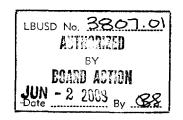
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RIGHT OF ENTRY AGREEMENT

BETWEEN

LONG BEACH UNIFIED SCHOOL DISTRICT AND CITY OF LONG BEACH



THIS AGREEMENT ("Agreement") is approved and entered into as of June 2, 2009, by and between the Long Beach Unified School District ("District") and the City of Long Beach ("City") (collectively, the "Parties").

WHEREAS, District owns certain real property located at 1600 Atlantic Avenue within the City of Long Beach, County of Los Angeles, State of California, more commonly known as Polytechnic High School (the "School Property"). Attached hereto and incorporated herein as Exhibit "A" is a map depicting the School Property;

WHEREAS, City is widening a portion of Atlantic Avenue and installing a right hand turn lane and public sidewalk;

WHEREAS, City desires to enter upon the School Property for the purposes of, at City's sole expense, widening a portion of Atlantic Avenue and installing a right hand turn lane and public sidewalk (collectively, the "Improvements") on a strip of property located on a portion of the School Property parking lot which borders Atlantic Avenue. In addition to installing the Improvements, City, at City's sole expense, shall be responsible for additional improvements on the School Property that include but are not limited to repaving and re-striping of the parking lot, landscaping, and fence relocation ("Additional Work") (the Improvements and the Additional Work shall collectively be referred to as the "Work"). Attached hereto and incorporated herein as Exhibit "B" are plans and specifications for the Work;

WHEREAS, District desires to authorize City to enter the School Property for the limited purpose of performing the activities necessary to complete the Work.

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Grant of Entry. Pursuant to the terms of this Agreement, District grants City, including City's agents, employees, contractors, and consultants, an exclusive license (the "License") to enter upon the School Property at reasonable times for the limited purpose of performing the Work. Prior to utilizing the License or entering upon the School Property, City shall coordinate with District, either telephonically or in writing, in order to ensure that District activities are not disrupted.

Section 2. Term. The License shall commence on June 3, 2009 and shall remain in effect until the completion of the Work. In the event that City abandons the Work by either providing written notice to District of such abandonment or if there is a cessation of the Work beyond a three (3) month period ("Abandonment Period"), this License shall be deemed terminated.

Section 3. Conditions of Use

- A. City shall be responsible for and shall pay for any repairs or replacements of any character whatsoever which are occasioned or are made necessary because of the negligence or misuse of the School Property by City's employees or invitees. In the event that City fails to maintain or repair the School Property during the term of the License, District shall provide City with written notification of such failure and City shall have thirty (30) days to cure; thereafter, District may, at District's sole discretion, undertake any maintenance or repair of the School Property and City shall reimburse District for the costs of such repairs or maintenance within thirty (30) days of invoice by District.
- B. City shall provide a construction schedule to District as soon as possible after execution of this Agreement and thereafter shall provide construction progress updates promptly upon request of District. In the event that (i) the Additional Work (not including the fence relocation) is delayed, (ii) District determines that such Additional Work is unlikely to be completed prior to September 4, 2009, and (iii) then City shall use its best efforts to work with District to locate and provide adequate temporary parking for District.
- C. On or before the date of termination of this License, City shall, at its sole expense, remove from the School Property all of City's property, equipment, and fixtures, and shall, at City's sole cost and expense, clean up and remove all rubbish and debris, and place School Property in the same order and condition as existed at the commencement of this License, Improvements associated with the Work and reasonable wear and tear excepted. In the event that City fails to clean up and maintain the School Property, District shall provide City with written notification of such failure and City shall have thirty (30) days to cure; thereafter, District may, at District's sole discretion, undertake any clean up or maintenance of the School Property and City shall reimburse District for the costs of such clean up or maintenance within thirty (30) days of invoice by District.
- D. Upon termination or expiration of the License, City shall have sole responsibility to maintain and repair the Improvements in accordance with the terms and conditions of that easement agreement which has or shall be entered into between District and City ("Easement"), the form of the Easement is attached hereto as Exhibit "C". Under no circumstances shall District have any obligation to maintain, repair or replace the Improvements associated with the Work. Ongoing maintenance of the Additional Work shall be the responsibility of District.

Section 4. Insurance.

A. General Liability. City agrees to maintain in full force and effect throughout the duration of the Agreement commercial general liability insurance equivalent in scope to ISO CG 00 01 11 85, including contractual coverage, coverage from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out of activities solely performed by or on behalf of City or caused by or connected with City's use of the School Property under this Agreement. Such insurance shall be in amounts not less than \$1,000,000 per occurrence; and \$3,000,000 for general aggregate. Said insurance shall be primary with respect to District.

- B. <u>Automobile Liability</u>. City also agrees to maintain in full force and effect for the duration of this Agreement commercial automobile liability insurance equivalent in scope to ISO CA 00 01 06 92, covering Symbol 1 (any auto) with a combined single limit of \$1,000,000 per accident.
- C. <u>Workers' Compensation</u>. City shall also maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.
- D. <u>Notice; Additional Named Insureds</u>. All insurance required under this Agreement shall be issued by a company or companies lawfully authorized to do business in California as admitted carriers. District shall be designated as an additional named insured on a form equivalent in scope to ISO CG 20 26 11 85. Prior to entry, City shall provide District with Certificates of Insurance.
- E. <u>Self-Insurance</u>. City has the right to self-insure all or any portion of its insurance obligations herein.
- Section 5. Indemnification. City shall be responsible for, and District shall not be answerable or accountable in any manner for, any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of City, its agents, officers, employees, or invitees, or resulting from City's activities on the School Property or from any cause whatsoever arising out of or in connection with this Agreement, the performance of activities necessary to complete the Work, and any other use of and operations on the School Property. City shall indemnify District, its officers, agents, employees, and invitees against and will hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities (collectively, the "Losses") that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization arising out of or in connection with City's activities on the School Property, the performance of activities necessary to complete the Work, and any other use of and operations on the School Property, whether or not there is concurrent passive negligence on the part of District, its agents, employees or officers, except to the extent that Losses are caused by the sole negligence or willful misconduct of District, and in connection therewith:
- A. <u>Actions Filed</u>. City shall defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities, and will pay all costs and expenses, including attorneys' fees incurred in connection therewith;
- B. <u>Judgments Rendered</u>. City shall promptly pay any judgment rendered against City or District covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such use of and operations on the School Property referred to herein and agrees to save and hold District harmless therefrom; and
- C. <u>Costs and Expenses; Attorneys' Fees</u>. In the event District is made a party to any action or proceeding filed or prosecuted against City for such damages or other claims arising out of the use of and operations on the School Property referred to herein, City agrees to pay

District any and all costs and expenses incurred by them in such action or proceeding together with reasonable attorneys' fees.

The provisions of this Section 5 shall survive the termination or expiration of this Agreement.

- Section 6. Compliance with Law. City shall comply with all laws, ordinances, rules, and regulations applicable to the School Property, and shall be responsible to obtain any and all permits, which may be necessary pertaining to City's activities on or about the School Property. District shall ensure that the Work complies with all applicable federal, state or local laws, rules or regulations, including compliance with Division of the State Architect ("DSA") building requirements, if applicable.
- Section 7. Background Checks. In the event any portion of the Work or City's activities on the School Property will occur when students are present, City shall conduct criminal background checks, through the California Department of Justice, of all employees, agents, and contractors providing services to City upon the School Property pursuant to this Agreement, and shall provide to District a list of the names of the employees and/or agents of City who may come into contact with pupils upon the School Property, pursuant to Education Code section 45125.1. In the alternative, City may elect to ensure the safety of pupils pursuant to Education Code section 45125.2 by one or more of the following methods: 1) the installation of a physical barrier at the worksite to limit contact with pupils, or 2) continual supervision and monitoring of all employees or agents of City by an employee or agent of City whom the Department of Justice has ascertained has not been convicted of a serious felony.
- Section 8. Liens and Claims. City will not permit any mechanics' materialmen's, or similar liens or claims to stand against the School Property for labor or material furnished in connection with any work performed by City under this Agreement. Upon reasonable and timely notice of any such lien or claim delivered to City by District, City may bond and contest the validity and the amount of such lien, but City will immediately pay any judgment rendered, will pay all proper costs and charges, and will have the lien or claim released at its sole expense.
- Section 9. Legal Interpretation of Instrument. The parties expressly understand and agree that this Agreement constitutes an exclusive license for use of the School Property, and is neither intended by the parties, nor shall it be legally construed to convey, a leasehold, easement, or other interest in real property. Should either party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other party's failure or refusal to perform or fulfill any of the covenants or conditions of this Agreement on its part to be performed or fulfilled, the parties agree that the rules and principles applicable to licenses shall govern such actions or proceedings. This Agreement shall be governed by the laws of the State of California.
- <u>Section 10.</u> <u>Attorneys' Fees.</u> If any legal action is necessary to enforce any of the terms or conditions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which it is entitled.
- Section 11. Entire Agreement; Amendment. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all

negotiations, prior discussions and preliminary agreements made prior to the date hereof. This Agreement may not be changed except in writing executed by both parties.

<u>Section 12.</u> <u>Successors, Assignment.</u> This Agreement shall be binding and inure to the benefits of the successors of the respective parties. This Agreement may only be assigned upon the written consent of both parties.

<u>Section 13.</u> <u>Exhibits.</u> The following exhibits which are attached hereto are incorporated herein and made a part of this License:

Exhibit "A" -

Map of School Property

Exhibit "B"

Plans and Specifications

Exhibit "C"

Easement Agreement

Section 14. Recitals. The Recitals are incorporated into this Agreement as though fully set forth herein.

<u>Section 15.</u> <u>Execution in Counterpart.</u> This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day set forth aboye.

Dated: 4/2 . 20

LONG BEACH UNIFIED SCHOOL DISTRICT

By:

Barrick L. Bartlett

Purchasing & Cantracts Director

Dated: 5/26, 2009

CITY OF LONG BEACH

TO SECTION SOL OF

THE GITY CHARTES.

Assistant City Manager

Name and Title

APPROVED AS TO FORM

OBERT E. SHAMNON, City Attorne

DEPUTY CITY ATTORNEY

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STATE OF CALIFORNIA) ss.

On 509, before me, Belium Nicola, personally appeared Suzante Fricola, personally known to me, or proven 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.

BEVERLY GAIL NIEVES
Commission # 1842093
Notary Public - California
Los Angeles County
My Comm. Expires Mar 26, 2013

(Seal)

WITNESS my hand and official seal.

COUNTY OF LOS Angeles) ss.

