

Contract Summary Form:

Contract Number: BC 13-115

Complete the information below, print this form, obtain the signature of the authorized departmental representative and submit this form to the Clerk of the Board with the contract package. See also: Contracts for Services Policy.

D1. Fiscal Year.....: 12-13 FY
 D2. Budget Unit Number: 054
 D3. Requisition Number.....:
 D4. Department Name.....: Flood Control
 D5. Contact Person.....: Jon Frye
 D6. Phone: 568-3444

K1. Contract Type (check one): ☒ Contract ☒ Grant of Easement ☒ Temp Construction Easement
 K2. Brief Summary of Contract Description/Purpose: Acquisition of Real Property & Easements at 135 Kimberly Ave, S.B.
 K3. Original Contract Amount.....: \$537,275 (estimated - cost could increase based on length of construction)
 K4. Contract Begin Date.....: Upon execution by the Board of Directors
 K5. Original Contract End Date.....:
 K6. This Amendment Number.....:
 K7. - Total Previous Amendments:\$
 K8. - This Amendment Amount.....:\$
 K9. - Revised Total Contract Amount.....:\$
 K10. - Revised End Date.....:
 K11. Department Project Number.....: Flood Control SC8042

B1. Is this a Board Contract (Yes/No): Yes
 B2. Number of Workers Displaced (if any): N/A
 B3. Number of Competitive Bids (if any).....: N/A
 B4. Lowest Bid Amount (if bid): N/A
 B5. If Board waived bids, show Agenda Date.....: N/A
 B6. ... and Agenda Item Number.....:#
 B7. Boilerplate Contract Text Unchanged? (Yes/No):

F1. Encumbrance Transaction Code.....:
 F2. Current Year Encumbrance Amount:\$
 F3. Fund Number: 2610
 F4. Department Number: 054
 F5. Division Number (if applicable): 04
 F6. Account Number: 8700
 F7. Cost Center number (if applicable).....:
 F8. Payment Terms.....: Upon the Close of Escrow

V1. Auditor Vendor Number:
 V2. Payee/Contractor Name: Erik & Alex Funke
 V3. Mailing Address.....: 1718 SE Mulberry St.
 V4. City.....: Portland
 V5. State (two letter): OR
 V6. Zip (include +4 if known).....: 97214-4764
 V7. Telephone Number: (503) 234-4403
 V8. Vendor's Federal Tax ID Number:
 V9. Contact Person.....: Erik Funke
 V10. Workers Comp Insurance Expiration Date.....: N/A
 V11. General Liability Insurance Expiration Date.....: N/A
 V12. Professional License Number.....: N/A
 V13. Verified by.....:

V14. Company Type (Check one): ☒ Individual ☐ Non-Profit ☐ Partnership ☐ Corporation ☐ Government

This information has been reviewed and is complete and accurate as presented. Concurrences as required are represented by signature on the contract signature page.

Date : 8-14-13 Authorized Signature : 

Project: Lower Mission Creek Flood Control Project
District Project # SC8042
Folio: 003679
APN: 033-074-020 & -021

**REAL PROPERTY PURCHASE CONTRACT
AND ESCROW INSTRUCTIONS**

THIS REAL PROPERTY PURCHASE CONTRACT AND ESCROW INSTRUCTIONS (this "Contract") is by and between the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara, a political subdivision of the State of California, hereinafter referred to as the "DISTRICT," and ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, hereinafter referred to as "OWNERS," with reference to the following:

RECITALS

WHEREAS, OWNERS are the owners of that certain real property in the City of Santa Barbara, County of Santa Barbara, State of California, commonly known as 135 Kimberly Avenue, Santa Barbara, California, and more particularly described as County Assessor's Parcel Numbers 033-074-020 and 033-074-021, hereinafter referred to as the "Property"; and

WHEREAS, DISTRICT has designed the plans and specifications for creek improvements, repair, replacement, installation, landscaping, erosion protection, and related improvements (hereinafter "District Improvements") on a portion of the Property in connection with the Lower Mission Creek Flood Control Improvement Project Reach 1B, (Portion of County Project #SC8042) hereinafter referred to as "Project"; and

WHEREAS, in connection with the Project, DISTRICT desires to purchase County Assessor's Parcel Number 033-074-020, (the "Creek Parcel") consisting of approximately 5,000 square feet, in fee title for the present and future public right-of-way improvements, construction, reconstruction, repair, replacement, installation, landscaping, erosion protection and maintenance of improvements required by the DISTRICT; and

WHEREAS, in connection with the Project, DISTRICT desires to purchase a permanent easement consisting of approximately 11,202 square feet on a portion of County Assessor's Parcel Number 033-074-021, (the "Permanent Easement") for the present and future improvements, construction, reconstruction, repair, replacement, installation, operations, landscaping, erosion protection and maintenance of improvements required by the DISTRICT and for public right-of-way for flood control purposes on a portion of the Property, in perpetuity; and

WHEREAS, in connection with the Project, DISTRICT desires to purchase a temporary construction easement consisting of approximately 4,083 square feet, on a portion of County Assessor's Parcel Numbers 033-074-021, (the "Temporary Construction Easement") for the

construction, reconstruction, paving, ingress, egress, electrical, repair, replacement, installation, landscaping and irrigation of improvements required by the DISTRICT; and

WHEREAS, DISTRICT also recognizes and desires to reimburse OWNERS to purchase fee title in Creek Parcel, for the loss, replacement, and moving of any improvements within the Creek Parcel, Permanent and Temporary Construction Easements which may be affected by the Project.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of which, and the other considerations hereinafter set forth, it is mutually agreed and understood as follows:

1. **SALE AND PURCHASE PRICE**: DISTRICT hereby agrees to purchase, and OWNER hereby agrees to sell, to DISTRICT the fee simple interest of the Creek Parcel, for public right-of-way purposes and District Improvements, Permanent Easement which includes all of the District Improvements and a Temporary Construction Easement for this public project all of which are in, on, over, under along and across as identified by the Assessor's record as 033-074-020 and portions of 033-074-021. The Creek Parcel [(Attachment "1")] is legally described in the Grant Deed which is attached hereto and incorporated herein as. The Permanent Easement is legally described on Exhibit "A" and shown on Exhibit "B" attached to the Permanent Easement Deed which is attached hereto and incorporated herein as "Attachment 2". The Temporary Construction Easement is legally described on Exhibit "A" and shown on Exhibit "B" attached to the Temporary Construction Easement which is attached hereto and incorporated herein as Attachment "3". The Permanent Easement shall be in perpetuity, and the Temporary Construction Easement shall be on a month to month basis, and DISTRICT shall provide OWNERS notification upon commencement of its desire to use said Easements Areas. The Permanent Easement and Temporary Construction Easement areas are hereinafter collectively referred to as the "Easement Areas".

OWNER hereby grants to DISTRICT, its authorized agents, contractors, and employees immediate possession and use of the Creek Parcel and Easement Areas upon execution of this Contract, to perform any and all preconstruction activities, including but not limited to surveying, designing and bidding of said Project. OWNER also grants to DISTRICT, upon thirty (30) days prior written notice from DISTRICT, possession and use of the Creek Parcel and Easement Areas to perform demolition of existing improvements and construction of proposed and final improvements of said Project. Possession and use includes the right to enter upon and move workers, equipment, and materials in, on, over, under, along, and across the Creek Parcel and Easement Areas.

As consideration for granting fee interest to the Creek Parcel, Permanent Easement, use of the Temporary Construction Easement and for the loss, replacement, and moving of any and all improvements, DISTRICT shall, as OWNER's sole remedy for the conveyance of the Creek Parcel and utilization of the Easement Areas:

- (a) pay the OWNERS a total purchase price of FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00); and
- (b) demolish, reconfigure and reconstruct certain improvements on a portion of Assessor's Parcel Numbers 033-074-021, which are described on Attachment 4, and on Exhibit "A" map, both of which are attached hereto and incorporated herein (hereinafter "Site Improvements"); and
- (c) pay the OWNERS a monthly fee of FOUR THOUSAND AND 00/100 DOLLARS (\$4,000.00) for each month that DISTRICT uses the Temporary Construction Easement, the release of such funds are hereinafter stated in Section 2 (b) 5 i through iv below; and
- (d) reimburse the OWNERS the amount of ONE THOUSAND TWO HUNDRED SEVENTY-FIVE AND 00/100 DOLLARS (\$1,275.00) related to expenses incurred by consultants retained by the OWNERS for assistance and review of the DISTRICT proposed Site Improvements on and adjacent to the Creek Parcel and Easement Areas.

