGHT OF WAY VACATION
LEGAL DESCRIPTION**

ALL THAT CERTAIN REAL PROPERTY LYING AND BEING IN THE CITY OF HERCULES, CONTRA COSTA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING PORTION OF THE EXISTING PUBLIC RIGHT OF WAY OF SAN PABLO AVENUE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 'A'

BEGINNING ON THE EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE AT THE NORTHWESTERLY TERMINUS OF THAT LINE DELINEATED AS " N 24°34'47" W, 191.97' " ON SHEET 2 OF THAT CERTAIN MAP ENTITLED 'PARCEL MAP NO. 1002' FILED AUGUST 12, 1976 IN BOOK 47 OF PARCEL MAPS AT PAGE 19, CONTRA COSTA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING, LEAVING SAID EAST RIGHT OF WAY LINE ALONG THE FOLLOWING COURSES AND CURVES: NORTH 03°06'48" EAST, 451.30 FEET; THENCE NORTH 03°51'21" EAST, 51.26 FEET; THENCE NORTHERLY, NORTHEASTERLY AND EASTERLY ALONG A TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 16°56'57" AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, 7.40 FEET; THENCE SOUTH 85°27'19" EAST, 12.49 FEET TO A POINT ON SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE AS SHOWN ON SAID MAP (47 M 19); THENCE ALONG SAID EAST RIGHT OF WAY LINE SOUTH 02°34'16" WEST, 88.73 FEET; THENCE SOUTH 06°23'25" WEST, 300.55 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.11 ACRES, MORE OR LESS.

PARCEL 'B'

BEGINNING ON SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE AT THE SOUTHWESTERLY TERMINUS OF THAT LINE DELINEATED AS " N 19°46'16" E, 775.35' " ON SHEET 2 OF SAID MAP (47 M 19); THENCE FROM SAID POINT OF BEGINNING, ALONG SAID EAST RIGHT OF WAY LINE SOUTHERLY ALONG A CURVE CONCAVE TO THE EAST, THE CENTER OF WHICH BEARS SOUTH 81°46'55" EAST, HAVING A RADIUS OF 1950.00 FEET, THROUGH A CENTRAL ANGLE OF 03°57'15" AND SOUTHERLY, ALONG THE ARC OF SAID CURVE, 134.58 FEET; THENCE SOUTH 02°34'16" WEST, 197.99 FEET; THENCE, LEAVING SAID EAST RIGHT OF WAY LINE ALONG THE FOLLOWING COURSES AND CURVES: NORTH 85°27'19" WEST, 11.80 FEET; THENCE NORTHWESTERLY AND NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THE CENTER OF WHICH BEARS NORTH 41°24'53" EAST, HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 15°34'16" AND NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, 6.79 FEET; THENCE NORTH 03°51'21" EAST, 241.31 FEET; THENCE NORTHERLY AND NORTHEASTERLY ALONG A TANGENT CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 1756.00 FEET, THROUGH A CENTRAL ANGLE OF 29°24'44" AND

NORTHERLY, ALONG THE ARC OF SAID CURVE, 901.42 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY AND EASTERLY ALONG A CURVE CONCAVE TO THE SOUTHEAST, THE CENTER OF WHICH BEARS SOUTH 20°06'27" EAST HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 13°12'59" AND EASTERLY, ALONG THE ARC OF SAID CURVE, 5.77 FEET; THENCE SOUTH 60°01'16" EAST, 13.79 FEET TO A POINT ON SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE; THENCE, ALONG SAID EAST RIGHT OF WAY LINE SOUTHWESTERLY ALONG A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, THE CENTER OF WHICH BEARS SOUTH 57°52'42" EAST, HAVING A RADIUS OF 1950.00 FEET, THROUGH A CENTRAL ANGLE OF 00°52'21" AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, 29.70 FEET; THENCE SOUTH 19°46'16" WEST, 775.35 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.95 ACRES, MORE OR LESS.

