

APPROVED
BY THE CITY COUNCIL

FEB 3 1998

OFFICE OF THE
CITY CLERK



3.2

DEPARTMENT OF
PUBLIC WORKS

TECHNICAL SERVICES DIVISION
REAL ESTATE SERVICES

CITY OF SACRAMENTO
CALIFORNIA

915 I STREET
ROOM 200
SACRAMENTO, CA
95814-2700

PH 916-264-5710
FAX 916-264-8250

January 16, 1998

City Council
City of Sacramento

Honorable Members in Session

**SUBJECT: HEARING ON RESOLUTION OF NECESSITY FOR ACQUISITION OF
REAL PROPERTY INTEREST(S) FOR THE Cal/EPA PROJECT
(PN:BB07) TWO -THIRDS VOTE REQUIRED**

LOCATION/COUNCIL DISTRICT: North side of I Street between 10th and 11th
Streets, in Council District 1

RECOMMENDATION:

This report recommends that City Council:

- A. Conduct a hearing on Resolution of Necessity and make the necessary findings to acquire fee title to a small triangular portion of APN: 006-0043-001 for the Cal/EPA Project.
- B. Adopt the attached Resolution of Necessity for this acquisition.

CONTACT PERSONS:

Rhonda R. Lake, Real Property Agent, 264-7902
Bruce J. Alei, Real Estate Technical Manager, 264-5055

FOR THE COUNCIL MEETING OF: February 3, 1998

SUMMARY:

It is requested that City Council conduct a hearing on the proposed Resolution of Necessity, attached. The purpose of the hearing is to receive public testimony and take action on the Resolution of Necessity to acquire certain interest(s) in real property required for construction of the Cal/EPA Project. To insure that the property acquisition does not delay the project schedule, it is necessary to obtain a Resolution of Necessity which initiates the eminent domain procedure.

Adoption of this resolution will allow filing of an eminent domain action. Offers of just compensation have been made to four (4) heirs of the property to be acquired. Two-thirds vote is required for adoption of the Resolution of Necessity.

BACKGROUND INFORMATION:

The California Environmental Protection Agency (Cal/EPA) project provides for the construction of a 950,000 square foot office building for the State of California at 10th and I Streets on City's property known as Lot B. In April 1997, the following actions occurred concerning the project:

- 1) City Council adopted Resolution No. 97-191 authorizing the City Manager to execute a lease to finance and construct the Cal/EPA building
- 2) City Council authorized the City Manager to execute a Development Management Agreement, City Agreement No. 97-046, with Thomas Development Partners giving Thomas Development Partners the primary responsibility to develop the project for the State of California.
- 3) Sacramento City Financing Authority adopted Resolution No. 97-002 declaring official intent to reimburse certain expenditures from proceeds of indebtedness.

The staff reports and other materials submitted to the City Council with regard to this project in the past are incorporated herein by this reference.

The City is contributing 2.5 +/- acres of land known as Lot B for the project. The City owns fee title to Lot B with the exception of a small triangular piece of approximately one hundred six (106) square feet located at the southeast corner of 11th and I Streets shown on Exhibit "A" attached. The City was granted a roadway

City Council

Hearing on Resolution of Necessity for Acquisition of Real Property Interests for

Cal/EPA Project (PN:BB07)

January 16, 1998

easement over this piece in 1925. Currently, it is part of the roadway and sidewalk. The purpose of this resolution is to allow acquisition of the remaining title in the 106 square feet.

The Cal/EPA building is being financed with a bond issue. Both the bond underwriter and State, as Lessee, will require clear title to the land which is part of the security for the transaction. Therefore, fee title to the remaining property rights in the triangular piece must be acquired for the project.

An appraisal of the remaining property rights has been completed and the Director of Public Works has established just compensation for the acquisition.

The City retained a legal service company to conduct a search to locate heirs of the original grantors now deceased. This company discovered four possible heirs. Each has been provided a written offer for the total amount determined as just compensation in accordance with Section 7267.2 of the Government Code. In order to allow construction to proceed in a timely manner, staff recommends that City Council adopt the Resolution of Necessity to enable the City to use the power of eminent domain should negotiations fail.