On June 3, 2009, before me June A. Lava-Venegs, personally appeared Barrick L. Bartlett, personally known to me, or proven 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 OF NOTARY

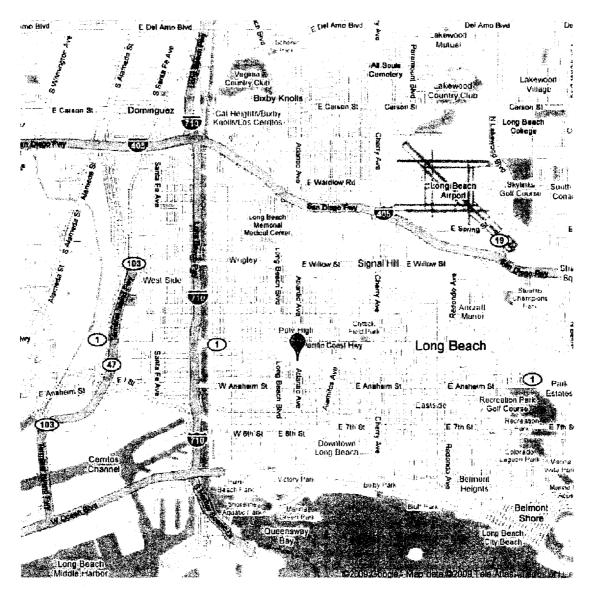
IRMA A. LARA-VENEGAS
Commission # 1647585
Notary Public - California
Los Angeles County
My Comm. Expires Mar 23, 2010

(Seal)

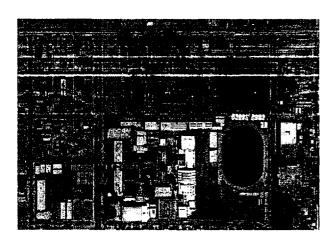
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EXHIBIT "A"

MAP OF SCHOOL PROPERTY



Vicinity map of Long Beach Polytechnic High School – 1600 Atlantic Avenue, Long Beach, CA 90813

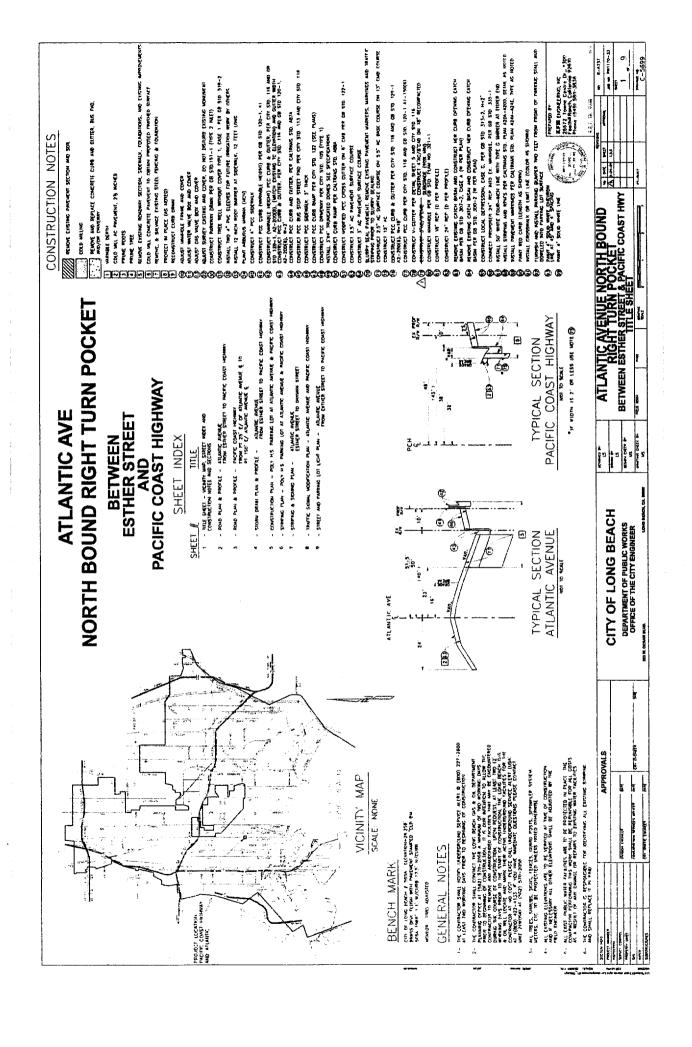


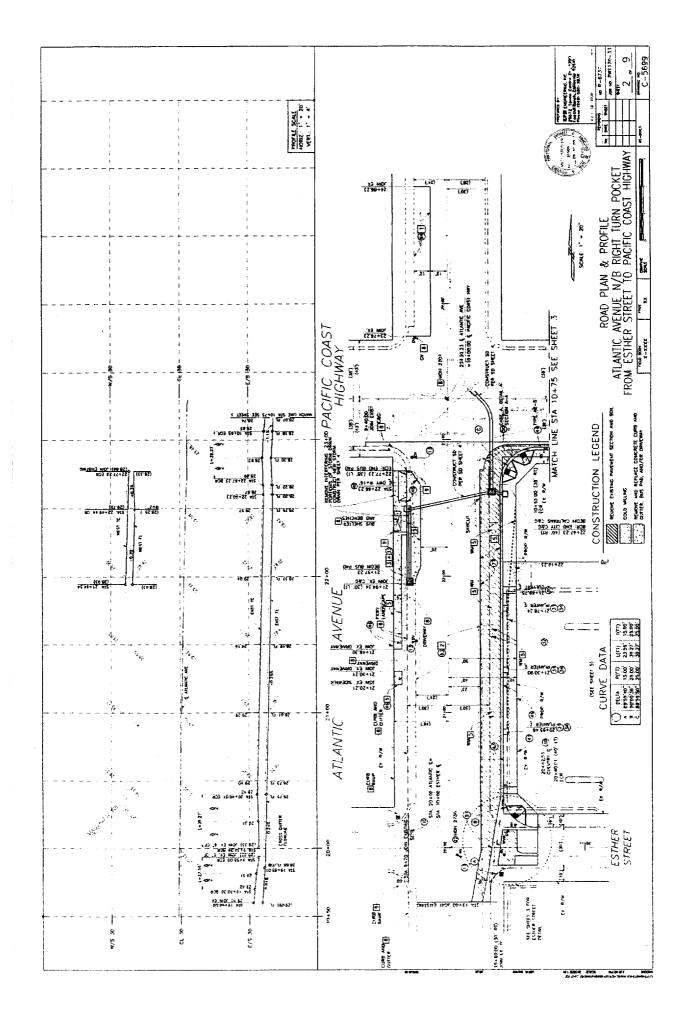
Aerial map of Long Beach Polytechnic H.S.