Restoration shall be made only as expressly provided herein and the consideration includes all losses associated with improvements and/or vegetation, natural or cultivated.

The approval of funding and the appropriation by the Santa Barbara County Flood Control and Water Conservation District Board of Directors is an express condition precedent to DISTRICT's duty to purchase. Notwithstanding any other provision in this Contract, DISTRICT at DISTRICT's option may extend escrow up to sixty (60) days to permit the funding approval and appropriation by DISTRICT. In the event DISTRICT should decide to exercise this option, DISTRICT shall do so in writing with copies to the Escrow Officer and to the OWNERS.

At least one (1) day prior to the close of escrow, DISTRICT shall deposit with the Escrow Officer (as hereinafter defined) the purchase price together with an amount sufficient to pay for DISTRICT'S share of prorations, fees, costs, and expenses to be paid by DISTRICT pursuant to this Contract.

2. ESCROW AND FEES:

a. Escrow shall be opened at Chicago Title Company, 1225 Coast Village Road, Suite E, Santa Barbara, California, 93108, ("Escrow Officer"), with escrow instructions to be based upon the terms and conditions set forth herein. This Contract shall become a part of the Escrow and shall constitute the basic instructions of DISTRICT and OWNERS to the Escrow Officer. However, DISTRICT and OWNERS agree to execute such additional instructions and documents as are reasonably required to complete the closing of the transaction contemplated herein in accordance with the terms and conditions of this Contract. On behalf of the DISTRICT, the Director of Public Works, or designee, shall execute the necessary escrow instructions and/or additional instructions, which may be required to complete the closing of this real property transaction. In case of conflict between this Contract and any of said escrow documents, the terms of this Contract shall govern.

DISTRICT shall open Escrow and deliver this fully-executed Contract to the Escrow Officer within two (2) weeks of the execution hereof by DISTRICT. OWNERS shall

deliver an executed Grant Deed, Permanent Easement Deed and Temporary Construction Easement to the Escrow Officer within two (2) weeks of the execution hereof by DISTRICT. The date of closing shall be on or before sixty (60) calendar days from the date of opening Escrow, unless otherwise mutually agreed to in writing by the parties. The "Close of Escrow" is defined as:

1. the recordation of the Grant Deed, which shall vest fee title in the Creek Parcel to the DISTRICT; and
2. the concurrent recordation of the Permanent Easement Deed; and
3. the fully executed Temporary Construction Easement.
4. the payment to OWNERS of the purchase price stated in Section 1 herein above

1. DISTRICT shall pay all escrow and recording fees as well as the documentary stamp tax, if any, incurred in the conveyance of the Creek Parcel and/or Easement Areas to DISTRICT pursuant to the execution of this Contract. If a policy of title insurance is desired by DISTRICT, the premium charged therefor shall be paid by DISTRICT. Said escrow and recording charges shall include any partial reconveyance and subordination fees as may be required.

2. OWNERS shall pay all escrow fees in the event that this escrow is canceled by the OWNERS prior to the conveyance of the Creek Parcel and/or Easement Areas to DISTRICT.

3. DISTRICT shall pay all escrow fees in the event that this escrow is canceled by DISTRICT prior to the conveyance of the Creek Parcel and/or Easement Areas to DISTRICT.

b. The Escrow Officer shall be obligated as follows:

1. To release to DISTRICT a certified copy of the Grant Deed, Permanent Easement Deed and Temporary Construction Easement as executed by OWNERS, prior to the Close of Escrow in order to receive "acceptance" by DISTRICT'S Board of Directors of the subject Creek Parcel and Easement Areas; and

2. To obtain reconveyances from any holders of liens against the Creek Parcel; and

3. To record concurrently with the Santa Barbara County Recorder's Office the executed Grant Deed, the executed Easement Deed Permanent Easement Deed, the executed Temporary Construction Easement; and deliver the recorded Grant Deed, Permanent Easement Deed and unrecorded Temporary Construction Easement to DISTRICT.

4. To deliver to OWNERS at the Close of Escrow the purchase price as stated in Section 1, herein above.

5. Provide payments to OWNERS as stated in Section 1(c), herein above for the use of the Temporary Construction Easement.

i. Upon the first thirty (30) calendar days after the DISTRICT's first initial use of said Temporary Construction Easement, DISTRICT shall notify

Escrow Officer to release to OWNERS funds in the amount of TWELVE THOUSAND AND 00/100 DOLLARS (\$12,000.00) on or before the thirty-fifth (35) calendar day from such notice by DISTRICT. Such funds shall be DISTRICT's first payment for its initial ninety (90) calendar days use of said Temporary Construction Easement.

ii. Upon the ninety (90) calendar days after the DISTRICT's first initial use of said Temporary Construction Easement, DISTRICT shall notify Escrow Officer to release to OWNERS funds in the amount of FOUR THOUSAND AND 00/100 DOLLARS (\$4,000.00) on or before the one hundred twenty-fifth (125) calendar day from such notice by DISTRICT.

iii. Upon one hundred fifty (150) calendar days after the DISTRICT's use of said Temporary Construction Easement, DISTRICT shall notify Escrow Officer to release to OWNERS every thirty (30) calendar days thereafter on a month-to-month basis funds in the amount of FOUR THOUSAND AND 00/100 DOLLARS (\$4,000.00) to OWNERS on or before the thirty fifth (35) calendar day.

iv. DISTRICT shall notify Escrow Officer upon the DISTRICT discontinued use of said Temporary Construction Easement which shall be authorization to Escrow Officer to cancel release of funds to OWNERS.

4. **TITLE AND DEED:** Title is to be free of liens, encumbrances, restrictions, rights to possession or claims to possession, rights, and conditions (recorded and/or unrecorded) or known to OWNERS, except:

a. Covenants, conditions, restrictions, and reservations of record approved by DISTRICT.

b. Easements or rights of way over the Creek Parcel for public or quasi-public utility or public street purposes, if any, approved by DISTRICT.

c. Exceptions # through #, and # inclusive contained in a Preliminary Title Report Order Number 77605563-AW, issued by Chicago Title Company, with an effective date of _____, ____ 2013 for APN: 033-074-020.

d. Exceptions # through # and # inclusive contained in a Preliminary Title Report Order Number 77605563-AW, issued by Chicago Title Company, with an effective date of _____, ____ 2013 for APN: 033-074-021.

e. Property taxes for the fiscal year in which this escrow closes shall be satisfied in a manner consistent with California Revenue and Taxation Code Section 4986.(a)(6). Escrow Officer is authorized to pay all delinquent taxes from the amount shown in Section 1, SALE AND PURCHASE PRICE, herein above. OWNERS understands that pursuant to Section 4986.(a)(6), OWNERS may receive after the Close of Escrow, either, 1) an unsecured property tax bill from the County of Santa Barbara Treasurer-Tax Collector for real property taxes that may be due; or 2) a County of Santa Barbara warrant from the County of Santa Barbara Auditor-Controller to reimburse OWNERS for any prepaid property taxes that may be canceled.

The DISTRICT shall pay for the cost of Preliminary Title Reports covering said Property from said Title Company in Section 2 above. DISTRICT shall have the right to review the Preliminary Title Reports and approve or disapprove in writing, those items disclosed in the Preliminary Title Report prior to the Close of Escrow. OWNERS shall have the within thirty (30)

days from receipt of notice of disapproval to correct the condition(s) that adversely affect said Property as determined by DISTRICT in its discretion. If OWNERS do not correct any such condition, DISTRICT may, as its sole remedy, terminate this Contract.

Escrow shall be automatically extended for thirty (30) days where there is a need for OWNERS to correct an adverse condition unless OWNERS refuse to correct such condition or unless correction requires more than thirty (30) days in which case escrow shall be extended to the date of refusal or date of correction respectively.

If OWNERS have and/or request Preliminary Title Reports covering said Property from said Title Company in Section 2 above and/or any other such title company OWNERS shall solely be responsible for costs and expense for such Preliminary Title Reports.

4. **DISTRICT'S CONDITIONS PRECEDENT:** DISTRICT'S obligation to perform under this Contract and the Close of Escrow shall be subject to and contingent upon satisfaction of each of the following conditions precedent prior to the Close of Escrow:

a. DISTRICT shall complete, consider and approve the requirements in accordance with the California Environmental Quality Act (CEQA). In the event these requirements are not completed within forty-five (45) days of the opening of escrow, DISTRICT shall have the right to extend the escrow period until such completion.

b. District shall request a determination from the City of Santa Barbara pursuant to the requirements of Government Code Section 65402. In the event the determination is not provided within forty-five (45) days of the opening of escrow, DISTRICT shall have the right to extend the escrow period until such compliance is completed.

c. The DISTRICT'S Board of Directors shall have authorized the DISTRICT'S purchase of the Creek Parcel and Easement Areas.

