

Use Agreement No( 78402  
Los Angeles River - Wrigley Greenbelt  
Parcel Nos. 2287, 2288, 2289, 2290, and 2295  
Right of Way Map No(s). 19-RW 54.1 and 19-  
RW 55.1  
Assessors Identification No(s). 7203-001-901,  
7201-012-900, 7201-015-906, and 7201-027-908  
Thomas Guide 795-C1  
Fourth Supervisorial District

**34038**

**USE AGREEMENT**

This Use Agreement is entered into by and between the

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,  
a body corporate and politic,

herein referred to as "DISTRICT"

and

CITY OF LONG BEACH,  
a municipal corporation in the State of California,

herein referred to as "CITY"

RECITALS

WHEREAS, DISTRICT owns fee title to portions of the Los Angeles River generally located between 26th Way and 34th Street, in the City of Long Beach, State of California and, as more particularly shown on Exhibit A, attached hereto, and made a part hereof, hereafter referred to as PREMISES ; and

WHEREAS, DISTRICT and CITY entered into Use Agreement No. 92-13 dated March 11, 1993, for the planting of minor ground cover landscaping on a portion of the PREMISES; and

WHEREAS, CITY now proposes to use a portion of PREMISES, for public recreational and greenway purposes, in connection with the CITY's project known as the Wrigley Greenbelt (the "Project"); and

WHEREAS, CITY proposes to construct, operate, and maintain certain improvements on PREMISES in connection with the Project, including but not limited to ornamental fencing, landscaping, an irrigation system, gateways and vehicle ramps, pedestrian and equestrian recreational trails, drinking fountains, benches, picnic tables,

waste containers, and a storm water runoff swale hereafter referred to as "IMPROVEMENTS"; and

WHEREAS, both DISTRICT and CITY desire to terminate Use Agreement No. 92-13 and replace with this Use Agreement;

NOW, THEREFORE, in consideration of these recitals and the faithful performance by CITY and DISTRICT of the mutual covenants herein contained, for the period, of time herein set forth, the DISTRICT and CITY hereto mutually agree as follows:

### SECTION 1. Authorized Use

- 1.1. CITY is authorized and permitted to use PREMISES for the construction, operation, maintenance and use of IMPROVEMENTS in accordance with the terms and conditions of this Use Agreement. Any other use of PREMISES by CITY is expressly prohibited.
- 1.2. CITY's use of the PREMISES shall be subordinate to the primary uses and purposes of the PREMISES for watershed management, including flood control, water conservation, and water quality purposes, by DISTRICT and others (pursuant to DISTRICT's permission), and CITY's use of the PREMISES shall at no time interfere with the use of PREMISES or the use of DISTRICT's adjacent property and/or improvements for such purposes.
- 1.3. DISTRICT reserves the right to use or allow others to use PREMISES for any and all lawful purposes in addition to flood control, water conservation, and watershed management including, but not limited to, public transportation, utilities, roads, parks and recreation, and/or other related uses together with incidental rights of construction and installation of facilities, ingress and egress, operation and maintenance. The exercise of the rights reserved herein shall not be inconsistent with the CITY'S use or constitute unreasonable interference
- 1.4. This Use Agreement is valid only to the extent of DISTRICT'S jurisdiction. Acquisition of permits required by other affected agencies and the consent of underlying fee owner(s) other than DISTRICT'S, if any, are the responsibility of the CITY.

### SECTION 2. Construction and Maintenance of Improvements

- 2.1. CITY understands and acknowledges that it is required to comply with the requirements set forth in the California Environmental Quality Act (CEQA) and the State CEQA guidelines prior to implementing IMPROVEMENTS and that CITY shall be the lead agency with respect to any and all CEQA

compliance related to the IMPROVEMENTS. In addition to its other indemnification obligations as specified below, CITY hereby agrees to indemnify, defend, and hold harmless DISTRICT and COUNTY OF LOS ANGELES and their elected and appointed officers, employees, and agents from and against any and all claims and/or actions related to the IMPROVEMENTS that may be asserted by any third party or public agency alleging violations of CEQA or the CEQA Guidelines or the National Environmental Policy Act.

- 2.2. CITY shall bear all costs in connection with the construction of the IMPROVEMENTS, including preparation of plans and specifications and all construction costs and expenses.
- 2.3. Prior to commencement of any construction activity on PREMISES by or on behalf of CITY, CITY shall, as required by the DISTRICT, submit the plans and specification for the IMPROVEMENTS to, and shall apply for and obtain a permit from, the Land Development Division, Subdivision and Permits Unit, of the County of Los Angeles Department of Public Works. CITY shall also obtain DISTRICT's prior written approval should CITY propose to make any changes to the approved plans and specifications.
- 2.4. Upon completion of the construction of the IMPROVEMENTS, CITY shall provide DISTRICT with approved As-Built plans, as required by the DISTRICT.
- 2.5. CITY shall keep, inspect, and maintain the PREMISES and the IMPROVEMENTS in a safe, clean, and orderly condition in accordance with the Maintenance Guidelines as shown on Exhibit B, attached hereto, and made a part hereof, at all times during the term of this Use Agreement and shall not permit trash and debris, including but not limited to rubbish, tin cans, bottles, and garbage to accumulate at any time, nor shall CITY commit, suffer, or permit any waste on the PREMISES or IMPROVEMENTS or permit any acts to be done in violation of any laws or ordinances thereon.
- 2.6. CITY shall remove graffiti from the PREMISES and IMPROVEMENTS and any walls, fences, and signs, which are located within the PREMISES, anytime graffiti is discovered by CITY or anytime CITY is notified by DISTRICT. Graffiti must be removed within the following guidelines:
  - 2.6.1 Remove vulgar graffiti (i.e., profane, obscene, or racist) within 24 hours, Monday through Friday.
  - 2.6.2 Remove other graffiti within 72 hours, Monday through Friday.

