

RESOLUTION NO. 20-0090

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL DECLARING THAT A TEMPORARY CONSTRUCTION EASEMENT AND AN EIGHT FOOT AREA OVER PORTIONS OF THE REAL PROPERTY LOCATED AT 1727 AVIATION BOULEVARD IN THE CITY OF MANHATTAN BEACH, FURTHER IDENTIFIED AS LOS ANGELES COUNTY TAX ASSESSOR'S PARCEL NUMBER 4163-008-044, ARE NECESSARY FOR PUBLIC PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF, IN CONNECTION WITH THE AVIATION BOULEVARD AT ARTESIA BOULEVARD SOUTHBOUND TO WESTBOUND RIGHT TURN LANE IMPROVEMENT PROJECT

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DECLARES, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. The City of Manhattan Beach ("City") is a municipal corporation in the County of Los Angeles, State of California.

SECTION 2. The property interests ("Subject Property Interests") described in Section 3 of this Resolution are to be taken for a public use, namely for public streets, highways and related purposes and all purposes necessary and convenient thereto. The Subject Property Interests are required for the Aviation Boulevard at Artesia Boulevard Southbound to Westbound Right Turn Lane Improvement Project ("Project"). Pursuant to the authority conferred by Article 1, Section 19 of the California Constitution, California Government Code Sections 37350, 37350.5, 37351, 40401, 40404, and 65080, California Code of Civil Procedure Sections 1230.010 *et seq.* (Eminent Domain Law), including, but not limited to Sections 1240.010, 1240.020, 1240.110, 1240.120 and 1245.250, and other provisions of law, the City may acquire real property by eminent domain.

SECTION 3. The City seeks to acquire a 1,359 square foot temporary construction easement (the "Temporary Construction Easement") for a term of five months to facilitate construction of the Project and an eight foot area ("Dedicated Area") over portions of the real property located at 1727 Artesia Boulevard, Manhattan Beach, more specifically described as Los Angeles County Tax Assessor Parcel Number 4163-008-044 (the "Subject Property") for public use, namely road widening and other associated improvement purposes and all uses necessary or convenient thereto. Hereinafter, the Temporary Construction Easement and the Dedicated Area are referred to herein collectively as the "Subject Property Interests." The legal descriptions and plat map of the Subject Property Interests are attached as Exhibits A and B to this Resolution. The Subject Property Interests are depicted on the diagrams attached as Exhibit C to this Resolution. The above-referenced exhibits are incorporated herein by

this reference. The Subject Property Interests are required for the construction of the Project.

SECTION 4. The public interest and necessity require the Project. The Project is located at the intersection of Aviation Boulevard and Artesia Boulevard in the City. The Project includes widening the west side of Aviation Boulevard to accommodate one additional 12.5-foot right turn lane and an eight-foot pedestrian walkway in the southbound direction. A new Americans with Disabilities Act (ADA) pedestrian curb ramp on the northwest corner of the Aviation Boulevard and Artesia Boulevard intersection will be constructed. The Subject Property Interests are needed for this right turn lane, pedestrian walkway, and ADA curb ramp.

The Project is needed to improve the operation and traffic flow within the area and to implement the planned roadway improvements. Aviation Boulevard is a north-south major arterial. The existing roadway carries two northbound and southbound through lanes. In 2018, based on the Manhattan Beach General Plan Figure I-3, Intersection Level of Service (LOS), the intersection at Aviation Boulevard and Artesia Boulevard currently operates at a LOS F in both the morning and evening peak hour. Accordingly, traffic demands on Aviation Boulevard and Artesia Boulevard exceed capacity, which is further impacted by the inadequate storage queues of turning movements (left and right) at the intersection. The addition of a southbound right-turn only lane would increase capacity and relieve congestion within the area.

