

Attachment 4

ATTACHMENT 4

**March 15, 2016
Resolution of Necessity**

**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 FUNK YOUTH HOSTEL, LLC

RESOLUTION NO. 16-83

(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, does hereby find and determine as follows:

A. DISTRICT has approved the acquisition of easements over a portion of the real property in connection with the Lower Mission Creek Flood Control Project Reach 2A, herein referred to as the "Project", described as County Assessor Parcel No. 033-074-001, and as more fully set forth below; and

B. That the intent is to acquire such easements 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; and
3. California Water Code Appendix 74-1, et seq., Section 74-5.3.

C. That such certain real property interests are within the County of Santa Barbara, State of California, as described and shown in Exhibits "A" and "B", attached hereto and made a part hereof; 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 acquisition of real property interests herein 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(s) of record was offered just compensation for the real property interests hereinafter described; and

H. That the public interest and necessity require the acquisition of the real property interests hereinafter described for public use, namely, flood control purposes.

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 real property interests to be acquired are one permanent easement and two temporary easements located within the DISTRICT's boundaries and described as a portion of Assessor Parcel No. 033-074-001, as more particularly described and shown in Exhibits "A" and Exhibit "B", attached hereto and incorporated by reference herein.

2. The public interest and necessity require the Project, said Project being for the benefit of the DISTRICT and, therefore flood control purposes, and the property interests described and shown in Exhibits "A" and "B", be taken for such public use.

3. The public use to which the real property will put is for flood control purposes.

4. The property described in the Resolution is necessary for the Project. The staff report of the DISTRICT is hereby incorporated by reference in support of these findings.

5. The public interest and necessity require the acquisition of said real property interests described and shown in Exhibits "A" and "B," and the taking of said real property interests are necessary for the implementation of the Project.

6. Said Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; that said Project will benefit the general public in that it will provide flood control and said use is authorized by law.

7. 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.

8. The offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record.

9. 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 interests in real property, 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.

10. 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.

BE IT RESOLVED that the interests in the real property described and shown in Exhibits "A" and "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 15th day March, 2016, by the following vote:

AYES: Supervisor Carbajal, Wolf, Farr, Adam & Lavagnino

NOES: None


ABSTAINED: None

ABSENT: None

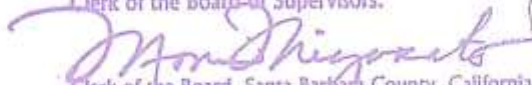

SANTA BARBARA COUNTY FLOOD
CONTROL and WATER CONSERVATION
DISTRICT

By: 
Peter Adam, 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

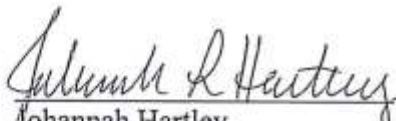
By: 
Deputy

This is a true certified copy of the original document on file or of record in my office. It bears the seal and signature, imprinted in purple ink, of the Clerk of the Board of Supervisors.


Clerk of the Board, Santa Barbara County, California
Date 3-15-16 by Deputy: 



APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL


Johannah Hartley
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS
AUDITOR-CONTROLLER


Deputy Auditor-Controller

EXHIBIT "A"

The permanent easement and right-of-way is in, on, over, under, along, and across a portion of the Property for the excavation, removal, demolition, and alteration of facilities, vegetation and topography, and for the construction, reconstruction, replacement, repair, use and maintenance of various improvements as required for the Lower Mission Creek Flood Control Project # SC8042, and subsequently for water flowage, flood control and all related purposes. The permanent easement area containing approximately 2,929 sq.ft., granted hereby is more particularly described in Attachment "1" to this Exhibit "A" (legal description) and shown on Attachment "2" to this Exhibit "A", attached hereto and incorporated herein by this reference.

No permanent improvements, fences, vegetation or permanent encroachments of any kind can be erected or other use made which would interfere with the present or future surface and subsurface rights of the permanent easement area.

EXHIBIT "A"
ATTACHMENT 1
PERMANENT EASEMENT
LEGAL DESCRIPTION

That portion of Block 306 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, being also a portion of that real property described in the Grant Deed recorded October 2, 2013 as Instrument No. 2013-0064942 of Official Records in the office of the County Recorder of said County, described as follows:

BEGINNING at the most westerly corner of said Block 306, thence;

- 1) North 41°30'00" East, along the northwesterly line of said Block 306, 41.25 feet, thence;
- 2) Leaving said northwesterly line, South 72°57'38" East, 69.97 feet, thence;
- 3) North 83°24'42" East, 12.01 feet, thence;
- 4) South 83°16'11" East, 4.00 feet to a point 75.00 feet southeasterly from the northwesterly line of said Block 306, measured at right angles to said line, thence;
- 5) South 41°30'00" West, parallel to said northwesterly line, 41.86 feet to a point distant 39.58 feet measured at right angles from the southwesterly line of said Block 306 being the easterly terminus of the 4th course of Parcel 14.1 as described in the easement deed recorded June 17, 1971 recorded in book 2351 page 229 of Official Records in the office of the County Recorder of said County, thence;
- 6) North 76°19'20" West, along said 4th course, 84.80 feet, to the POINT OF BEGINNING.

