IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 75 - 253

RESOLUTION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY FOR THE CONSTRUCTION OF A PUBLIC IMPROVEMENT, NAMELY, WIDENING OF SAN LEANDRO BOULEVARD AND WILLIAMS STREET IN THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND FINDING AND DETERMINING THAT THE TAKING IN FEE SIMPLE IS NECESSARY.

The City Council of the City of San Leandro does RESOLVE as follows:

1. The public interest and necessity require the acquisition by the City of San Leandro of the property hereinafter described for the widening of San Leandro Boulevard and Williams Street in the City of San Leandro, County of Alameda, State of California.

2. The City Council of the City of San Leandro further finds and determines that the taking of the property hereinafter described and the whole thereof in fee simple is necessary.

3. Said real property hereinafter described should be acquired by proceedings in eminent domain in accordance with the appropriate provisions of Part 3, Title 7, of the Code of Civil Procedure of the State of California relating thereto.

4. The real property hereinafter described is selected and located in the manner which will be the most compatible with the greatest public good and the least private injury, and said real property is in the opinion of this Council, that which is best adapted for the public use and purposes hereinabove set out.

5. The City Attorney is hereby authorized and directed to take any and all actions necessary on behalf of the City of San Leandro to acquire said property by eminent domain proceedings or otherwise. Said City Attorney is hereby authorized to retain legal assistance in all matters in connection with the acquisition of said property.

6. The property hereinabove referred to is all that real property situated in the City of San Leandro, County of Alameda, State of California, more particularly described as follows:

EXHIBIT A

Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

A portion of Lots M and N, in Block 27, as said lots and block are shown on the map of the Town of San Leandro, filed February 27, 1855, in Map Book 2, page 43, Alameda County Records, described as follows:

Beginning at the intersection of the northeastern line of San Leandro Boulevard, formerly Estudillo Street, with the northwestern line of Williams Street, as said streets are shown on said map; thence along the said northwestern line of Williams Street, north 63°26 28" east (north 63°26'28" east being taken as the bearing of said northwestern line of Williams Street for the purpose of this description) 70.897 feet to a point of cusp with a tangent curve, concave to the north, having a radius of 40.00 feet, and a central angle of 76°38'03"; thence along said curve, southwesterly, westerly, and northwesterly 53.501 feet to a compound curve, concave to the northeast having a radius of 590.00 feet, and a central angle of 4°22'52"; thence along said curve, northwesterly 45.113 feet to a non-tangent line; thence along said non-tangent line, south 63°26'28" west 23.239 feet to the said northeastern line of San Leandro Boulevard; thence along the last mentioned line, south 26°33'32" east 75.00 feet to the point of beginning.

The above described parcel of land contains 2,499 square feet, more or less.

LD 70-12
Dwg. 297, Case 1603
San Leandro Blvd. Widening
Lopez - Lassus Property - Parcel 21

Introduced by Councilman Suerstedt and passed and adopted this 3rd day of November, 1975, by the following called vote:

Members of the Council:

Ayes:	Council Members Coppa, Frazier, Gill, Polvorosa, Seymon, Suerstedt; Mayor Maltester	(7)
Noes:	None	(0)
Absent:	None	(0)

Jack D. Maltester

JACK D. MALTESTER
Mayor of the City of San Leandro

Attest: Richard H. West

Richard H. West, City Clerk

The foregoing Resolution No. 75-253 is a true and correct copy of a Resolution passed this 3rd day of November, 1975 by the City Council of the City of San Leandro.

Richard H. West

Richard H. West, City Clerk of the City of San Leandro

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 78 - 262

RESOLUTION APPROVING SETTLEMENT AGREEMENT
(Constance E. Lunardi)

Recitals

An agreement between the City of San Leandro and Constance E. Lunardi, a copy of which is attached, has been presented to this Council.

The City Council is familiar with the contents thereof.

The Assistant City Attorney has recommended the execution of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said agreement is hereby approved and the Mayor is hereby authorized and directed to excute the same on behalf of this City.

Introduced by Council Member Klehs and passed and adopted this 7th day of August, 1978, by the following called vote:

Members of the Council:

Ayes:	Council Members Frazier, Klehs, Landis, Soares; Mayor Gill	(5)
Noes:	None	(0)
Absent:	Council Members McGue, Seymon	(2)

VAL GILL, Mayor of the City of San Leandro

Attest:

RICHARD H. WEST, City Clerk

7/28/78

SETTLEMENT AGREEMENT

This is a Settlement Agreement between the CITY OF SAN LEANDRO, a municipal corporation (hereinafter referred to as City) and CONSTANCE E. LUNARDI (hereinafter referred to as Defendants).

