ITEM NO. 12

STAFF REPORT

CITY OF OCEANSIDE

DATE: April 17, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Property Management

SUBJECT: **RESERVATION OF CITY-OWNED REAL PROPERTY AS NON-NATIVE GRASSLAND**

SYNOPSIS

Staff recommends that the City Council adopt a resolution reserving a four-acre site of City-owned real property, being portions of Assessor Parcel Nos. 157-021-03 and 158-010-31, lying east of Whelan Lake and north of the San Luis Rey River, as non-native grassland related to the San Luis Rey Wastewater Treatment Plant Solar Project; and directing the City Clerk to file a certified copy with the County Recorder.

BACKGROUND

On June 6, 2012, the City Council approved an assignment of the Power Purchase Agreement ("PPA") and the Property Lease Agreement ("PLA") from SunEdison to Solar Star Oceanside, LLC, and Amendment 2 to the PPA and PLA for the installation and operation of the solar photo-voltaic system at the San Luis Rey Wastewater Treatment Plant (the "Project").

At its meeting on August 27, 2012, the Planning Commission considered, adopted and approved the Negative Declaration and Conditional Use Permit (CUP12-00017) for the Project through Planning Commission Resolutions 2012-P41 and 2012-P42, respectively. In adopting its Resolution 2012-P41, the Commission found that the construction and operation of the Project, in light of the whole record that the Project will not have a significant effect on the environment.

The Commission's findings were based partially on the results of the Final Initial Study and Negative Declaration prepared in August 2012 by HDR Engineering, Inc., for the Project's 8-acre site of disturbed land (plowed or disced field). In its report, HDR Engineering responded to the California Department of Fish and Game's written comments to the Initial Study (SCH# 2012061073) concerning the Project's effects on non-native grassland ("NNG") stating that "Except for minor grading proposed (4% of the site), non-native grasslands would remain. Ample raptor forage opportunities would remain and no mitigation for the loss of non-native grasslands is proposed...The non-native grasslands would continue to exist at the project site...." No other written comments to the Initial Study were received and no permits were required for the Project by the regulatory agencies.

On September 6, 2012, an appeal of the Planning Commission's action of August 27, 2012 was filed by Ms. Diane Nygaard, listing among other issues the "failure to provide mitigation for impacts to non-native grasslands as identified in the biological technical report." Upon receipt of the appeal, staff contacted Ms. Nygaard and discussed her concerns. As a compromise, Staff agreed to recommend that the City Council set aside an additional four acres of open space, as mitigation for NNG impacts associated with the Project. With this commitment, Ms. Nygaard withdrew her appeal to allow the Project to proceed without interruption and jeopardizing funding for its construction. The four acres of open space is derived from the mitigation requirement for NNG at a ratio of 0.5:1 acre (8-acre Project site x 0.5 = 4 acres).

The Project has been constructed and was completed in mid-December 2012.

ANALYSIS

Typically, a conservation easement is used to set aside lands for mitigation. However, since the City is the owner of the affected four-acre site, it can't grant itself an easement. The adoption of the proposed resolution designating the four-acre site as NNG will serve the same purpose as an easement.

Therefore, staff recommends that the City Council ratify its commitment to Ms. Nygaard and adopt the proposed resolution designating four acres of land adjacent to, southerly and westerly of the solar array field as NNG, notwithstanding the fact that this is not a regulatory agency requirement for the Project.

FISCAL IMPACT

The action requested of the City Council by this item will not have an adverse budgetary impact.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced resolution has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution reserving a four-acre site of City-owned real property, being portions of Assessor Parcel Nos. 157-021-03 and 158-010-31, lying east of Whelan Lake and north of the San Luis Rey River, as non-native grassland related to the San Luis Rey Wastewater Treatment Plant Solar Project; and directing the City Clerk to file a certified copy with the County Recorder.