- 2.7. CITY shall replace or repair any property of DISTRICT that becomes damaged by CITY or any person entering the PREMISES at CITY's invitation or with the consent of the CITY, either expressed or implied, within a reasonable time to the satisfaction of the DISTRICT or shall compensate the DISTRICT for the damage within thirty (30) days of the CITY's receipt of an invoice from DISTRICT.
- 2.8 CITY shall close all gates and take all actions necessary to render the PREMISES inaccessible to public access in the event CITY abandons its operation and maintenance of the IMPROVEMENTS or when the weather forecast for the next 24-hour period is for one (1) inch of rain or more, or when notified by the DISTRICT.

### SECTION 3. Term

- 3.1. The term of this Use Agreement shall be for twenty (20) years (Initial Term) subject to the DISTRICT's right to terminate CITY's use as provided for in Section 4, below.
- 3.2 This Use Agreement shall expire at the end of the Initial Term provided, however, that DISTRICT may extend the term of this Use Agreement beyond the Initial Term, subject to such terms and conditions as it deems appropriate, upon receipt of a written request from CITY no earlier than twelve (12) months or later than six (6) months prior to the end of the Initial Term.

### SECTION 4. Termination of Use

- 4.1. DISTRICT shall have the right to cancel this Use Agreement and terminate CITY's use of PREMISES, pursuant to this Use Agreement, by giving CITY at least ninety (90) days prior written notice under the following conditions:
  - 4.1.1. DISTRICT proposes to implement a project on, or including, the PREMISES for watershed management purposes, including flood control, water conservation, and water quality ; and
  - 4.1.2. DISTRICT determines, in good faith, that the IMPROVEMENTS and/or CITY's use of the PREMISES, or any of them, would be substantially incompatible with the proposed project; and
  - 4.1.3. DISTRICT has notified CITY of the basis for DISTRICT's determination that a substantial incompatibility will exist and has provided CITY with a reasonable opportunity to propose modifications to the IMPROVEMENTS or CITY's use of the PREMISES that will eliminate the incompatibility.

- 4.2. DISTRICT shall have the right to cancel this Use Agreement and terminate CITY's use of PREMISES by giving CITY at least 60 days prior written notice, if CITY breaches any term or condition of this Use Agreement.
- 4.3 DISTRICT shall have the right to cancel this Use Agreement and terminate CITY'S use of the PREMISES if construction of the IMPROVEMENTS has not been completed within five (5) years from the date this Use Agreement is fully executed.
- 4.4. DISTRICT shall have the right to immediately cancel and terminate CITY's use of PREMISES, pursuant to this Use Agreement or, in the DISTRICT's sole discretion, to temporarily suspend such use in the event DISTRICT determines, in good faith, that it is necessary for DISTRICT to enter and take exclusive possession of PREMISES in order to respond to an emergency, as defined in Public Contract Code Section 1102. In the event of an emergency, CITY shall bear any expenses associated with the cessation of such use, and shall have no rights or claims therefore against DISTRICT.
- 4.5. CITY shall have the right to cancel and terminate its use of PREMISES, pursuant to this Use Agreement, for any reason by giving DISTRICT at least sixty (60) days prior written notice.

#### SECTION 5. Removal of Improvements and Restoration of Premises

- 5.1. Upon the expiration or sooner termination of this Use Agreement, CITY shall, at its own expense, remove the IMPROVEMENTS and restore the PREMISES, to a condition similar to or better than that which existed on the effective date of this Use Agreement, reasonable wear and tear excepted.
- 5.2 Prior to commencing the removal of the IMPROVEMENTS, or any of them, CITY shall apply for and obtain a permit therefore, from the Land Development Division, Subdivision and Permits Unit, of the County of Los Angeles Department of Public Works.
- 5.3. If CITY fails to remove the IMPROVEMENTS and restore the PREMISES within ninety (90) days of the expiration of this Use Agreement or sooner termination of CITY's use of PREMISES, pursuant to this Use Agreement, DISTRICT may remove the IMPROVEMENTS.
- 5.4. If DISTRICT removes the IMPROVEMENTS pursuant to Subsection 5.3, DISTRICT shall submit a billing invoice to CITY indicating the costs and expenses incurred by DISTRICT in connection with the removal of the IMPROVEMENTS and CITY shall reimburse DISTRICT all such costs and expenses for removing said IMPROVEMENTS within thirty (30) days of the billing invoice.

## SECTION 6. Miscellaneous Terms and Conditions

### 6.1. Indemnification

6.1.1. In accordance with Government Code Section 895.4, DISTRICT and CITY agree to apportion responsibility and indemnification, notwithstanding any other provision of law, as follows:

6.1.1.1. CITY shall indemnify, defend, and hold DISTRICT and the County of Los Angeles and their respective officers, employees, and agents harmless from, and against, any claims, demands, liability, damages, costs, and expenses, including, without limitation, involving bodily injury, death, or personal injury of any person or property damage of any nature whatsoever, arising from, or related to, the construction, reconstruction, maintenance, operation, or removal of the IMPROVEMENTS or CITY's use of the PREMISES.

6.1.1.2. DISTRICT shall indemnify, defend, and hold CITY and its officers, employees and agents harmless from and against, any claims, demands, liability, damages, costs, and expenses including, without limitation, involving bodily injury, death, or personal injury of any person or property damage of any nature whatsoever, arising from or related to the construction, reconstruction, maintenance, operation, or removal of any improvements constructed or maintained by DISTRICT on, above, or under the PREMISES or arising from any and all uses of the PREMISES by DISTRICT.

6.1.2. CITY releases DISTRICT and waives all rights to damages for any loss, costs, or expenses CITY may sustain as a result of any damage to, or destruction of, the IMPROVEMENTS or to the PREMISES attributable to DISTRICT's watershed management activities, including any flood control, water conservation or water quality activities on, or adjacent to, the PREMISES, or attributable to any flooding caused by inadequacy or failure of DISTRICT's facilities, except to the extent caused by the DISTRICT'S negligence or willful misconduct.