Recitals

On or about July 21, 1976, City commenced an action in eminent domain (No. 483141-5 Superior Court, Alameda County) to condemn that certain real property situated within the City of San Leandro and more specificlly described in the Resolution of Necessity (Resolution No. 75-253) which is attached hereto, incorporated herein by this reference and marked for purposes of identification as Exhibit A. The purpose and intent of said action was to acquire, under the power of eminent domain, that described real property (hereinafter referred to as the subject parcel) for public street and highway purposes.

The parties hereto stipulate and agree that the City has authority under the California Constitution, applicable statutes, and its freeholder charter to condemn the subject parcel for the public necessity and convenience, and that the subject parcel is acquired by the City for public use as described in the Resolution of Necessity.

Upon commencement of this action and after the issuance of summons therefor, City and Defendants entered into settlement negotiations for the purpose of determining just compensation for the subject property and dismissing the action brought by the City. Said settlement negotiations have resulted in a determination of just compensation for the subject parcel.

NOW, THEREFORE, the parties hereto agree as follows:

1. Transfer of Property. For the consideration hereinafter set forth and upon the conditions specified , Defendants shall grant to the City of San Leandro in fee simple absolute all right, title and interest to the subject parcel described in the Resolution of Necessity (Exhibit A).

2. Purchase Price. In consideration for settlement of this action and as the purchase price for the subject parcel, City shall pay Defendants, upon the close of escrow and upon the terms and conditions of Escrow the amount of $87,975.00. For purposes of this action the amount of $27,494 represents just compensation for the subject parcel excluding improvements, and the amount of $60,481 represents just compensation for severance damages resulting from the acquisition of a portion of a larger parcel. The purchase price shall be paid by means of a warrant issued on the City of San Leandro and payable to Defendants jointly without allocation to individual Defendants or Defendants' lessees.

3. Representation and Warranties of Seller. In addition to the representations and warranties contained in other paragraphs of this agreement, Defendants make the following representations and warranties:

(a) Defendants are the sole owners of, and City shall acquire hereunder, the entire right, title and interest to the subject parcel.

(b) The subject parcel is free and clear of all liens, encumbrances, claims rights, demands, easements, leases, agreements, covenants, conditions, and restrictions of any kind or character except for those exceptions to title permitted to be shown on the title policy provided for herein.

4. Escrow. City and Defendants agree that an escrow shall be opened with Title Insurance and Trust Co., 1795 East 14th Street, San Leandro, California 94577 within 30 days of the execution of this agreement. City shall deposit the Purchase Price as specified in Paragraph 2 hereof as well as an executed copy of this agreement and an executed standard form Dismissal With Prejudice of action 483141-5 entitled

"City of San Leandro v. Alexander F. Lunardi, et al." Defendants shall deposit into said escrow a fully executed and acknowledged copy of this Agreement and a grant deed fully executed and acknowledged for the subject parcel.

5. Title Insurance. When the title company is in a position to record the grant deed referred to in paragraph 4 and to issue a title insurance policy, then a joint protection ALTA Owner's policy, in the usual and customary form, in the amount allocated in paragraph 2 to the value of the subject parcel, showing title to the subject property vested in the City (with the exceptions as may be noted in the preliminary title report previously delivered to the parties), and dated as of the Closing Date may be issued.

6. Prorations. The following proration shall be made as of the Closing Date and shall be paid in cash to the party entitled thereto, or credited against amounts owing unless the amount of such proration cannot be established, in which event such proration shall be paid within ten days after the amount thereof is established: real property taxes based on the most recent official information (i) applicable to the fiscal year in which the Closing Date occurs, (ii) obtainable in the office of the particular taxing authority.

7. Escrow Instructions. The parties hereto agree that this agreement shall constitute the escrow instructions of Buyer and Seller.

8. Escrow Fees and Ancillary Costs. The escrow fees, title insurance fees, recording fees and all similar ancillary costs associated with the transfer of the subject parcel except for the proration of taxes and the removal of encumbrances, if any there be, shall be borne exclusively by the City.