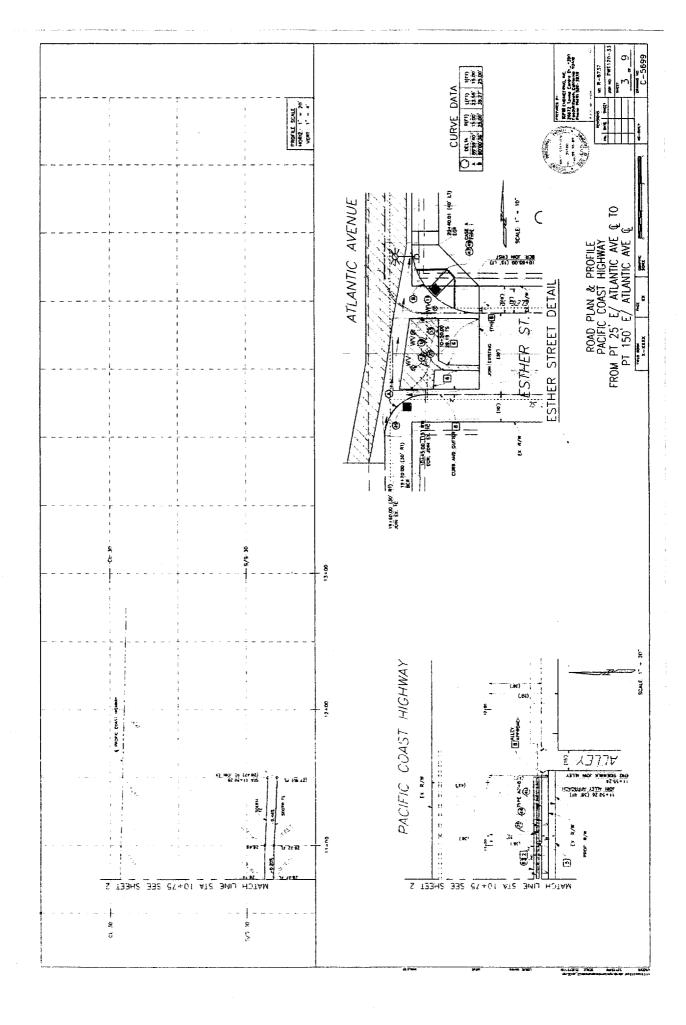


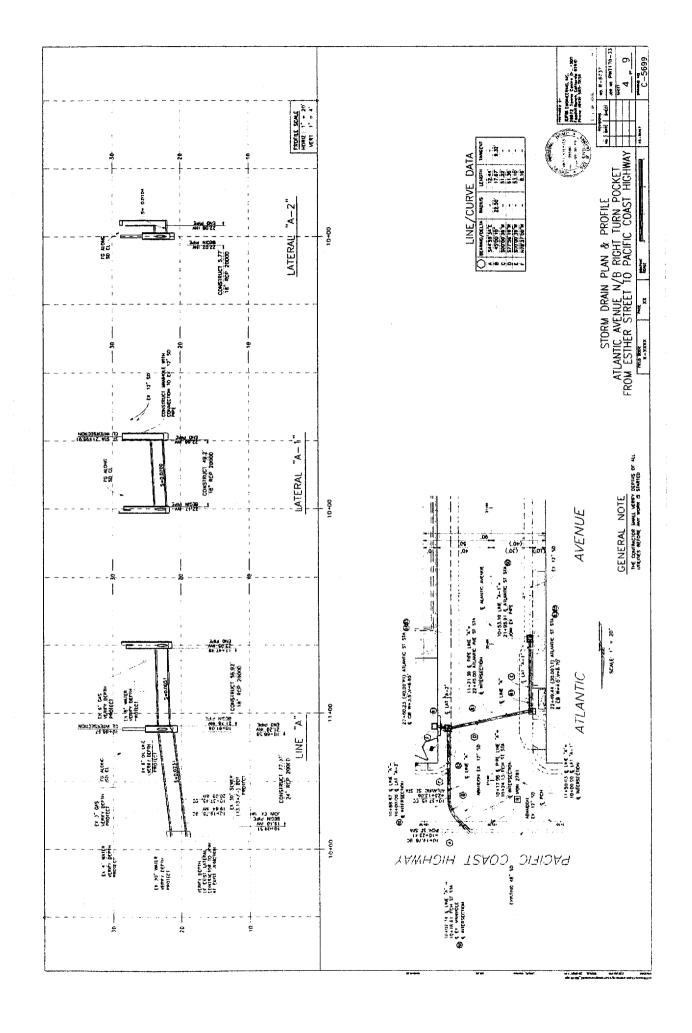
Aerial map of work area

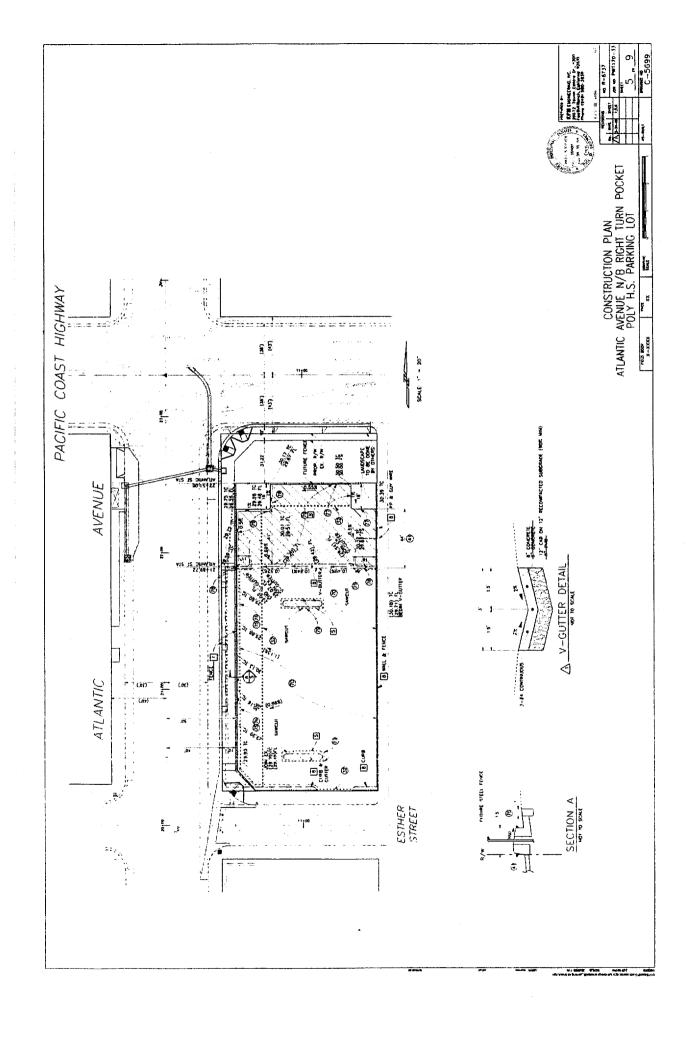
EXHIBIT "B" PLANS AND SPECIFICATIONS

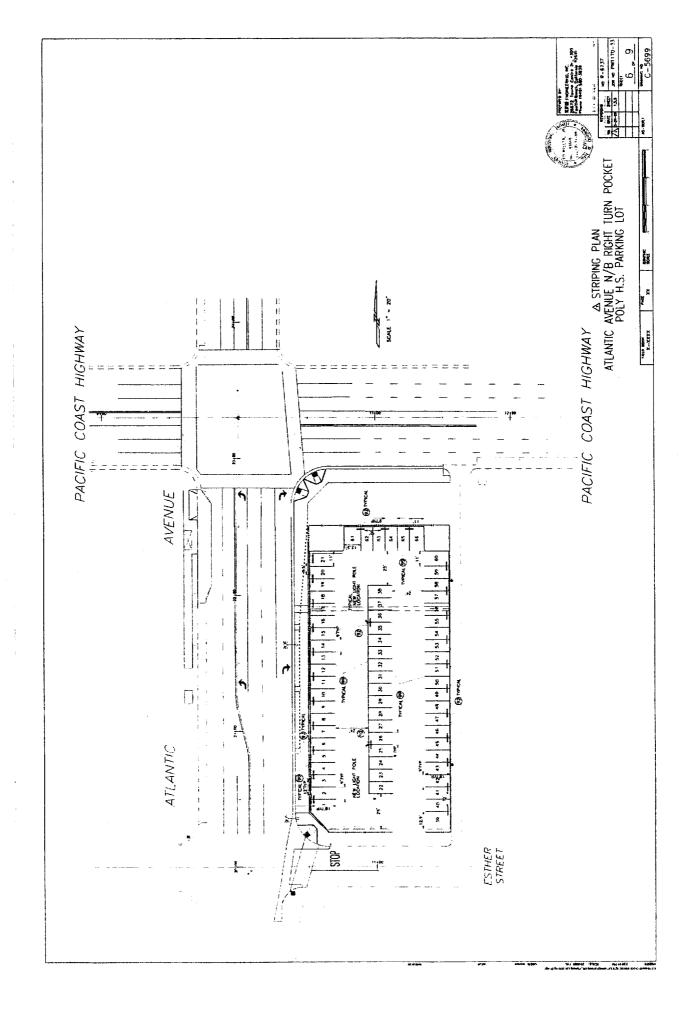


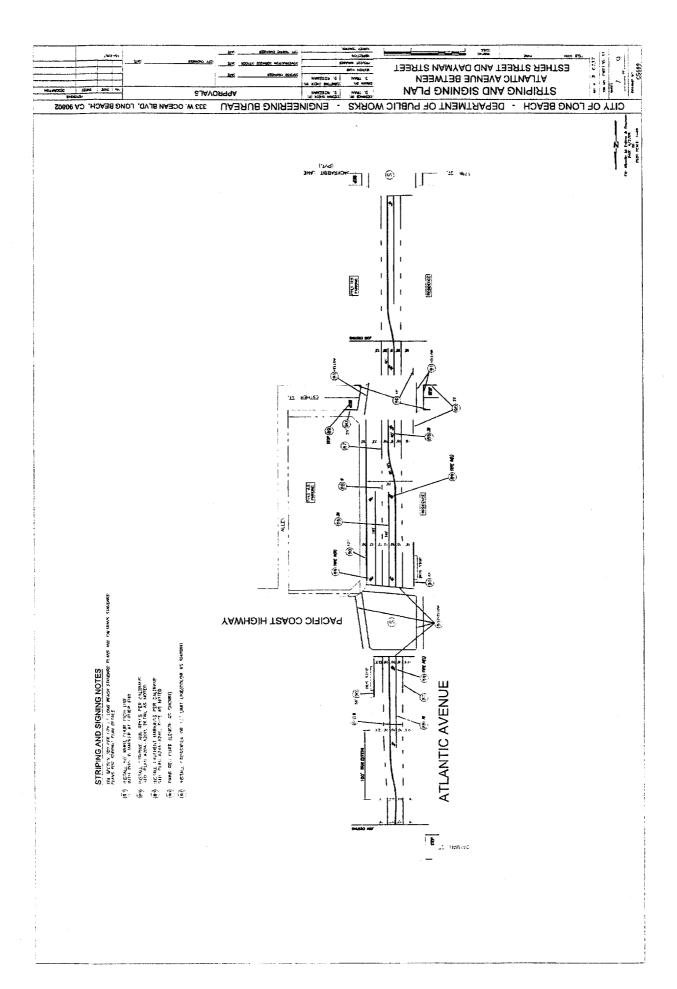


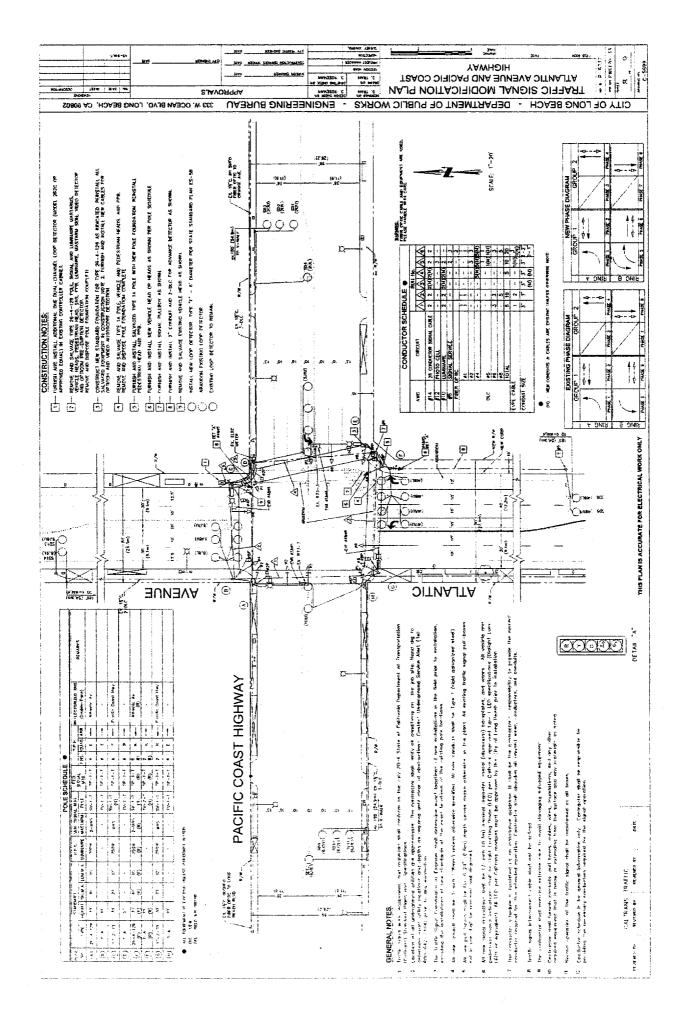


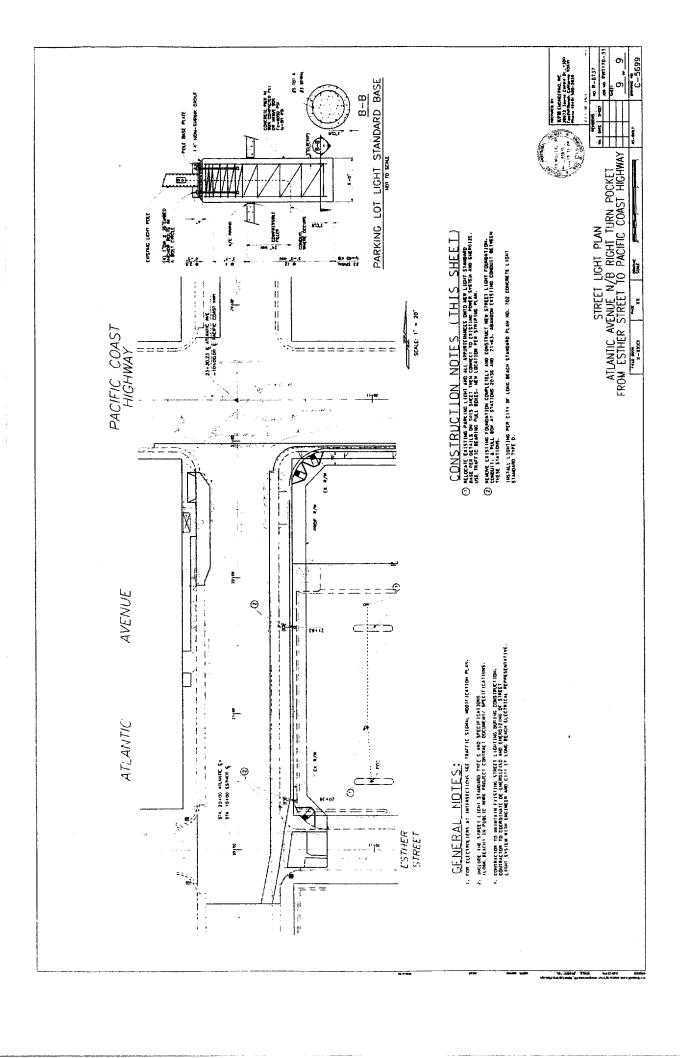














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PACIFIC COAST HIGHWAY & ATLANTIC