6.1.3. Each party to this Use Agreement shall include the other within the protection of any indemnification clause contained in any ancillary contract relating to the PREMISES.

6.2. Without limiting CITY's indemnification of the DISTRICT, CITY shall procure and maintain, in full force and effect during the term of this Use

Agreement, insurance policies providing for the following insurance coverage:

- Comprehensive general liability and property damage coverage with a combined single limit liability in the amount of not less than THREE MILLION DOLLARS (\$3,000,000) per occurrence.
  - Worker's Compensation coverage in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for both the DISTRICT and CITY against any loss, claim, or damage arising from any injuries or occupational diseases occurring to any worker employed by, or any person retained by, CITY in the course of carrying out the work or services contemplated in this Agreement.
  - Automobile Liability Insurance: CITY shall procure such policy with coverage of not less than One Million Dollars (\$1,000,000) per accident.
  - The County of Los Angeles and Los Angeles County Flood Control District, its governing board, officers, agents, contractors, and employees shall be named as Additional Insureds on all policies of liability insurance. CITY shall furnish to DISTRICT a Policy of Insurance evidencing CITY's insurance coverage no later than (10) working days after execution of the Agreement, but before CITY takes possession of the Premises. Upon renewal of said policy, CITY shall furnish to DISTRICT a Certificate evidencing CITY's continued insurance coverage as required herein.
  - The DISTRICT may accept, should CITY elect to provide, a Certificate of Self-Insurance. The limits of such self-insurance coverage shall meet or exceed those stated herein.
- 6.3. CITY and DISTRICT shall have no financial obligation to each other under this Use Agreement, except as herein expressly provided.
- 6.4. The parties expressly recognize and intend that in consideration of this Use Agreement, which is solely for CITY's benefit that DISTRICT is not to incur any liability whatsoever for any injury, death, or property damage arising from any use of the PREMISES or the IMPROVEMENTS by persons who gain entry through openings or areas provided for CITY's use.
- 6.5. DISTRICT, its Board, and any authorized officer, engineer, employee, or contractor, through its agents or representatives, shall have full right and authority to enter in and upon PREMISES at any and all reasonable times during the term of this Use Agreement, all without interference or

hindrance by CITY, its agents, officers, contractors, employees, or representatives for the purpose of inspecting the same and to serve or post any notice required or permitted by law for protection of any right or interest of DISTRICT.

- 6.6. Except as to fuels, lubricants, and products associated with motorized vehicles, equipment, gardening, or maintenance-related substances, or all of the above, CITY shall not cause or allow the presence, use, storage, or disposal of any hazardous substances on or about the PREMISES without the prior written consent of the DISTRICT, which consent shall not be unreasonably denied. In the event of spillage, leakage, or escape of any hazardous substance onto the PREMISES, CITY shall immediately notify DISTRICT by calling (800) 675-4357. If the spillage, leakage, or escape was caused by CITY, CITY shall promptly remove any such substance from the PREMISES to the DISTRICT's satisfaction. In addition to removing any of CITY's hazardous substances, CITY shall be liable for and reimburse DISTRICT for any and all cost and expenses that DISTRICT may incur or suffer as a result thereof. Such responsibility shall include cost or expenses as DISTRICT may incur by reason of Federal, State, local, or other authoritative agency's laws and regulations. Notwithstanding the foregoing, CITY shall have no responsibility regarding any spillage, leakage or escape associated with any of DISTRICT's tenants, licensees or easement holders.
- 6.7. Any notice to be given or document to be delivered by DISTRICT or CITY to the other party may be delivered in person to either party or by private courier or may be deposited in the United States mail, duly registered or certified, with postage prepaid and addressed to the party for whom intended as follows:

To DISTRICT:

Los Angeles County Flood Control District  
Attention SMP Division  
P.O. Box 1460  
900 South Fremont Avenue, Alhambra, CA 91802-1460  
tel.: (626) 458-7065 or (626) 458-7072; fax (626) 289-3618  
for Emergencies, contact (626) 458-HELP (4357)

To CITY:

CITY OF LONG BEACH  
333 W. Ocean Blvd  
Long Beach, CA 90802  
Attention: Patrick H. West  
tel.: (562) 570-6916

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IN WITNESS WHEREOF, The LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, by order of its Board of Supervisors, has caused this Use Agreement to be subscribed by the Chairman of the Board of Supervisors and the seal of the DISTRICT to be affixed hereto and attested by its executive Officer of the Board of Supervisors, and the CITY has caused this Use Agreement to be executed by its duly authorized officer as of the date indicated below.

CITY:

By T. Bull 4/10/15  
Assistant City Manager Date

Approved as to Form:

J. Cary 3/19/15  
Deputy City Attorney

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

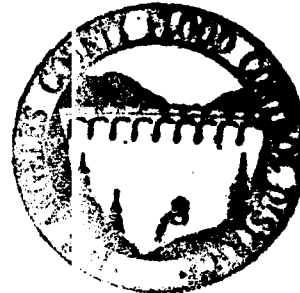
DISTRICT:  
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT  
a body corporate and politic

By Mike Antonovich  
MAYOR, County of Los Angeles.

ATTEST:

PATRICK OGAWA, Acting Executive Officer  
of the Board of Supervisors of the County of Los Angeles

By Carla Little  
Deputy



APPROVED AS TO FORM:

Mary Wickham  
Interim County Counsel

Mary Wickham  
9

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

42 - SEP 01 2015  
Patrick Ogawa

ACTING EXECUTIVE OFFICER

78402

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

On January 6, 1987, the Board of Supervisors for the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board so acts adopted a resolution pursuant to Section 25103 of the Government Code that authorized the use of facsimile signatures of the Mayor of the Board on all papers, documents, or instruments requiring the Mayor's signature.