FINANCIAL CONSIDERATIONS:

The full amount of just compensation for the property rights to be acquired is One Hundred Dollars (\$100.00). The financial impacts of the Cal/EPA Project are outlined in a November 26, 1996 staff report presented to Council.

ENVIRONMENTAL CONSIDERATIONS:

The Office of Environmental Affairs of the Neighborhoods, Planning and Development Services Department has reviewed the proposed project to acquire the remaining property rights in the triangular piece at Lot B and has determined that this project is exempt from the California Environmental Quality Act (CEQA) under Section 15061 (b)(3) of the CEQA Guidelines.

POLICY CONSIDERATIONS:

This action is consistent with legal requirements for the acquisition of private property for public projects.

City Council
Hearing on Resolution of Necessity for Acquisition of Real Property Interests for
Cal/EPA Project (PN:BB07)
January 16, 1998

MBE/WBE:

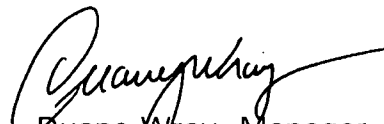
None. No goods or services are being purchased.

Respectfully submitted,



Gary Alm, Manager
Development Services

Approved:



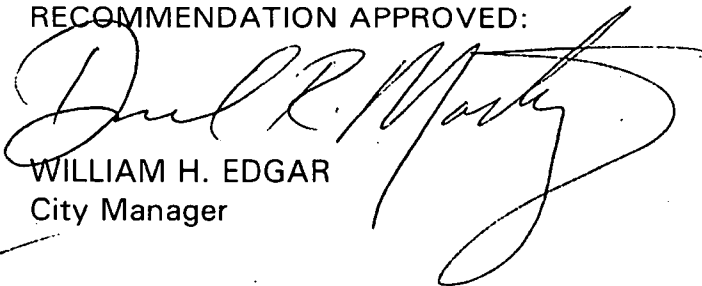
Duane Wray, Manager
Technical Services

Approved:



Michael Kashiwagi
Director of Public Works

RECOMMENDATION APPROVED:



WILLIAM H. EDGAR
City Manager

For:

MACOUNCILIRON.LOTB

EXHIBIT "A"