CITY OF LONG BEACH

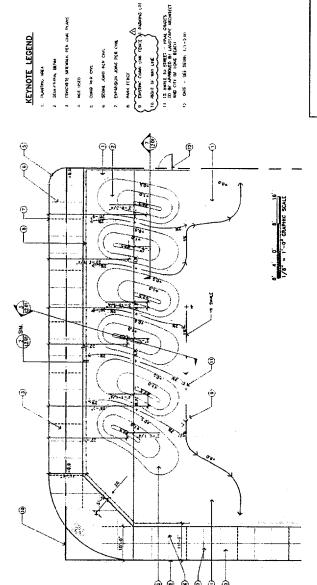
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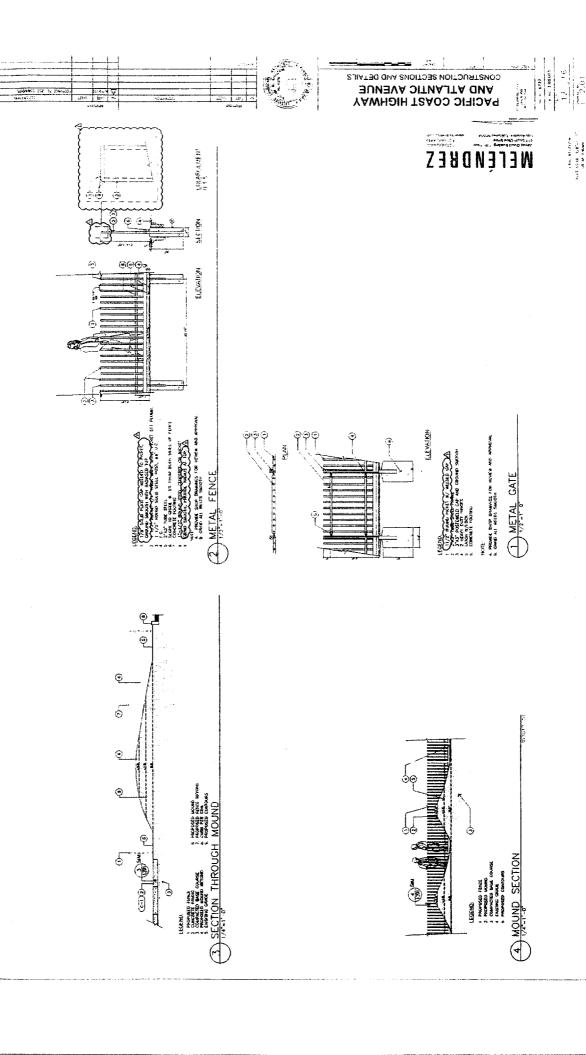
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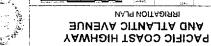
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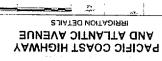
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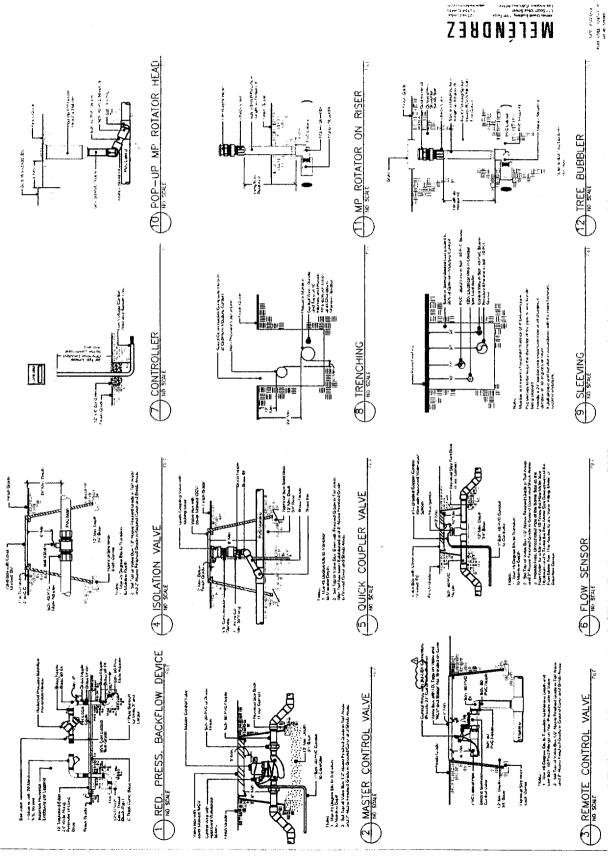
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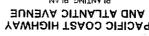


MELÉNDREZ



YACIFIC COAST HIGHWAY
AND ATLANTIC AVENUE
PLANTING PLAN





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Fair, all 20129 April 2014 1/87 - 11 Abril 2014 1/80

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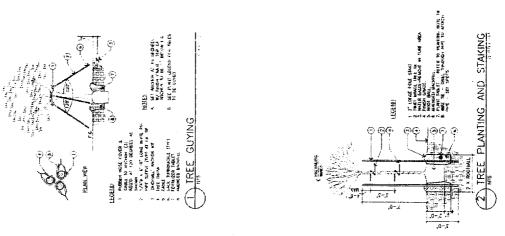
ALLANTIC AVE

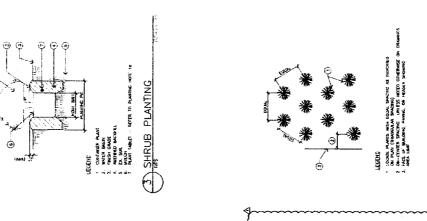


PACIFIC COAST HIGHWAY AND ATLANTIC AVENUE PLANTING DETAILS

MELÉNDREZ

(4) GROUNDCOVER PLANTING





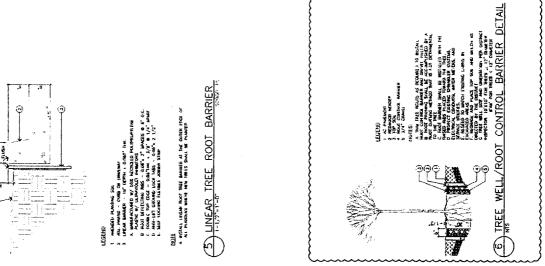


EXHIBIT "C" EASEMENT AGREEMENT

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Long Beach Unified School District Facilities Planning and Management 2425 Webster Avenue Long Beach, California 90810-3204

Attention: Director of Facilities Planning and Management

(Above Space for Recorder's Use Only)

GRANT OF EASEMENT

THIS GRANT OF EASEMENT ("Easement") is made and entered into and to be performed in Long Beach, California, between the Long Beach Unified School District, a California public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California, hereinafter referred to as "GRANTOR" and the City of Long Beach, a municipal corporation, hereinafter referred to as "GRANTEE."

RECITALS

WHEREAS, GRANTOR is the owner of certain real property located at 1764-1766 Atlantic Avenue within the City of Long Beach, County of Los Angeles, State of California, more commonly known as Polytechnic High School ("Grantor's Property") and referred to as Los Angeles County Assessor's Parcel No. 7268-006-911;

WHEREAS, GRANTEE is the owner of certain real property located at 1790 Atlantic Avenue within the City of Long Beach, County of Los Angeles, State of California ("Grantee's Property"), and referred to as Los Angeles County Assessor's Parcel No. 7268-006-020; and

WHEREAS, GRANTEE is widening a portion of Atlantic Avenue to install a right-hand turn lane and adjacent public sidewalk ("Project"), and requires an easement from GRANTOR for sidewalk and street widening purposes, including all related purposes, over, under and across the real property; and

WHEREAS, GRANTEE desires to obtain from GRANTOR and GRANTOR is willing to grant a permanent exclusive easement for use of that portion of Grantor's Property necessary to allow GRANTEE to construct, use, and maintain the Project, as more particularly described in the legal description attached hereto and incorporated herein as Exhibit "A-1" (the "Easement Area"). The Easement Area includes any below ground footings and infrastructure that must be installed in connection with the Project subject to the terms and conditions set forth herein. Attached hereto and incorporated herein as Exhibit "A-2" is a depiction of the Easement Area.

AGREEMENT

In consideration of the mutual covenants and conditions hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1. GRANT OF EASEMENT. GRANTOR does hereby grant to GRANTEE, to the extent GRANTOR has any right, title or interest in the Easement Area, a permanent exclusive easement for the benefit of the public to utilize the Easement Area to construct, use and maintain the Project in the Easement Area. References herein to GRANTOR and GRANTEE shall include GRANTOR'S and GRANTEE'S successors in interest with respect to the Grantor's Property and Grantee's Property as applicable. This Easement is subject to all existing easements, covenants, conditions, and restrictions recorded against Grantor's Property and which affect the Easement Area.
 - 2. <u>EFFECTIVE DATE</u>. The Effective Date of this Easement shall be June 3, 2009.
- 3. <u>LIMITATIONS ON EASEMENT</u>. It is understood and agreed that this Easement does not constitute a conveyance of a fee interest in Grantor's Property or of the minerals therein and thereunder, but grants only the limited easement as provided in Paragraph 1 above. Unless otherwise stated herein, the Easement granted herein is on an "AS-IS" basis and GRANTOR makes no representation or warranty of any kind regarding the condition of the Grantor's Property or the Easement Area. GRANTOR retains for its successors and assigns all rights and uses that do not unreasonably interfere with the use of the rights granted herein to GRANTEE. It is understood that GRANTOR grants only that portion of the above-described real property in which it has an interest. GRANTOR, by signing below, represents and certifies that it is the owner of this real property and grants this Easement free of any other encumbrances not specifically listed herein.

4. GRANTEE'S OBLIGATIONS.

(a) <u>Parking Lot</u>. GRANTEE shall be responsible for all costs and expenses for repaving and re-striping the parking lot ("Parking Lot Scope of Work") located on Grantor's Property, as described in greater detail in Exhibit "B" attached hereto and incorporated herein.

(b) Wrought Iron Fence.

- (1) GRANTEE shall be responsible for removal of the ten (10) foot wrought iron fence ("Fence") located on the Grantor's Property, as depicted in Exhibit "B" attached hereto and incorporated herein.
- (2) GRANTEE shall be responsible for all costs and expenses associated with the removal ("Fence Removal Costs") and for all costs and expenses associated with the reinstallation of the Fence, including but not limited to architecture fees, inspector of record fees, and Division of State Architect ("DSA") fees ("Fence Reinstallation Costs") (Fence Removal Costs and Fence Reinstallation Costs shall be referred to collectively as "Fence Costs").

- (3) GRANTEE or the Redevelopment Agency of the City of Long Beach shall pay to District the Fence Reinstallation Costs in the amount of Twenty-Eight Thousand Six Hundred Forty-Two Dollars (\$28,642) which consists of the Fence Reinstallation Costs, as estimated and agreed upon by the parties, and a twenty-five percent (25%) contingency for cost overruns. Upon completion of the reinstallation of the Fence, as determined by GRANTOR, all excess funds shall be returned to GRANTEE. In the event that the reinstallation of the Fence exceeds the amount of funds called for above for any reason, including but not limited to compliance with DSA, GRANTEE agrees to assume any contractual obligation or responsibility undertaken by GRANTOR, pursuant to Paragraph 4. (b) (6) below, for the reinstallation of the Fence and GRANTEE shall have full responsibility to reinstall the Fence.
- (4) In the event that the Fence is damaged during the removal process, GRANTEE shall be responsible for all costs and expenses associated with the replacement or repair of such damage. Such costs and expenses are in addition to the Fence Costs and shall not be paid out of the funds paid to GRANTOR pursuant to Section 4. (b) (3).
- (5) Subsequent to removal, GRANTEE shall be responsible for the proper storage of the Fence including all costs and expenses associated with such storage and the security required to ensure the Fence is not damaged, vandalized or stolen. Such costs and expenses are in addition to the Fence Costs and shall not be paid out of the funds paid to GRANTOR pursuant to Section 4. (b) (3).
- GRANTEE affirms that GRANTOR is exempt, without further action by GRANTOR whatsoever, from the City of Long Beach zoning requirements as they relate to the Grantor's Property, including but not limited to the removal and reinstallation of the Fence on Grantor's Property. In reliance on said exemption, GRANTOR shall contract for the reinstallation of the Fence, however, GRANTEE agrees that the costs and expenses associated with the reinstallation of the Fence shall be the responsibility of GRANTEE and shall be paid out of the funds paid to GRANTOR pursuant to Section 4. (b) (3). Furthermore, GRANTEE and its successors and assigns shall indemnify, protect, defend and hold harmless GRANTOR and its successors and assigns from and against any and all actual or potential claims, liens, actions, demands, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses (including, without limitation, reasonable attorneys' fees, litigation expenses and court costs) of every kind and character arising out of, or caused, in whole or in part, by GRANTOR'S reinstallation of the Fence as it relates to compliance or non-compliance with City of Long Beach zoning requirements; such indemnification shall be in addition to the indemnification set forth in Section 7 of this Easement and survive the termination of this Easement.
- (c) GRANTEE shall conduct its activities on the Easement Area in a safe, good and workmanlike manner, to the extent possible, to avoid causing any damage to, or interference with, any activities and improvements on or near the Easement Area or any adjacent property owned by GRANTOR.
- (d) GRANTEE shall maintain said Project in the same condition and repair as adjacent streets, reasonable wear and tear allowed.