PARCEL 'C'

COMMENCING ON SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE AT THE NORTHERNMOST CORNER OF PARCEL 1 OF SAID MAP (47 M 19); THENCE ALONG SAID EAST RIGHT OF WAY LINE SOUTH 41°42'34" WEST, 21.79 FEET TO THE TRUE POINT OF BEGINNING; THENCE, FROM SAID TRUE POINT OF BEGINNING, ALONG SAID EAST RIGHT OF WAY LINE SOUTH 41°42'34" WEST 98.13 FEET; THENCE SOUTHWESTERLY ALONG A TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1950.00 FEET, THROUGH A CENTRAL ANGLE OF 04°55'36" AND SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, 167.67 FEET; THENCE LEAVING SAID EAST RIGHT OF WAY LINE ALONG THE FOLLOWING COURSES AND CURVES: NORTH 60°01'16" WEST, 8.83 FEET; THENCE NORTHWESTERLY AND NORTHEASTERLY ALONG A NON-TANGENT CURVE CONCAVE TO THE EAST, THE CENTER OF WHICH BEARS NORTH 66°50'55" WEST, HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 22°47'12" AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, 9.94 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHEAST, THE CENTER OF WHICH BEARS SOUTH 53°51'05" EAST, HAVING A RADIUS OF 1210.00 FEET, THROUGH A CENTRAL ANGLE OF 01°56'01" AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, 40.84 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHEAST, THE CENTER OF WHICH BEARS SOUTH 51°55'04" EAST, HAVING A RADIUS OF 2960.00 FEET, THROUGH A CENTRAL ANGLE OF 03°31'48" AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, 182.36 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHEAST, THE CENTER OF WHICH BEARS SOUTH 48°20'36" EAST, HAVING A RADIUS OF 15.00 FEET, THROUGH A CENTRAL ANGLE OF 15°43'01" AND NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, 4.11 FEET; THENCE TANGENTIALLY NORTH 57°19'45" EAST, 35.22 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINING 0.07 ACRE, MORE OR LESS.

EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

END OF DESCRIPTION

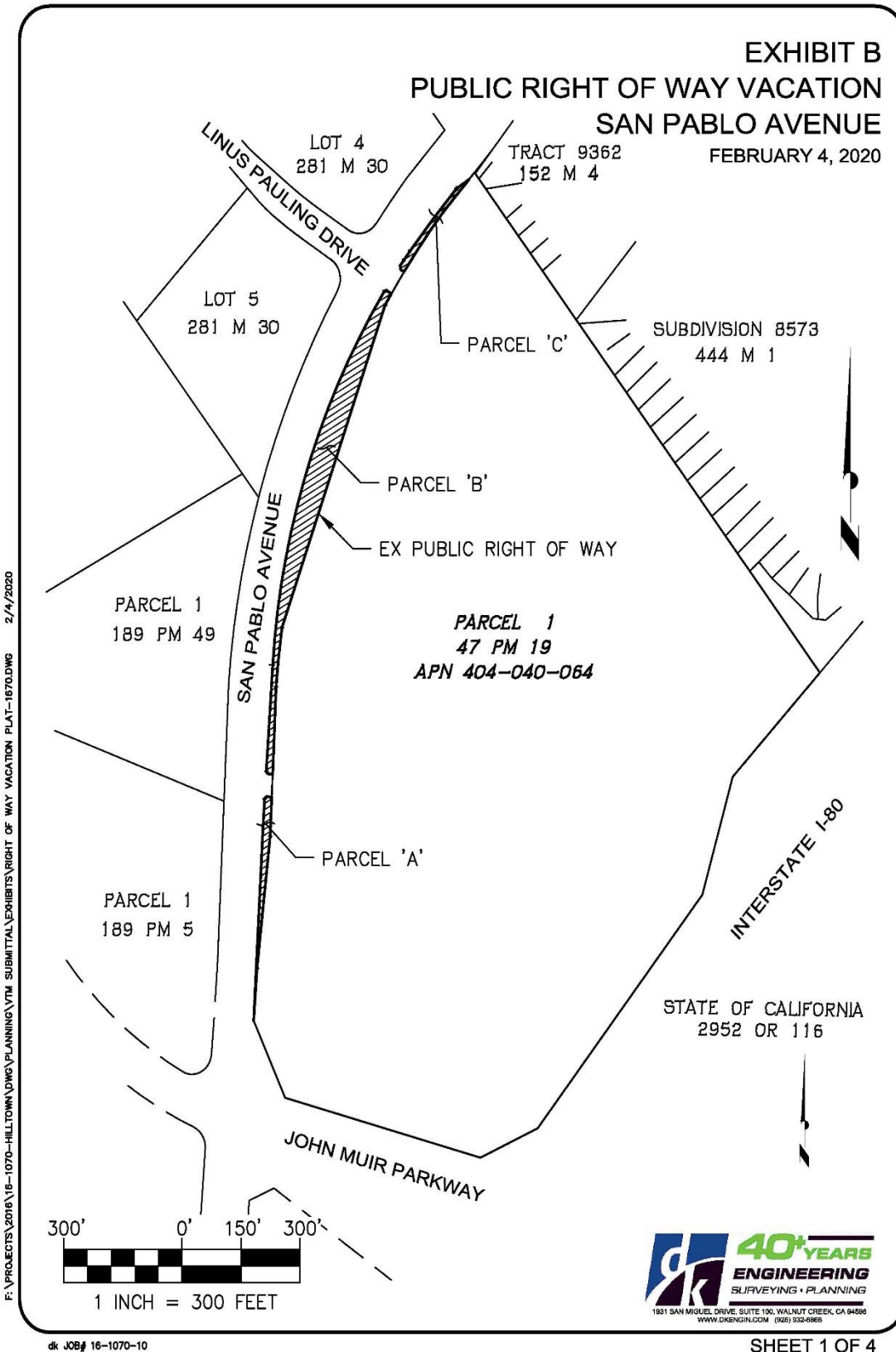


EXHIBIT B