The undersigned hereby certifies that on this 1st day of September, 2015, the facsimile signature of MIKE ANTONOVICH, Mayor of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, was affixed hereto as the official execution of this document. The undersigned further certifies that on this date a copy of the document was delivered to the Mayor of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT.

In witness whereof, I have also hereunto set my hand and affixed my official seal the day and year above written.



PATRICK OGAWA, Acting Executive Officer of the Board of Supervisors of the County of Los Angeles

By Carla Little  
Deputy

(LACFCD-SEAL)

APPROVED AS TO FORM

Mary Wickham  
Interim County Counsel

By Mary Wickham  
Deputy

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles

On 4.10.15 before me, Melodi Nantes, Notary Public  
(insert name and title of the officer)

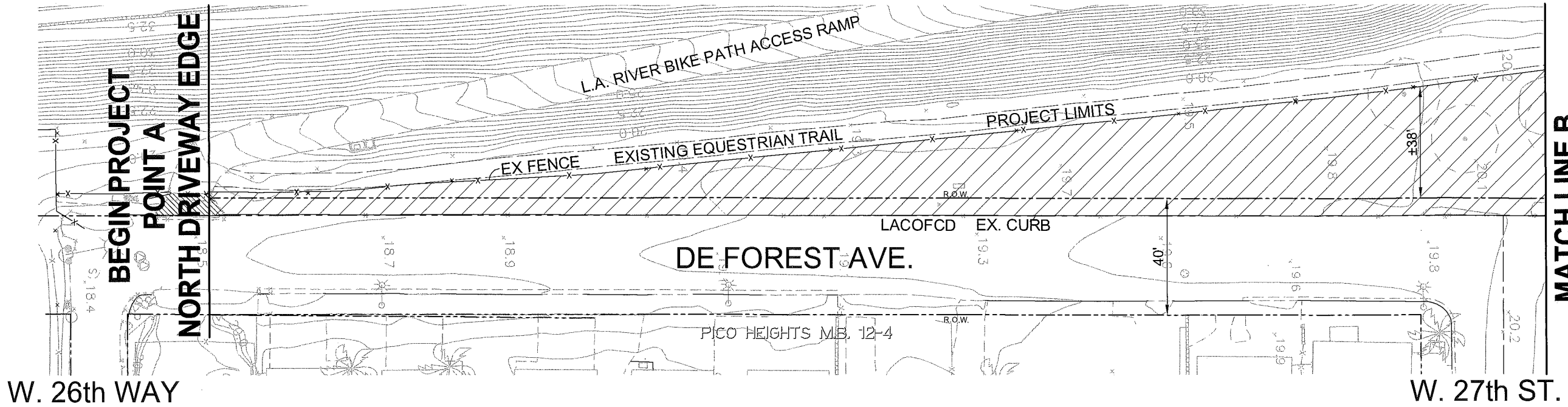
personally appeared Thomas B. Modica,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

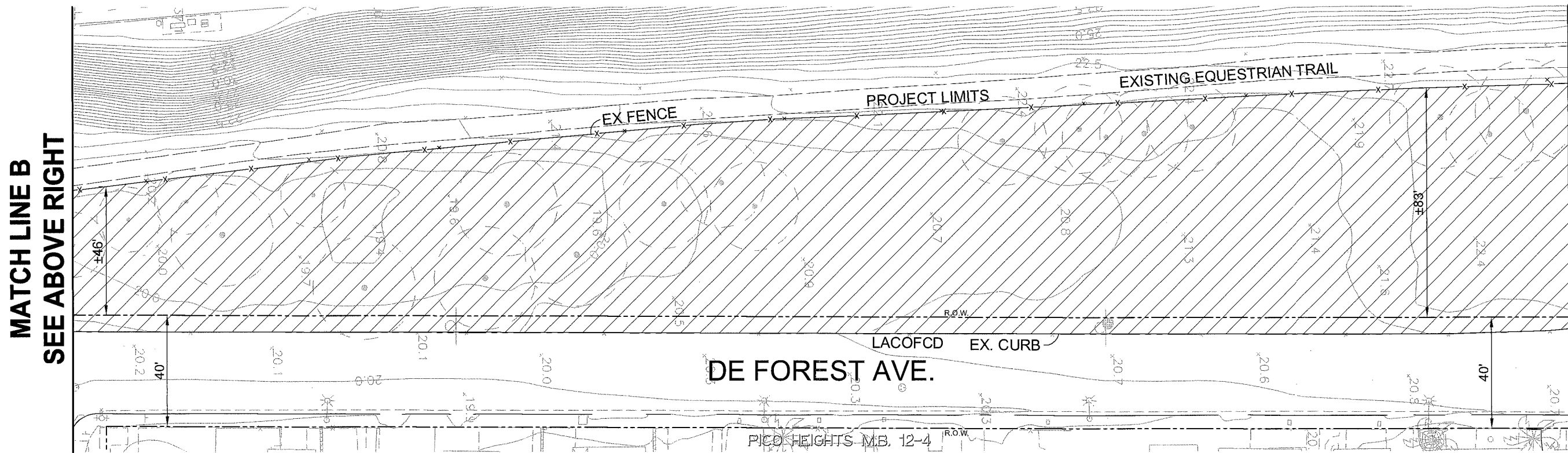
WITNESS my hand and official seal.