PREPARED BY:

William F. Marquis
Senior Property Agent

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Cari Dale, Water Utilities Director

Douglas E. Eddow, Real Property Manager

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Oceanside
300 North Coast Highway
Oceanside CA 92054

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 157-021-03 & 158-010-31

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE DESIGNATING CERTAIN CITY-OWNED REAL PROPERTY AS NON-NATIVE GRASSLAND

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, DESIGNATING CERTAIN REAL PROPERTY AS NON-NATIVE GRASSLAND

WHEREAS, the City of Oceanside is the legal and equitable owner of that certain real property situated in the Southeast Quarter of Section 6 and the North Half of the Northeast Quarter of the Northeast Quarter of Section 7, Township 11 South, Range 4 West, San Bernardino Meridian, in the City of Oceanside, County of San Diego, State of California, as more particularly described in a legal description thereof, marked Exhibit "A", and shown on a plat thereof, marked Exhibit "B", both of which are attached hereto, made a part hereof and incorporated herein by reference (the "Property"); and

WHEREAS, this City Council desires to designate the Property (consisting of 4.00 acres, more or less) as non-native grassland related to the San Luis Rey Waste Water Treatment Plant Solar Project (the "Project").

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

1. That this City Council does hereby designate the Property as described in said Exhibit "A" and as shown on said Exhibit "B" as non-native grassland, as mitigation for non-native grassland impacts associated with the Project.

2. That the action taken by the adoption of this Resolution shall not be deemed or construed as a rezoning of the Property under the provisions of the Oceanside Zoning Ordinance or the General Plan.

3. That the action taken by the adoption of this Resolution shall not be deemed or construed as a subdivision of land pursuant to the State of California Subdivision Map Act or the Oceanside Subdivision Ordinance.

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4. That the City Clerk is hereby directed to file a certified copy of this Resolution as an Official Record in the Office of the County Recorder of San Diego County.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California this ____day of _____, 2013, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

_____
City Attorney

Resolution Designating Certain City-owned Real Property as non-native grassland (SLRWWTP)

EXHIBIT "A"
LEGAL DESCRIPTION

APNS: 157-021-03 & 158-010-31

VESTING: CITY OF OCEANSIDE

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 6 AND THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 11 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN ON RECORD OF SURVEY 13763 RECORDED MAY 14, 1992 AS FILE NO. 92-294754 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 6, DISTANT THEREON NORTH 89°17'14" WEST 481.66 FEET FROM THE SOUTHWEST CORNER THEREOF;

THENCE LEAVING SAID SOUTH LINE NORTH 00°34'57" EAST 45.52 FEET;

THENCE SOUTH 89°58'28" WEST 604.24 FEET;

THENCE SOUTH 00°17'36" WEST 208.34 FEET TO THE NORTHERLY BOUNDARY OF RECORD OF SURVEY 15379 RECORDED DECEMBER 13, 1996 AS FILE NO. 1996-625030 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

THENCE ALONG SAID NORTHERLY BOUNDARY THE FOLLOWING COURSES:

SOUTH 86°29'28" EAST 57.45 FEET;

THENCE NORTH 88°49'57" EAST 201.85 FEET;

THENCE SOUTH 87°55'36" EAST 99.51 FEET;

THENCE NORTH 88°46'41" EAST 99.95 FEET;

THENCE SOUTH 89°34'39" EAST 91.77 FEET;

THENCE NORTH 87°53'00" EAST 102.46 FEET;

THENCE SOUTH 87°48'22" EAST 110.68 FEET;

THENCE SOUTH 83°22'16" EAST 31.97 FEET TO AN ANGLE POINT IN SAID NORTHERLY BOUNDARY;

THENCE LEAVING SAID NORTHERLY BOUNDARY NORTH 01°13'57" EAST 54.93 FEET;

THENCE SOUTH 89°42'24" EAST 189.37 FEET;

THENCE NORTH 00°25'08" EAST 96.06 FEET;

THENCE NORTH 88°42'49" WEST 381.63 FEET;

THENCE NORTH 00°34'57" EAST 10.20 FEET TO SAID SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 6 AND THE **POINT OF BEGINNING.**

CONTAINING 4.00 ACRES MORE OR LESS.

ATTACHED HERETO AND MADE A PART HEREOF IS A PLAT LABELED EXHIBIT "B".