In the event that these conditions precedent are not satisfied, DISTRICT may terminate this Contract with no further liability.

5. **DISTRICT OBLIGATIONS:** The DISTRICT shall be obligated as follows:

a. DISTRICT shall relocate and reconnect any public utilities serving the Property if said relocation becomes necessary because of said District and Site Improvements.

b. DISTRICT shall repair any damage done to OWNERS' improvements on OWNERS' property by DISTRICT during said Project.

c. DISTRICT shall timely deliver to Escrow Officer all documents and purchase price required to be deposited by DISTRICT under this Contract. The purchase price in accordance with Section 1 above.

d. DISTRICT shall have Escrow Officer pay directly to OWNERS compensation for use of Temporary Construction Easement in accordance with Section 2(b)5i-iii above.

COUNTY's obligations hereunder shall survive the Close of Escrow.

6. OWNER'S REPRESENTATION AND WARRANTIES:

a. There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending against the Creek Parcel and/or Easement Areas or pending against OWNERS which could affect OWNERS' title of the Creek Parcel and/or Easement Areas, or subject an owner of the Creek Parcel and/or Easement Areas to liability.

b. There are not attachments, execution proceeding, or assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding pending against the OWNER restricting the Close of Escrow.

c. OWNER will not subject the Creek Parcel and or Permanent Easement to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the execution of this Contract that will not be eliminated prior to the Close of Escrow.

d. OWNER hereby agrees to indemnify, protect, hold harmless, and defend DISTRICT, County of Santa Barbara, its Board of Directors, its Board of Supervisors, officers, employees, and agents ("Indemnified Parties"), from and against any and all actual losses, expenses, damages and liabilities suffered by the Indemnified Parties arising from the existence of hazardous substance (as defined by CERCLA) on the Property as of the Close of Escrow (collectively, "Liabilities"), after asserting on DISTRICT'S behalf any applicable defenses to such Liabilities, and excepting therefrom Liabilities arising out of the negligent acts or omissions of the Indemnified Parties. This indemnity shall survive this real estate transaction, but shall not apply to any contamination which may occur on the Property as a result of the operations of DISTRICT subsequent to the close of escrow.\

7. OWNER'S OBLIGATIONS:

a. OWNER shall upon execution of this Contract be obligated to remove any and all personal property within the Creek Parcel and Easement Areas within thirty (30) days from DISTRICT notification for commencement of construction on Creek Parcel and Easement Areas.

b. OWNER shall be obligated to clear any and all tenant or lessee interests in the Creek Parcel whether the interest is recorded or unrecorded prior to Close of Escrow.

c. OWNER shall ensure that the Creek Parcel is free and clear of any and all liens and encumbrances including the removal of financial indebtedness (excepting taxes, which will be prorated to the Close of Escrow). Any and all monies payable to the OWNERS under this Contract shall, upon demand, be made payable to the mortgagees and beneficiaries of any notes secured by mortgages or deeds of trust up to and including the total amount of unpaid principal and interest together with penalty, if any, for payment in full in advance of maturity. Escrow Officer shall obtain from said mortgagees or beneficiaries good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgages or deeds of trust. Escrow Officer shall obtain any and all executed full reconveyances, partial reconveyances, subordinations and/or releases of liens that may have been given on said Creek Parcel covered by deeds of trust.

d. OWNER shall deliver to escrow an executed Grant Deed conveying fee interest to the Creek Area set forth in the attached Attachment "1", which is the subject of this transaction. The Grant Deed shall be vested in "Santa Barbara County Flood Control and Water Conservation District".

e. OWNER shall pay, if and when the same are due, all payments on any encumbrances or assessments presently affecting the Creek Parcel and any and all taxes, assessments, and levies in respect to the Creek Parcel prior to the Close of Escrow. DISTRICT acknowledges and agrees that there shall be no special assessment against the Property that relate to the period prior to the Close of Escrow as a result of the Project.

f. OWNER shall deliver to escrow an executed Permanent Easement Deed granting a permanent easement set forth in the attached Attachment "2", which is the subject of this transaction. The Permanent Easement Deed shall be granted to "Santa Barbara County Flood Control and Water Conservation District."

g. OWNER shall deliver to escrow an executed Temporary Construction Easement granting a temporary easement set forth in the attached Attachment "3", which is the subject of this transaction. The Temporary Construction Easement shall be granted to "Santa Barbara County Flood Control and Water Conservation District."

h. OWNER shall not record any covenants, conditions or restrictions against the Property, including without limitation any application for annexation or development of the Property until Close of Escrow.

i. OWNER shall be responsible to pay for any and all cost identified as OWNER'S costs as contained in this Contract. OWNER'S costs associated with this Contract shall be paid by OWNER at the Close of Escrow from the purchase price as stated in Section 1, herein above.

j. OWNER shall timely deliver to Escrow Officer all documents required to be deposited by OWNER under this Contract.

8. **ENVIRONMENTAL SITE ASSESSMENT:** The DISTRICT shall have the right to enter the Property to conduct an Environmental Site Assessment (hereinafter "ESA") and related testing of the Creek Parcel and Easement Areas upon execution of this Contract by both parties. In the event the DISTRICT elects to conduct such testing, approval of the ESA by the County of Santa Barbara Director of Public Works, or designee, is an express condition precedent to DISTRICT'S duty to purchase the Creek Parcel and Permanent Easement. For purposes of this Contract, the ESA shall be deemed to include the information disclosed by OWNERS pursuant to Section 9, herein below. If the ESA is not completed and approved within forty-five (45) calendar days of the opening of escrow, then DISTRICT shall have the right to extend the escrow period until such completion. In the event the ESA identifies a potential liability, OWNERS and DISTRICT agree that the escrow process shall be extended at least sixty (60) calendar days in order for OWNERS to resolve the potential liability. In the event that such potential liability is not cured by OWNERS within such sixty (60) calendar day period, DISTRICT may terminate this Contract with no further liability.

9. **GOOD FAITH DISCLOSURE BY OWNERS:** OWNERS shall make a good faith disclosure to DISTRICT of any and all facts, findings, or information on the Property known to the OWNERS including without limitation those relating to: historical uses; prior

permitted uses; current uses including, but not limited to, express or implied contracts, leases and/or permits; geological conditions; biological conditions; archaeological sites; flood hazard area(s); special studies zones; zoning reports; environmentally hazardous material such as asbestos, dioxins, oils, PCB's, solvents, waste disposal, gasoline tank leakage, pesticide use and spills, herbicide use or spills or any other substances and/or products of environmental contamination. Any and all facts or information known by OWNERS concerning the condition of the Property shall be delivered to DISTRICT no later than twenty (20) calendar days following DISTRICT's execution of this Contract.

If such facts or information provided by OWNERS disclose conditions that adversely affect the continued or contemplated use of the Creek Parcel and Permanent Easement or any structures thereon, and that DISTRICT reasonably deems unacceptable, or if DISTRICT otherwise discovers such facts or information through tests and/or surveys which disclose such conditions, and OWNERS are unwilling or unable to correct such conditions to the reasonable satisfaction of DISTRICT or any governmental body having jurisdiction there over, then DISTRICT may, at its sole option, terminate this Contract. Within ten (10) business days of actual receipt of said disclosure information, DISTRICT shall notify OWNERS of the conditions it deems unacceptable (if any) and the corrections desired and request OWNERS, at OWNERS' expense, to correct the condition(s) affected thereby to the reasonable satisfaction of DISTRICT and any governmental agency asserting jurisdiction and issuing a directive to remediate polluted areas. Failure to so correct shall be grounds for termination of this Contract.

Within (10) business days prior to the close of escrow, copies of any and all documents and/or information relating to the Acquired Areas, to the extent they exist and are in OWNERS' custody, shall be delivered by OWNERS to the DISTRICT.

10. **TERMINATION:** DISTRICT shall have the right to terminate this Contract at any time prior to the Close of Escrow. OWNERS shall have the right to terminate this Contract only following COUNTY'S failure to cure a material breach following ten (10) days written notice.