Signature Melodi Nantes (Seal)





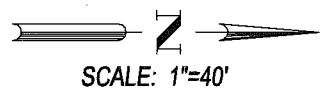
MATCH LINE B  
SEE BELOW LEFT



MATCH LINE B  
SEE ABOVE RIGHT

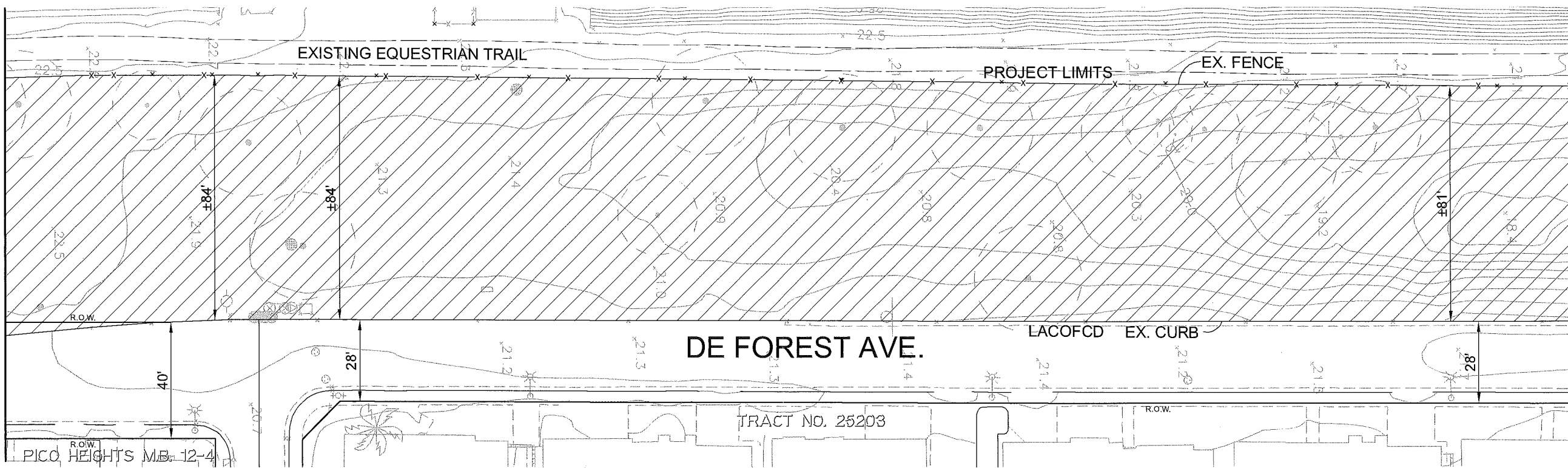
MATCH LINE C  
SEE SHEET 2

 CITY MAINTENANCE AREA/PREMISES



**WRIGLEY GREENBELT**  
**CITY MAINTENANCE AREA**  
**26th WAY TO 34th ST.**  
**LONG BEACH, CA**

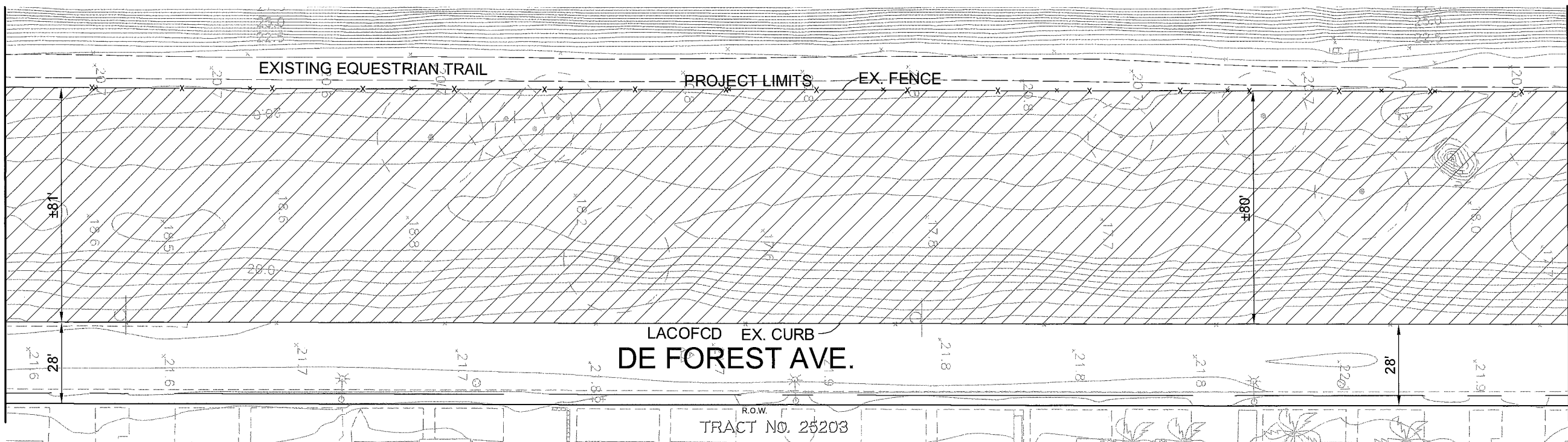
