

**RESOLUTION OF THE COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS
FOR THE 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 PROPERTIES
BY THE COUNTY OF SANTA BARBARA
FROM LINDA S. KESTON, DANIEL E.
KESTON AND JAMES A. KESTON CO-
TRUSTEES OF THE KESTON REVOCABLE
TRUST DATED MARCH 29, 1995

RESOLUTION NO. _____
(4/5 vote required)

BE IT RESOLVED that the County of Santa Barbara Board of Supervisors (“COUNTY”), State of California, does hereby find and determine as follows:

A. COUNTY has approved the acquisition of a Temporary Construction Easement in connection with the Fernald Point Lane Bridge Replacement Project at Romero Creek herein referred to as the “Project”, described as a portion of County of Santa Barbara Assessor’s Parcel Number, 007–380–006 and as more fully set forth in Attachment 1 and Exhibits “A” and “B” attached hereto and incorporated herein (“Subject Property”); and

B. The Subject Property is being acquired for the PROJECT, i.e., the replacement of the existing Fernald Point Bridge No. 51C–0137, and for such all 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. Government Code Section 25350.5; and

C. The Subject Property is within the unincorporated area of the County of Santa Barbara, State of California, and is located at 1767 Fernald Point Lane, in the Community of Montecito, Assessor’s Parcel Number 007–380–006, as described in Attachment 1, Driveway Conform Temporary Construction Easement, and as more fully set forth in Exhibit “A” and shown in Exhibit “B”, attached and incorporated herein, and;

D. That the Board considered the Mitigated Negative Declaration and the Mitigation Monitoring Program (15NGD-00000-00005) for the Proposed Fernald Point Lane Bridge Replacement Project at Romero Creek approved and adopted by the Board of Supervisors on June 21, 2016 and found that pursuant to State California Environmental Quality Act Guidelines Section 15162, no substantial changes are proposed, and there are no substantial changes in circumstances or new information of substantial importance regarding significant impacts or feasibility of mitigation measures and alternatives and, therefore, pursuant to Section 15162, the recommended actions are within the scope of the project covered by the MND and no new environmental document is required. The COUNTY has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of the Subject Property is necessary for the PROJECT; the public interest and necessity require the PROJECT, and; the PROJECT is planned and located in a manner that is compatible with the greatest public good and the least private injury; 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 Subject Property and said person(s) was/were provided with a written Appraisal Summary Statement and an Eminent Domain Process Summary; and

G. That pursuant to Government Code Section 7267.2 the owner(s) of record was/were offered just compensation for the Subject Property herein described.

NOW, THEREFORE the Board of Supervisors for the County of Santa Barbara, State of California does hereby find, determine, and resolve by at least four-fifths (4/5) vote:

1. The Subject Property is located within the County of Santa Barbara at 1767 Fernald Point Lane, in the State of California, County of Santa Barbara, Community of Montecito, and is a portion of Assessor's Parcel Number 007-380-006, described in Attachment 1, Driveway Conform Temporary Construction Easement, as set forth in Exhibit "A" and shown in Exhibit "B", attached hereto are incorporated herein as though set forth at length and is made a part hereof.
2. The public interest and necessity require the PROJECT.
3. The PROJECT is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
4. The Subject Property described in the Resolution is 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 COUNTY has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources.
7. The County Counsel of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the COUNTY for the acquisition of said Subject 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 Prejudgment 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 COUNTY for the acquisition of the Subject Property herein described.

BE IT RESOLVED that the real property interests described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B" be acquired by eminent domain in the name of the County of Santa Barbara for public use 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 COUNTY 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 COUNTY to take immediate possession and use of said Subject Property for the public purposes.

PASSED AND ADOPTED by the County of Santa Barbara Board of Supervisors, State of California, this the _____ day of September, 2019, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

"COUNTY"
"COUNTY SANTA BARBARA"
a political subdivision of the State of California

By: _____
Steve Lavagnino, Chair
Board of Supervisors

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Sheila de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

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

By: _____
Scott Greenwood
Deputy County Counsel

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

ATTACHMENT “1”

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement (“TCE”) to enter upon and use the real property described in Exhibit A and depicted in Exhibit B attached hereto and incorporated herein for the construction of the Fernald Point Lane Bridge Replacement Project at Romero Creek # 862330 (“Project”).

The TCE contains approximately 881 sq.ft. and permits use and occupancy of the real property described in Exhibit A necessary for the purpose of constructing the Project. Vehicular and pedestrian access to the larger parcel from which the TCE is taken shall remain open to owner at all times. Project construction and TCE use will be completed so that access to and from the public system of streets and highways shall be maintained to the larger parcel containing the TCE throughout its term.