11. **WAIVER:** No waiver of any of the provisions of this Contract shall be deemed or shall constitute a waiver of any other provisions of this Contract, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

12. **ENTIRE CONTRACT:** Time is of the essence in this Contract. This Contract supersedes all prior agreements, understandings, negotiations, and discussions of the parties, whether express or implied, and there are no warranties, representations, covenants, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. The parties hereto have set forth the whole of their agreement. The performance of this Contract constitutes the entire consideration for the Creek Parcel and Easement Areas and shall relieve DISTRICT of all further obligation or claims on this account. No amendment, supplement, modification, waiver, or termination of this Contract shall be binding unless executed in writing by both parties.

13. **JUDGMENT IN LIEU OF DEEDS:** In the event OWNERS are unable to deliver title in a reasonable time under the terms of this Contract, the DISTRICT may file an action in eminent domain to pursue the acquisition of the real property interests described in the referenced Deeds, (Creek Parcel and Permanent Easement) and this Contract shall constitute a stipulation which may be filed in said proceedings as final and conclusive evidence of the total amount of damages for the taking,

including all of the items listed in Section 1260.230 of the Code of Civil Procedure, regarding said property rights.

14. **CONSTRUCTION:** The parties agree that each party and its respective counsel have reviewed and approved this Contract to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Contract. The terms and provisions of this Contract embody the parties' mutual intent, and this Contract shall not be construed more liberally in favor of, nor more strictly against, any party hereto.

15. **SECTION HEADINGS:** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

16. **REAL PROPERTY DOCUMENTS:** Each party agrees to execute and deliver any instrument or to perform any act reasonably necessary to carry out the provisions of this Contract.

17. **CONDITIONS ARE COVENANTS:** Each of the conditions to the Close of Escrow set forth herein shall be deemed to be covenants and the conditions required to be satisfied herein.

18. **SUCCESSORS AND ASSIGNS:** The rights under this Contract shall also extend to and bind the heirs, devisees, executors, administrators, successors, and assigns of the parties.

19. **CERTIFICATION OF SIGNATORY(IES):** OWNER represents and warrants that that they are, collectively, the sole owners of the Property or are authorized by the OWNERS of the Property to execute this Contract and that no additional signatures are required to carry out the duties contemplated herein.

20. **CONTRACT APPROVAL:** This Contract is subject to the approval of the DISTRICT Board of Directors. Execution of this Contract by the Chairperson, or designee, of the Board of Directors shall evidence said approval by the Directors.

21. **SURVIVAL OF REPRESENTATIONS:** The representations of each of the parties and their executory covenants shall survive the Close of Escrow and shall not be merged in the deeds delivered to and accepted by the DISTRICT.

20. **EXECUTION IN COUNTERPARTS:** The Contract may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many or them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

21. **FACSIMILE SIGNATURES:** In the event that the parties hereto utilize facsimile transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided within seventy-two (72) hours of transmission of the facsimile signature, except that funds shall not be released upon a facsimile signature nor shall facsimile signed documents be accepted for recordation by the Clerk Recorder of the County of Santa Barbara.

IN WITNESS WHEREOF, DISTRICT and OWNERS have executed this Real Property Purchase Contract and Escrow Instructions by the respective authorized officers as set forth below to be effective as of the date executed by the DISTRICT.

"DISTRICT"
SANTA BARBARA COUNTY
FLOOD CONTROL AND WATER
CONSERVATION DISTRICT


ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD and
Ex Officio Clerk of the Board of
Directors of the Santa Barbara
County Flood Control and Water
Conservation District

By: _____
Chair, Board of Directors
Board of Directors

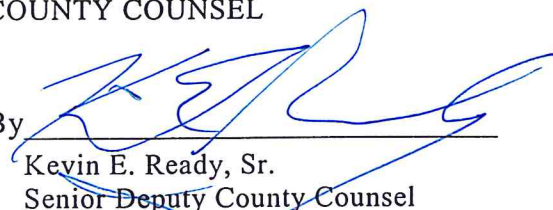
By: _____
Deputy

Date: _____

APPROVED:

By: 
Scott McGolpin, Director
Public Works Department


APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: 
Kevin E. Ready, Sr.
Senior Deputy County Counsel

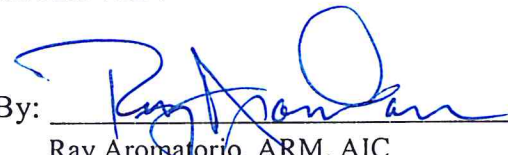
APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: 
Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

APPROVED:

By: 
Ronn Carlentine,
Real Property Manager

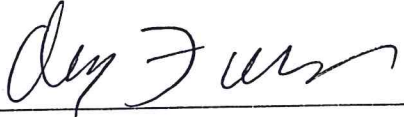
APPROVED:

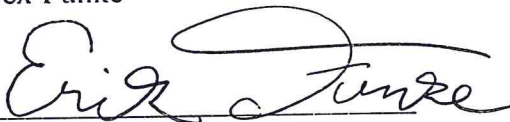
By: 
Ray Aromatorio, ARM, AIC
Risk Manager

(signature page continued)

"OWNERS"

ALEX and ERIK FUNKE.

By 
Alex Funke

By 
Erik Funke

ATTACHMENT

1

CREEK PARCEL

Recorded at request by
and to be returned to:
County of Santa Barbara
General Services Department
Office of Real Estate Services
Will Call

**COUNTY OF SANTA BARBARA
OFFICIAL BUSINESS**

No fee pursuant to
Government Code §6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE
A.P.N. 033-074-020

GRANT DEED

ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants

FOR VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara, a political subdivision of the State of California, its successors or assigns, fee title to that certain land situated in the City of Santa Barbara, County of Santa Barbara, State of California, more particularly and legally described as:

ALL THAT CERTAIN REAL PROPERTY BEING A PORTION OF CITY BLOCK NO. 306 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF KIMBERLY AVENUE 150 FEET NORTHWEST FROM THE INTERSECTION OF SAID LINE OF KIMBERLY AVENUE WITH THE NORTHWESTERLY LINE OF MASON STREET AND RUNNING THENCE NORTHWEST ALONG SAID LINE OF KIMBERLY AVENUE 50 FEET: THENCE AT RIGHT ANGLES SOUTHWESTERLY 100 FEET; THENCE AT RIGHT ANGLES SOUTHWESTERLY 50 FEET: THENCE AT RIGHT ANGLES NORTHWESTERLY 100 FEET TO THE POINT OF BEGINNING.

DATE: July 23, 2013

"GRANTORS"

Alex Funke

Erik Funke

ACKNOWLEDGMENT

State of California
County of Santa Barbara

On July 23, 2013, before me, _____,
(Name of Notary)

a Notary Public, personally appeared **Alex Funke** and **Erik Funke**, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons or the entity upon behalf of which the persons 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: _____ (Seal)

CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA: SS. § 27281

THIS IS TO CERTIFY that the interest in real property conveyed by the Grant Deed dated as of _____, from ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, as GRANTOR, to the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara, its successors or assigns, as GRANTEE, is hereby accepted by order of the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District on _____, and the Santa Barbara County Flood Control and Water Conservation District as GRANTEE consents to recordation thereof by its duly authorized officer.

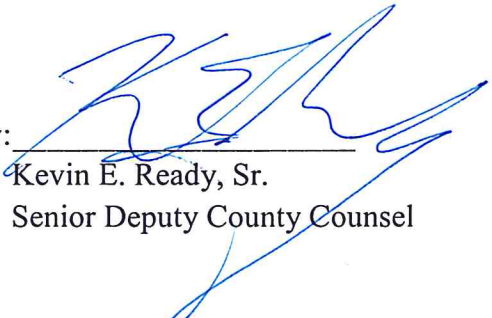
WITNESS my hand and official seal

this _____ day of _____, 2013

CHANDRA L. WALLAR
CLERK OF THE BOARD and
Ex Officio Clerk of the Board of the
Directors of the Santa Barbara County
Flood Control and Water
Conservation District

By: _____
Deputy

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: 
Kevin E. Ready, Sr.
Senior Deputy County Counsel

A T T A C H M E N T
2
PERMANENT EASEMENT

Recorded at request by
and to be returned to:
County of Santa Barbara
General Services Department
Office of Real Estate Services
Will Call

COUNTY OF SANTA BARBARA
OFFICIAL BUSINESS

No fee pursuant to
Government Code §6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE
A.P.N. 033-074-021 (portion of)
District Project #SC8042
Folio 003679

EASEMENT DEED
(PERMANENT EASEMENT)

ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, owners of all that real property in the City of Santa Barbara, County of Santa Barbara, State of California, commonly known as 135 Kimberly Avenue, Santa Barbara, California, and more particularly described as County Assessor's Parcel Numbers 033-074-021, as GRANTORS herein,

FOR A VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district, its successors and assigns, as GRANTEE herein, a permanent easement and right-of-way in perpetuity for flood control purposes, 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 ("GRANTEE's Facilities"). The permanent easement area containing approximately 11, 202 sq.ft., granted hereby is more particularly described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein by this reference.