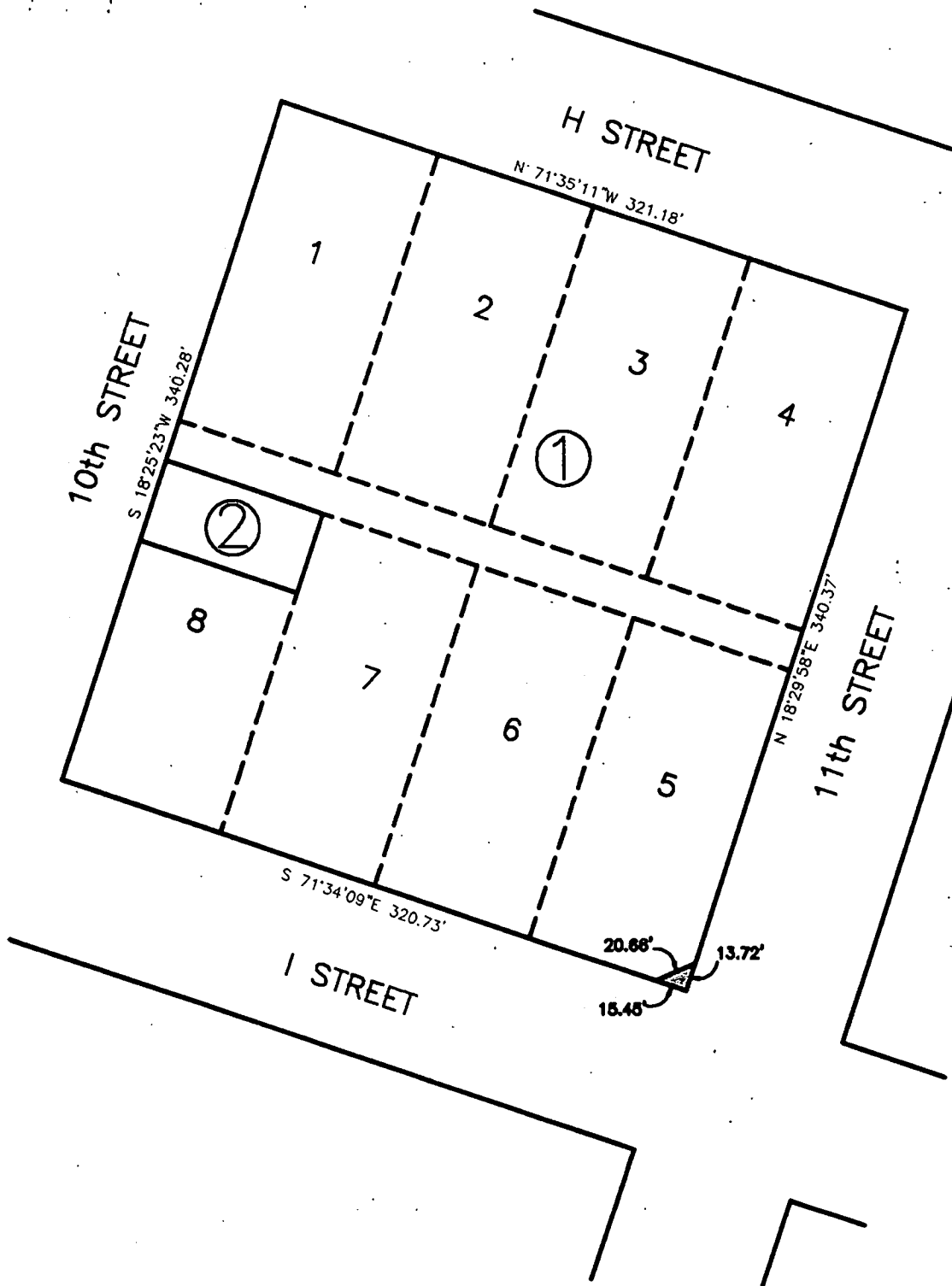


EXHIBIT B
 PROPERTY OF CITY OF SACRAMENTO
 PORTION OF
 A.P.N. 006-0043-001
 NOVEMBER 1997

CITY OF SACRAMENTO
 DEPT. OF PUBLIC WORKS
 TECHNICAL SERVICES DIVISION
 SURVEY SECTION
 927 10th STREET
 SACRAMENTO, CA 95814 5

APPROVED
BY THE CITY COUNCIL

FEB 3 1998

OFFICE OF THE
CITY CLERK

RESOLUTION NO. 98-042

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

RESOLUTION OF NECESSITY
TO ACQUIRE CERTAIN REAL PROPERTY INTEREST(S)
BY EMINENT DOMAIN FOR THE Cal/EPA PROJECT
(PN:BB07)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. That the City of Sacramento intends to acquire through the exercise of the power of eminent domain the interest(s) in real property hereinafter identified as the "Subject Parcel", more particularly described in paragraph 7. The interest to be acquired is a fee interest in the parcel.
2. That the Subject Parcel is to be taken for, or in connection with, the Cal/EPA Project, which is a public project of the City of Sacramento.
3. That the statute authorizing the City of Sacramento to acquire the Subject Parcel for the above-mentioned public purpose is Government Code, Section 37350.5.
4. That the Subject Parcel is located on the corner of 11th and I Streets in Sacramento, California and is more specifically described in Exhibits "A" & "B".
5. That the City Council declares that it has found and determined each of the following:
 - a. The public interest and necessity requires acquisition of the Subject Parcel for the Cal/EPA project.
 - b. The project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

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- c. The Subject Parcel is necessary for the project.
 - d. The offer required under Section 7267.2 of the Government Code has been made to the owners or representatives of the owners of record; insofar as said owners could be found.
6. That the City of Sacramento, a municipal corporation, its appropriate officers, employees and agents, are hereby authorized and empowered to:
- a. Acquire in the name of the City of Sacramento, a municipal corporation, the Subject Parcel.
 - b. Prepare, file and prosecute in the appropriate court, such proceedings in eminent domain as necessary for the acquisition of the Subject Parcel.
 - c. Deposit the probable amount of just compensation, as fixed by the Director of Public Works in accordance with law, with the State Treasurer's Condemnation Fund and to make application to said court for an order permitting the City of Sacramento to take immediate possession and use of the Subject Parcel.
7. That the City, by this resolution is authorized to acquire the fee simple interest in real property situated in the County of Sacramento, State of California, and described as follows:

SEE ATTACHED LEGAL DESCRIPTION MARKED EXHIBIT "A" AND DIAGRAMED IN THE CORRESPONDING ATTACHMENT EXHIBIT "B".

