

Attachment 1

ATTACHMENT 1

Resolution of Necessity

Assessor Parcel Number 037-245-017

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA BARBARA
COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

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
REGINALD E. DREW, JR.

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 interest in a Temporary Construction Easement, (TCE), in the real property 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 037-245-017, ("Subject Property") and as more fully set forth in Attachment 1 and Exhibits "A" and "B" of the Attachment attached hereto and incorporated herein; and

B. The TCE in the Subject Property is being acquired for 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 TCE in the Subject Property is within the County of Santa Barbara, State of California, located at 315 Chapala Street, in the City of Santa Barbara, Assessor Parcel Number 037-245-017, as described in Attachment 1 – Temporary Construction Easement and as set forth in Exhibit "A" and shown in Exhibit "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 interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B," is 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 shown on the last equalized County assessment roll for the real property to be acquired herein and said person 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 interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B," sought to be acquired; and

H. That the public interest and necessity require the real property interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B," 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 interest described in Attachment 1, described in Exhibit "A" and shown in Exhibit "B," is 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 TCE in the Subject Property is located within the DISTRICT's boundaries at 315 Chapala Street, in the State of California, County of Santa Barbara, City of Santa Barbara, Assessor Parcel No. 037-245-017, as described in Attachment 1 - Temporary Construction Easement, and set forth in Exhibit "A" and shown in Exhibit "B", which are attached hereto and are incorporated herein as though set forth at length and 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 interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B," and described in this 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, as designated, are authorized and directed to perform all acts necessary on behalf of the DISTRICT for the acquisition of said real property interests described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "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 interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B".

BE IT RESOLVED that the real property interest described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "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 October 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

“DISTRICT”
“SANTA BARBARA COUNTY FLOOD”
CONTROL and WATER CONSERVATION
DISTRICT”


ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER

EX OFFICIO CLERK OF THE
BOARD OF DIRECTORS OF THE
SANTA BARBARA COUNTY
FLOOD CONTROL & WATER
CONSERVATION DISTRICT


By: _____
Gregg Hart, Chair
Board of Director

By: _____
Sheila de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By:  _____
Scott Greenwood
Deputy County Counsel

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

By:  _____
C. Edwin Price, Jr.
Deputy Auditor-Controller

Attachment 1

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement and right-of-way (“TCE”) to enter upon and use the real property as shown on Exhibit A attached hereto and incorporated herein for the construction of the Lower Mission Creek Flood Control Improvement and Restoration Project, Reach 2B-2, District Project #SC8042, (“Project”).

The TCE contains approximately 2,394 sq.ft. and permits use and occupancy of a portion of Assessor Parcel Number 037-245-017 necessary for the purpose of constructing the Project.

The Temporary Construction Easement shall be for a period of nine (9) consecutive months terminating thereafter 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.

EXHIBIT A
TCE5


That portion of land in Block 270 in the City of Santa Barbara, County of Santa Barbara, State of California, lying within Parcel 3547-01-01 as described in the Final Order of Condemnation (FOC), recorded September 6, 1990, as Instrument Number 1990-059006, Official Records of the County of Santa Barbara, more particularly described as follows.

Commencing on the southwesterly line of Chapala Street (new location) 227 feet southeasterly from the southeasterly line of Gutierrez Street, which point is also the Point of Beginning of the first portion of the parcel described in 3547-01-01 of said FOC; thence along the northwesterly line of said first portion of Parcel 3547-01-01, which line is noted as "thence at right angles northeasterly 230.1 feet to the point of beginning" in said FOC, South 42°25'12" West, 124.94 feet to the TRUE POINT OF BEGINNING;

- 1) thence continuing along said northwesterly line, South 42°25'12" West, 44.06 feet;
- 2) thence South 40°20'20" East, 46.40 feet to Course 2 as described in Parcel 3547-01 in said FOC, which course is noted as a curve to the right having a radius of 2100.00 feet and a central angle of 6 32'00";
- 3) thence along said curve having a tangent bearing of North 53°25'50" East and a radius of 2100.00 feet, through a central angle of 1°23'03", an arc distance of 50.73 feet;
- 4) thence leaving said curve and perpendicular to course 1 above North 47°34'48" East, 55.11 feet to the TRUE POINT OF BEGINNING.