- 5. <u>GRANTOR'S OBLIGATIONS</u>. Upon completion of the Parking Lot Scope of Work to GRANTOR's satisfaction, GRANTOR shall provide a written certification of acceptance to GRANTEE of the Parking Lot Scope of Work.
- GRANTEE understands and acknowledges that (i) GRANTEE has inspected the Grantor's Property and Easement Area and accepts the Grantor's Property and Easement Area "AS IS" with full knowledge of the physical condition, and (ii) GRANTOR has not made any representation or warranty, express or implied, as to the condition of the Grantor's Property and Easement Area, the suitability of the Grantor's Property and Easement Area for GRANTEE's intended use or as to any matter. Nothing in this Easement shall transfer any responsibility for actual or alleged environmental contamination to GRANTEE, whether such contamination is known or unknown to GRANTOR at the time of the making of this grant or at any time thereafter.
- 7. INDEMNITY. The indemnification provisions set forth in this Section 7 shall survive the termination of the Easement. GRANTEE and its successors and assigns shall indemnify, protect, defend and hold harmless GRANTOR and its successors and assigns from and against any and all actual or potential claims, liens, actions, demands, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses (including, without limitation, reasonable attorneys' fees, litigation expenses and court costs) of every kind and character including, without limitation, on account of death, injury or damage to persons or property, arising out of, or caused, in whole or in part, by GRANTEE'S use of the Easement Area, including any use of the Easement Area by third parties for the purpose of the Easement, or the exercise by GRANTEE of any rights under this Easement; provided, however, that GRANTEE shall not be liable for damages caused by GRANTOR'S active or passive negligence.

GRANTOR and its successors and assigns shall indemnify, protect, defend and hold harmless GRANTEE and its successors and assigns from and against any and all actual or potential claims, liens, actions, demands, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses (including, without limitation, reasonable attorneys' fees, litigation expenses and court costs) of every kind and character including, without limitation, on account of death, injury or damage to persons or property, arising out of, or caused, in whole or in part, by GRANTOR'S use of the Easement Area or the exercise by GRANTOR of any rights under this Easement; provided, however, that GRANTOR shall not be liable for damages caused by GRANTEE'S active or passive negligence.

(a) Environmental Indemnification: GRANTOR and its successors and assigns shall indemnify, protect, defend and hold harmless GRANTEE and its successors and assigns from and against any and all costs, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from the release, treatment, use, generation, storage, or disposal on, under, or from the Grantor's Property of any Hazardous Materials at any time prior to the Effective Date of this Easement, including, without limitation, the cost of any required or necessary remediation or removal of such hazardous materials, any cost or repair or improvements on the Grantor's Property or surrounding property necessitated by the remediation or removal of such hazardous materials, and the costs of any

testing, sampling, or other investigations or preparation of remediation or other required plans undertaken in connection with the remediation or removal of such hazardous materials.

Definition of Hazardous Materials: The term "Hazardous Materials" when used in this Easement shall mean any hazardous waste, hazardous substance, hazardous materials or toxic substances as defined, as of the Effective Date, in any federal, state, or local statute, ordinance, rule, or regulation applicable to the Property, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (Title 42 United States Code sections 9601-9675), the Resource Conservation and Recovery Act (Title 42 United States Code sections 6901-6992k), the Carpenter-Presley-Tanner Hazardous Substance Account Act (Health and Safety Code sections 25300-25395), Hazardous Waste Control Law (Health and Safety Code section 25100-25250.25); the Hazardous Materials Transportation Act, as amended (Title 49 United States Code Sections 1801-1819); and any substance defined as "hazardous waste" in Health and Safety Code Section 25117 or as a "hazardous substance" in Health and Safety Code Section 25316, and in the regulations adopted and publications promulgated under these laws. "Hazardous Materials" shall also include asbestos or asbestos-containing materials, radon gas, and petroleum or petroleum fractions, whether or not defined as a hazardous waste or hazardous substance in any such statute, ordinance, rule, or regulation as of the Effective Date.

8. INSURANCE.

- (a) General Liability. GRANTEE agrees to maintain in full force and effect throughout the duration of the Easement commercial general liability insurance equivalent in scope to ISO CG 00 01 11 85, including contractual coverage, coverage from and against claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out of activities solely performed by or on behalf of GRANTEE or caused by or connected with GRANTEE's use of the Easement. Such insurance shall be in amounts not less than \$1,000,000 per occurrence; and \$3,000,000 for general aggregate. Said insurance shall be primary insurance with respect to GRANTOR.
- (b) <u>Automobile Liability</u>. GRANTEE also agrees to maintain in full force and effect for the duration of the Easement commercial automobile liability insurance equivalent in scope to ISO CA 00 01 06 92, covering Symbol 1 (any auto) with a combined single limit of \$1,000,000 per accident.
- (c) <u>Workers' Compensation</u>. GRANTEE shall also maintain, in full force and effect throughout the term of this Easement, Workers' Compensation insurance in accordance with the laws of California, in the amount of Statutory Limits for Coverage A and \$1,000,000 per accident for bodily injury or disease for Coverage B, employers' liability.
- (d) <u>Notice</u>; <u>Additional Named Insureds</u>. All insurance required under this Easement shall be issued by a company or companies lawfully authorized to do business in California as admitted carriers. GRANTOR shall be designated as an additional named insured on a form equivalent in scope to ISO CG 20 26 11 85. Prior to entry, GRANTEE shall provide GRANTOR with Certificates of Insurance.

- (e) <u>Self-Insurance</u>. GRANTEE has the right to self-insure all or any portion of its insurance obligations herein.
- 9. <u>SUCCESSORS, MISCELLANEOUS.</u> The terms and provisions of this Easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of GRANTOR and GRANTEE. GRANTEE shall not assign, transfer or convey any of its rights and/or obligations under this Easement except in connection with a conveyance of Grantee's Property. This Easement shall remain in effect until it is released by GRANTOR and GRANTEE by recordable instrument. This Easement contains the entire agreement between the parties relating to the rights granted herein and the obligations assumed hereby and may only be modified by a written agreement executed by all parties hereto and recorded in the official records of the County of Los Angeles.
- 10. <u>NOTICE</u>. Any notice which a party is required or may desire to give the other shall be in writing and shall be sent either (a) by United States registered or certified mail, return receipt requested, postage prepaid, or (b) by a generally recognized overnight carrier providing proof of delivery. Any such notice shall be addressed to a party at the party's address appearing below. Any party may change its address for notice at any time by written notice in accordance with this paragraph 8.

LONG BEACH UNIFIED SCHOOL DISTRICT
Facilities Planning and Management
2425 Webster avenue
Long Beach, California 90810-3204
Attention: Director of Facilities Planning and Management

CITY OF LONG BEACH 13th Floor, City Hall 333 West Ocean Boulevard Long Beach, California 90802

- 11. <u>ATTORNEY'S FEES</u>. In the event any action or suit is brought by a party against another party by reason of the breach of any of the covenants or agreements set forth in this Easement or any other dispute between the parties concerning this Easement, each party shall be responsible for its own attorney's fees and costs.
- 12. <u>GOVERNING LAW</u>. This Easement shall be governed and construed in accordance with the laws of the State of California.
- 13. <u>AUTHORITY</u>. Each of the undersigned represents and warrants that he or she is duly authorized to execute and deliver this Easement and that such execution is binding upon the entity or which he or she is executing this document
- 14. <u>HEADINGS</u>. The headings of this Easement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Easement.
- 15. <u>SEVERABILITY</u>. If any paragraph, section, sentence, clause or phrase contained in the Easement shall become illegal, null or void, against public policy, or to otherwise

unenforceable, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, against public policy, or otherwise unenforceable, the remaining paragraphs, sections, sentences, clauses or phrases contained in the Easement shall not be affected thereby.

- 16. <u>SUCCESSORS AND ASSIGNS</u>. This Agreement shall be binding on GRANTEE and GRANTOR, respectively, and the respective rights and obligations hereunder shall run with the land and shall inure to the benefit and be binding upon the heirs, successors and assigns of the parties hereto.
- 17. <u>WAIVER</u>. The waiver of any breach of any provision hereunder by GRANTOR or GRANTEE shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No failure or delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof.
- 18. <u>COUNTERPARTS</u>. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties had a day of, 2009.	nereto have executed this Grant of Easement this
Approved as to form	
ATKINSON, ANDELSON, LOYA, RUUD & ROMO	LONG BEACH UNIFIED SCHOOL DISTRICT
Constance J. Schwindt, Esq. Attorneys for Long Beach Unified School District	Name and Title
Approved as to form	CITY OF LONG BEACH
Dahart E. Olamon Cita Attannan	

Robert E. Shannon, City Attorney

Name and Title

TO SECTION 301 OF THE CITY CHARGES.

Portrick H. West City Manage

Assistant City Manager

umenforceable, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, against public policy, or otherwise unenforceable, the remaining paragraphs, sections, sentences, clauses or phrases contained in the Easement shall not be affected thereby.

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- WAIVER. The waiver of any breach of any provision hereunder by GRANTOR or GRANTEE shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No failure or delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof.
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Approved as to form	•
ATKINSON, ANDELSON, LOYA, RUUD & ROMO	LONG BEACH UNIFIED SCHOOL DISTRICT

Constance J. Schwingt Attorneys for Long Beach Unified School District

Purchasing & Contracts Difector

Approved as to form

CITY OF LONG BEACH

Robert E. Shannon, City Attorney

Richard F. Anthony, Deputy

Name and Title

Assistant City Manager

TO SECTION SULLE THE CHESCHE.

COUNTY OF LOS Angeles ss.

On 5/20/09, before me, before me, personally appeared SUZANTE Trick, personally known to me, or proven 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(e), 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.

BEVERLY GAIL NIEVES
Commission # 1842093
Notary Public - California
Les Angeles County
My Comm. Expires Mar 26, 2013
(Seal)

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

STATE OF CALIFORNIA) ss COUNTY OF LOS Angeles)

On June 3, 2009, before me, Irma A. Lara Vereg, personally appeared Barrick L. Bartlett, personally known to me, or proven 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.

IRMA A. LARA-VENEGAS
Commission # 1647585
Notary Public - California
Los Angeles County
My Comm. Expires Mar 23, 2010

WITNESS my hand and official seal.

Signature of NOTARY

(Seal)

EXHIBIT "A-1"

EASEMENT AREA (legal description)

LBUSD TO CITY OF LONG BEACH SIDEWALK EASEMENT ATLANTIC AVENUE BETWEEN ESTHER STREET AND PCH

Those portions of Lot 4 through 11 Inclusive of the Park Tract in the City of Long Beach, County of Los Angeles, State of California as per Map in Book 21 pages 34 of Miscellaneous Records in the Office of County Recorder of said County described as follows:

Beginning at the South East corner of Lot 11 of said track; thence North 000'00" East 185.00 feet along the Easterly Line of Lot 1 through 11 of said Tract to an intersection with the North Line of the South 10.00 feet of said Lot 4, measured at right angles and parallel with the South Line of said Lot 4; thence North 90'00'00" West 105.00 feet along last said parallel line to a point being 50.00 feet distant Easterly from the centerline of Atlantic Avenue, said point being the True Point of Beginning; thence North 90'00'00" West 10.00 feet to the intersection of a line 40.00 feet distant Easterly measured at the right angles, and parallel with the centerline of Atlantic Avenue, last said parallel line being the Easterly line of 10.00 feet wide Los Angeles County street easement as described in Deeds 3028 Pg. 245 recorded 3-5-1908, 3059 Pg. 309 recorded 12-27-1906, 3059 Pg. 313 recorded 1-22-1907, 3153 Pg. 81 recorded 3-5-1907, 3205 Pg. 3 recorded 7-15-1907, 3228 Pg. 311 recorded 12-21-06, all of the official records of said county, also said 10,00 feet wide strip annexed to the City of Long Beach 1-19-1910 by Increment No. 8 more clearly shown on City of Long Beach Drawing G-73 Sheet 5 of 5 in the Office of the City Engineer of said City, thence South 0'00'00" West 185.00 feet along last said parallel, line to the Westerly prolongation of

the Southerly line of said Lot 11; thence South 90'00'00" East 25.00 along the Southerly line of said Lot 11; thence North 45'00'00" West 21.21 feet leaving last said line to the intersection with a line 50.00 feet distant Easterly, measured at right angles, and parallel with the centerline of Atlantic Avenue, also said intersection being 15.00 feet distant Northerly of Southerly Line of said Lot 11; thence North 0'00'00" East 170.00 feet along last said parallel line to the **True Point of Beginning**.

