

Attachment A

ATTACHMENT A

Resolution of Necessity

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RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

IN THE MATTER OF INSTITUTING PROCEEDINGS AND MAKING A FINDING OF PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN PROPERTY BY THE SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT FROM N. SCOTT VINCENT, TRUSTEE OF THE 2018 N. SCOTT VINCENT IRREVOCABLE TRUST, N. SCOTT VINCENT, TRUSTEE OF THE 2018 JAMES B. VINCENT IRREVOCABLE TRUST AND N. SCOTT VINCENT, TRUSTEE OF THE 2018 JOHN J. VINCENT IRREVOCABLE TRUST

RESOLUTION NO. _____
(4/5 vote required)

BE IT RESOLVED that the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District, State of California (“DISTRICT”), does hereby find and determine as follows:

A. DISTRICT has approved the acquisition of a Temporary Construction Easement and Permanent Easement, (collectively “Easements”) in connection with the Lower Mission Creek Flood Control Project, herein referred to as the “Project”, described as a portion of County of Santa Barbara Assessor’s Parcel Number 037-245-004, (“Subject Property”) and as more fully set forth in Attachments 1 and 2 and Exhibits “A” and “B” of each Attachment attached hereto and incorporated herein; and

B. The Easements are being acquired for all the uses and purposes concerning flood control, and for such purposes under the authority of:

1. Article I, Section XIX of the California Constitution; and
2. Code of Civil Procedure; Section 1240.010, 1240.110 1240.120, 1230.020 and 1240.020;
3. California Government Code Sections 25350.5 and 40404; and,
4. California Water Code and Water Code Appendix Section 74-1, et seq., Section 74-5(12).

C. The Easements are within the County of Santa Barbara, State of California, located at 325 Chapala Street, in the City of Santa Barbara, Assessor Parcel Number 037-245-004, as described in:

1. Attachment 1 – Temporary Construction Easement.
2. Attachment 2 – Permanent Easement.

and as respectively set forth in Exhibits “A” and shown in Exhibits “B” attached and incorporated herein, and;

D. That the DISTRICT recognizes its prior approval of the Project, pursuant to California Environmental Quality Act (CEQA) Guidelines sections 15096 and 15162, was based upon the scope of the project description covered by the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Lower Mission Creek Flood Control Project as well as the Findings and Statement of Overriding Considerations accepted by the Board of Directors as a Responsible Agency on May 10, 2011. The DISTRICT has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the real property interests described in Attachments 1 and 2, respectively set forth in Exhibits “A” and shown in Exhibits “B” are within the boundaries of the DISTRICT and hereinafter described as necessary for the benefit of the DISTRICT in the public interest; and

F. That pursuant to Code of Civil Procedure Section 1245.235, notice and an opportunity to be heard was given to the person(s) shown on the last equalized County assessment roll for the real property to be acquired herein and said person(s) was provided with a proper Appraisal Summary Statement and Eminent Domain Process; and

G. That pursuant to Government Code Section 7267.2 the owner of record was offered and provided a written summary of the just compensation for the real property interests described in Attachments 1 and 2, respectively set forth in Exhibits “A” and shown in Exhibits “B” sought to be acquired; and

H. That the public interest and necessity require the real property interests described in Attachments 1 and 2, respectively set forth in Exhibits “A” and shown in Exhibits “B” hereinafter described for public use, namely, flood control purposes related to the Lower Mission Creek Flood Control Project; and

I. That the Lower Mission Creek Flood Control Project has been planned to improve capacity and safety of flood waters and is located along the existing flood channel in a manner to be most compatible with the greatest public good and least private injury; and

J. That the real property interests described in Attachments 1 and 2, respectively described in Exhibits "A" and shown in Exhibits "B" are necessary for the Lower Mission Creek Flood Control Project.