The Project will achieve the General Plan's goal of having an important north-south major arterial built out to its ultimate width and thereby relieving the existing traffic congestion at this location. The Project is necessary to meet the goals and policies of the Mobility/Circulation Element of the City's General Plan. Further, the Project will ensure that vehicles are able to circulate in a safe and efficient manner, including emergency vehicles vital to the public health and safety. The construction easement is needed to construct the Project, and has been planned and located in the manner that will be compatible with the greatest public good and least private injury. Similarly, the Dedicated Area is needed to widen the right turn lane and has been planned and located in the manner that will be compatible with the greatest public good and least private injury. In 2006, the Property Owner's predecessor-in-interest applied for a use permit for the construction of a retail center. As a condition of approval, the then-owner dedicated to the City the Dedicated Area for future street widening. The then-owner received the benefits of the use permit and constructed the retail center within the confines of the Subject Property, exclusive of the Dedicated Area. The Property Owner purchased the Subject Property subject to all the conditions of the Use Permit, including the dedication requirement. None of the Subject Property's area improved with structures is necessary for the Project, and the Dedicated Area does not include any buildings.

SECTION 5. After studying and analyzing the environmental effects of the Project pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*), and the CEQA Guidelines (14 Cal. Code Regs. § 15000 *et seq.*), the

City Council adopted a mitigated negative declaration (“MND”) and mitigation monitoring program for the Project on October 15, 2019. The Notice of Determination was filed with the County Clerk and with the Office of Planning and Research on _____.

SECTION 6. Pursuant to California Government Code Section 7262 *et seq.*, the City obtained a fair market value appraisal of the Subject Property Interests that used a date of value of August 24, 2019. The City Council set just compensation in accordance with the appraised fair market value. In full compliance with Government Code Section 7267.2, the City extended a written offer to the record owner to purchase the Subject Property Interests on December 16, 2019. The City further offered to pay the record owner the reasonable costs, up to \$5,000, for an independent appraisal of the Subject Property Interests pursuant to Code of Civil Procedure Section 1263.025. The property owner declined the offer on January 15, 2020.

SECTION 7. On June 29, 2020, the City provided written and electronic notice to the record owners of the City Council’s intent to consider the adoption of the proposed Resolution of Necessity at its July 21, 2020 meeting, as required by Code of Civil Procedure Section 1245.235. On July 1, 2020, the property owner’s attorney submitted a document titled “written testimony” and a request to appear at the City Council’s hearing.

SECTION 8. Based on the foregoing, the evidence presented at this hearing including but not limited to the Agenda Report, the documents referenced therein, all attachments, the facts recited in this Resolution, and all documents and testimony presented by the Property Owner and its representatives, the City Council hereby finds, declares and determines that:

- A. The public interest and necessity require the Project;
- B. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The Subject Property Interests described in Exhibits “A”, “B” and “C” hereto are necessary for the Project; and
- D. The City made the offer required by Section 7267.2 of the Government Code to the owner of record.

SECTION 9. The findings and declarations contained in this Resolution are based on the record before the City Council on July 21, 2020, including the Agenda Report dated July 21, 2020 and all documents referenced therein, all of which are incorporated herein by this reference. These documents include the plans for the Project, the offer letters sent to the owners of record pursuant to Government Code Section 7267.2, the notice to the owners of record pursuant to Code of Civil Procedure Section 1245.235 of the City’s intent to consider the adoption of the Resolution of Necessity, the MND, and all the file documents relating to the Project. The findings and declarations in this

Resolution are also based on any testimony, records and documents produced at the hearing, all of which are incorporated herein by this reference.

SECTION 10. The City Council hereby authorizes and directs the law firm of Richards, Watson & Gershon, to take all steps necessary to commence and prosecute legal proceedings in a court of competent jurisdiction to acquire by eminent domain the Subject Property Interests described in Exhibits A, B and C to this Resolution.

SECTION 11. The City Council hereby authorizes the City Manager to execute all necessary documents in connection with the eminent domain proceeding.

SECTION 12. This Resolution shall take effect upon adoption.

SECTION 13. The City Clerk shall certify to the passage and adoption of this resolution.

ADOPTED on July 21, 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

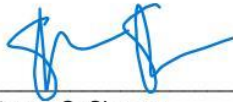
Temporary Construction Easement

feet; thence North 88°34'40" West 7.17 feet; thence South 06°20'49" East 5.75 feet to the northwesterly line of said Parcel 6-44; thence along said northwesterly line North 58°13'29" East 33.53 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING: 1,337 Square Feet, more or less.