9. Closing of Escrow. The closing of the transactions contemplated hereby shall be effectuated within 30 days of the date that Escrow is opened, unless the date

of closing is extended by mutual consent of the parties. Upon the satisfaction of all conditions precedent thereto the purchase money, less prorations, title report and policy, and a filed conformed copy of the dismissal of action No. 483141-5 shall be delivered by the escrow agent to Defendants or their legal representative. The escrow agent shall record the grant deed and deliver to the City a conformed copy thereof as well as the title report and policy and the security provided in paragraph 10.

10. Possession and Remaining Improvements. Notwithstanding any of the provisions of this agreement to the contrary, Defendants and City acknowledge the presence of improvements upon the subject parcel the possession and removal of which by the City as of the Date of Closing, would damage and injure the remaining and contiguous property and improvements of Defendants. The purpose of this paragraph is to insure the expeditious removal of said improvements in a manner which will not damage Defendants.

(a) Except as provided herein, on the Date of Closing City shall have unconditional possession of the subject parcel and all improvements thereon for public right of way and other purposes.

(b) That structure (hereinafter referred to as the remnant structure) which is a portion of the larger structure remaining on the contiguous real property of Defendants shall, on the Date of Closing, constitute and is hereby declared a purpresture.

(c) License is hereby granted to Defendants, for a period not to exceed one year, to use the subject parcel for the removal of the remnant structure and the reconstruction of the remaining structure which is situated on the contiguous real property. Defendants shall not, nor shall they permit their assigns or lessees to occupy the remnant structure for any purposes whatsoever during the term of this license.

(d) Defendants shall obtain and deposit into escrow security in the amount of $14,000 and in the form of cash, certificate of deposit with the City named as payee, letter of credit or a bond issued by a duly authorized corporate surety to secure faithful performance of this paragraph, specifically: the removal of all structural improvements of whatsoever nature on the subject parcel within one year after the date of execution of this agreement.

(e) Defendants shall hold harmless and indemnify City, its officers, agents, and employees from any and all liability for injury to persons, including Defendants and City, their respective officers, agents and employees, and damage to property, including that of Defendants and City, arising from, or in any way connected with Defendants' use of the subject parcel licensed herein.

(f) City reserves the right to revoke the license granted herein for any breach of this paragraph and for an act or omission on the part of Defendants contrary to the public safety or welfare. Notice of revocation shall be served upon Defendants in writing and shall be effective immediately upon such service.

(g) Should Defendants fail to remove the remnant structure during the term of this license, City shall have the option to summarily removal said remnant structure, levy upon the security for the costs thereof and pursue any other remedy of law or equity.

(h) City shall not be liable for, and Defendants do hereby release and discharge City from any liability arising out of, the removal of the remnant structure including but not limited to liability for damages to the remaining structure of which the remnant structure is a part.

11. Warranties. All warranties, representations, covenants, obligations and agreements contained in this Agreement shall survive the execution and delivery of this Agreement and of any and all documents or instruments delivered in connection herewith and shall survive the Closing hereunder and any and all performances in accordance with this Agreement.

12. Further Assurances. Defendants will, whenever and as often as it shall be requested so to do by City, and City will whenever and as often as it shall be requested so to do by Defendants, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered any and all such further conveyances, assignments, conformations, satisfactions, releases, powers of attorney, instruments of further assistance, approvals, consents, and any and all such further instruments and documents as may be necessary, expedient or proper, in order to complete any and all conveyances, transfers, sales and assignments herein provided, and to do any and all other acts and to execute, acknowledge and deliver any and all documents as so

requested in order to carry out the intent and purpose of this Agreement.

13. Successors and Assigns. This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the succesors and assigns of the parties hereto.

14. Notices. Any notice, request, demand, instruction or other communication to be given to either party hereunder shall be in writing and personally delivered or sent by registere or certified mail as follows:

If to the Defendants to:
Dale Stoops, Esq.
Nebeker, Stoops & Sharon
415 - 20th Street
Oakland CA 94612

If to the City, to:

City of San Leandro
c/o City Clerk
835 E. 14th Street
San Leandro, CA 94577

Any notices required or desired to be given hereunder may be sent by registered mail to the receiving party at the addresses of said parties set forth above or at such other address as the party may designate in writing. Any notice so served shall be effective as though personally served on the receiving party at the time it is deposited in the mail.

15. Miscellaneous Provisions.

(a) This Agreement contains the entire agreement between the parties respecting the matters herein set forth, and supersedes all prior agreements between the parties hereto respecting such matters.

(b) This Agreement may be executed in any number of counterparts which together shall constitute the contract of the parties.