NOW, THEREFORE it is found, determined and resolved by at least two-thirds (2/3) vote of this Board of Directors, as follows:

1. The Easements in Subject Property are located within the DISTRICT's boundaries at 325 Chapala Street, in the State of California, County of Santa Barbara, City of Santa Barbara, Assessor Parcel No. 037-245-004, as described in:

A. Attachment 1 – Temporary Construction Easement.

B. Attachment 2 – Permanent Easement.

as respectively set forth in Exhibits "A" and shown in Exhibits "B", attached hereto are incorporated herein as though set forth at length and is made a part hereof.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

4. The real property interests described in Attachments 1 through 2, respectively set forth in Exhibits "A" and shown in Exhibits "B" described in the Resolution are necessary for the Project.

5. That the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

6. The DISTRICT has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources.

7. The County Counsel of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the DISTRICT for the acquisition of said real property interests described in Attachments 1 and 2, respectively set forth in Exhibits "A" and shown in Exhibits "B", and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Counsel are necessary for the processing of the litigation.

8. The County Counsel and the Director of the Public Works Department are hereby authorized to expend funds available to the DISTRICT for the acquisition of the real property interests described in Attachments 1 and 2, respectively set forth in Exhibits "A" and shown in Exhibits "B".

BE IT RESOLVED that the real property interests described in Attachments 1 through 2, respectively set forth in Exhibits "A" and shown in Exhibits "B" be acquired by eminent domain in the name of the Santa Barbara County Flood Control and Water Conservation District for flood control purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the DISTRICT such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion are authorized to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and or an order or orders permitting said DISTRICT to take immediate possession and use of said real property for the public purposes.

PASSED AND ADOPTED by the Board of Directors of the Santa Barbara County Flood and Water Conservation District, State of California, this the _____ day of November, 2019, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:


SANTA BARBARA COUNTY FLOOD
CONTROL and WATER CONSERVATION DISTRICT

By: _____
Steve Lavagnino, Chair

ATTEST:
MONA H. MIYASATO
COUNTY EXECUTIVE OFFICER
EX OFFICIO CLERK OF THE BOARD
OF DIRECTORS OF THE SANTA
BARBARA COUNTY FLOOD
CONTROL & WATER
CONSERVATION DISTRICT


By: _____
Sheila de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL



Scott Greenwood
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER



C. Edwin Price, Jr
Deputy Auditor-Controller
On Behalf of

ATTACHMENT 1

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement (“TCE”) to enter upon and use the real property described in Exhibit A (TCE-2) and depicted in Exhibit B attached hereto and incorporated herein for the construction of the Lower Mission Creek Project (“Project”).

The TCE contains approximately 2,795 sq.ft., and permits use and occupancy of the real property described in Exhibit A (TCE-2) necessary for the purpose of constructing the Project. Owner shall retain the right to use the TCE during its term for pedestrian access to the larger parcel, 325 Chapala Street, Santa Barbara, California, (larger parcel). Project construction and TCE use will be completed so that owner will have pedestrian access across the TCE to the larger parcel throughout its term.

The Temporary Construction Easement shall be for a period of twelve (12) consecutive months commencing on or about May 1, 2020 and terminating thereafter on, about or before May 1, 2021, or upon notification of the filing of a “Notice of Completion” or otherwise in writing by the Santa Barbara County Flood Control and Water Conservation District, if earlier.

The metes and bounds description, Exhibit “A” and depicted on Exhibit “B” of the TCE area is as follows:

EXHIBIT A
TCE2

A portion of the parcel of land in Block 270 in the City of Santa Barbara, County of Santa Barbara, State of California, described as Parcel One and Parcel Two in the Quitclaim Deed to the Vincent Family Real Estate, LLC, recorded January 8, 2016, as Instrument Number 2016-001043, Official Records of the County of Santa Barbara, described as follows.