GRANTORS and their successors in interest retain the right to use the easement area except that within the easement area, 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 granted herein.

Notwithstanding the foregoing, GRANTORS shall have the right to use and maintain that portion of the easement area which is not encumbered by flood control facilities (herein the "Parking Area") for parking, driveways, access, hardscape and landscape. The Parking Area is shown on Exhibit "C" attached hereto and incorporated herein. GRANTEE's rights to the Parking Area are

not diminished by this acknowledgement.

GRANTEE shall have the right to clear or keep clear from the easement area all buildings, structures and facilities which interfere with the use of the easement area at the expense of whoever is responsible for the installation of same. GRANTEE its successors, assigns, contractors and employees shall have the right, but not the obligation to maintain, trim and cut trees, shrubs, vegetation and roots, if any, as may endanger or interfere with the operation or use of the GRANTEE's Facilities within and above the easement area, provided however that GRANTEE shall make the least injury and damage to the surface of the ground and vegetation as is reasonably practical and restore the surface of the ground and vegetation to as near the same condition as it was prior to the above referenced work as is practicable. It is acknowledged that GRANTEE shall not remove the parking, hardscape or landscaping located in the Parking Area except in the event repair, replacement or expansion of GRANTEE's Facilities on the Property require said removal.

GRANTORS shall not disturb or damage GRANTEE's Facilities on the Property. In the event said facilities are disturbed or damaged by GRANTORS, their successors, assigns, designees, employees, or contractors, then GRANTORS shall immediately contact GRANTEE and shall repair or replace said facilities to GRANTEE'S satisfaction.

GRANTOR shall defend, indemnify, save, and hold harmless GRANTEE, its agents, employees, officers, successors, and assigns from any and all claims, liabilities, demands, costs (including reasonable attorney fees), and causes of action of all kinds with regard to the condition of the easement property which is the subject of this deed, especially contamination by harmful, hazardous and/or toxic materials, if any.

In the event the indemnity hereunder exceeds that permitted by applicable law, such indemnity shall be construed as the maximum permitted by law. This indemnity shall not apply to any contamination which may occur on the easement property as a result of the operations of GRANTEE subsequent to the effective date of this easement.

DATE: July 23, 2013

"GRANTORS"

Alex Funke

Erik Funke

ACKNOWLEDGMENT

State of California
County of Santa Barbara

On July 23, 2013, before me, _____,
(Name of Notary)

a Notary Public, personally appeared **Alex Funke** and **Erik Funke**, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons or the entity upon behalf of which the persons 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: _____ (Seal)

EXHIBIT "A"

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 July 22, 1994 as Instrument No. 94-059217 of Official Records in the office of the County Recorder of said County, described as follows:

COMMENCING on the southeasterly line of Yanonali Street at the point of intersection thereof with the southwesterly line of a 50 foot street running through said Block from Yanonali Street to Mason Street, and known as Kimberly Avenue; thence, southeasterly along said southwesterly line of Kimberly Avenue, South $48^{\circ}30'00''$ East, 75.00 feet to the northerly corner of real property described in said Grant Deed; thence, at right angles southwesterly along the northwesterly line of said real property and parallel with Yanonali Street, South $41^{\circ}30'00''$ West, 113.59 feet to the beginning of a non-tangent curve, concave northerly, having a radius of 369.00 feet to which a radial line bears South $15^{\circ}16'34''$ West, and the TRUE POINT OF BEGINNING;

THENCE, leaving said northwesterly line and into said real property, easterly along said curve through a central angle of $08^{\circ}19'21''$ a distance of 53.60 feet to the beginning of a reverse curve, concave southerly, having a radius of 375.00;

THENCE, easterly along said curve through a central angle of $17^{\circ}38'04''$ a distance of 115.42 feet;

THENCE, on a tangent line to last said curve, South $65^{\circ}24'43''$ East, 21.27 feet to a point distant 5.00 feet northwesterly and at right angles from the most southeasterly line of said real property;

THENCE, in a northeasterly direction on a line parallel with said southeasterly line and 5.00 feet distant therefrom, North $41^{\circ}30'00''$ East, 30.40 feet to the southwesterly line of Kimberly Avenue;

THENCE, southeasterly along said southwesterly line of Kimberly Avenue, South $48^{\circ}30'00''$ East, 5.00 feet to the easterly corner of said real property.

THENCE, along the boundary line of said real property the following six (6) courses,

- 1) at right angles southwesterly parallel with Yanonali Street, South $41^{\circ}30'00''$ West, 100.00 feet;
- 2) THENCE, at right angles northwesterly and parallel with Chapala Street, North $48^{\circ}30'00''$ West, 100.00 feet to a point on the northerly bank of Mission Creek;
- 3) THENCE; at right angles southwesterly and parallel with Yanonali Street, South $41^{\circ}30'00''$ West, 40.00 feet to a point on the southerly bank of Mission Creek;

S805_SC8042_PermEasement
135 Kimberly Ave.
Portion of APN 033-074-021

- 4) THENCE, along said creek bank, North 82°27'00" West 36.09 feet ;
- 5) THENCE, continuing along said creek bank, North 88°14'00" West, 58.65 feet to a point distant 75.00 feet southeasterly and at right angles from the southeasterly line of Yanonali Street;
- 6) THENCE, in a northeasterly direction on a line parallel with said line of Yanonali Street and 75.00 feet distant therefrom, North 41°30'00" East, 84.08 feet to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM any portion of existing wall lying northerly of courses numbered 4 & 5 in description above.

