

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

September 8, 2021

To: LAFCo Commissioners

From: Martha Poyatos, Executive Officer
Rob Bartoli, Management Analyst

Subject: LAFCo File No. 18-05 - Proposed Outside Service Agreement for sewer by the City of San Carlos to an existing single-family home at 95 Camborne Avenue, unincorporated San Mateo County (APN 049-062-410)

Summary

Pursuant to Government Code Section 56133, Commission approval is required for extension of service by local agencies to territory outside the agency's boundaries. This section requires that the public agency apply to LAFCo by resolution on behalf of the landowner. In this case, the City of San Carlos has applied by resolution for extension of sewer service to an existing home at 95 Camborne Avenue, unincorporated San Mateo County (APN 049-062-410).

The project area is within the sphere of influence of the City of San Carlos. However, the property is only contiguous to the City boundary by rear lot line and annexation of the parcel at this time would not create a logical boundary or improve the delivery of services. LAFCo staff supports an Outside Service Agreement in lieu of annexation. However, as a condition of approval the property owner shall record a document consenting to future annexation of the property to the City. Commission approval is recommended.

Departmental Reports

County Assessor: The total net assessed land valuation for the parcel shown in the records of the County Assessor is \$330,711. The boundaries of the Outside Service Agreement as proposed conform to lines of assessment and ownership.

County Clerk: The Outside Service Agreement would not change or conflict with any political subdivision boundaries.

COMMISSIONERS: WARREN SLOCUM, CHAIR, COUNTY ▪ MIKE O'NEILL, VICE CHAIR, CITY ▪ HARVEY RARBACK, CITY ▪ DON HORSLEY, COUNTY
▪ JOSHUA COSGROVE, SPECIAL DISTRICT ▪ RIC LOHMAN, SPECIAL DISTRICT ▪ ANN DRAPER, PUBLIC

ALTERNATES: KATI MARTIN, SPECIAL DISTRICT ▪ DIANA REDDY, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ▪ TIM FOX, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, CLERK

County Public Works: The property is not located within any County district. An encroachment permit will be required for any work in the County right-of-way.

County Planning Department: The property is zoned R-1/S-71/DR and has a General Plan Designation of medium density residential. A building permit for the house was originally issued in 2007 with a revised permit issued in 2013 (BLD2013-02169). The property owner will need to continue to work with County Planning to complete this permit. County Planning recommends approval of the proposal.

City of San Carlos: The Outside Service Agreement and application to LAFCo for the sewer connection was approved by the San Carlos City Council on August 28, 2017 and then revised by the Council on June 14, 2021. The sewer connection is conditioned upon the property owner recording a document consenting to future annexation of the property to the City.

County Environmental Health Services Agency: The California Water Service Company and the City of San Carlos provide the available water and sewer service in the area. County Environmental Health supports the sewer extension.

Executive Officer's Report

This proposal has been submitted by resolution by the City of San Carlos in order to connect an existing single-family dwelling to City sewer. This proposal was originally submitted to LAFCo in 2018 as an annexation and has subsequently been amended to be an Outside Service Agreement.

The subject property is within the Sphere of Influence of the City, but is contiguous to the City by rear property line only. Annexation of the parcel at this time would not create a logical boundary or improve the delivery of services. If annexed now, 95 Camborne, the property would become an incorporated island. LAFCo's adopted OSA policy permits the extension of services when annexation is infeasible.

Chronology

2007 – Permit issued by County Planning and Building for new house at 95 Camborne. The house was approved with an on-site septic system.

2013 – Original permit expired, and a new permit was issued by the County.

2014 - The San Mateo County Environmental Health Services Agency declared that the septic system proposed to serve the new house was likely to fail and if built would quickly become a threat to public health.

2017 – City of San Carlos approves a sewer connection to the still under-construction house. As a condition of approval for the sewer connection, the property owner of 95 Camborne Avenue to apply for annexation.

2018 – The property owner submits for annexation of the property to LAFCo. The proposal is deemed incomplete as the needed property tax exchange and pre-zoning had not been approved. During this period, the house was physically connected to the City's sewer system under a permit from the City (prior to authorization by LAFCo).