The Northeasterly 27.95 feet of the Southwesterly 75.30 feet of Parcel One and Parcel Two of said Quitclaim Deed, to wit:

- Beginning at the westerly corner of Parcel One of said Quitclaim Deed;
- Course 1 thence, northeasterly along the northerly line of said Parcel One, North 42°25'12" East, 47.35 feet to the TRUE POINT OF BEGINNING;
- Course 2 thence, continuing along said northerly line North 42°25'12" East, 27.95 feet;
- Course 3 thence, parallel with and 75.30 feet distant northeasterly from the southwesterly line of said Parcel One, South 47°34'48" East, 50.00 feet to a point on the southeasterly line of said Parcel One;
- Course 4 thence, continuing South 47°34'48" East, 50.00 feet to a point on the southeasterly line of said Parcel Two;
- Course 5 thence, along the southeasterly line of said Parcel Two, South 42°25'12" West, 27.95 feet to a point 47.35 feet distant northeasterly from the southwesterly line of said Parcel Two as measured at right angles;
- Course 6 thence, parallel with and 47.35 feet distant northeasterly from the southwesterly line of said Parcel Two and Parcel One, North 47°34'48" West 100.00 feet to the TRUE POINT OF BEGINNING.

The above described parcel of land contains approximately 2795 square feet and is as shown on Exhibit B, attached hereto and made a part hereof.

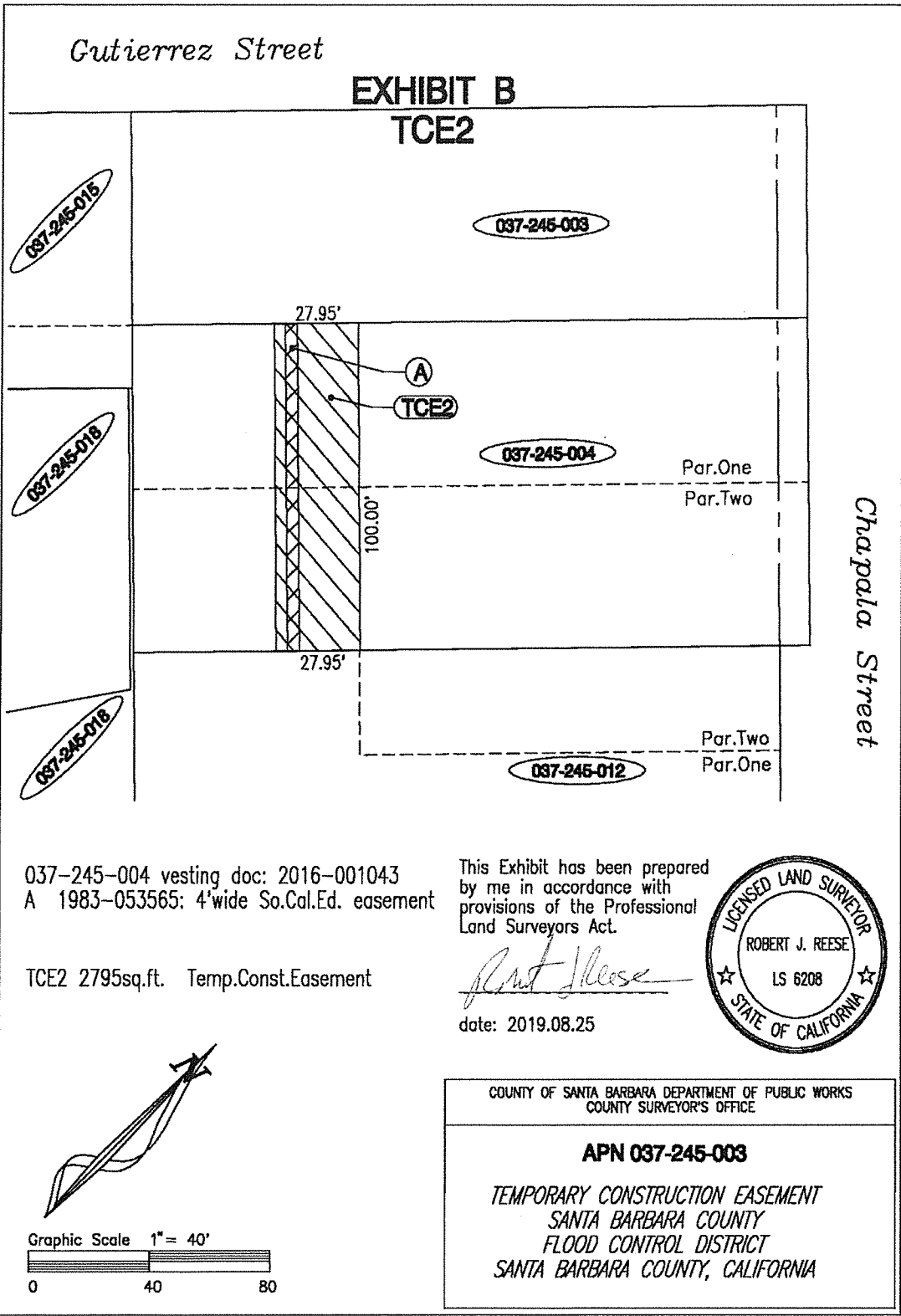
This description has been prepared by me in accordance with provisions of the Professional Land Surveyors Act.