Containing more or less 1962.50 square feet or 0.045 Acres

More particularly shown on attached Exhibit "B"

Kimberley A, Holtz, PLS 7080

Expires Dec. 31, 2010

LS 7080 KD, 12-31-2010

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OF CALIFO

EXHIBIT "A-2"

EASEMENT AREA (depiction)

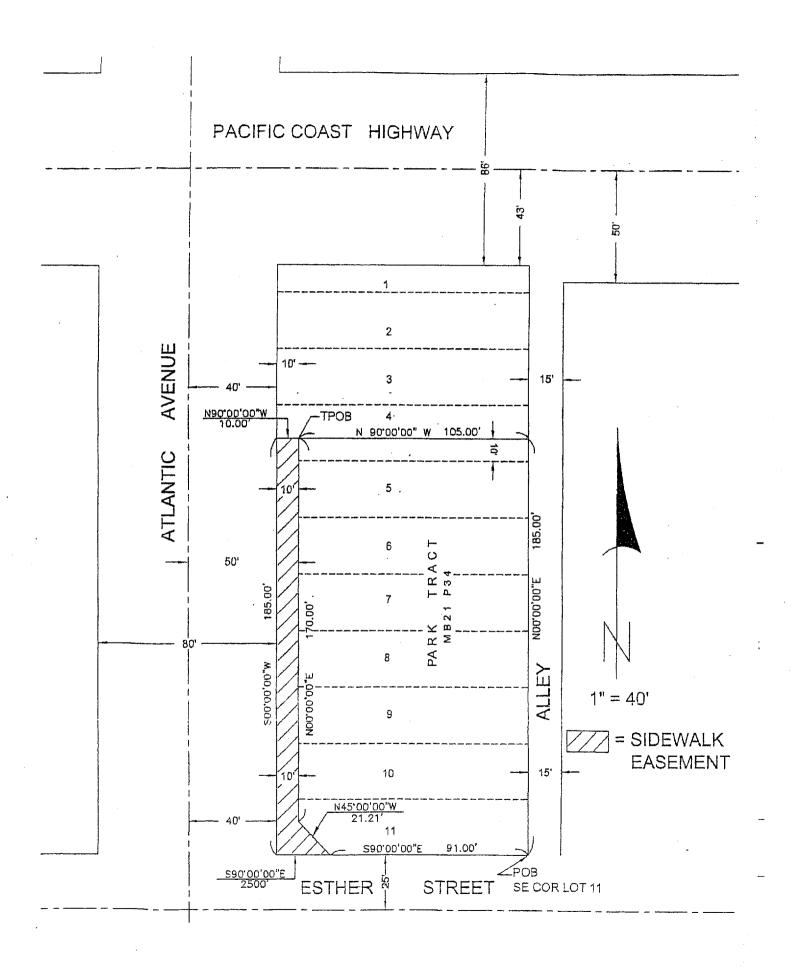
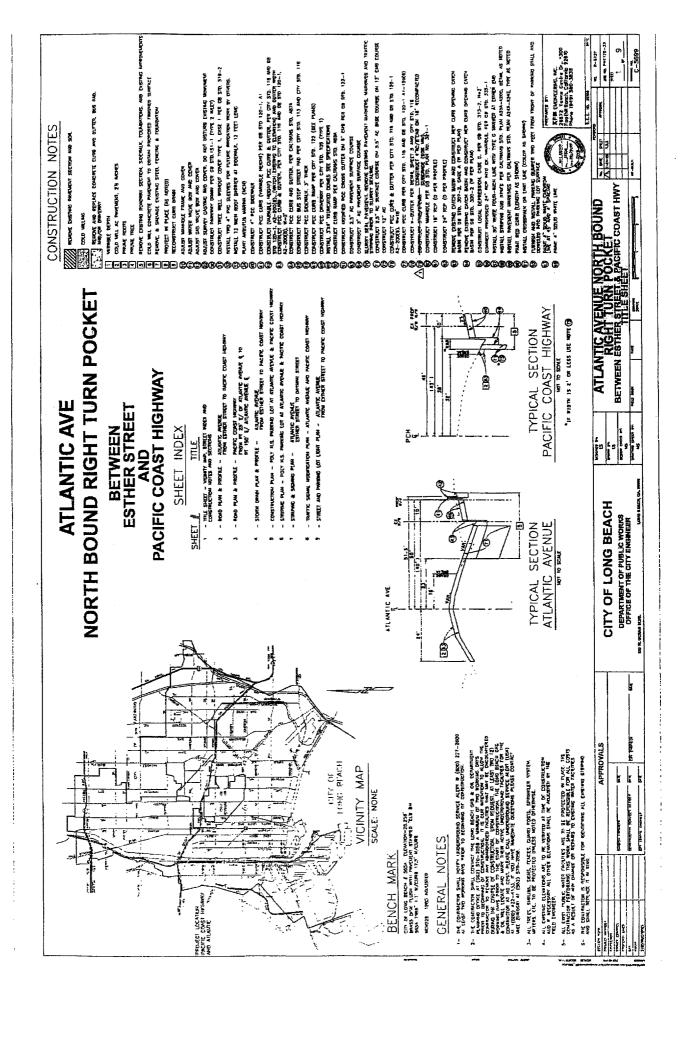
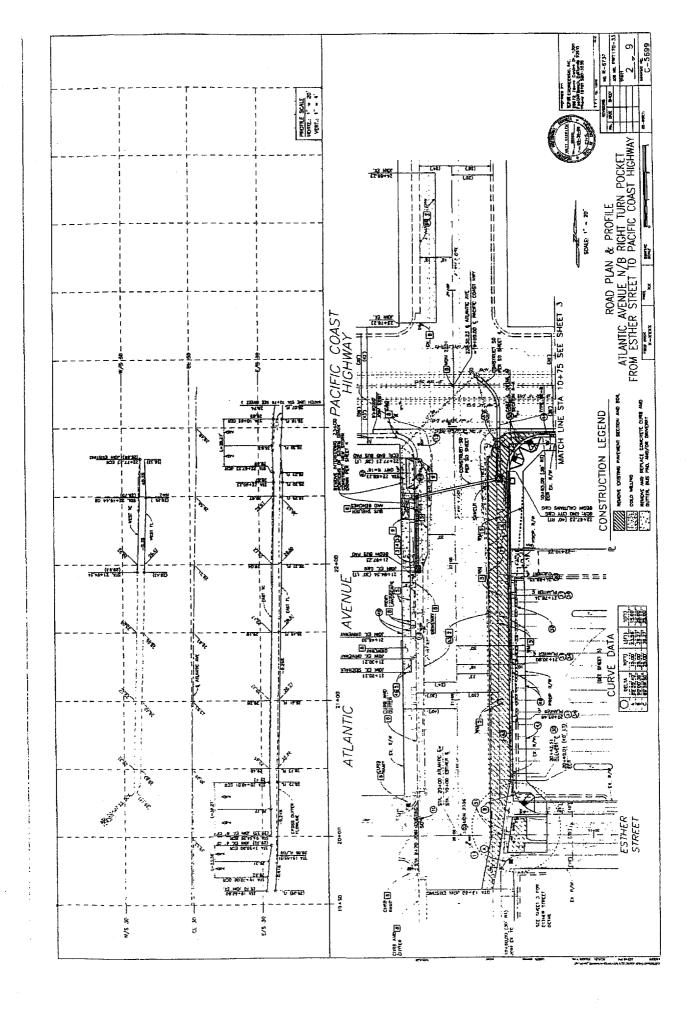
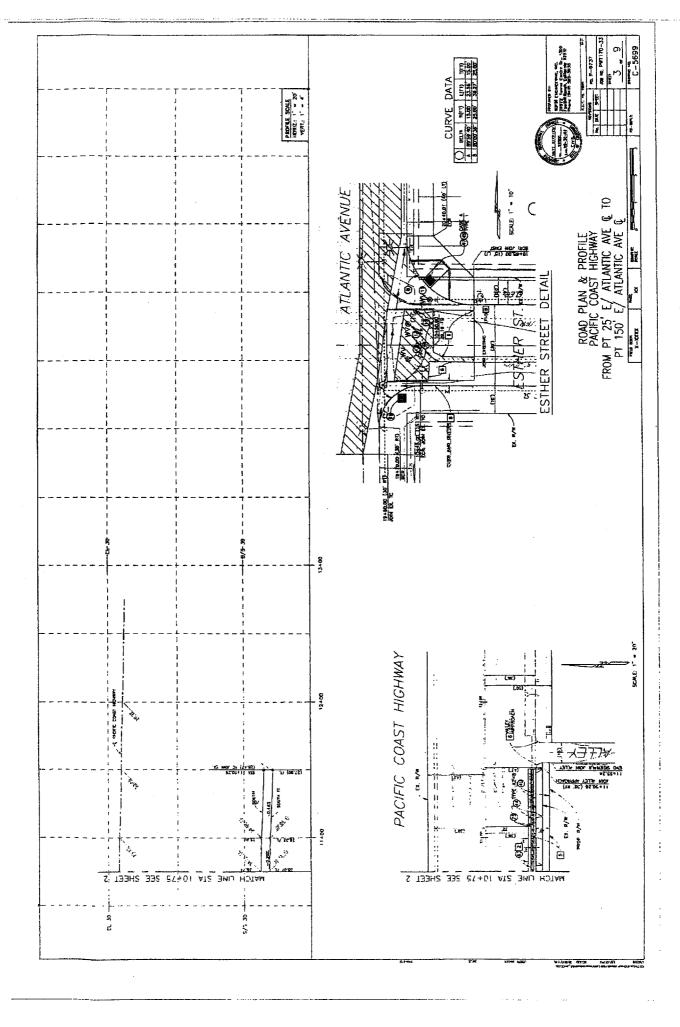
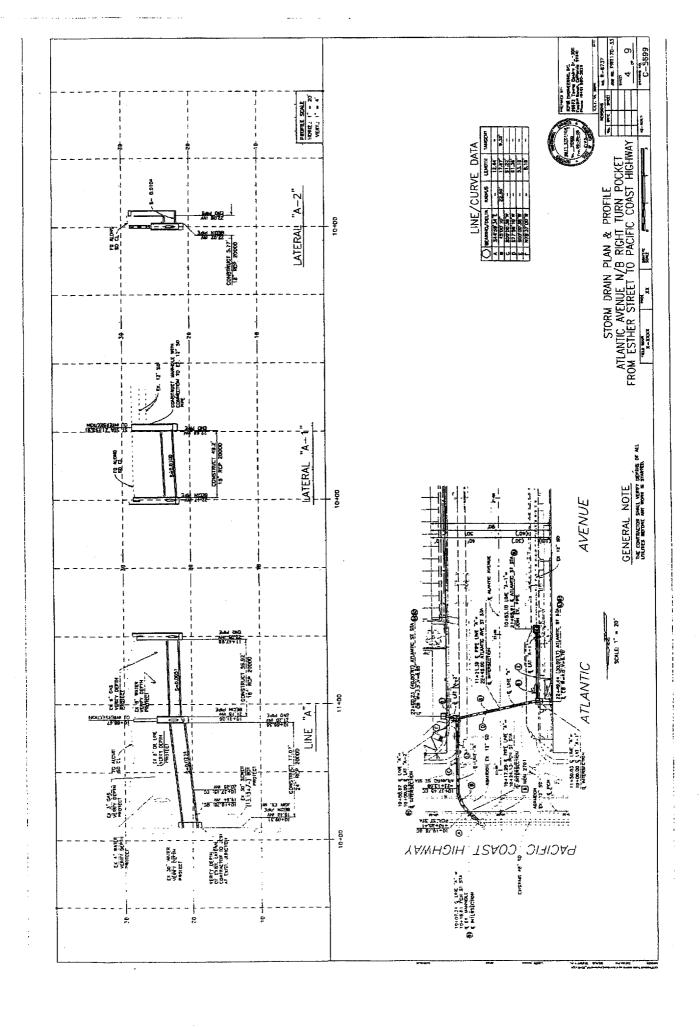