The above described parcel of land contains approximately 2394 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

2020.03.03
date

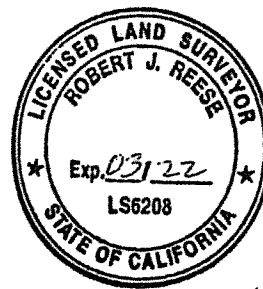
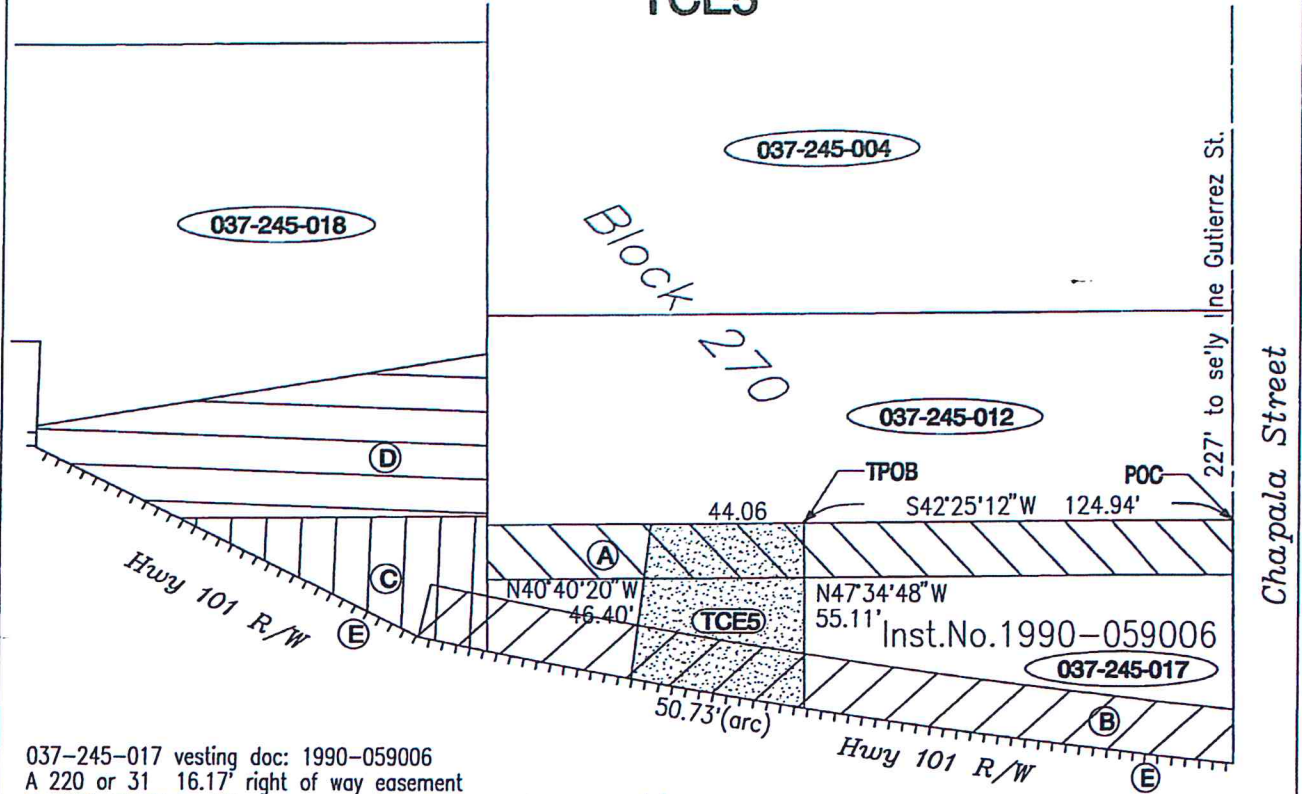


EXHIBIT B TCE5

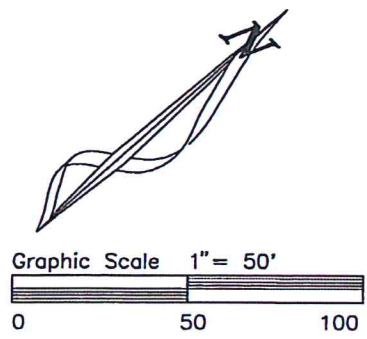


- 037-245-017 vesting doc: 1990-059006
- A 220 or 31 16.17' right of way easement
- B 2005-084810 16' access and drainage easmt to state & (1)
- C 2005-084810 access and drainage easmt to state & (1)
- D 2005-084180 access and drainage easmt to state & (1)
- E 2005-084810 abutter's access to hwy relinquishment
- (1) building restriction: no permanent structure or fixture

TCE5 2394sq.ft. Temp.Constr.Easement

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

R. J. Reese
date: 2020.03.03



COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS
FLOOD CONTROL DISTRICT

APN 037-245-017

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