End of Description

Containing 11,202 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

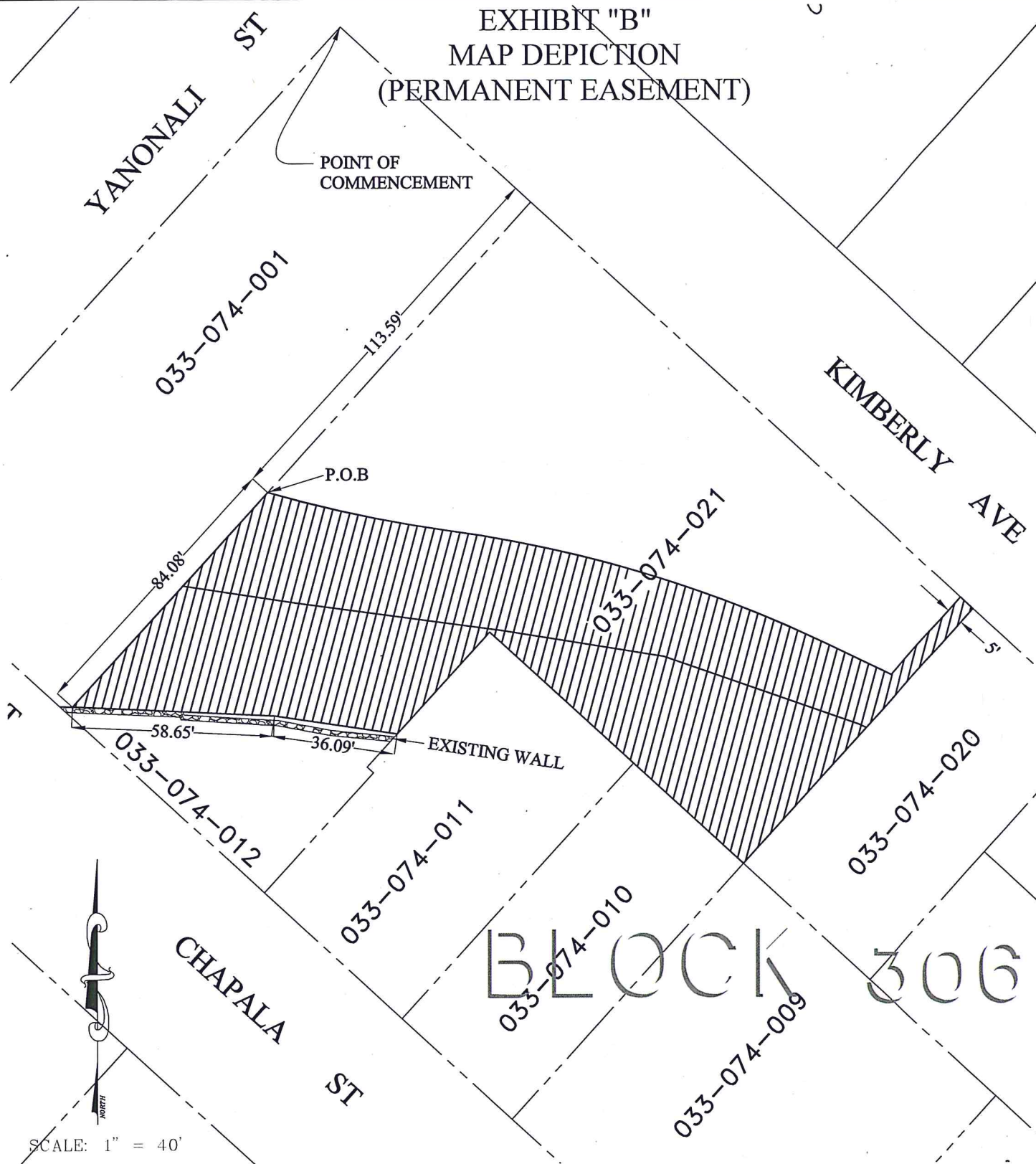
E. Teñell Matlovsky, PLS 8629



01/31/2013

Date

EXHIBIT "B"
MAP DEPICTION
(PERMANENT EASEMENT)



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

PERMANENT EASEMENT

SANTA BARBARA COUNTY
FLOOD CONTROL DISTRICT

APN: 033-074-021

SANTA BARBARA COUNTY, CALIFORNIA

PERMANENT EASEMENT
APPROX. EASEMENT AREA=11,202 sq.ft.

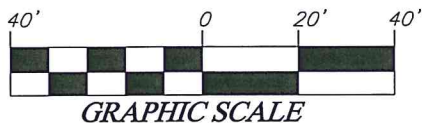


EXHIBIT "C"
PARKING AREA

033-074-001

KIMBERLY AVE

033-074-021

033-074-012

033-074-011

033-074-010

033-074-020

033-074-009

CHAPALA

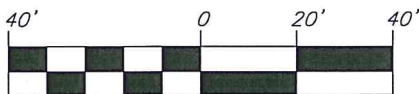
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SCALE: 1" = 40'

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

SANTA BARBARA COUNTY
FLOOD CONTROL DISTRICT
APN: 033-074-021
SANTA BARBARA COUNTY, CALIFORNIA



GRAPHIC SCALE

CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA: SS. § 27281

THIS IS TO CERTIFY that the interest in real property conveyed by the Easement Deed dated as of _____, from ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, as GRANTOR, to the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara, its successors or assigns, as GRANTEE, is hereby accepted by order of the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District on _____, and the Santa Barbara County Flood Control and Water Conservation District as GRANTEE consents to recordation thereof by its duly authorized officer.

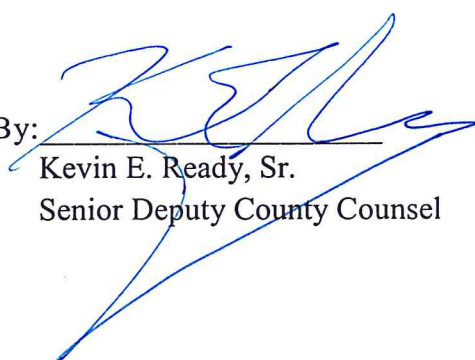
WITNESS my hand and official seal

this _____ day of _____, 2013

CHANDRA L. WALLAR
CLERK OF THE BOARD and Ex
Officio Clerk of the Board of the
Directors of the Santa Barbara County
Flood Control and Water Conservation
District

By: _____
Deputy

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: 
Kevin E. Ready, Sr.
Senior Deputy County Counsel

A T T A C H M E N T
3
TEMPORARY CONSTRUCTION
EASEMENT

A.P.N. 033-074-021 (portion of)
District Project #SC8042
Folio 003679

TEMPORARY CONSTRUCTION
EASEMENT

ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, owners of all that real property in the City of Santa Barbara, County of Santa Barbara, State of California, commonly known as 135 Kimberly Avenue, Santa Barbara, California, and more particularly described as County Assessor's Parcel Numbers 033-074-021, (the "Property") as GRANTORS herein,

FOR A VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district, its successors and assigns, as GRANTEE herein, a temporary construction easement and right-of-way for flood control purposes, 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. The temporary construction easement area containing approximately 4,084 sq.ft., granted hereby is more particularly described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein by this reference.

It is contemplated that this temporary construction easement shall be on a month-to-month basis, which shall begin upon DISTRICT notifying GRANTOR within thirty (30) days prior to the commencement of construction of said improvements actually begins on the Easement Area. This temporary construction easement shall terminate upon the filing of a "Notice of Completion" by the contractor performing the above-mentioned work and/or upon DISTRICT notifying GRANTOR of termination of said Temporary Construction Easement.

GRANTORS shall be compensated a monthly fee of FOUR THOUSAND AND 00/100 DOLLARS (\$4,000.00) for each month that DISTRICT uses the Temporary Construction Easement.

GRANTOR shall defend, indemnify, save, and hold harmless GRANTEE, its agents, employees, officers, successors, and assigns from any and all claims, liabilities, demands, costs (including reasonable attorney fees), and causes of action of all kinds with regard to the condition of the Temporary Construction Easement which is the subject of this deed, especially contamination by harmful, hazardous and/or toxic materials, if any.

In the event the indemnity hereunder exceeds that permitted by applicable law, such indemnity shall be construed as the maximum permitted by law. This indemnity shall not apply to any contamination which may occur on the easement property as a result of the operations of GRANTEE subsequent to the effective date of this easement.

GRANTEE shall defend, indemnify, save, and hold harmless GRANTOR, its agents, employees, officers, successors, and assigns from any and all claims, liabilities, demands, costs (including reasonable attorney fees), and causes of action of all kinds with regard to the condition of the Temporary Construction Easement area which is the subject of this deed upon entering and use of the Temporary Construction Easement.

DATE: July 23, 2013

"GRANTORS"

Alex Funke

Erik Funke

ACKNOWLEDGMENT

State of California
County of Santa Barbara

On July 23, 2013, before me, _____,
(Name of Notary)

a Notary Public, personally appeared **Alex Funke** and **Erik Funke**, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons or the entity upon behalf of which the persons 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: _____ (Seal)

EXHIBIT "A"

TEMPORARY CONSTRUCTION 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 July 22, 1994 as Instrument No. 94-059217 of Official Records in the office of the County Recorder of said County, described as follows:

COMMENCING on the southeasterly line of Yanonali Street at the point of intersection thereof with the southwesterly line of a 50 foot street running through said Block from Yanonali Street to Mason Street, and known as Kimberly Avenue; thence, southeasterly along said southwesterly line of Kimberly Avenue, South $48^{\circ}30'00''$ East, 75.00 feet to the northerly corner of real property described in said Grant Deed; thence, at right angles southwesterly along the northwesterly line of said real property and parallel with Yanonali Street, South $41^{\circ}30'00''$ West, 113.59 feet to the beginning of a non-tangent curve, concave northerly, having a radius of 369.00 feet to which a radial line bears South $15^{\circ}16'34''$ West, and the TRUE POINT OF BEGINNING;

THENCE, leaving said northwesterly line and into said real property, easterly along said curve through a central angle of $08^{\circ}19'21''$ a distance of 53.60 feet to the beginning of a reverse curve, concave southerly, having a radius of 375.00;

THENCE, easterly along said curve through a central angle of $17^{\circ}38'04''$ a distance of 115.42 feet;

THENCE, on a tangent line to last said curve, South $65^{\circ}24'43''$ East, 21.27 feet to a point distant 5.00 feet northeasterly and at right angles from the most southeasterly line of said real property;

THENCE, in a northwesterly direction on a line parallel with said southeasterly line and 5.00 feet distant therefrom, North $41^{\circ}30'00''$ East, 30.40 feet to the southwesterly line of Kimberly Avenue;

THENCE, northwesterly along said southwesterly line of Kimberly Avenue, North $48^{\circ}30'00''$ West, 46.94 feet;

THENCE, leaving said southwesterly line of Kimberly Avenue the following nine (9) courses along the perimeter of an existing buildings envelope,