MATCHLINE C  
SEE SHEET 1



W. 28th ST.

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SEE ABOVE RIGHT



MATCHLINE E  
SEE SHEET 3



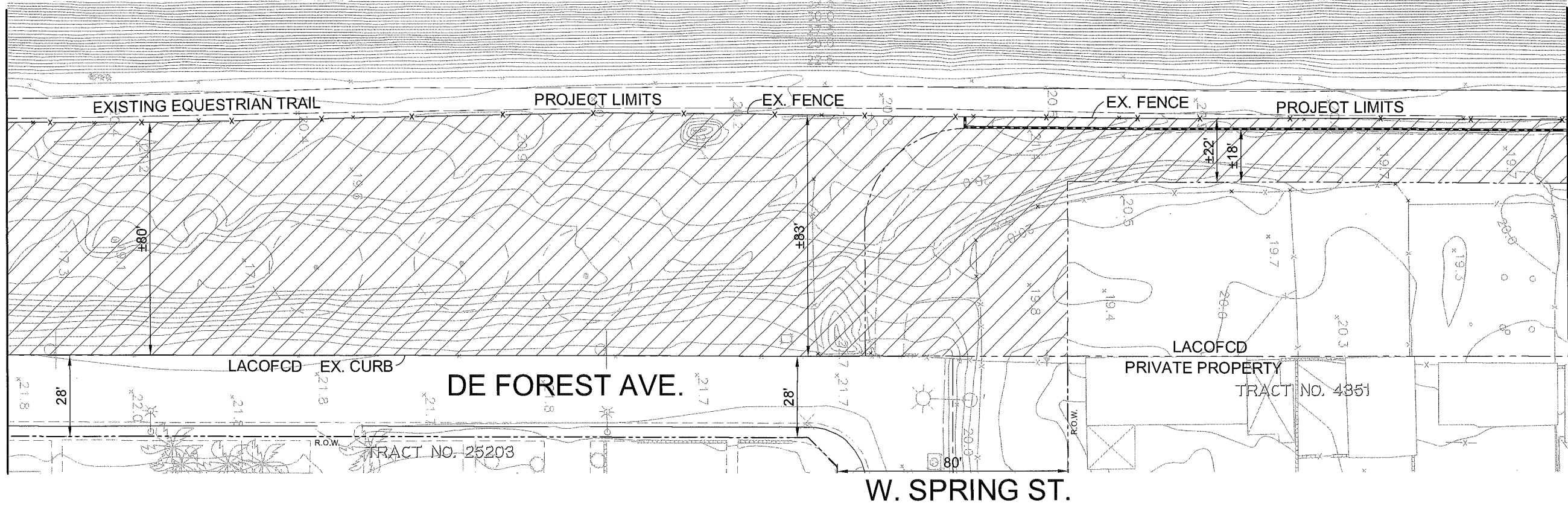
CITY MAINTENANCE AREA/PREMISES



SCALE: 1"=40'

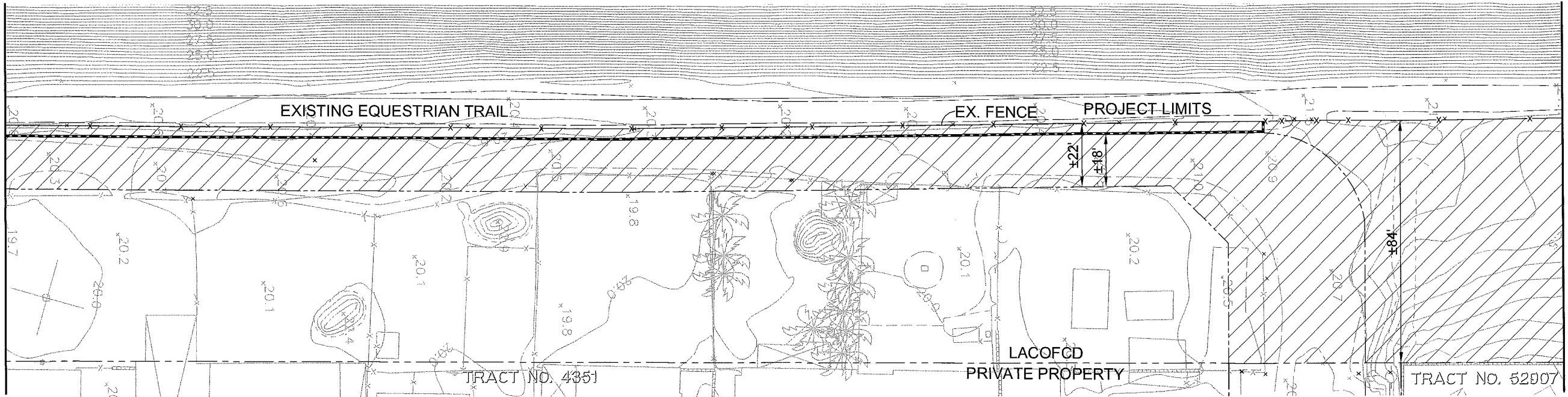
**WRIGLEY GREENBELT**  
**CITY MAINTENANCE AREA**  
**26th WAY TO 34th ST.**  
**LONG BEACH, CA**