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached and by this reference made a part hereof.



06/02/2020

Steven C. Slocum

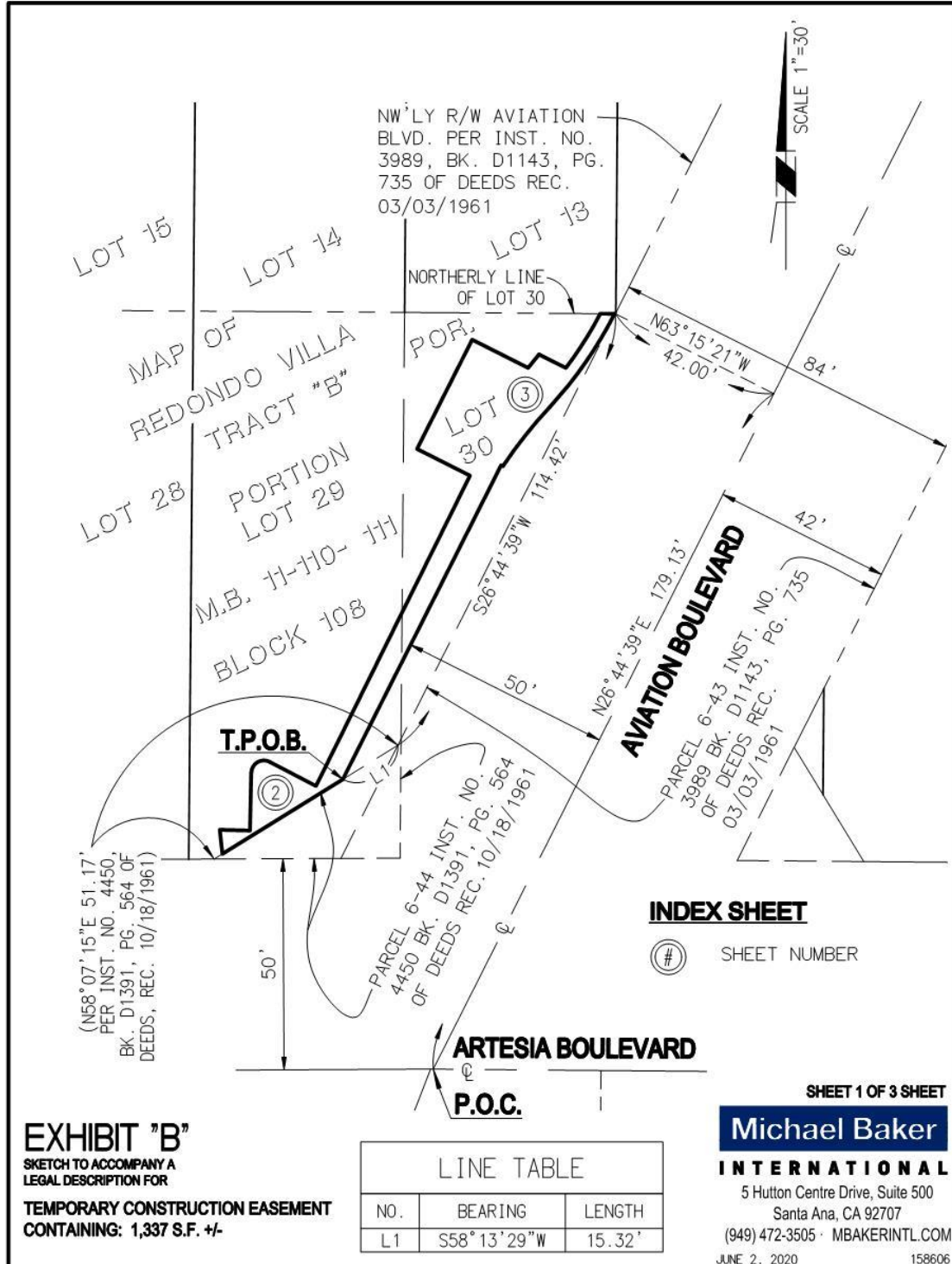