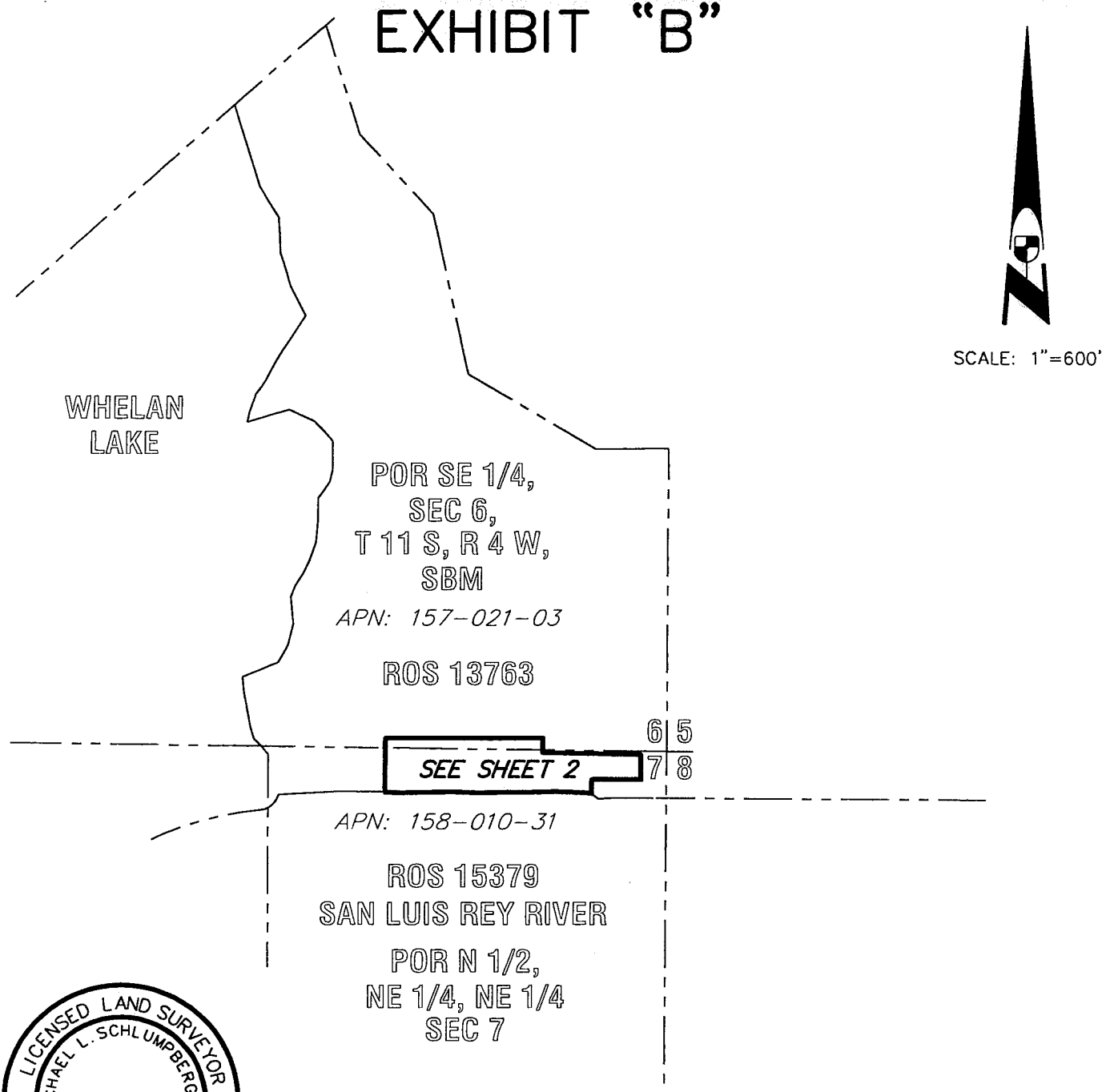
THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

MICHAEL L. SCHLUMPBERGER, PLS 7790

February 13, 2013
DATE

LICENSED LAND SURVEYOR
MICHAEL L. SCHLUMPBERGER
Exp. 12/31/13
No. 7790
STATE OF CALIFORNIA

EXHIBIT "B"



LICENSED LAND SURVEYOR
MICHAEL L. SCHLUMPBERGER
No. 7790
Exp. 12/31/13
STATE OF CALIFORNIA

THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

2-13-2013

MICHAEL L. SCHLUMPBERGER, PLS 7790

NOTE: DATA SHOWN HEREON IS BASED ON ROS 13763.