2019 – Property owner and City propose a revised Outside Service Agreement that allows for deferred annexation to the City. LAFCo is supportive of amending the agreement. The property owner works with the County to address outstanding building permits.

2021 – County Building permits have been addressed and the City of San Carlos approves a revised Outside Service Agreement with a deferred annexation as a condition of approval.

The sewer extension is therefore consistent with Section 56133 and the existing policies of San Mateo LAFCo in that annexation is not feasible based on the property only being adjacent to the City via rear lot line.

As required by San Mateo LAFCo policy, the property owner will record an agreement consenting to future annexation to the City and waive protest if annexation is proposed.

California Environmental Quality Act

The proposal is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Section 15303, Class 3, as it consists of a service extension for an exempt facility (up to three single-family residences and utilities, including water, to serve them).

Recommended Commission Action

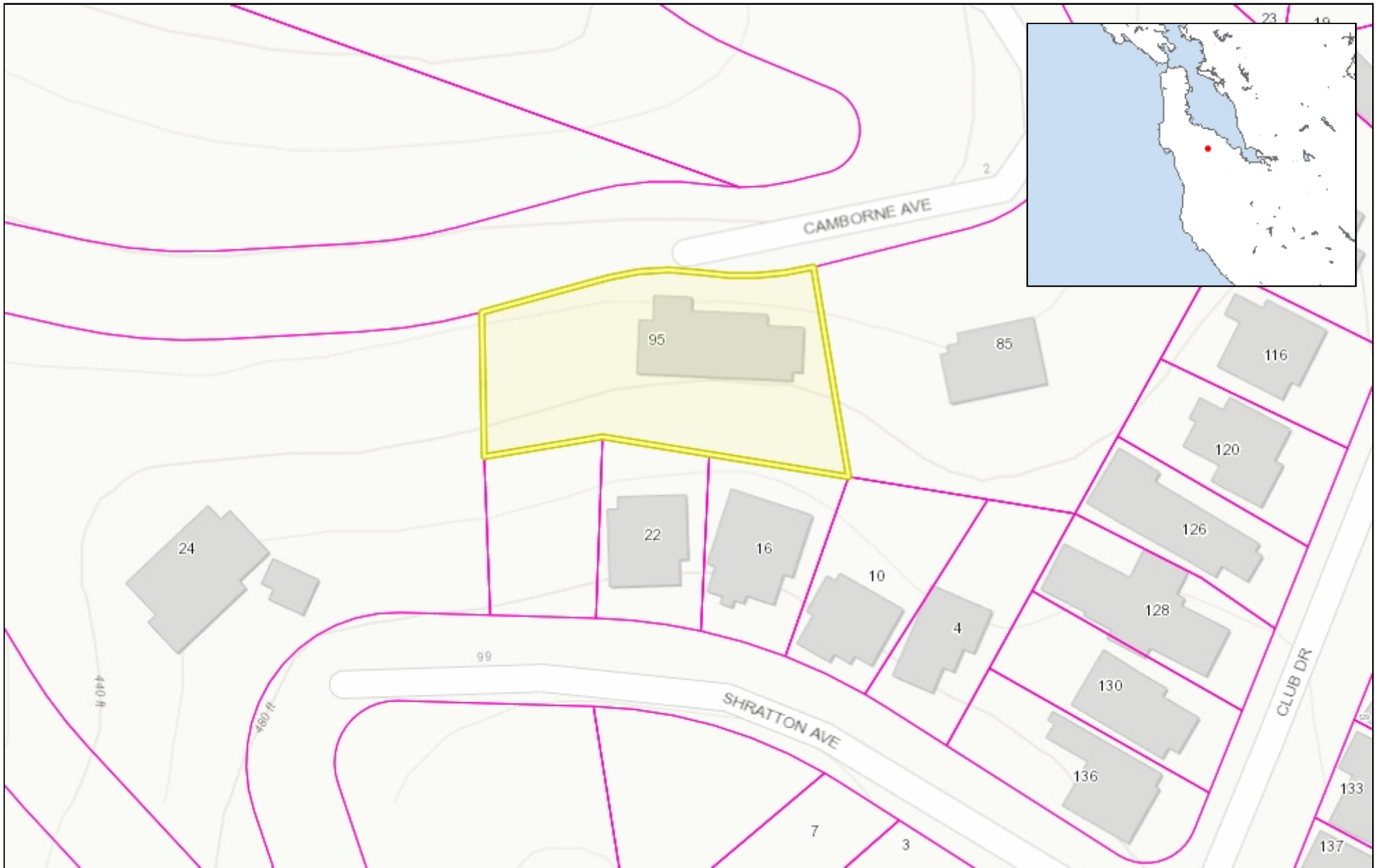
By motion, approve LAFCo File No. 18-05 - Proposed Outside Service Agreement for sewer by the City of San Carlos to an existing single-family home at 95 Camborne Avenue, unincorporated San Mateo County (APN 049-062-410) pursuant to Government Code Section 56133 (less than one acre) with the following condition of approval:

1) The applicant shall record the deferred annexation agreement with the San Mateo County Recorder's Office and provide a copy of the recorded document to LAFCo, prior to the issuance of the approval letter for the Outside Service Agreement for 95 Camborne Avenue.

Attachments


- A. Vicinity Map
- B. Copy of City of San Carlos Resolution and Draft Deferred Annexation Agreement

cc: Grace Le, City of San Carlos
Kamal Fallaha, Property Owners
Kanoa Kelley, San Mateo County Planning Department
John Brennan, San Mateo County Building Department
Greg Smith, San Mateo County Environmental Health Services Agency



0.04 0 0.02 0.04 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd.

1:1,128 

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

RESOLUTION NO. 2021 - 045**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS
AUTHORIZING APPLICATION BY THE CITY TO THE LOCAL AGENCY FORMATION
COMMISSION REQUESTING APPROVAL FOR EXTENSION OF SEWER SERVICE
OUTSIDE THE CITY'S JURISDICTIONAL BOUNDARIES PURSUANT TO GOVERNMENT
CODE SECTION 56133 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
REVISED OUTSIDE SEWER SERVICE AGREEMENT WITH MR. KAMAL FALLAHA FOR
95 CAMBORNE AVENUE.**

WHEREAS, Mr. Kamal Fallaha, the owner of 95 Camborne Avenue, located in an unincorporated area in the County of San Mateo, Assessor's Parcel Number ("APN") 049-062-410 ("Property"), in the Sphere of Influence of the City of San Carlos, has requested connection to the City's nearby sewer line, as authorized by California Government Code Section 56133; and

WHEREAS, the San Mateo County Health Services Agency declared that the septic system proposed to service the Property is likely to fail and if built would quickly become a threat to public health; no other on-site disposal system is feasible; and the only reasonable remedy is connection to the City's public sewer system; and

WHEREAS, on August 28, 2017, the City Council approved an Outside Sewer Service Agreement with a condition requiring the Property owner to apply for annexation to the City; and

WHEREAS, the subject Property has pending San Mateo County Planning and Building Department permits that are required to be revised and reinstated to allow for the connection to the City's public sewer system and complete the pending work on the Property; and

WHEREAS, the subject Property is adjacent to the City by its rear lot line only and annexation of the parcel at this time would not create a logical boundary or improve the delivery of services to the Property; and

WHEREAS, to comply with Government Code Section 56133, which permits extension of service in anticipation of future annexation, annexation can be deferred to a future time when neighboring properties have also been connected to the sewer system and the property owners have agreed to annexation; and

WHEREAS, it is therefore appropriate to adopt a revised Outside Sewer Service Agreement (the "Revised Sewer Agreement") superseding the existing agreement with the condition of annexation at some future time when it is feasible; and

WHEREAS, as one of the conditions of the Revised Sewer Agreement for the Property, the City requires that the owner of said Property consent to annexation thereof to the City in the event a proposal for such annexation to the City may occur; and

WHEREAS, this project is exempt from California Environmental Quality Act guidelines (Section 15303(d)); and

WHEREAS, this Council has reviewed said request and is willing to consent to said annexation in accordance with the terms and conditions hereof.