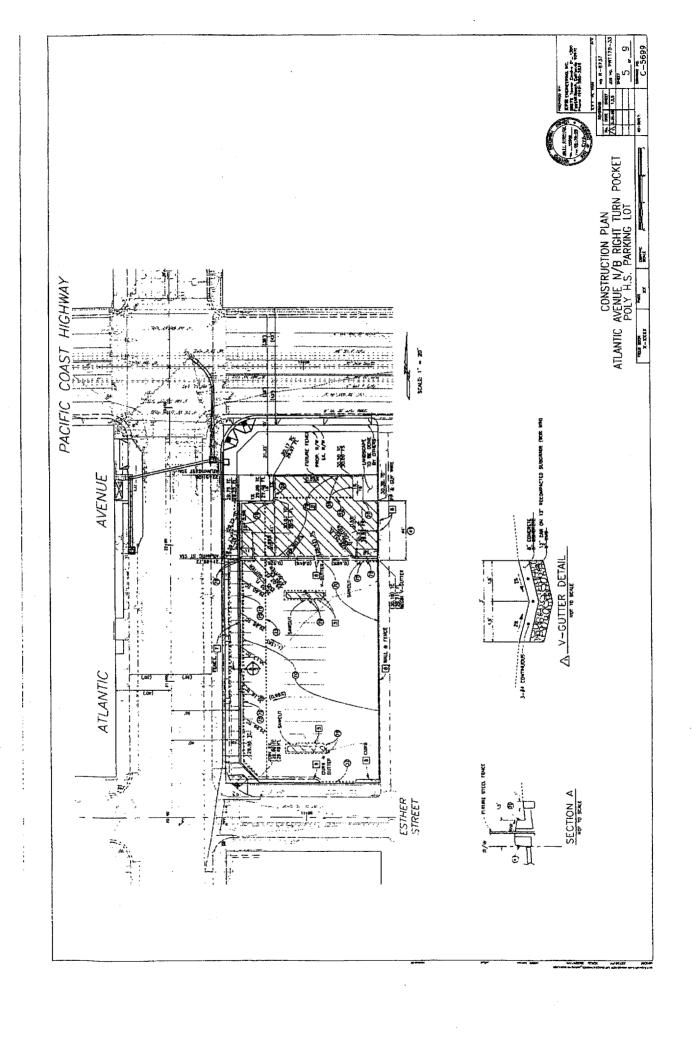
EXHIBIT "B" PARKING LOT SCOPE OF WORK

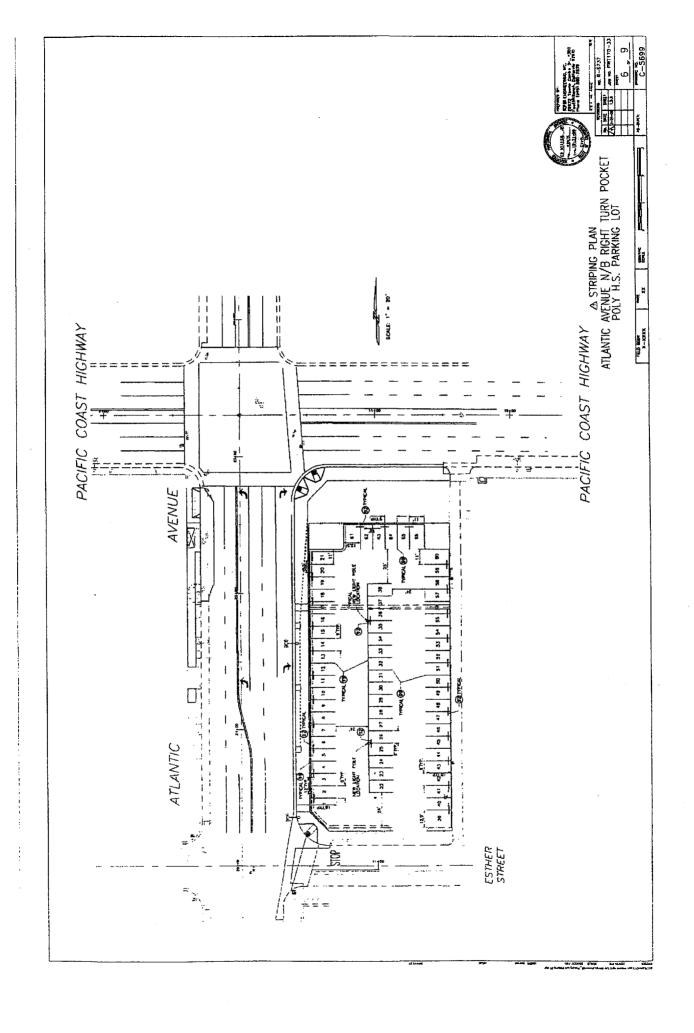


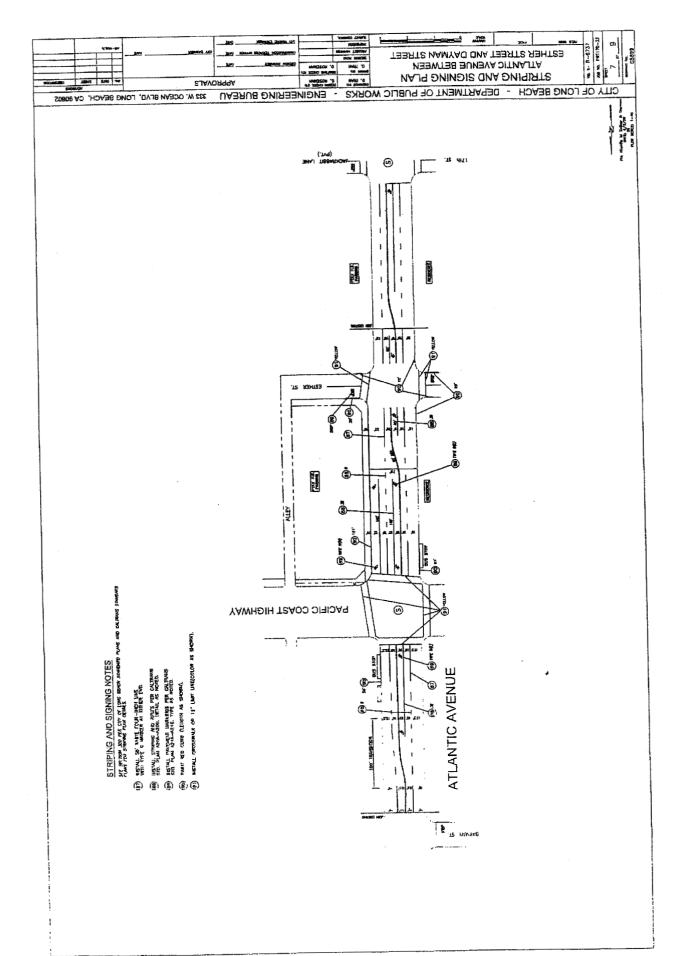


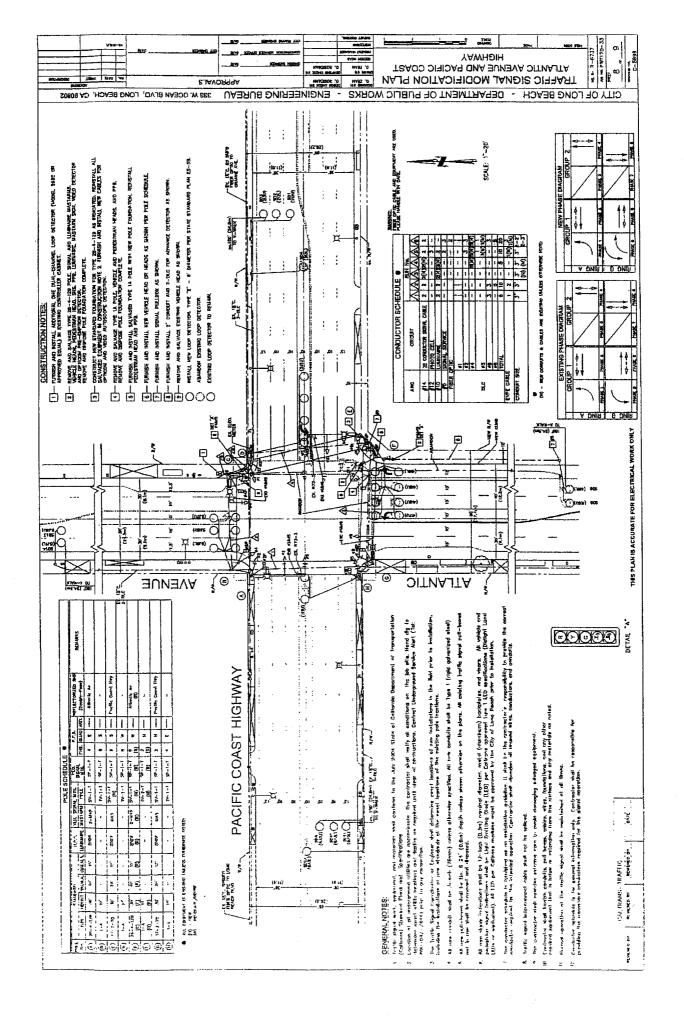


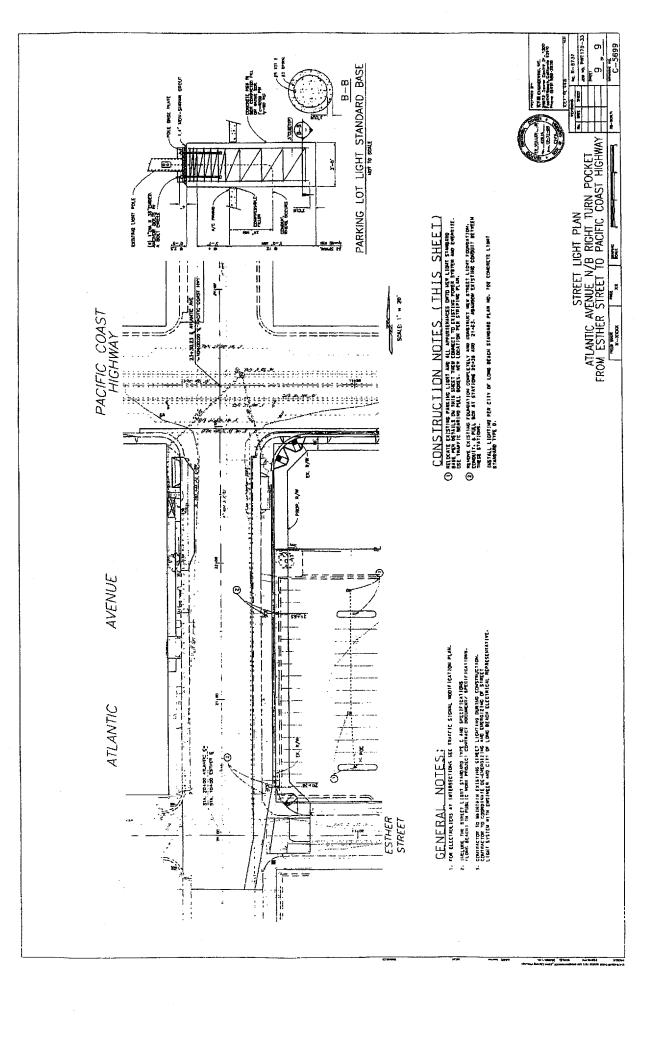












LANDSCAPE PLANS

PACIFIC COAST HIGHWAY
AND ATLANTIC AVENUE

WETĘNOBEZ

CITY OF LONG BEACH

PACIFIC COAST HIGHWAY & ATLANTIC

LONG BEACH, CALIFORNIA

SHEET INDEX	TITE SKEET SHT. NO.	COVER SHEET	CONSTRUCTION PLAN	CONSTRUCTION SECTIONS & DETAILS L-2.01	IRRIGATION PLAN, LEGEND & NOTES L-3.01	RRIGATION DETAILS L-4.01	PLANTING PLAN	PLANTING DETAILS, LEGEND & NOTES 1-6.01			GENERAL, NOTES), PENIS AND REPUBLISHED. INE COMPANIES SHALL MERMOR AND PAY FOR ALL REDUNDO PERMITS NO REPUBLISHED.	2. ALL LANDSOUR WORN SHALL BE PERFORMED BY A LITERARD LANDSONER CORRESCION.	IN THE EMBYL EXCHANTIONS MEMON, LUKEWICHMES COMMINIONS, CONTAIN GEOTECHNICH, SERMES.	CHITACTOR SALE, DE RESPONDED POR LANGES FINESSE FARENCE, CHITACHOS, LUDGINGUADO AND OFFICENCE VICTURE, PUTS AND SPINCTIVES. CHITACHOST CON THE SALE PROPRESSEY FOR COST NATIVEDS OLE TO DAMAGE AND STRAINGLASS OF SURVEYS AND	STREETS, STOCKHUS AND ADJACAN PROPERTY PARE, BY TREETSTO. PHONOGRAPH THE WINDS OF RECOVERS OF LOCAL, COOKE AND REGILATIONS AND APPROACH ST HIS PROJECT NEWART.	