PUBLIC RIGHT OF WAY VACATION
SAN PABLO AVENUE
FEBRUARY 4, 2020

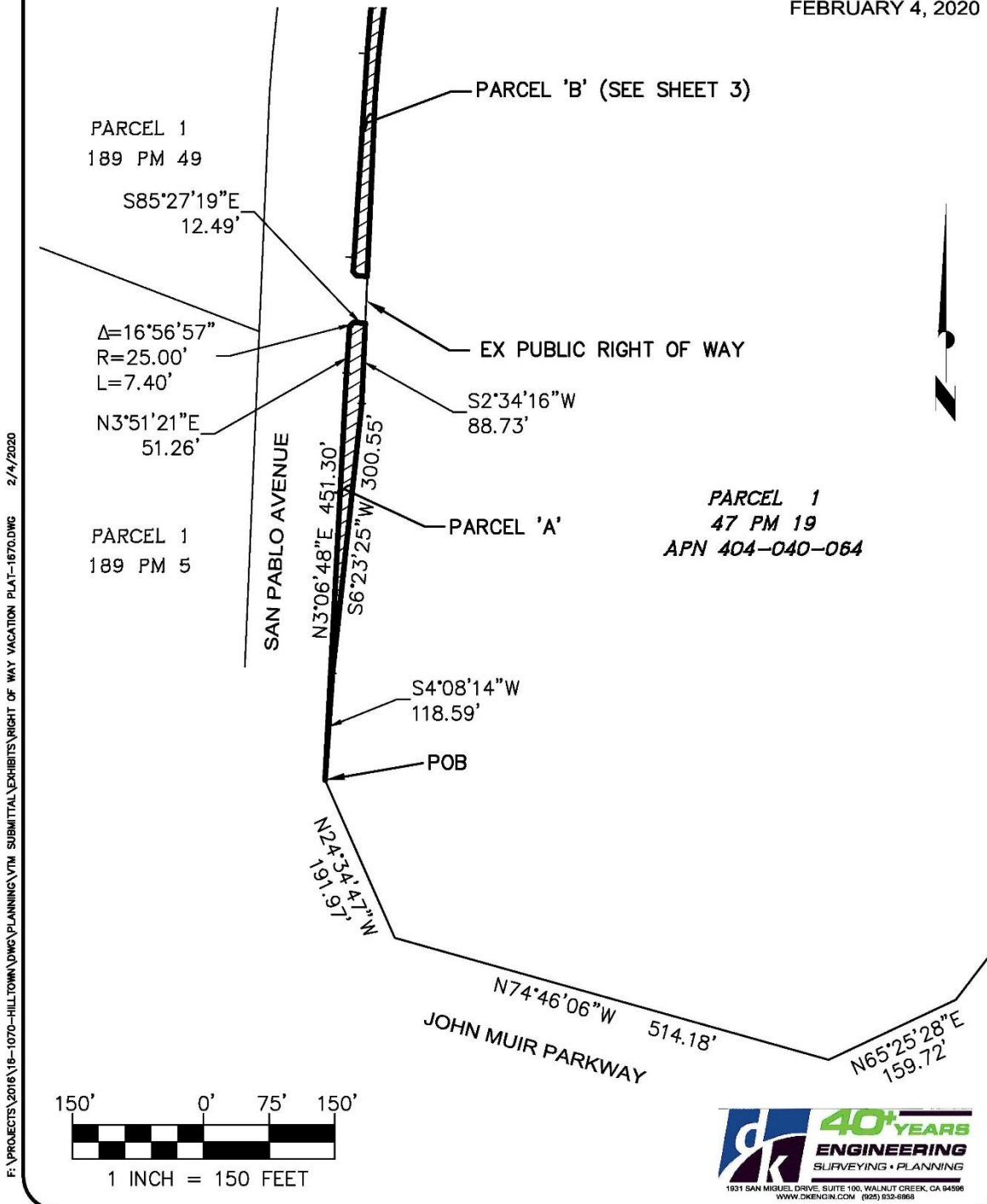
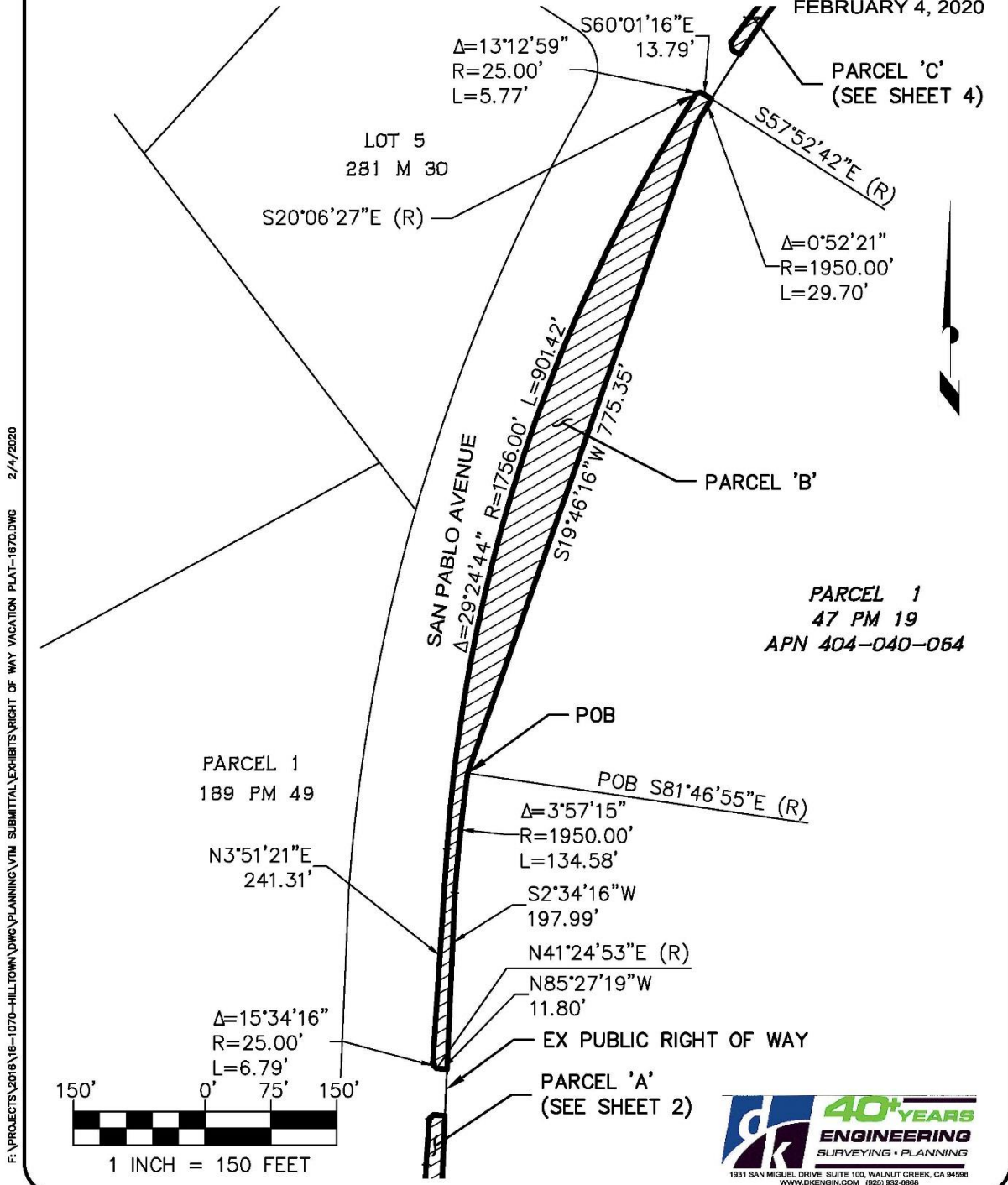