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

1. The City Manager is authorized to submit an application to the Local Agency Formation Commission requesting approval of an extension of sewer service outside the City's jurisdictional boundaries and within the City's Sphere of Influence to the Property located at 95 Camborne Avenue, unincorporated San Mateo County, California (APN 049-062-410) pursuant to California Government Code Section 56133 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
2. The Local Agency Formation Commission of San Mateo County is hereby requested to take proceedings in the manner provided by California Government Code Section 56133.
3. Prior to the execution of the Revised Sewer Agreement, the owner of the Property shall reinstate and revise all relevant permits with the San Mateo County Planning and Building Department for all outstanding and proposed work on the subject Property. Documentation demonstrating that all outstanding permits have been resolved to the satisfaction of the San Mateo County Planning and Building Department.
4. This Council hereby determines and declares that, and as a condition of the Revised Sewer Agreement, that the owner(s) of the Property shall evidence his/her consent to annexation to City and waiver of protest thereto by executing the Revised Sewer Agreement, of which agreement is hereby approved, and the City Manager is hereby authorized and directed to execute said agreement, and the City Clerk is hereby directed to attest thereto, for and on behalf of City.
5. The City Clerk is hereby authorized and directed to file for recordation with the Recorder of the County of San Mateo, California, a certified copy of this Resolution together with the fully executed original Revised Sewer Agreement entered into with the owners of the Property.
6. The City Manager is authorized to execute the Revised Sewer Agreement with Mr. Kamal Fallaha for 95 Camborne Avenue upon completion of the required conditions outlined in this Resolution.

I, City Clerk Crystal Mui, hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 14th day of June, 2021 by the following vote:

AYES, COUNCILMEMBERS: COLLINS, DUGAN, MCDOWELL, RAK, PARMER-LOHAN

NOES, COUNCILMEMBERS: NONE

ABSENT, COUNCILMEMBERS: NONE

APPROVED:


MAYOR of the City of San Carlos


CITY CLERK of the City of San Carlos

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

GREGORY J. RUBENS, City Attorney
City of San Carlos
939 Laurel Street, Suite D
San Carlos, CA 94070

Exempt from fee (Government Code Section 6103)

OUTSIDE SEWER SERVICE AGREEMENT

This Outside Sewer Service Agreement ("Agreement") is entered into between the City of San Carlos, a California municipal corporation ("City"), and Kamal Fallaha, ("Owner"). The effective date of this Agreement is the latest date which appears below opposite the signatures of the respective parties to this Agreement. This Agreement supersedes and replaces that certain Outside Sewer Service Agreement dated September 7, 2017 and recorded as Document Number 2017-084630 in the San Mateo County Recorder's office. The real property which is the subject of this Agreement is commonly known as 95 Camborne Avenue, located in an unincorporated area in the County of San Mateo, APN 049-062-410, in the sphere of influence of the City of San Carlos and is more particularly described in the attached **Exhibit A** ("the Property").

Owner of said Property wishes to connect to the City's nearby sewer line, as authorized by California Government Code Section 56133, because the septic system proposed to service said Property has been determined as likely to fail or inadequate for the development approved by the County of San Mateo and has been declared that if built would quickly become a threat to public health by the San Mateo County Health Services Agency; no other on-site disposal system is feasible; and the only reasonable remedy is connection to the existing City public sewer system. Moreover, because the Property is a developed property which may not meet the requirements of Municipal Code Section 13.10.030 A or B, a service request shall only be provided in conjunction with rezoning and annexation application pursuant to Municipal Code Section 18.38. Therefore, Owner agrees to file a rezoning and annexation application with the Local Agency Formation Commission (LAFCO).

Accordingly, the parties agree as follows:

1. The City will allow Owner to make appropriate connections from the sewer lines and facilities located on the subject Property to the City's existing sewer line nearest to the Property. The City's line and the proposed connection from the Property are more particularly set forth and described in **Exhibit B**, to be prepared by Owner, attached hereto and incorporated herein after execution of this Agreement by the City.

2. Owner shall be responsible for all costs and fees incurred or charged in conjunction with any work done to effect the connection to the City's line, for any necessary permits for the work, for engineering or other studies, detailed engineering plans if appropriate for the work, for obtaining any easements that may be needed, attorney's fees and for any other expenses related to the work that are not otherwise the responsibility, pursuant to statute or ordinance of the City or other municipal or governmental agencies.