ALL NOW AND POSITIONS OF THE PROJECT SHALL COMPLY WITH ALL APPLICABLE COOKS.	CONTINUES IN INSPIRED FOR ACTIVACIONS OF ANY EXEMBED MATERIALS. BYO, AND EMPHRED EXPIRED CONSTRUCTION.	ALL LIBERS OF MOTOR, PACKETY LANDS AND LOF LIMES MALL THE VEHTILD PROOF TO COMMENCERS WORK,		
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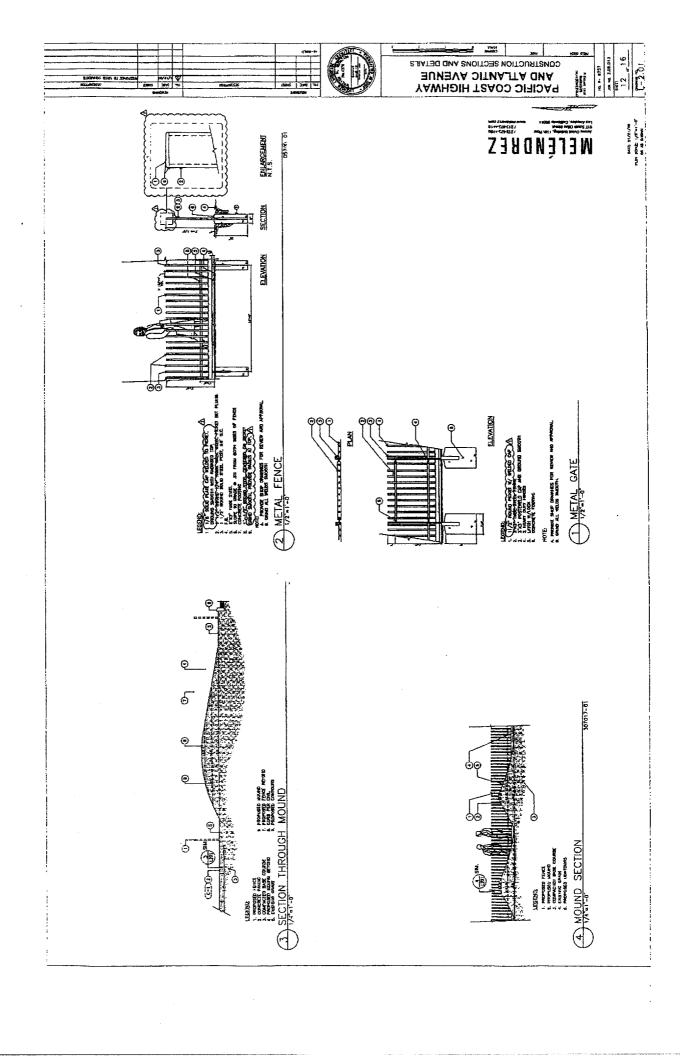
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ACTHOR FOR STORMS.
I. POLOGE AND STORMS. DEMOLITION NOTES:

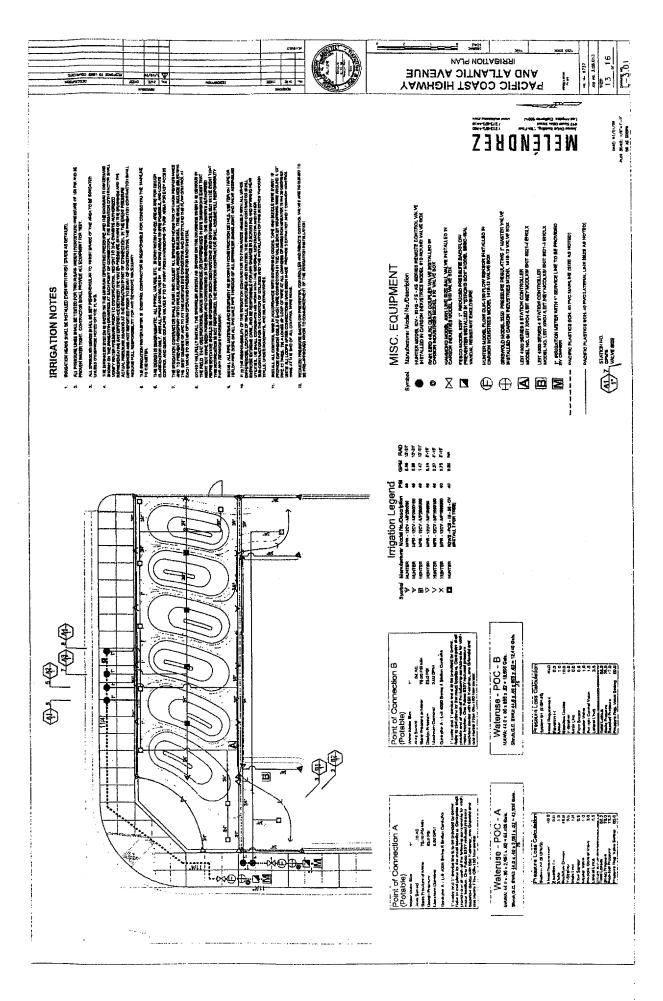
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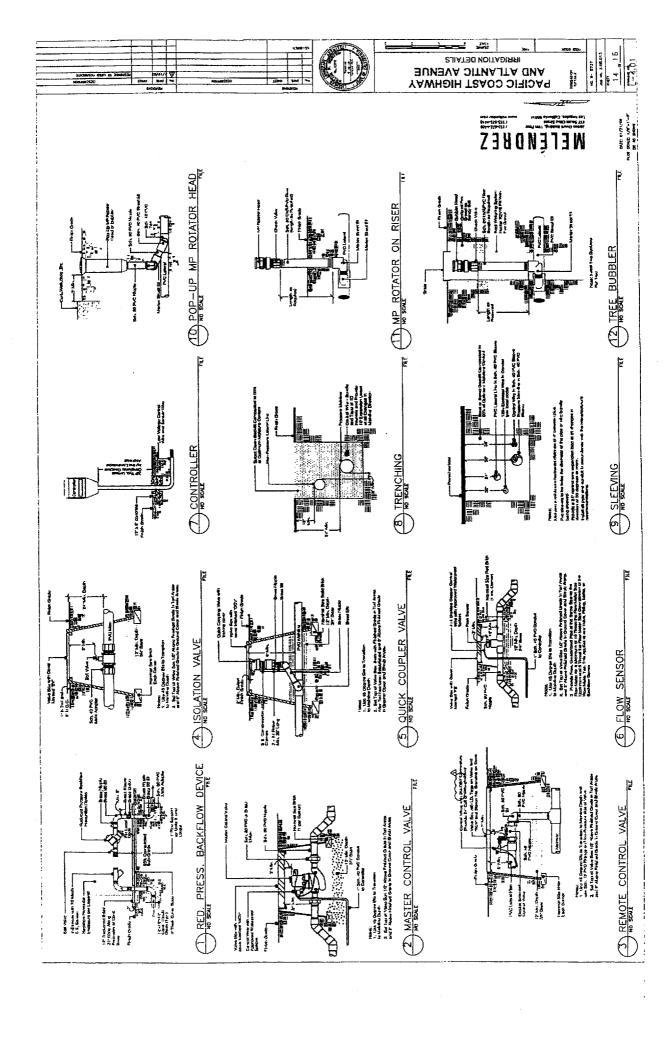
KEYNOTE LEGEND

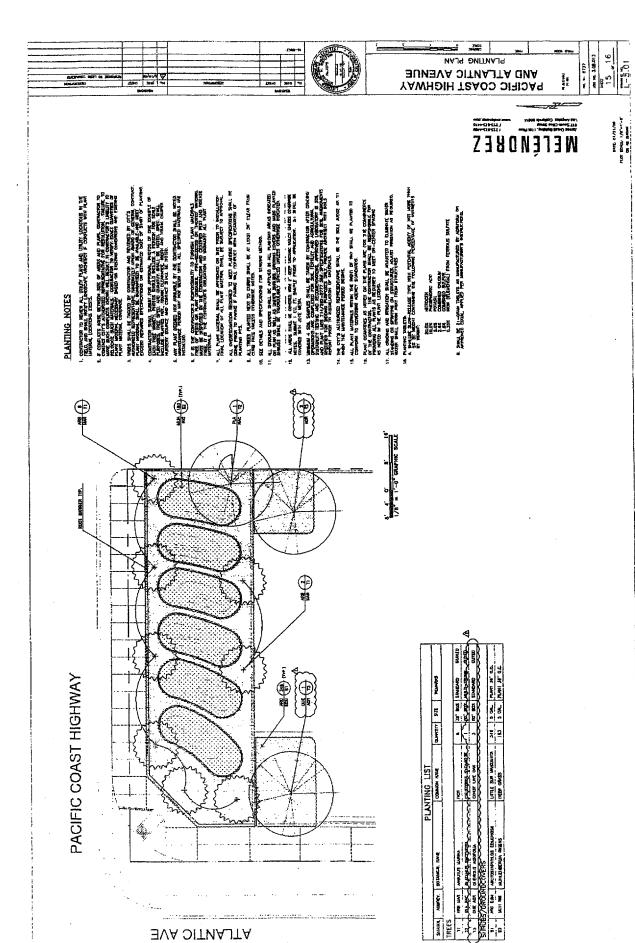
PACIFIC COAST HIGHWAY

ATLANTIC AVENUE







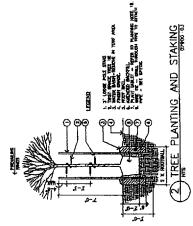


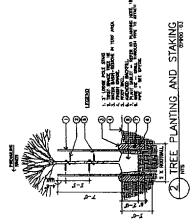


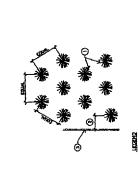


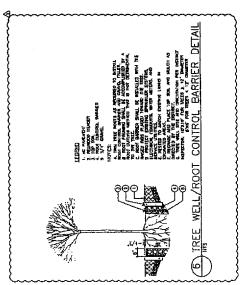


MELÉNDREZ

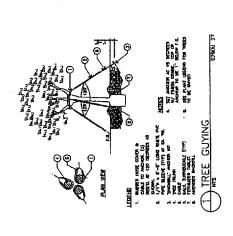


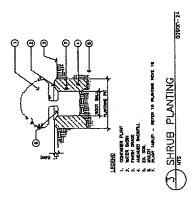






GROUNDCOVER PLANTING REPORT TO REPORT REPORT





(5) LINEAR TREE ROOT BARRIER