- 1) South $41^{\circ}01'44''$ West, 44.78 feet;
- 2) North $46^{\circ}31'55''$ West, 9.76 feet;
- 3) South $38^{\circ}46'41''$ West, 2.94 feet;
- 4) North $48^{\circ}30'10''$ West, 11.03 feet;

S805_SC8042_TempConstEasement
135 Kimberly Ave.
Portion of APN 033-074-021

- 5) North 40°34'19" East, 2.90 feet;
- 6) North 47°55'06" West, 10.60 feet;
- 7) North 40°58'02" East, 5.48 feet;
- 8) North 48°53'31" West, 3.67 feet;
- 9) North 41°23'56" East, 38.92 feet to the southwesterly line of said Kimberly Avenue;

THENCE, along said southwesterly line of Kimberly Avenue, North 48°30'00" West, 10.78 feet;

THENCE, leaving said southwesterly line of Kimberly Avenue, South 41°22'03" West 39.01 feet;

THENCE, North 47°58'50" West, 29.50 feet;

THENCE, South 39°33'14" West, 39.44 feet to the beginning of a non-tangent curve, concave southerly, having a radius of 380.00 feet to which a radial line bears North 8°05'27" East;

THENCE, westerly along said curve through a central angle of 01°08'14" a distance of 7.54 feet to the beginning of a reverse curve, concave northerly, having a radius of 364.00;

THENCE, westerly along said curve through a central angle of 7°56'03" a distance of 50.41 feet to the northwesterly line of said real property and parallel with Yanonali Street,

THENCE, South 41°30'00" West, 5.58 feet along the northwesterly line of said real property to the TRUE POINT OF BEGINNING.

End of Description

Containing 4,084 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

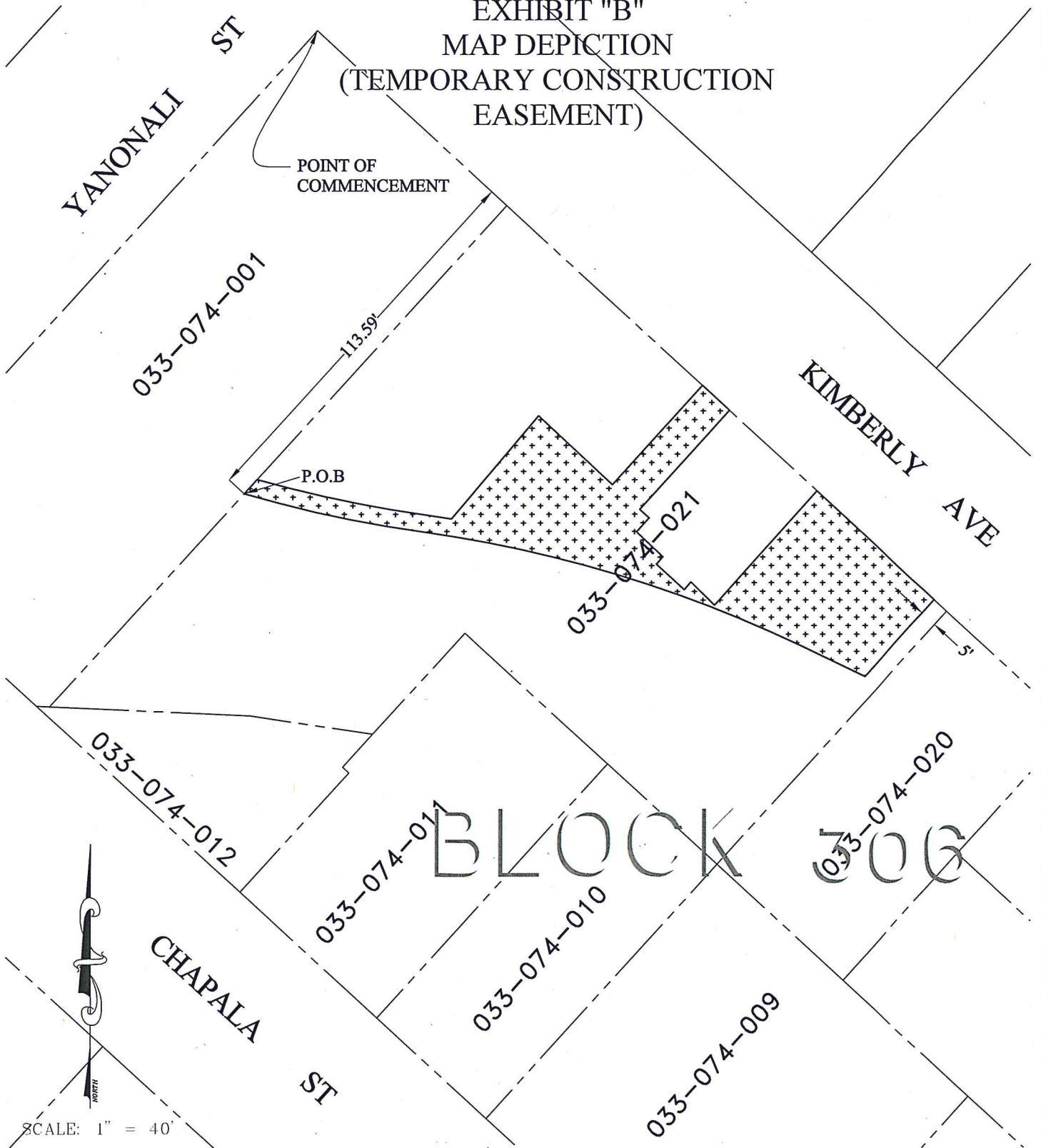


01/30/2013

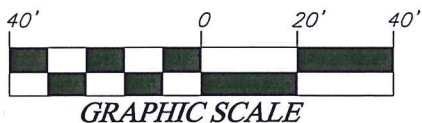
Date

S805_SC8042_TempConstEasement
135 Kimberly Ave.
Portion of APN 033-074-021

EXHIBIT "B" MAP DEPICTION (TEMPORARY CONSTRUCTION EASEMENT)



 TEMPORARY CONSTRUCTION EASEMENT
APPROX. EASEMENT AREA=4,084 sq. ft.



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

**TEMPORARY
CONSTRUCTION EASEMENT
SANTA BARBARA COUNTY
FLOOD CONTROL DISTRICT
APN: 033-074-021
SANTA BARBARA COUNTY, CALIFORNIA**

CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA: SS. § 27281

THIS IS TO CERTIFY that the interest in real property conveyed by the Easement Deed dated as of _____, from ALEX FUNKE, a married man, as his sole and separate property, and ERIK FUNKE, a widower, as Joint Tenants, as GRANTOR, to the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a dependent special district of the County of Santa Barbara, its successors or assigns, as GRANTEE, is hereby accepted by order of the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District on _____, and the Santa Barbara County Flood Control and Water Conservation District as GRANTEE consents to recordation thereof by its duly authorized officer.

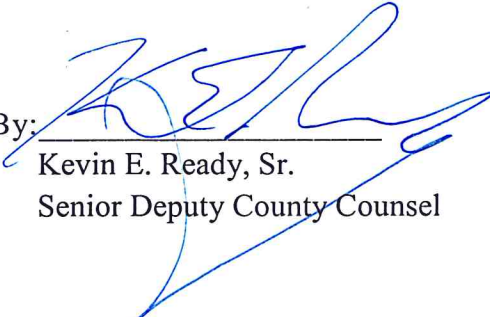
WITNESS my hand and official seal

this _____ day of _____, 2013

CHANDRA L. WALLAR
CLERK OF THE BOARD and
Ex Officio Clerk of the Board of the
Directors of the Santa Barbara County
Flood Control and Water
Conservation District