3. Owner shall be responsible for installation of the connecting line and any other improvements that may be necessary to connect to the City's line, said installation to include design, bidding, and construction in accordance with current City sewer standards and to the satisfaction of the City Engineer. Owner agrees to be bound by all City ordinances, rules, and regulations that are applicable to the installation, operation and maintenance of their connecting line and any related improvements and shall pay the following fees: Capacity connection fee of \$10,811.00.

4. In the event that annexation of the subject Property to the City should at some future time become feasible under then applicable rules and regulations, and the City elects to compel such annexation, Owner irrevocably consents to such annexation and agrees to provide all reasonable cooperation and assistance to the City in any appropriate proceedings as may be necessary to effect such annexation to the City. Such cooperation and assistance will not, however, include any obligation on the part of the Owner to either institute or defend any litigation or other judicial or quasi-judicial proceedings that might be brought to compel annexation by the City or to oppose such annexation.

5. In the event that annexation by the City is approved by the appropriate governmental agencies, Owner agrees to pay such City imposed annexation fees and costs as are then reasonably and customarily charged to annex property to the City. In addition, Owner agrees to pay fees, as appropriate, that may be charged by the Local Agency Formation Commission.

6. This Agreement provides sewer service for the current property configuration only and no additional sewer services will be allowed under this connection. Any further subdivision of the Property will not be eligible to connect to the sewer lateral provided through this Agreement.

7. The approval of this Agreement in no way resolves any code compliance issues that may be outstanding with the County of San Mateo.

8. Prior to annexation, the property owner shall improve the Property to address any lack of compliance with City of San Carlos codes and standards as identified by the Building Division and the Public Works Department.

9. This Agreement shall be binding upon the successors, heirs, and assigns of Owner and the City.

10. This Agreement may only be amended by a writing executed by all of the parties to this Agreement.

11. In the event of litigation over the terms or performance of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

12. This Agreement shall be recorded with the County Recorder of San Mateo County.

13. Until annexation is completed, Owner shall be invoiced annually by the City for sewer service charges, which shall be at the same rate charged to all residential users of the sewer system. Payment of the annual sewer service charges shall be made within thirty (30) days of invoice. Failure to make payment when due shall result in an administrative late fee pursuant to the City Fee schedule, and interest at ten percent (10%) per annum being charged. Upon annexation, this Agreement shall terminate and all sewer charges shall be assessed pursuant to Chapter 13 of the Municipal Code.

DATED: 4-22-2021

Kamal Fallaha
Kamal Fallaha, Owner

APPROVED AS TO FORM

DATED: _____

Gregory J. Rubens, City Attorney

CITY OF SAN CARLOS, a municipal corporation

By _____
Jeff Maltbie

Title: City Manager

DATED: _____

PLEASE SEE ATTACHED
ACKNOWLEDGEMENT/JURAT
FROM NOTARY PUBLIC

NOTARIZATION

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 SAN MATEO)

On 4/22/2021 before me, NICOLA J. SABA
(insert name and title of the officer)

personally appeared Kamal Fallah,
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 Nick Saba (Seal)

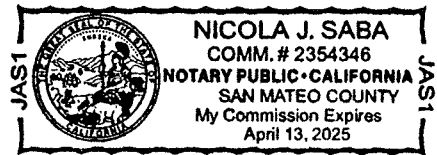


EXHIBIT "A"