Right-Of-Way Engineering Services, Inc.
615 S. Tremont Street · Oceanside, CA 92054
(760) 637-2700 FAX (760) 637-2701
File Name: Oside-Solar Panel Site.dwg
Job No. 1301-0004-01

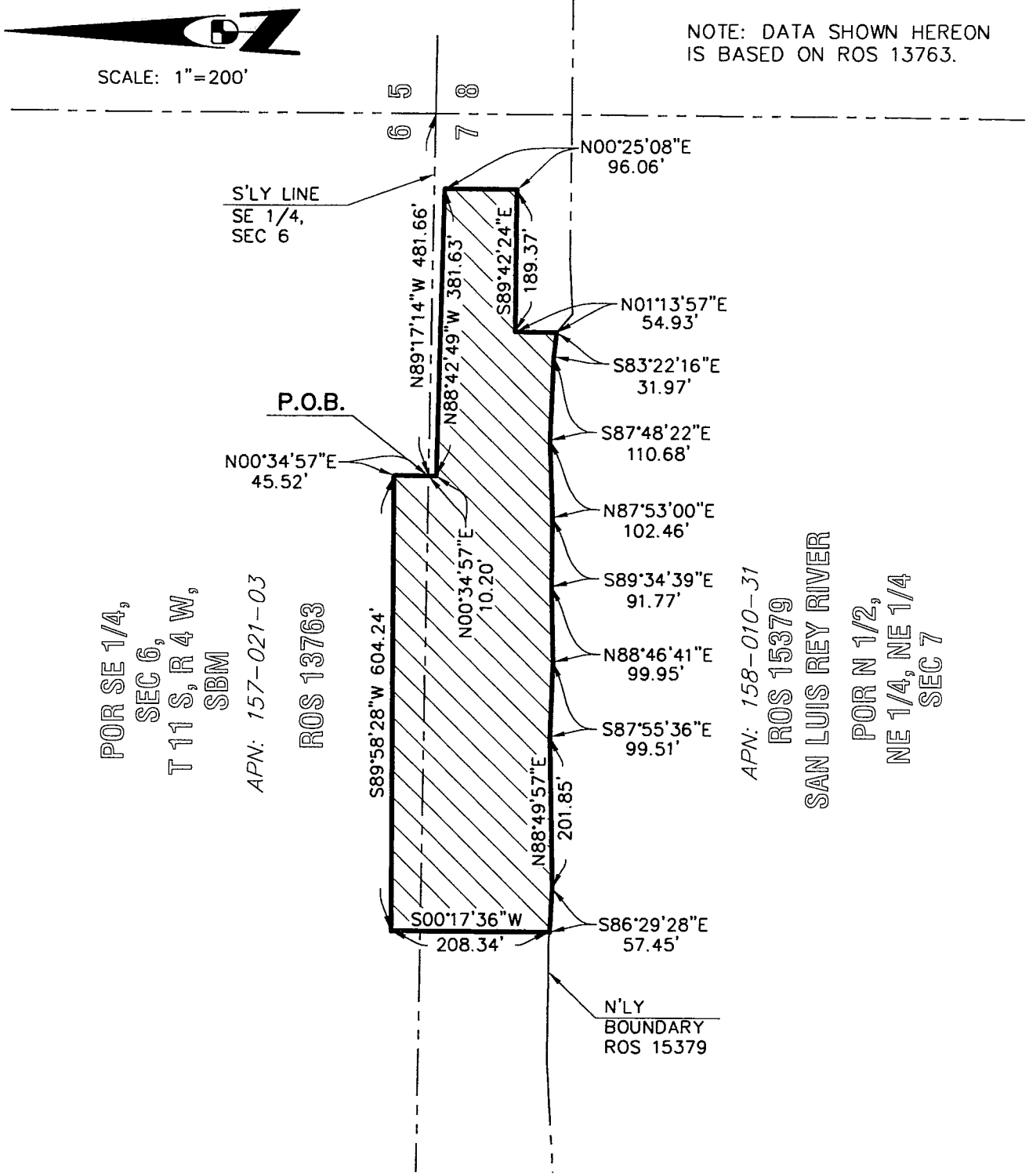
CITY OF OCEANSIDE

VESTING: CITY OF OCEANSIDE

DATE: FEBRUARY 13, 2013

SHEET 1 OF 2

EXHIBIT "B"



DENOTES MITIGATION AREA
4.00 ACRES MORE OR LESS

CITY OF OCEANSIDE

VESTING: CITY OF OCEANSIDE

DATE: FEBRUARY 13, 2013

SHEET 2 OF 2

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