Robert Reese, LS 6208

2019.08.25
date





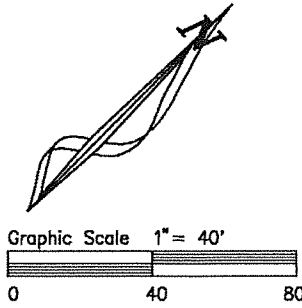
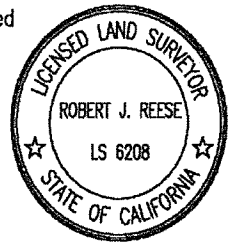
037-245-004 vesting doc: 2016-001043
 A 1983-053565: 4'wide So.Cal.Ed. easement

TCE2 2795sq.ft. Temp.Const.Easement

This Exhibit has been prepared by me in accordance with provisions of the Professional Land Surveyors Act.

Robert J. Reese

date: 2019.08.25



COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS
 COUNTY SURVEYOR'S OFFICE

APN 037-245-003

TEMPORARY CONSTRUCTION EASEMENT
 SANTA BARBARA COUNTY
 FLOOD CONTROL DISTRICT
 SANTA BARBARA COUNTY, CALIFORNIA

ATTACHMENT 2

PERMANENT EASEMENT

A permanent easement for flood control purposes in the real property described in Exhibit A (T2) and depicted in Exhibit B (attached hereto and incorporated herein) to provide access and for the construction, use and maintenance of Lower Mission Creek Project. The easement contains approximately 4,735 sq. ft.

All other rights in the permanent easement not herein acquired shall be reserved by the owner, except owner shall not interfere with the use and maintenance rights described herein.

EXHIBIT A
T2

A portion of the parcel of land in Block 270 in the City of Santa Barbara, County of Santa Barbara, State of California, described as Parcel One and Parcel Two in the Quitclaim Deed to the Vincent Family Real Estate, LLC, recorded January 8, 2016, as Instrument Number 2016-001043, Official Records of the County of Santa Barbara, described as follows.

The Southwesterly 47.35 feet of Parcel One and Parcel Two of said Quitclaim Deed, to wit:

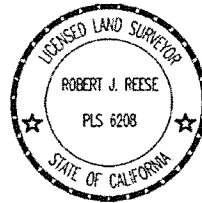
- Beginning at the westerly corner of Parcel One of said Quitclaim Deed;
- Course 1 thence, northeasterly along the northerly line of said Parcel One, North 42°25'12" East, 47.35 feet;
- Course 2 thence, parallel with and 47.35 feet distant northeasterly from the southwesterly line of said Parcel One, South 47°34'48" East, 50.00 feet to a point on the southeasterly line of said Parcel One;
- Course 3 thence, continuing South 47°34'48" East, 50.00 feet to a point on the southeasterly line of said Parcel Two;
- Course 4 thence, along the southeasterly line of said Parcel Two, South 42°25'12" West, 47.35 feet to the southerly corner of said Parcel Two;
- Course 5 thence, along the southwesterly lines of said Parcel Two and Parcel One, North 47°34'48" West 100.00 feet to the Point of Beginning.

The above described parcel of land contains approximately 4735 square feet and is as shown on Exhibit B, attached hereto and made a part hereof.