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

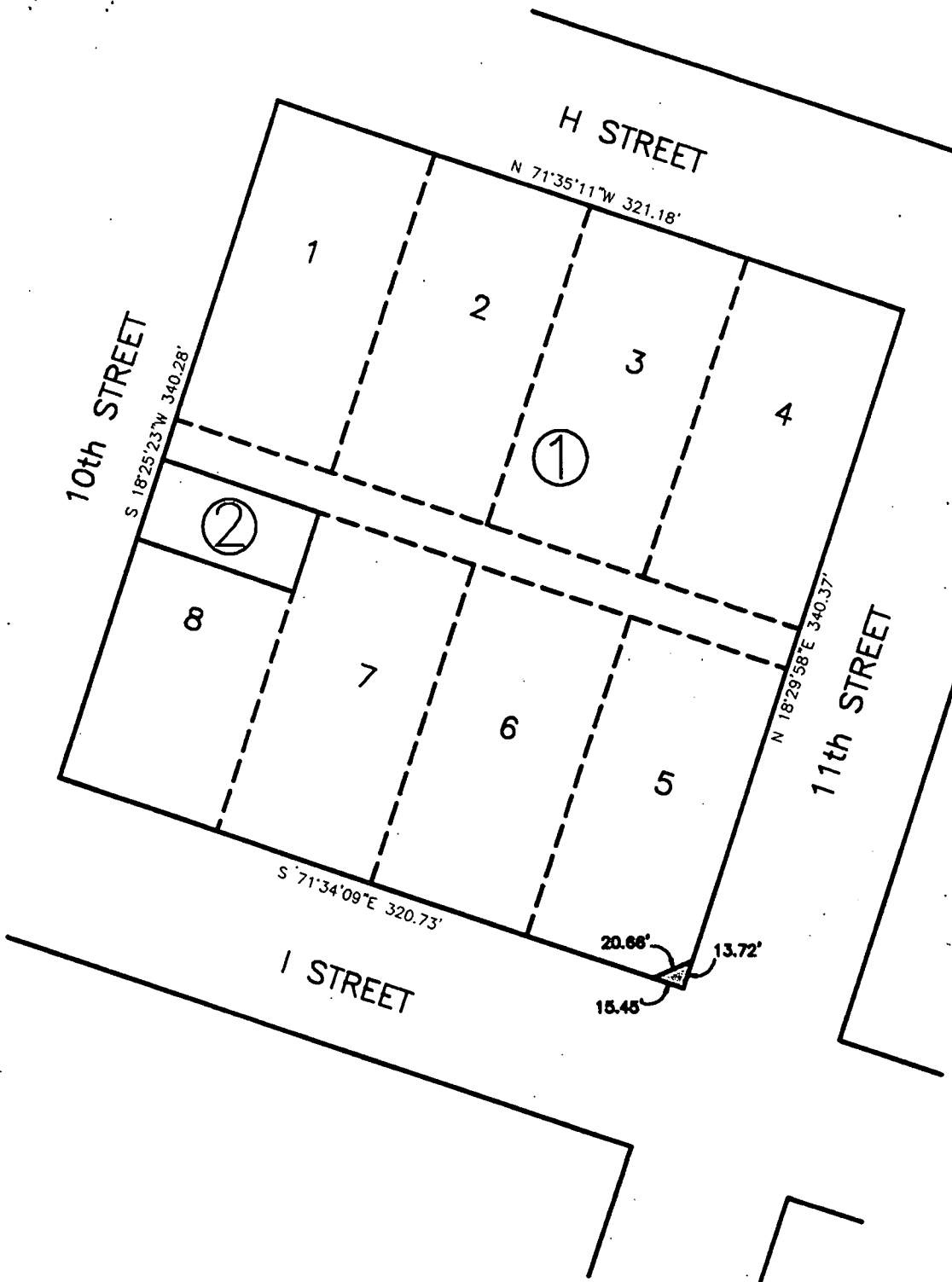
**EXHIBIT A
LEGAL DESCRIPTION
PROPERTY OF THE CITY OF SACRAMENTO
PORTION OF A.P.N. 006-0043-001**