MATCHLINE E  
SEE SHEET 2



MATCHLINE F  
SEE BELOW LEFT

MATCHLINE F  
SEE ABOVE RIGHT



MATCHLINE G  
SEE SHEET 4

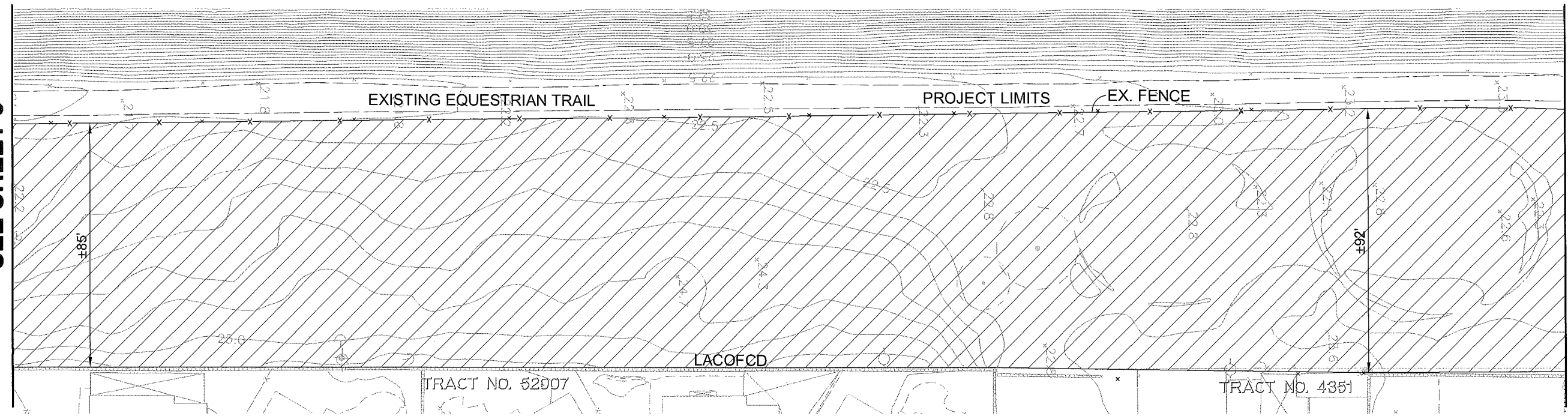
 CITY MAINTENANCE AREA/PREMISES



W. 31st ST.

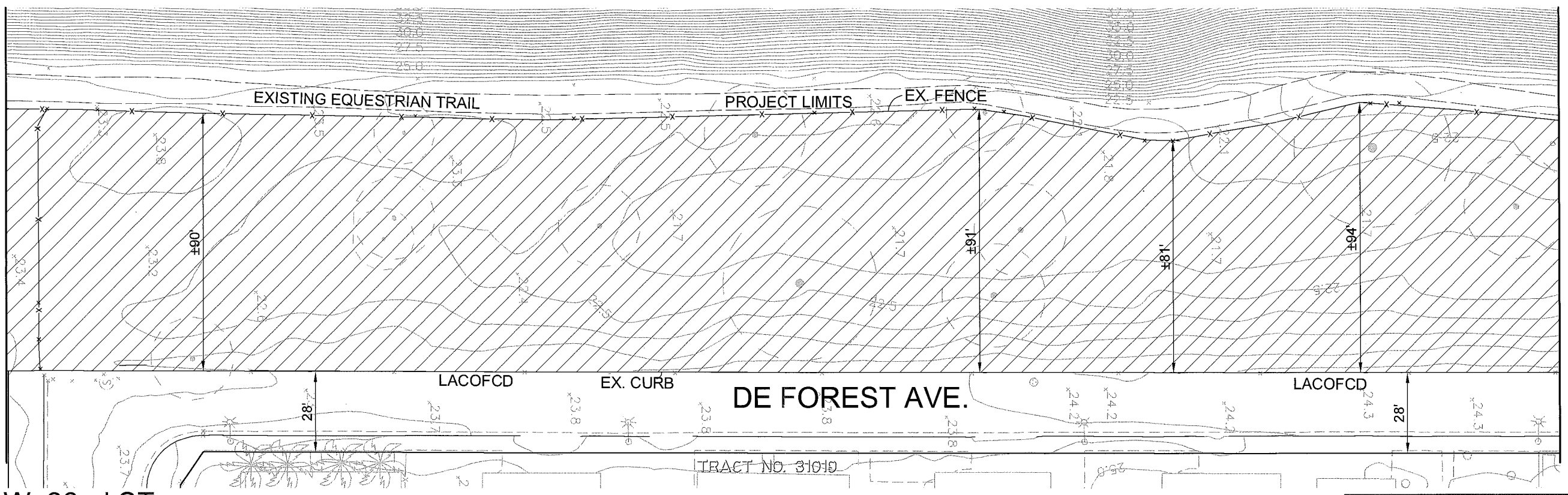
**WRIGLEY GREENBELT**  
**CITY MAINTENANCE AREA**  
**26th WAY TO 34th ST.**  
**LONG BEACH, CA**

MATCHLINE G  
SEE SHEET 3



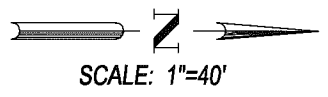
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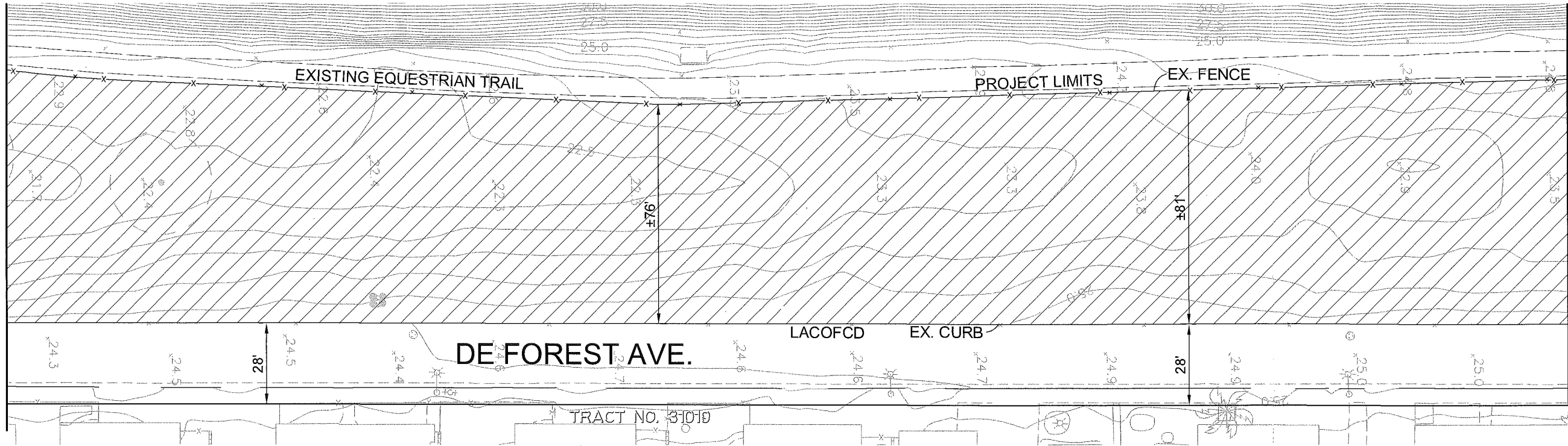
MATCHLINE I  
SEE SHEET 5