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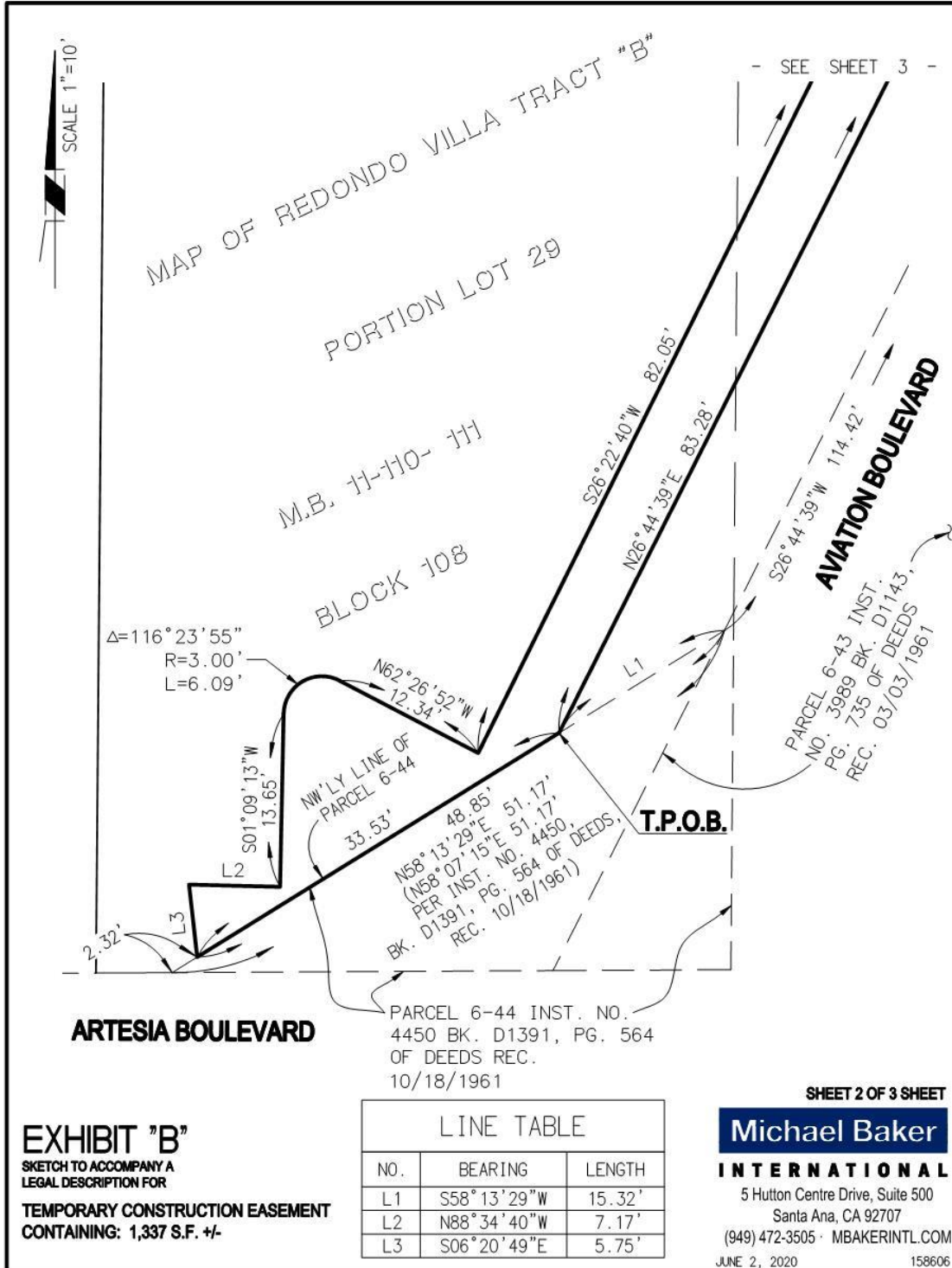
Michael Baker International
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Santa Ana, California 92707