Order Number: **4101-3649164**

Page Number: 5

LEGAL DESCRIPTION

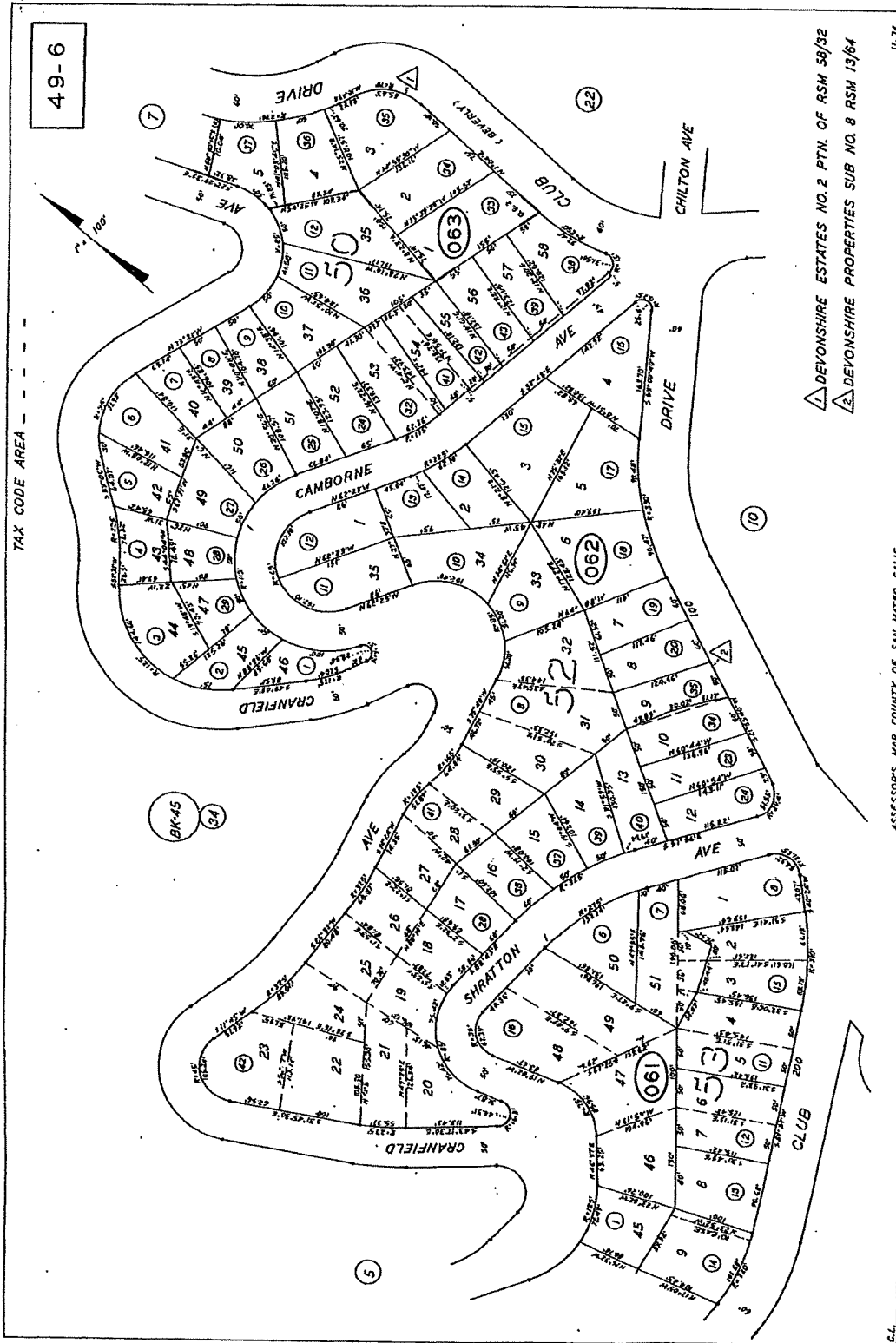
Real property in the unincorporated area of the County of San Mateo, State of California, described as follows:

LOTS 27 THROUGH 29, BLOCK 52, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "DEVONSHIRE PROPERTIES OF MUNICIPAL PROPERTIES COMPANY SUBDIVISION NUMBER EIGHT, SAN MATEO COUNTY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, CALIFORNIA ON MAY 11, 1926 IN BOOK 13 OF MAPS AT PAGES 64, 65 AND 66.

THE ABOVE LEGAL DESCRIPTION IS PURSUANT TO THAT NOTICE OF MERGER RECORDED NOVEMBER 17, 1998 AS INSTRUMENT NO. 98189490, AND CORRECTED NOTICE OF MERGER RECORDED NOVEMBER 30, 1998 AS INSTRUMENT NO. 98196667 OF OFFICIAL RECORDS.