 CITY MAINTENANCE AREA/PREMISES



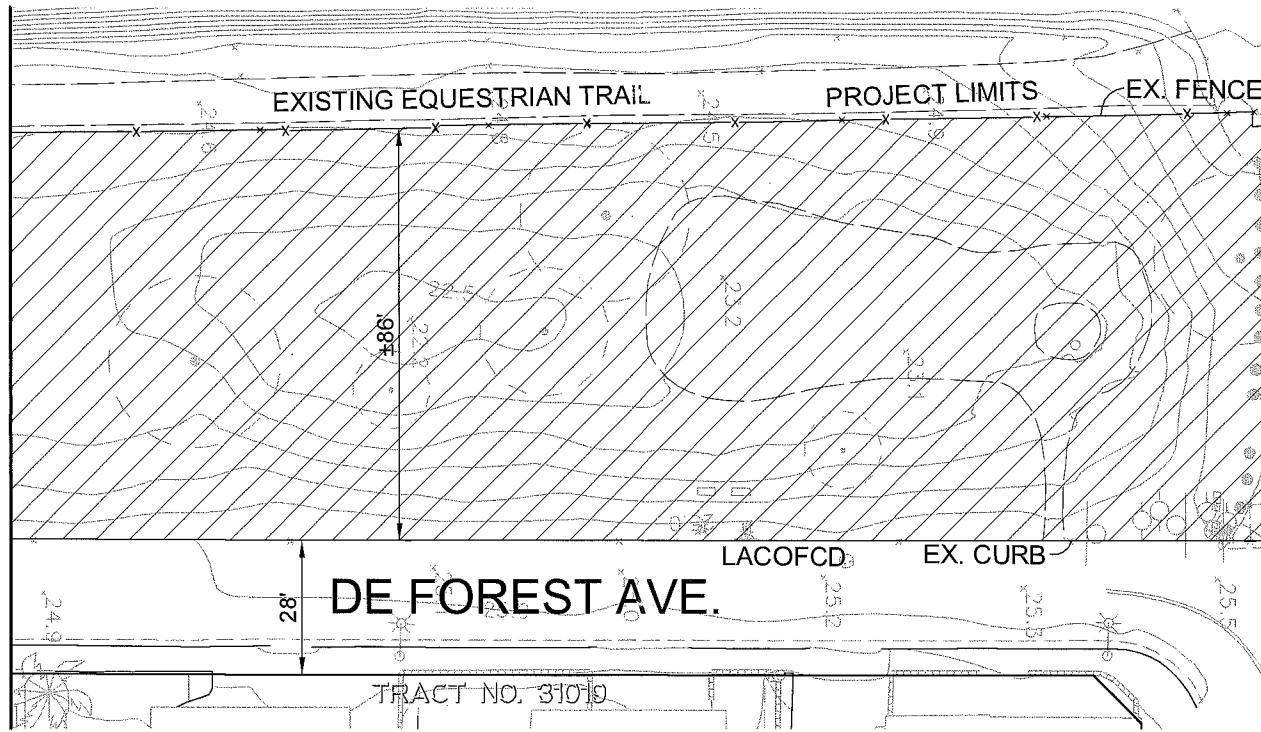
**WRIGLEY GREENBELT**  
**CITY MAINTENANCE AREA**  
**26th WAY TO 34th ST.**  
**LONG BEACH, CA**

MATCHLINE I  
SEE SHEET 4



MATCHLINE J  
SEE BELOW LEFT

MATCHLINE J  
SEE ABOVE RIGHT



END PROJECT POINT K  
(DRIVEWAY EDGE AND 34th ST.  
CENTERLINE PROJECTED)

W. 34th ST.



CITY MAINTENANCE AREA/PREMISES



SCALE: 1"=40'

**WRIGLEY GREENBELT**  
**CITY MAINTENANCE AREA**  
 26th WAY TO 34th ST.  
 LONG BEACH, CA



# SCOPE OF WORK: LANDSCAPE MAINTENANCE

Exhibit B

Action	Description	Frequency
<b>Tree Trimming</b>	Remove dead, deceased, insect-infested and damaged branches and limbs	As needed
	Prune Elm, Eucalyptus, and Pepper trees	Every two (2) years
	Prune all other trees	Every three (3) years
	Dispose of all trees downed by natural or unnatural causes	As needed
<b>Tree Staking</b>	Install stakes when tree is damaged, requires support, or is less than three (3) inches in diameter	As needed
	Check ties, and stakes	Once (1) a month
<b>Shrubbery/ Vines Trimming</b>	Shrubs and vines shall be trimmed to restrict growth onto the adjacent roads, driveways, and walkways	As needed
	Shrubs should be trimmed to not grow taller than 4 feet, and no shorter than 3 ½ feet	Once (1) a year, in March
	Trimming should look natural – no shearing	
	Remove dead or diseased plant materials	As needed
<b>Ground Cover Trimming and Care</b>	Keep ground covers adjacent to roadways away from paved surfaces	Twice (2) a year, in March and September
	Edges should look natural – no shearing	
<b>Ornamental Grass Trimming</b>	Trim vines and ornamental grass in an artisan-like manner – no scalping	Once (1) a year, in September.
	Ornamental grass and vines along bicycle trails	Twice (2) a year, in March and September
	Vines on channel side of wall – no lower than two (2) feet below top of the wall	Once (1) a year, in September
<b>Weed Control</b>	Keep landscaped areas free of weeds	Once (1) a week
	Remove all weeds from walkways, drainage areas, and cracks in all hard surface areas	Once (1) a week
<b>Litter Control</b>	Remove litter and accumulated debris from landscaped areas	Once (1) a week
	Empty and clean trash cans/receptacles	Once (1) a week
	Replace pet litter bags	Once (1) a week
	DO NOT handle hazardous waste materials	
<b>Watering and Irrigation System</b>	Operation of automatic irrigation controllers in a way to not cause excessive wetness	
	Inspect and maintain irrigation system	As needed
<b>Rodent Control</b>	Maintain all areas free of rodents, in compliance with Federal, State and local laws – to be completed by California Certified Applicator	As needed