(c) The paragraph headings herein contained are for purposes of identification only, and shall not be considered in construing this Agreement.

Dated: July 28, 1978.

CITY OF SAN LEANDRO, a municipal corporation,

By _____
VAL GILL, Mayor

Attest:

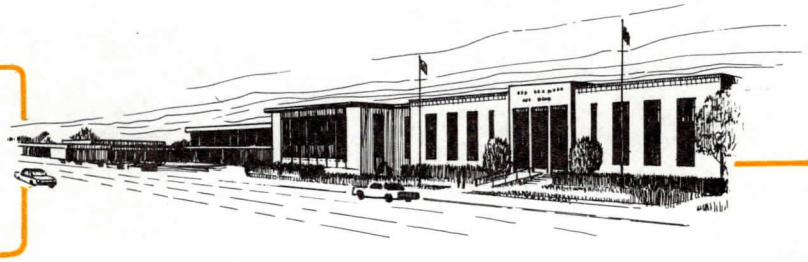
_____
Richard H. West, City Clerk

_____
CONSTANCE E. LUNARDI

Approved as to Form:

_____
Steven R. Meyers
Assistant City Attorney

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577



July 31, 1978

Honorable City Council
City of San Leandro
City Hall
San Leandro CA 94577

Dear Council Members:

The attached resolution approves a settlement agreement between the City of San Leandro and the owner of that real property which is on the northeast corner of San Leandro Boulevard and Williams Street. The City Council authorized condemnation proceedings against this property in 1976. Based upon a settlement figure heretofore approved by the Council, I recommend that the Council approve the settlement agreement which is attached, and authorize the Mayor to execute the agreement on behalf of the City.

Very truly yours,

Steven R. Meyers
Assistant City Attorney

nf

Jack D. Maltester, Mayor
City Council: Joseph J. Coppa, Vice Mayor; Mrs. Faith Frazier;
Valance Gill; L. N. Landis; Gunner Seymon;
Richard D. Soares. Lee Riordan, City Manager

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

[X] Show to whom, date and address where delivered

[ ] Deliver ONLY to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

700779

INSURED NO.

DATE DELIVERED

AUG 18 1978

(1) SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)

Dale Stoops

(2) SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

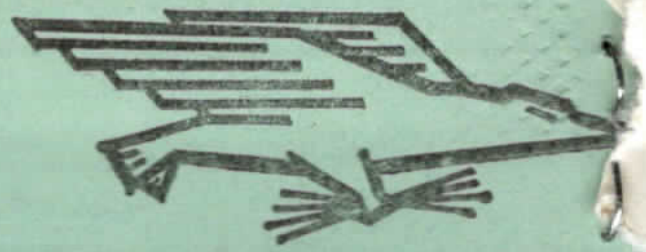
L Ramsay

(3) SHOW WHERE DELIVERED (*only if requested*)

415-20 St Oakland, CA. 94612

c55—16—71548-11 347-198 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS



PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, $300

POSTMARK OF DELIVERING OFFICE

Print your name and address below. If you want to restrict delivery, or to have the address of delivery shown on this receipt, check block(s) on other side. Moisten gummed ends and attach this card to back of article.

RETURN TO

Richard H. West, City Clerk /Stoops/Lunardi/
City of San Leandro
835 East 14th Street
San Leandro, California 94577

POD Form 3811 Apr. 1969 c55—16—71548-11

962

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577

Office of City Clerk 415-577-3366

16 August 1978

Dale Stoops, Esq.
Nebeker, Stoops & Sharon
415 - 20th Street
Oakland, California 94612

Dear Mr. Stoops:

At its meeting of 7 August 1978, the City Council of the City of San Leandro adopted Resolution No. 78 - 262, Approving Settlement Agreement (Constance E. Lunardi).

The enclosed fully executed copy of this resolution and agreement is for your file.

Very truly yours,

Richard H. West

Richard H. West, CMC
City Clerk

ob
enc.