APN: 049-062-410; JPN: 049-006-062-05A

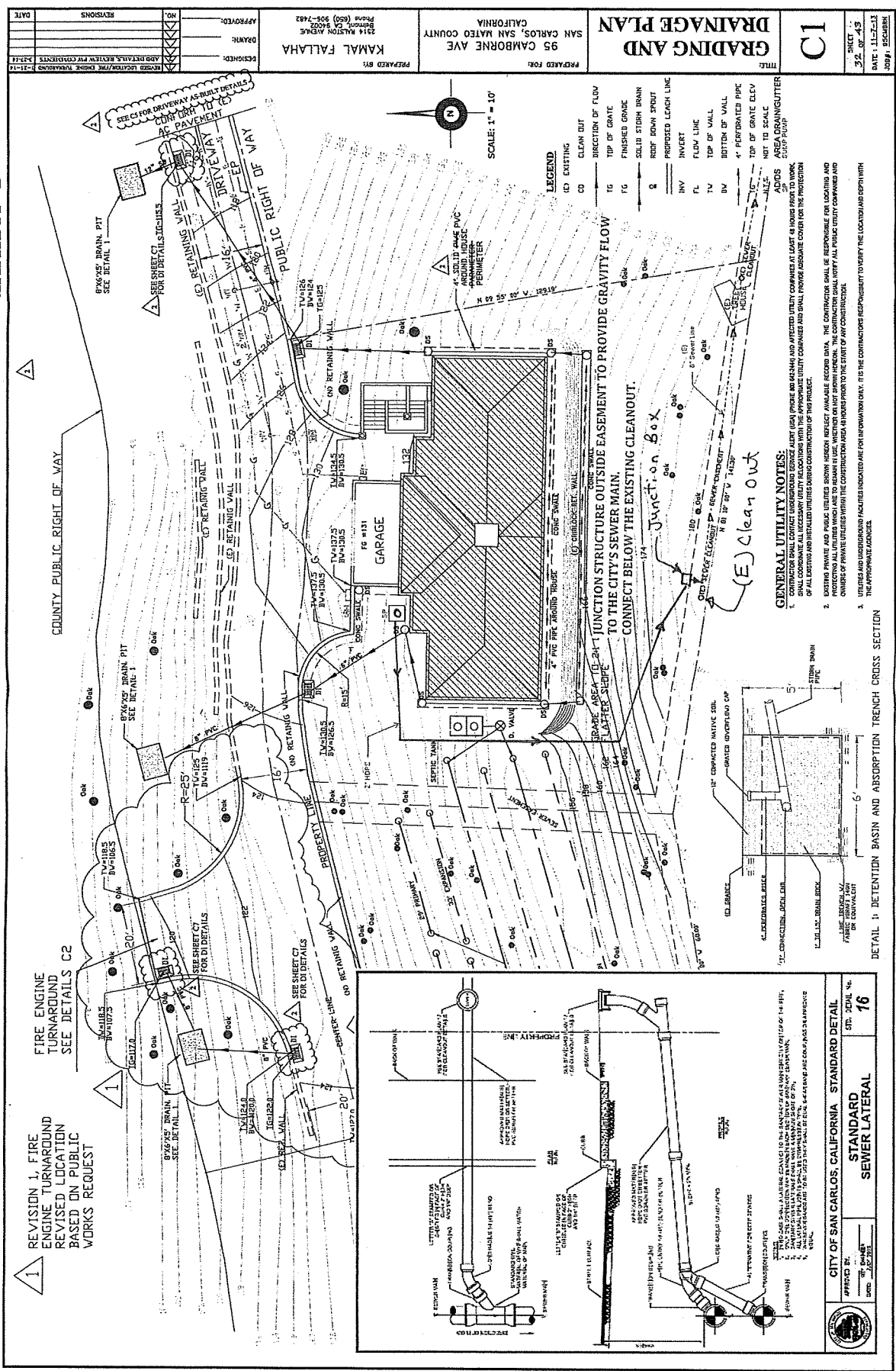
Attachment: Outside Sewer Service Agreement 95 Camborne Ave (Adopt Outside Sewer Service Agreement)