End of Description

Containing 2929 square feet, more or less.

(See attached exhibit map made a part hereof)

This legal description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

E. Teñell Matlovsky

E. Teñell Matlovsky, PLS 8629



2/11/2016

Date

5941_5894_SC8042_PermEasement
134 Chapala St.
Portion of APN 033-074-001

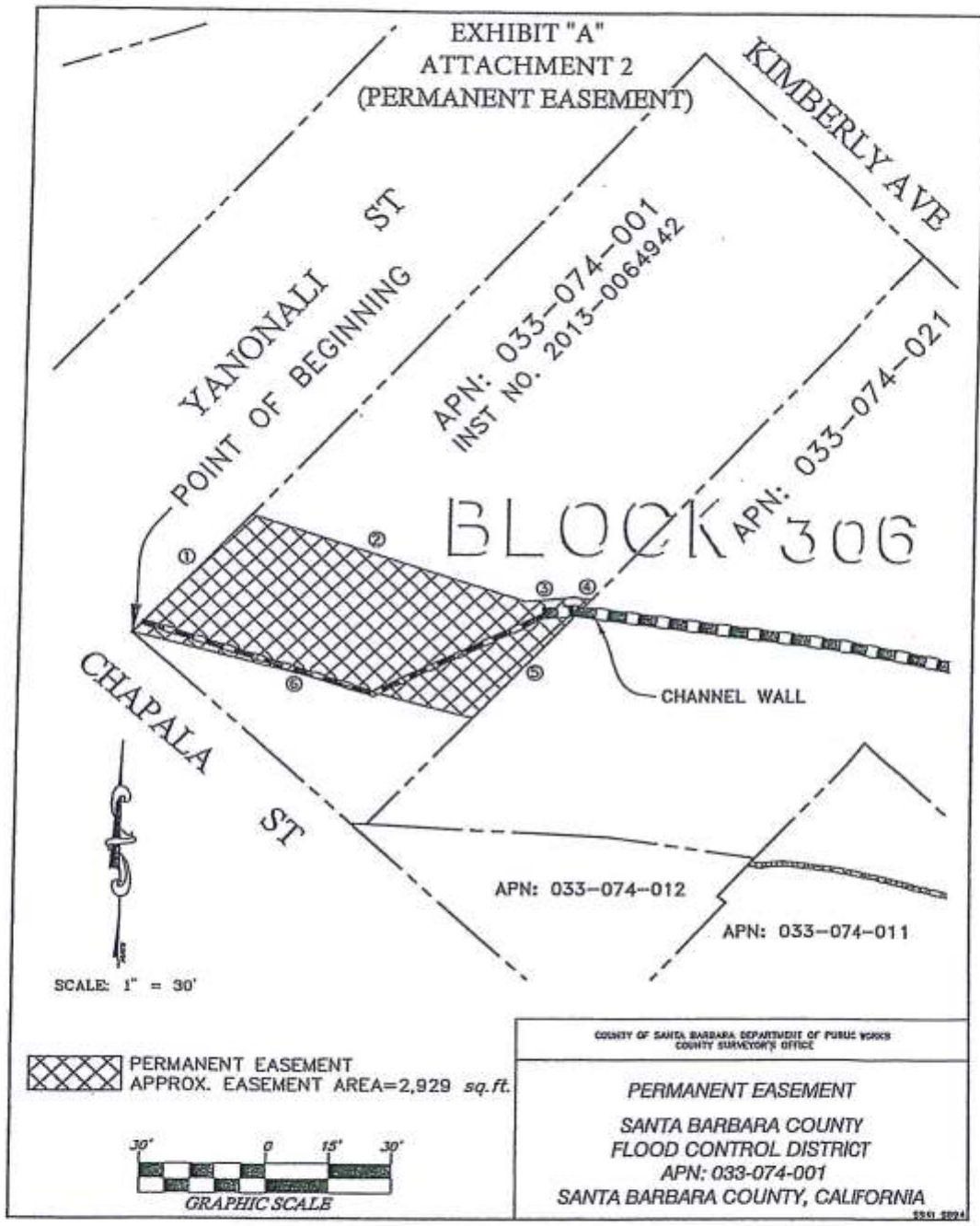


EXHIBIT "B"