EXHIBIT B PUBLIC RIGHT OF WAY VACATION SAN PABLO AVENUE

FEBRUARY 4, 2020



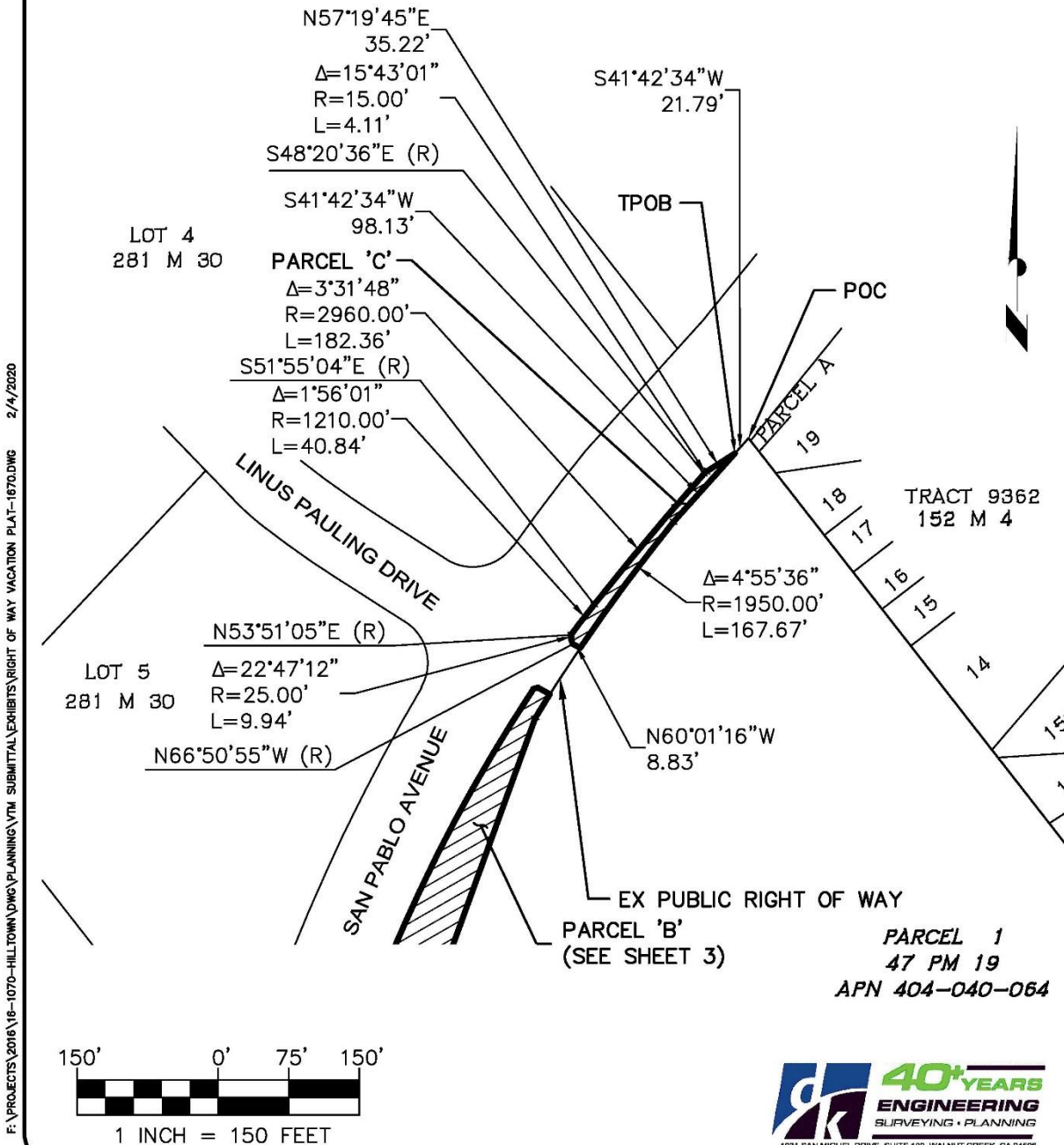
F:\PROJECTS\2016\16-1070-HILLTOWN DWS\PLANNING\VTM SUBMITTAL\EXHIBITS\RIGHT OF WAY VACATION PLAT-1670.DWG 2/4/2020

dk JOB# 16-1070-10



SHEET 3 OF 4

EXHIBIT B
PUBLIC RIGHT OF WAY VACATION
SAN PABLO AVENUE
 FEBRUARY 4, 2020



F:\PROJECTS\2016\16-1070-HILL TOWN\DWG\PLANNING\VTM SUBMITTAL\EXHIBITS\RIGHT OF WAY VACATION PLAT-1670.DWG 2/4/2020

dk JOB# 16-1070-10



SHEET 4 OF 4