This description has been prepared by me in accordance with provisions of the Professional Land Surveyors Act.


Robert Reese, LS 6208

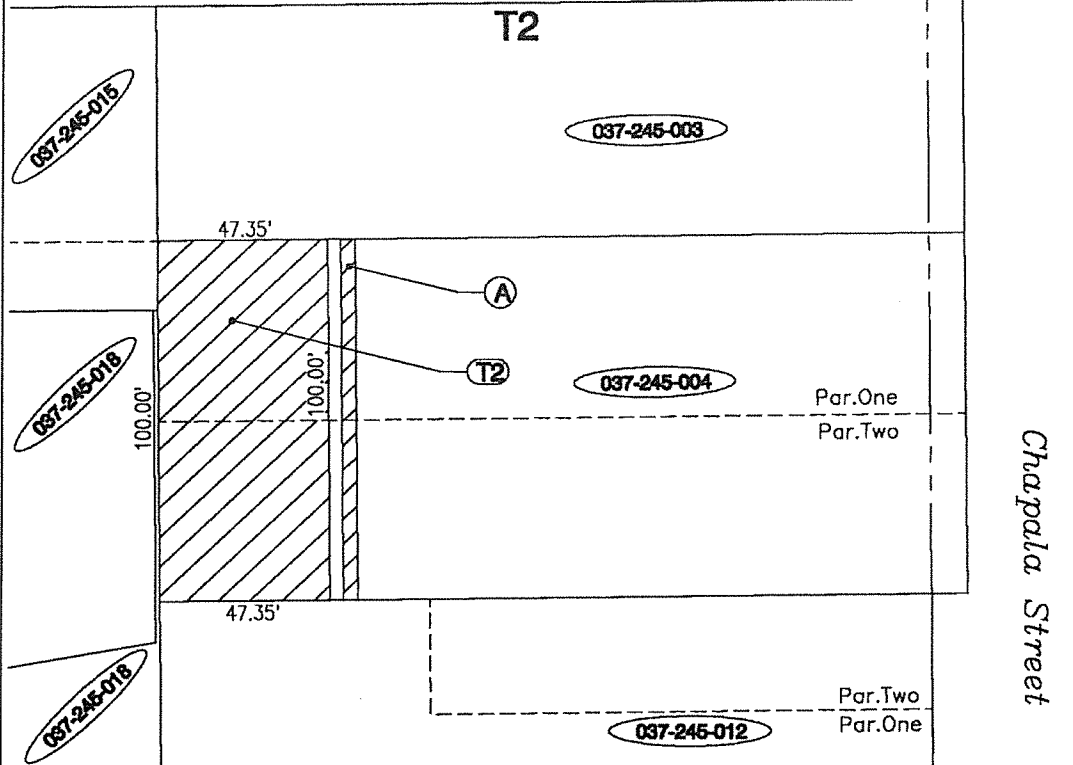
2019.08.25
date



Gutierrez Street

EXHIBIT B

T2



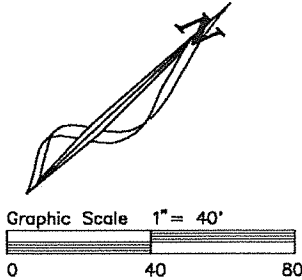
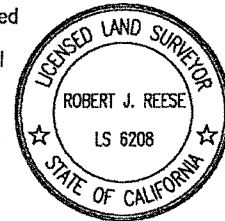
037-245-004 vesting doc: 2016-001043
A 1983-053565; 4'wide So.Cal.Ed. easement

T2 4735sq.ft. Perm.Easement

This Exhibit has been prepared by me in accordance with provisions of the Professional Land Surveyors Act.

Robert J. Reese

date: 2019.08.25



COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS
COUNTY SURVEYOR'S OFFICE

APN 037-245-004

*PERMANENT EASEMENT
SANTA BARBARA COUNTY
FLOOD CONTROL DISTRICT
SANTA BARBARA COUNTY, CALIFORNIA*