The temporary areas and right-of-way are in, on, over, under, along and across two designated areas of the "Property" (hereinafter collectively referred to as the "Temporary Easement Areas"), totaling approximately 865 sq.ft., is more particularly described in Attachments "1" and "2" to this Exhibit "B" (legal descriptions) and shown on Attachment "3" to this Exhibit "B", attached hereto and incorporated herein by this reference. The Temporary Easement Areas in, on, over, under, along and across, a portion of the Property particularly described in Attachments "1" and "2" to this Exhibit "B", as shown on Attachment "3" to this Exhibit "B", shall be for ingress and egress of labor and materials and equipment for the excavation, removal, demolition, and alteration of facilities, vegetation and topography, and for the construction, reconstruction, replacement, repair, use and maintenance of various improvements, including, but not limited to storage and staging of materials and equipment for the excavation, removal, demolition, and alteration of facilities, vegetation and topography, and for the construction, reconstruction, replacement, repair, use and maintenance of various improvements required for and shall be used to facilitate the construction of the Lower Mission Creek Flood Control Project #SC8042 (hereinafter referred to as the "Project").

It is contemplated that these Temporary Easement Areas shall be for a period of nine (9) consecutive months. The estimated initial term of the Temporary Easement Areas will be for approximately six (6) months and DISTRICT shall make every effort to complete construction within said 6 month period. However, in the event that construction is not completed within said initial 6 month period, the DISTRICT will provide notice to the Property Owner at least thirty (30) calendar days in advance prior to utilizing the Temporary Easement Areas for an additional duration not to exceed three (3) months.

EXHIBIT "B"
ATTACHMENT 1
TEMPORARY EASEMENT AREA

①

LEGAL DESCRIPTION

That portion of Block 306 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, being also a portion of that real property described in the Grant Deed recorded October 2, 2013 as Instrument No. 2013-0064942 of Official Records in the office of the County Recorder of said County, described as follows:

COMMENCING at the most westerly corner of said Block 306, thence;

North 41°30'00" East, along the northwesterly line of said Block 306, 41.25 feet, thence;

Leaving said northwesterly line, South 72°57'38" East, 49.44 feet, to a point being the TRUE POINT OF BEGINNING thence;

- 1) North 41°30'00" East, 10.99 feet, thence;
- 2) South 72°57'38" East, 13.90 feet, thence;
- 3) North 83°24'42" East, 11.09 feet, thence;
- 4) South 83°16'11" East, 12.11 feet to a point 75.00 feet southeasterly from the northwesterly line of said Block 306, measured at right angles to said line, thence;
- 5) South 41°30'00" West, parallel to said northwesterly line, 12.17 feet; thence
- 6) North 83°16'11" West, 4.00 feet, thence;
- 7) South 83°24'42" West, 12.01 feet, thence;
- 8) North 72°57'38" West, 20.54 feet to the TRUE POINT OF BEGINNING.

End of Description

Containing 368 square feet, more or less.

(See attached exhibit map made a part hereof)

This legal description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

E. Terrell Matlovsky

E. Terrell Matlovsky, PLS 8829



2/11/2016
Date

S941_5894_SC8042_TempEasementArea1
134 Chapala St.
Portion of APN 033-074-001

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EXHIBIT "B"
ATTACHMENT 2
TEMPORARY EASEMENT AREA

2

LEGAL DESCRIPTION

That portion of Block 306 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, being also a portion of that real property described in the Grant Deed recorded October 2, 2013 as Instrument No. 2013-0064942 of Official Records in the office of the County Recorder of said County, described as follows:

COMMENCING at the most westerly corner of said Block 306, thence;

North 41°30'00" East, along the northwesterly line of said Block 306, 41.25 feet to a location being the TRUE POINT OF BEGINNING, thence;

- 1) Leaving said northwesterly line, South 72°57'38" East, 49.44 feet, thence;
- 2) North 41°30'00" East, 0.80 feet, thence;
- 3) North 48°30'00" West, 45.00 feet to the northwesterly line of said Block 306, thence;
- 4) South 41°30'00" West, along said northwesterly line, 21.27 feet to the TRUE POINT OF BEGINNING.

End of Description

Containing 497 square feet, more or less.

(See attached exhibit map made a part hereof)

This legal description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

E. Tenell Matlovsky
E. Tenell Matlovsky, PLS 8629



2/11/2016
Date

S941_5894_SC8042_TempEasementArea2
134 Chapala St.
Portion of APN 033-074-001

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