The Temporary Construction Easement shall be for a period of twenty-eight (28) consecutive months commencing on or about September 10 2019 and terminating thereafter on, about or before December 31, 2021, or upon notification of the filing of a “Notice of Completion” or otherwise in writing by the County of Santa Barbara, if earlier.

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

Exhibit "A"

TEMPORARY CONSTRUCTION EASEMENT

DRIVEWAY CONFORM

APN: 007-380-006

LEGAL DESCRIPTION

That portion of the Fernald Tract, in the unincorporated territory of the County of Santa Barbara, State of California, shown on the map filed in the office of the County Recorder of said County in Book 8, Page 9 of Maps & Surveys, dated December 1914, described as follows:

COMMENCING at the northwest corner of Parcel 1 of Parcel Map No. 13,506 in said County, as per map recorded in Book 41, Pages 68 and 69 of Parcel Maps in the office of said County Recorder of said County, thence;

- 1) North 81°54'00" East, along the northerly line of said Parcel 1, 180.00 feet, to the northeast corner thereof, thence;
- 2) Along the easterly line of said Parcel 1, South 15°17'30" East, 87.00 feet, to the easterly most corner of said Parcel 1 and on the southerly Right Of Way line of Fernald Point Lane as shown on said Parcel Map, and the TRUE POINT OF BEGINNING, thence;
- 3) From said TRUE POINT OF BEGINNING, along and easterly line of said Parcel 1, and said southerly Right Of Way line of said Fernald Point Lane, South 64°57'16" West, 42.89 feet, to an angle point on an easterly line of said Parcel 1 as shown on said Parcel Map, thence;
- 4) Along an easterly line of said Parcel 1, South 09°02'47" East, 20.81 feet to a point, being on a line 20 feet offset southerly from said southerly Right Of Way line of said Fernald Point Lane, thence;
- 5) Along said 20 foot offset line, North 64°57'16" East, 45.19 feet, to a point on the line which bears South 15°17'30" East, from the herein above described TRUE POINT OF BEGINNING, being the easterly line of that John J. Mitchell parcel shown on the map of the Fernald Tract recorded in Book 19, Page 171 of Record of Survey, thence;
- 6) Along said easterly line of said John J. Mitchell parcel shown on said Record of Survey map of said Fernald Tract, North 15°17'30" West, 20.29 feet, to the TRUE POINT OF BEGINNING.

End of Description

Containing 881 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

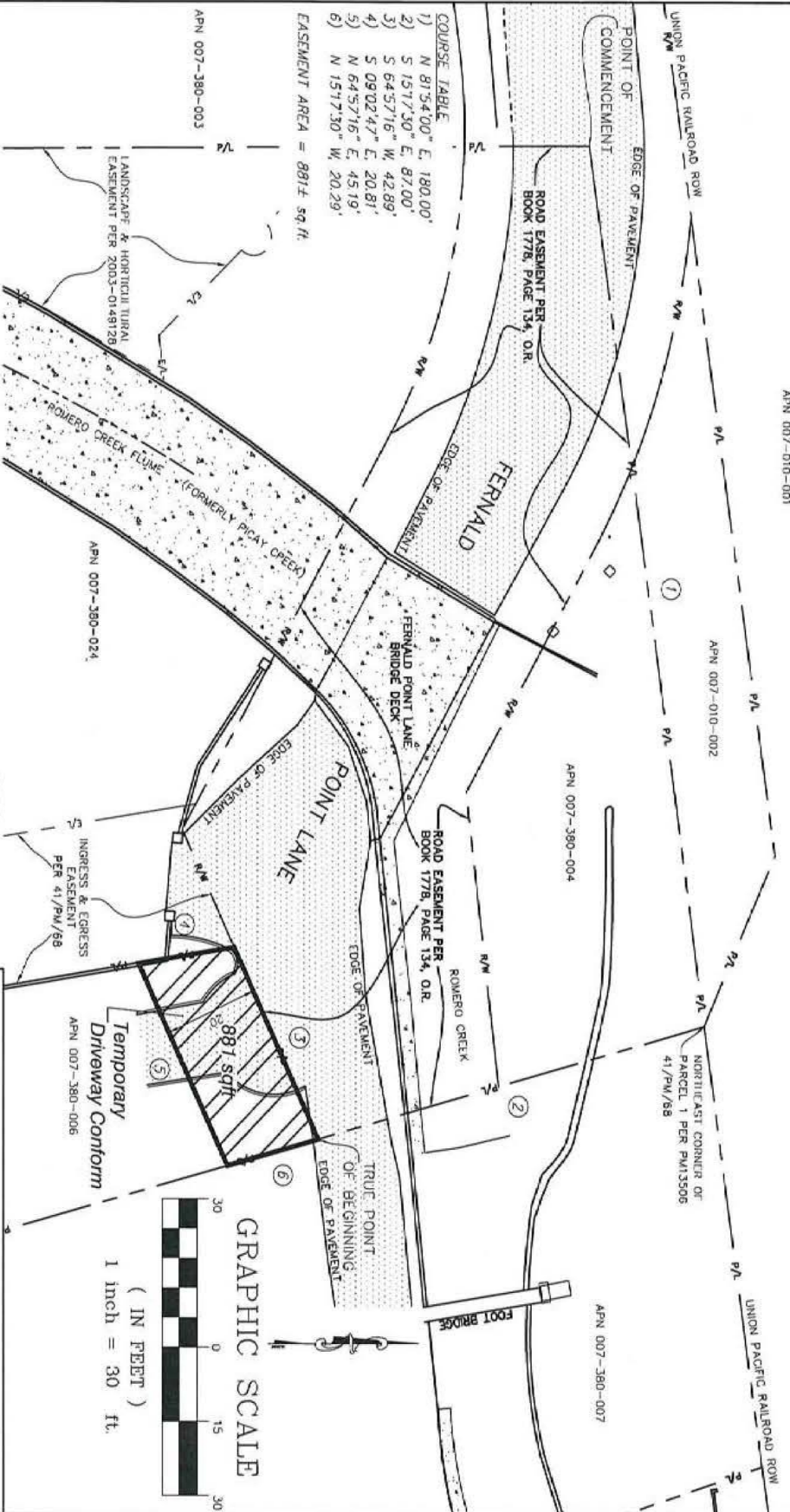
S951_862330_TempConEasement
Driveway Conform
1767 Fernald Point Ln.
Portion of APN 007-380-006