NOTICE

First American Title

EXHIBIT "B"



NO.	REVISIONS	DATE

DESIGNED BY: KAMAL FALLAHA
 PREPARED FOR: 95 CAMBORNE AVE
 SAN CARLOS, CALIFORNIA

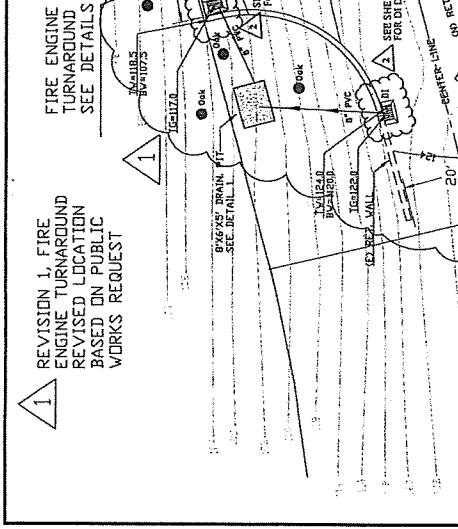
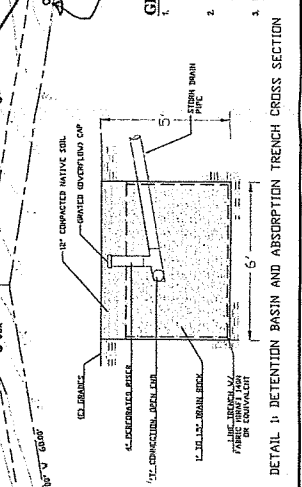
TITLE: GRADING AND DRAINAGE PLAN
 SHEET: C1
 DATE: 11-27-13
 DRAWN BY: [Signature]

CD	EXISTING
CO	CLEAN OUT
DF	DIRECTION OF FLOW
FG	FINISHED GRADE
FL	FLOW LINE
IN	INVERT
IV	TOP OF VALL
TV	TOP OF GRAVE ELEV
UV	TOP OF GRAVE ELEV NET TO SCALE
ADIOS	AREA DRAINING UTTER

GENERAL UTILITY NOTES:
 1. CONTRACTOR SHALL CONTACT UNDERGROUND SERVICE ALERT (USA) PRIOR TO ANY EXCAVATION AND AFFECTED UTILITY COMPANIES AT LEAST 48 HOURS PRIOR TO WORK. SHALL COORDINATE ALL NECESSARY UTILITY RELOCATIONS WITH THE APPROPRIATE UTILITY COMPANIES AND SHALL PROVIDE ADEQUATE COVER FOR THE PROTECTION OF ALL EXISTING UTILITIES UNLESS OTHERWISE SPECIFIED.
 2. EXISTING PRIVATE AND PUBLIC UTILITIES SHOWN HEREON REFLECT AVAILABLE RECORD DATA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING AND VERIFYING ALL UTILITIES PRIOR TO ANY EXCAVATION. THE CONTRACTOR SHALL VERIFY ALL PUBLIC UTILITY COMPANIES AND OWNERS OF PRIVATE UTILITIES WITHIN THE CONSTRUCTION AREA PRIOR TO THE START OF ANY CONSTRUCTION.
 3. UTILITIES AND UNDERGROUND FACILITIES INDICATED ARE FOR INFORMATION ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH WITH THE APPROPRIATE AGENCIES.

REVISION 1, FIRE ENGINE TURNAROUND REVISION LOCATION BASED ON PUBLIC WORKS REQUEST
 SEE DETAILS C2
 SEE SHEET C7 FOR DI DETAILS
 SEE SHEET C8 FOR DI DETAILS
 SEE SHEET C9 FOR DI DETAILS

JUNCTION BOX
 (E) Clean out
 CONNECT BELOW THE EXISTING CLEANOUT.
 GRADE AREA (1.24) - 1" LATTER SLOPE TO THE CITY'S SEWER MAIN.



CITY OF SAN CARLOS, CALIFORNIA	STANDARD DETAIL
APPROVED BY: [Signature]	SR: JCHL 46
DATE: 11-27-13	16
STANDARD SEWER LATERAL	