All that portion of Lot 5 in the block bounded by 10th and 11th Streets, "H" and "I" Streets of the City of Sacramento, according to the official plat thereof, described as follows:

Beginning at the southeasterly corner of said Lot 5; thence along the southerly line of said Lot 5 which is also the northerly line of said "I" Street westerly 15.45 feet; thence northeasterly 20.66 feet, more or less, to a point in the easterly line of said Lot 5 which lies along said easterly line northerly 13.72 feet from the southeasterly corner of said Lot 5; thence along said easterly line southerly 13.72 feet to the point of beginning containing 106.00 square feet more or less.

End of description.





SCALE:
1"=80'

EXHIBIT B
 PROPERTY OF CITY OF SACRAMENTO
 PORTION OF
 A.P.N. 006-0043-001
 NOVEMBER 1997

CITY OF SACRAMENTO
 DEPT. OF PUBLIC WORKS
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 SACRAMENTO, CA 95814

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**CITY OF SACRAMENTO
Cal/EPA PROJECT (BB 07)
NOTICE OF PUBLIC HEARING ON
ADOPTION OF RESOLUTION OF NECESSITY
TO ACQUIRE CERTAIN REAL PROPERTY BY EMINENT DOMAIN
(Code of Civil Procedure, Section 1245.235)**

TO: Dorothy Freeman

RE: APN: 006-0043-001
RES FILE: ACQ-7539-01

California Code of Civil Procedure, Section 1240.030, provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following conditions are established:

- a) The public interest and necessity require the project.
- b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c) The property sought to be acquired is necessary for the project.
- d) The offer required by Section 7267.2 of the Government Code has been made to the owner of record.

You are hereby notified that the City Council at its meeting to be held at **2:00 P.M. ON FEBRUARY 3, 1998, in the City Council Chambers, City Hall, 915 I Street, Sacramento, California**, will be asked to decide if the above conditions are met concerning your property and, if so, to adopt a Resolution of Necessity. Questions regarding the amount of compensation to be paid are part of this proceeding and the City Council does not consider such in determining whether a Resolution should be adopted.

The adopted Resolution would authorize the City of Sacramento to acquire the property by eminent domain if necessary. A legal description of the required property is attached to this Notice and is marked Exhibit A.

Notice of Public Hearing – Cal/EPA Project

PN:BB07

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If you file a written request to appear you are entitled to appear and be heard before the City Council. All written requests to appear must be sent to the City Clerk, 915 I Street, Room 300, Sacramento, California, **not later than 5:00 P.M. on January 30, 1998.** Failure to file a timely written request will result in the waiver of your right to appear and be heard.

Your written request to appear should include a statement of the condition(s) which you feel are pertinent to your property. The three conditions, which may affect your property, are set forth above (designate (a), (b), and (c)). By designating which condition forms the basis of your concerns, and why, you will enable the City to better review the project's affect on your property.

The City Council must adopt a Resolution of Necessity before an eminent domain proceeding can be commenced. Within six months of the adoption of the Resolution of Necessity, the City of Sacramento will commence eminent domain proceedings in the Superior Court in Sacramento County. In that proceeding, the court will determine the amount of compensation to which you are entitled.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written request to appear and be heard, if any, may be filed with the City in a timely manner.