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

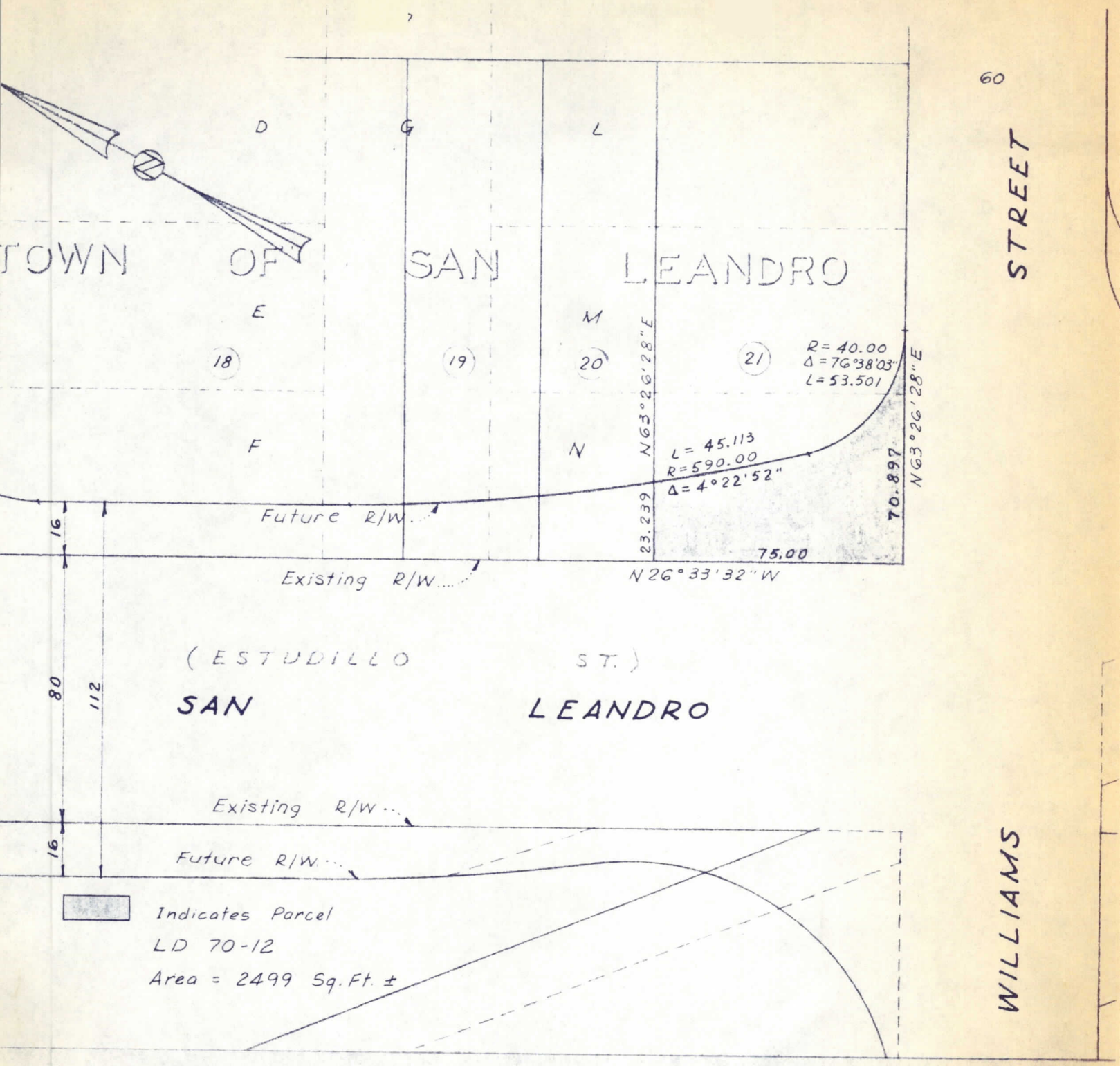
SENT TO Dale Stoops, Esq. Nebeker, Stoops & Sharon	POSTMARK OR DATE
STREET AND NO. 415 - 20th Street	
P.O., STATE AND ZIP CODE Oakland, California 94612	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES: 1. Shows to whom and date delivered ..... 10¢ With delivery to addressee only ..... 60¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only ..... 85¢	
DELIVER TO ADDRESSEE ONLY ..... 50¢	
SPECIAL DELIVERY (2 pounds or less) ..... 30¢	

No. 700779

POD Form 3800
Sep. 1968

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See other side)



MAP SHOWING THE LOCATION, GENERAL ROUTE, AND TERMINI OF THE RIGHT OF WAY SOUGHT TO BE CONDEMNED FOR THE WIDENING OF SAN LEANDRO BOULEVARD AND WILLIAMS STREET AT AND NEAR THEIR INTERSECTION IN THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, CALIFORNIA.

Dwg 638 Case 1602