By: _____
Deputy

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

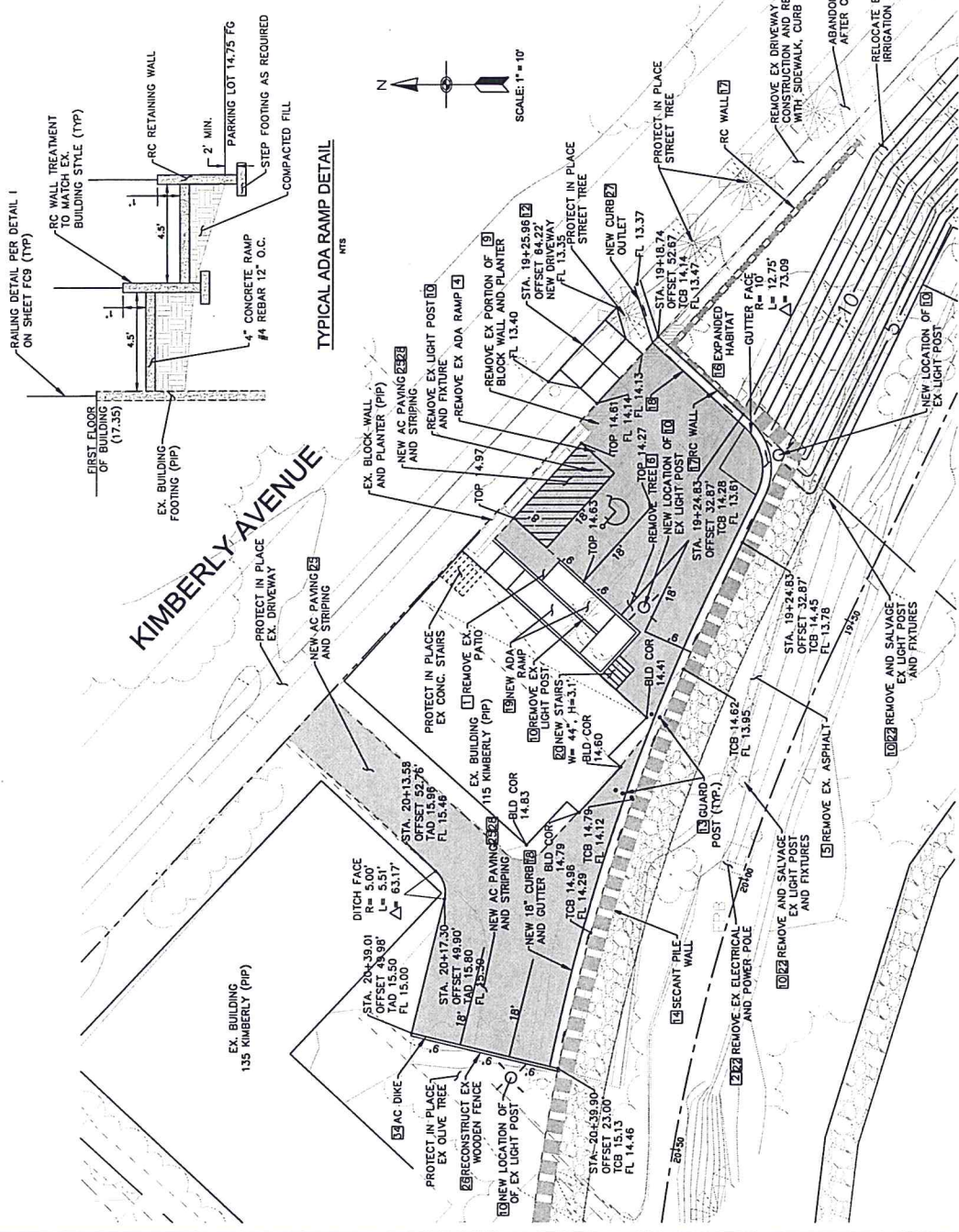
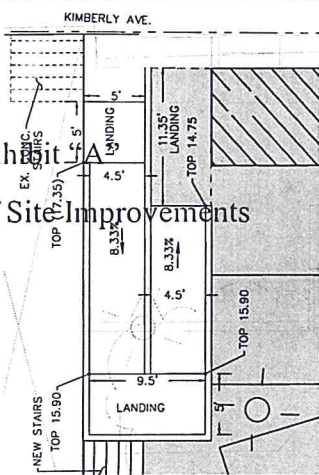
By: 
Kevin E. Ready, Sr.
Senior Deputy County Counsel

A T T A C H M E N T
4
S I T E I M P R O V E M E N T S

The District is responsible for all design, plans, permits, bidding, contracting, and construction management and agrees to complete the Site Improvements below and generally shown on Exhibit "A".

- 1) Remove, replace and repair asphalt concrete pavement in parking areas and drive isles.
- 2) Remove portion of existing block wall and planter adjacent to Kimberly Avenue.
- 3) Remove existing concrete patio, ADA ramp, stairs from parking area to patio and all associated railing.
- 4) Construct secant pile and reinforced concrete wall including ornamental fence on top of walls adjacent to parking areas
- 5) Construct new curb and gutter along newly constructed secant pile and reinforced concrete wall.
- 6) Construct new ADA ramp and stairs in the southeasterly parking area including repairing and replacing all associated railing.
- 7) Install new guard post in parking areas to protect existing Building.
- 8) Construct new asphalt concrete pavement parking stalls including ADA van accessible space.
- 9) Construct new concrete asphalt dike in the southwesterly parking area
- 10) Reconstruct existing wood fence adjacent to newly constructed concrete asphalt dike in the southwesterly parking area.
- 11) Construct new driveway approach to the southeasterly parking area on Kimberly Avenue.
- 12) Remove and relocate, existing light posts including fixtures in parking areas and install all conduits, wiring and circuits to re-energize light post fixtures.
- 13) Install new irrigation meter and backflow device.
- 14) Remove, replace and repair irrigation system.
- 15) Protect in place existing olive tree and all existing palm trees along Kimberly Avenue and landscaping not immediately adjacent to perimeter of parking area improvements and/or within and adjacent to protect in place existing block walls and planters.
- 16) Remove any and all, as necessary, landscaping (trees, shrubs and ground cover) to demolish and construct new improvements.
- 17) Restripe standard and ADA parking spaces.
- 18) Install parking signs as required.

| | |
|----|--------------------------------------|
| 1 | REMOVE EXISTING BUILDING STRUCTURE |
| 2 | REMOVE EXISTING UTILITY STRUCTURE |
| 3 | REMOVE EXISTING CONC. CONC |
| 4 | REMOVE EXISTING ASP. CONC |
| 5 | REMOVE EXISTING ASP. CONC |
| 6 | REMOVE EX. TREE |
| 7 | REMOVE EX. PORTION OF BLOCK WALL AND |
| 8 | REMOVE AND RELOCATE EX LIGHT POST |
| 9 | CONSTRUCT COMMERCIAL DRIVEWAY PER |
| 10 | STANDARD DETAIL H-Q-31 |
| 11 | CONSTRUCT GUARD POST PER CITY OF S |
| 12 | CONSTRUCT SLOPE PILE WALL PER DETAIL |
| 13 | CONSTRUCT EXPANDED HABITAT ZONE GR |
| 14 | CORRESPONDING REINFORCED CONCRETE |
| 15 | EXPANDED WALL PER DETAIL H-Q-31 |
| 16 | PAINT EXISTING WALLS WITH 2 COATS OF |
| 17 | DAVIS-COLOR "MESA BUFF" AND TEXTURE |
| 18 | OR APPROVED EQUIVALENTS. MODIFY FOR |
| 19 | REVEAL SIMILAR TO THE DETAILS ON GU |
| 20 | CONSTRUCT 18" CONC. CURB AND GUTTER |
| 21 | STANDARD BARBARA STD DETAIL H-Q-20 |
| 22 | CONSTRUCT ADA RAMP PER DETAIL HERE |
| 23 | CONSTRUCT REINFORCED CONCRETE STAIR |
| 24 | WITH RAILING DETAIL I ON SHEET FCS |
| 25 | RELOCATE EX IRRIGATION VALVE PER DR |
| 26 | RELOCATE EXISTING UTILITY |
| 27 | CONSTRUCT NEW 2.5" ASP PAVING OVER |
| 28 | REMOVE AND RECONSTRUCT WOODEN FE |
| 29 | CONSTRUCT CURB UTILITY DRAIN PER CI |
| 30 | NO. D-05-2, TYPE A, W-2 |
| 31 | INSTALL TRAFFIC AND PARKING SIGNS AN |
| 32 | CONSTRUCT REINFORCED CONCRETE PER |
| 33 | STD DETAIL H-Q-6.0 AND H-Q-6.1 |
| 34 | CONSTRUCT 18" CONC. CURB AND GUTTER |
| 35 | STANDARD BARBARA STD DETAIL H-Q-20 |
| 36 | CONSTRUCT ASPHALT CONCRIE DKE PER |



UNAUTHORIZED CHANGES OR USES: THE SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT AND ITS EMPLOYEES WILL NOT BE RESPONSIBLE FOR OR LIABLE FOR UNAUTHORIZED CHANGES OR USES OF THESE PLANS. ALL PROPOSED CHANGES TO THE PLANS MUST BE PRESENTED IN WRITING TO THE DISTRICT AND APPROVED IN WRITING BY THE DISTRICT PRIOR TO IMPLEMENTATION OF ANY SUCH CHANGE OR USE.