Date of Mailing: January 16, 1998


Bruce J. Alei
Real Estate Technical Manager

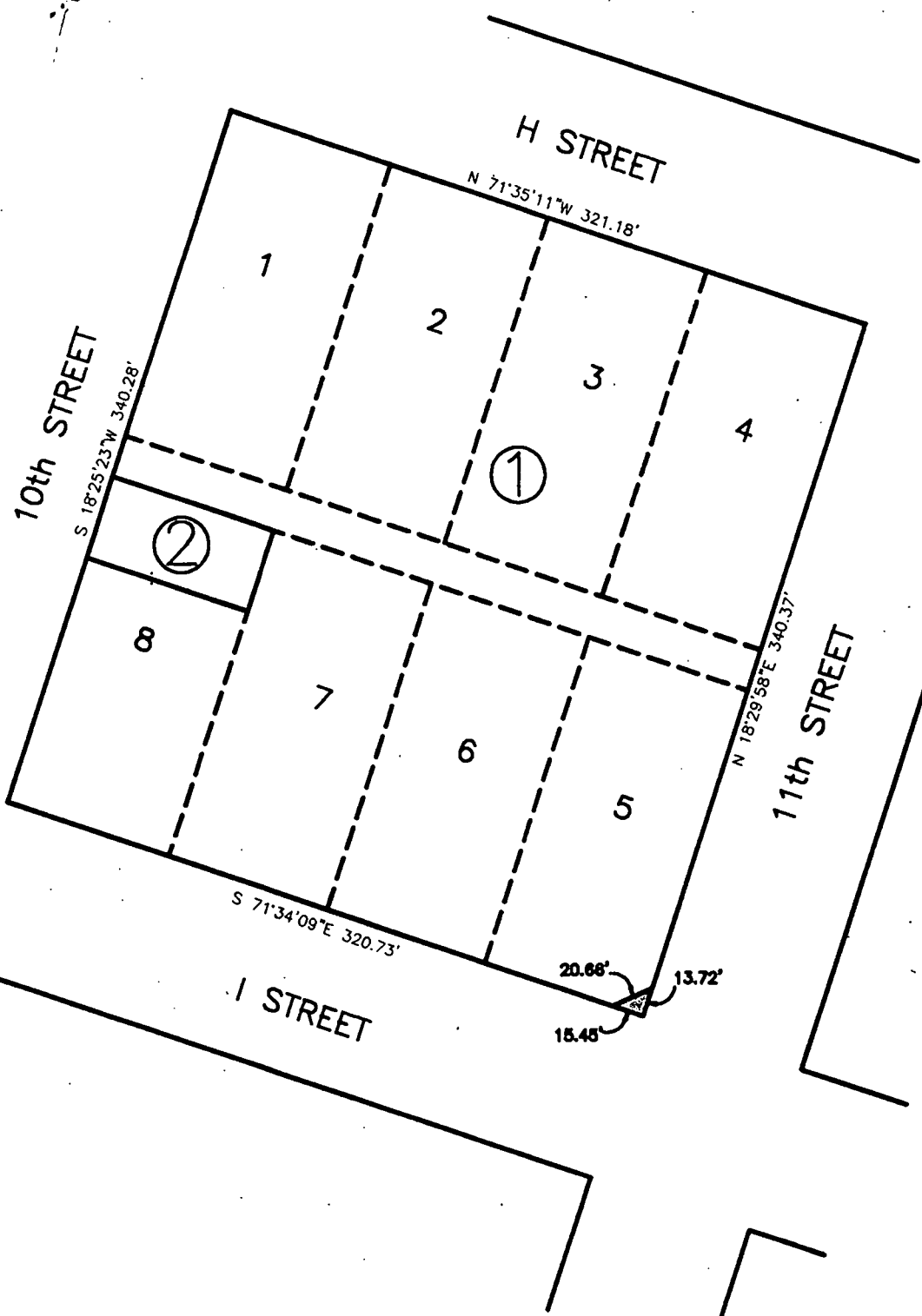
**EXHIBIT A
LEGAL DESCRIPTION
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PORTION OF A.P.N. 006-0043-001**

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Beginning at the southeasterly corner of said Lot 5; thence along the southerly line of said Lot 5 which is also the northerly line of said "T" Street westerly 15.45 feet; thence northeasterly 20.66 feet, more or less, to a point in the easterly line of said Lot 5 which lies along said easterly line northerly 13.72 feet from the southeasterly corner of said Lot 5; thence along said easterly line southerly 13.72 feet to the point of beginning containing 106.00 square feet more or less.

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