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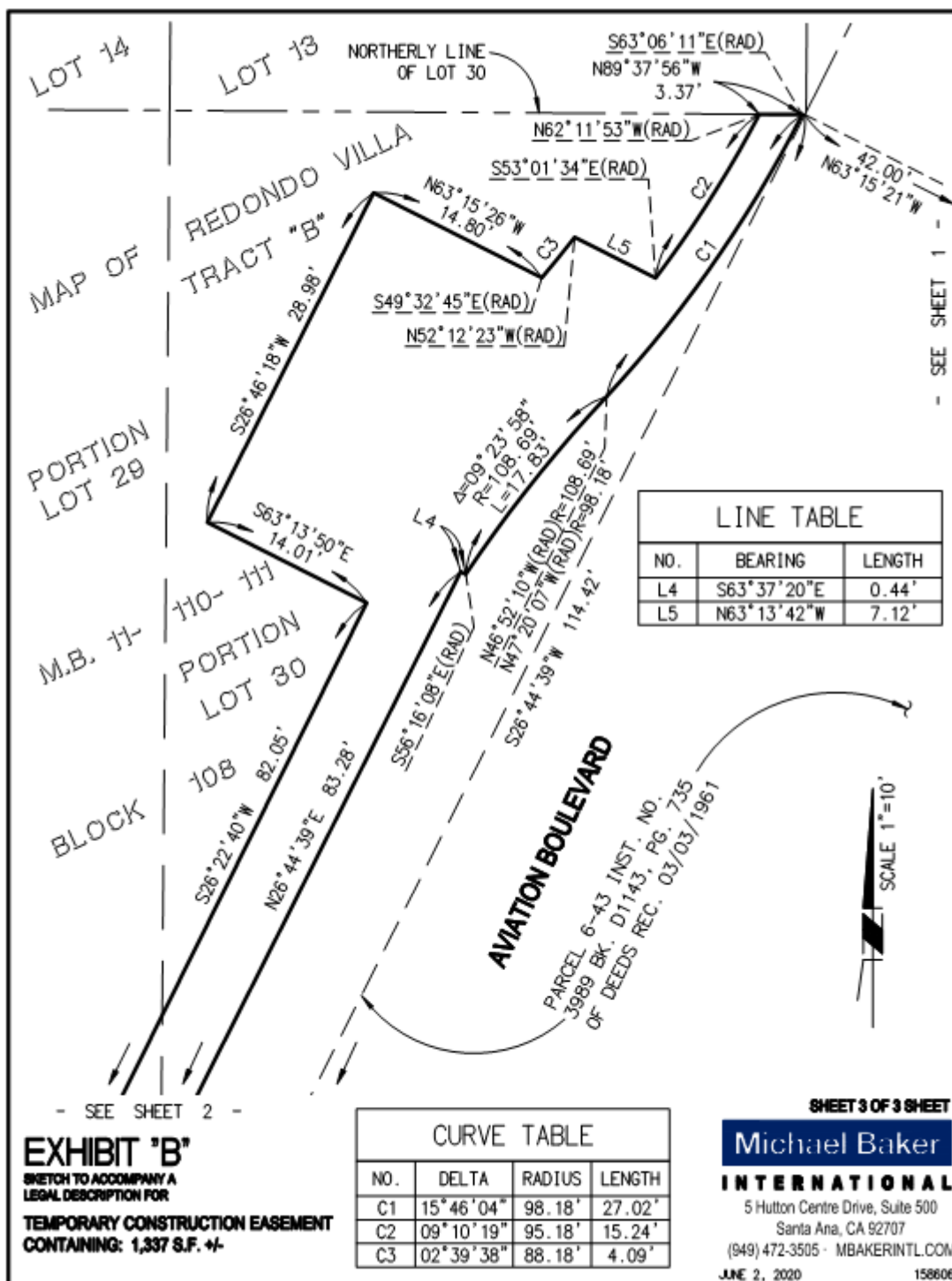
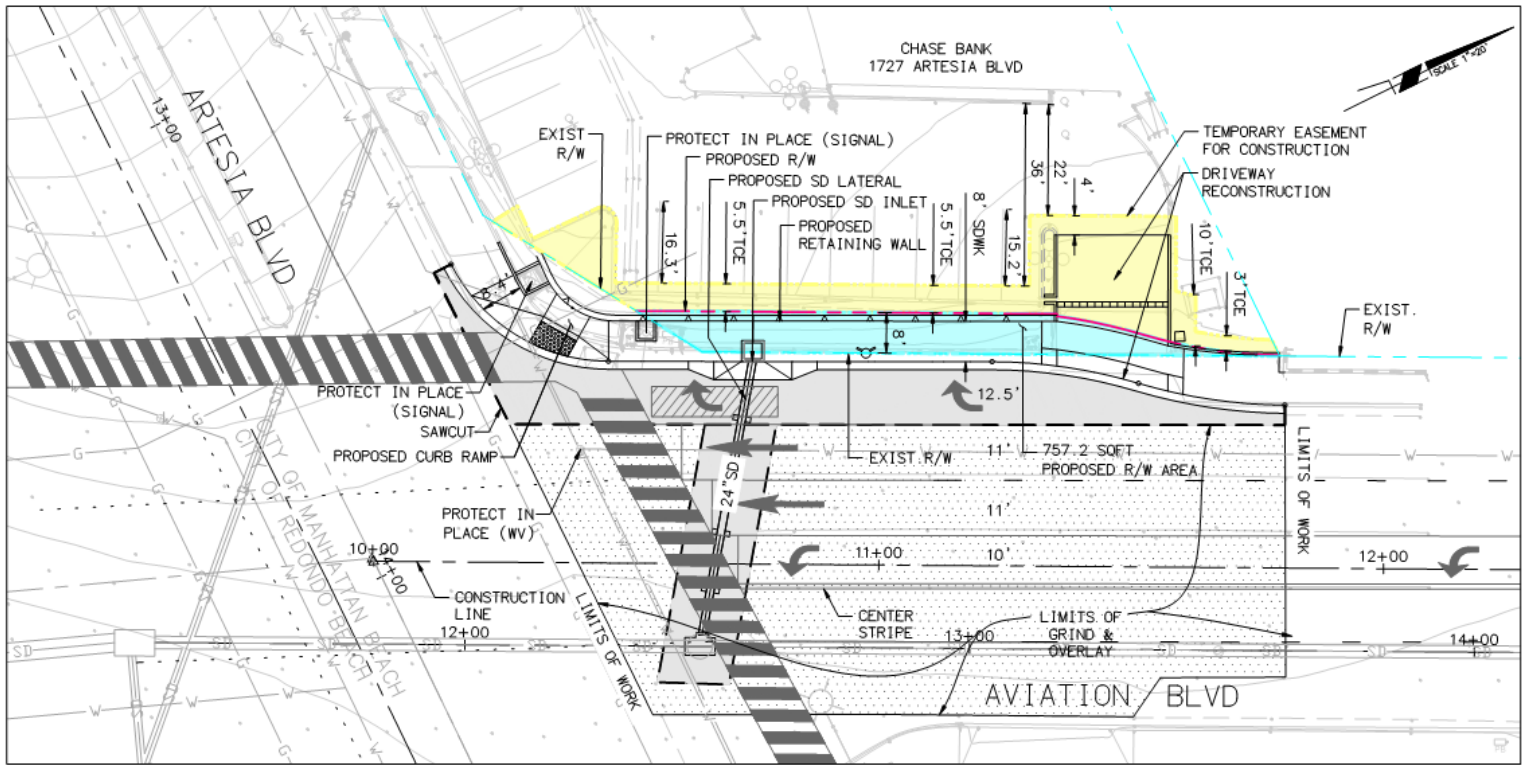


EXHIBIT C - TEMPORARY CONSTRUCTION EASEMENT PLAN



LEGEND

- TCE AREA (TEMPORARY CONSTRUCTION EASEMENT) (1359.46 SF)
- PROPOSED ROW AREA (757.2 SF)
- EXIST. R/W
- PROPOSED R/W
- FULL DEPTH PAVEMENT
- GRIND & OVERLAY
- SAWCUT
- LIMITS OF WORK

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CITY OF MANHATTAN BEACH
CALIFORNIA
DEPARTMENT OF ENGINEERING SERVICES
AVIATION BLVD. AND ARTESIA BLVD.
TEMPORARY CONSTRUCTION EASEMENT

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