9/27/2018

Date

Exhibit "B"



THIS EXHIBIT MAP WAS PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

E. Tenell Matlovsky

9/27/2016

E. TENELL MATLOVSKY

DATE



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

TEMPORARY CONSTRUCTION EASEMENT
 DRIVEWAY CONFORM
 FERNALD POINT LANE
 PORTION OF APN: 007-380-006
 SANTA BARBARA COUNTY, CALIFORNIA
 OCTOBER 2016

S957

**RESOLUTION OF THE COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS
FOR THE 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 PROPERTIES BY THE COUNTY OF SANTA BARBARA FROM KATHLEEN S. GRASSINI, TRUSTEE OR ANY SUCCESSOR TRUSTEE, OF THE KATHLEEN S. GRASSINI QUALIFIED PERSONAL RESIDENCE TRUST, UDT DATED JULY 18, 2000; LAWRENCE P. GRASSINI, TRUSTEE OR ANY SUCCESSOR TRUSTEE OF THE LAWRENCE P. GRASSINI QUALIFIED PERSONAL RESIDENCE TRUST, UDT DATED JULY 18, 2000

RESOLUTION NO. _____
(4/5 vote required)

BE IT RESOLVED that the County of Santa Barbara Board of Supervisors (“COUNTY”), State of California, does hereby find and determine as follows:

A. COUNTY has approved the acquisition of a Native Landscape and Fish Passage Permanent Easement in connection with the Fernald Point Lane Bridge Replacement Project at Romero Creek herein referred to as the “Project”, described as a portion of County of Santa Barbara Assessor’s Parcel Number, 007–380–007 and as more fully set forth in Attachment 1 and Exhibits “A” and “B” attached hereto and incorporated herein (“Subject Property”); and

B. The Subject Property is being acquired for the PROJECT, i.e., the replacement of the existing Fernald Point Bridge No. 51C–0137, and for such all 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. Government Code Section 25350.5; and

C. The Subject Property is within the unincorporated area of the County of Santa Barbara, State of California, and is located at 1775 Fernald Point Lane, in the Community of Montecito, Assessor’s Parcel Number 007–380–007, as described in Attachment 1, Native Landscape and Fish Passage Permanent Easement, and as more fully set forth in Exhibit “A” and shown in Exhibit “B”, attached and incorporated herein, and;

D. That the Board considered the Mitigated Negative Declaration and the Mitigation Monitoring Program (15NGD-00000-00005) for the Proposed Fernald Point Lane Bridge Replacement Project at Romero Creek approved and adopted by the Board of Supervisors on June 21, 2016 and found that pursuant to State California Environmental Quality Act Guidelines Section 15162, no substantial changes are proposed, and there are no substantial changes in circumstances or new information of substantial importance regarding significant

impacts or feasibility of mitigation measures and alternatives and, therefore, pursuant to Section 15162, the recommended actions are within the scope of the project covered by the MND and no new environmental document is required. The COUNTY has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of the Subject Property is necessary for the PROJECT; the public interest and necessity require the PROJECT, and; the PROJECT is planned and located in a manner that is compatible with the greatest public good and the least private injury; 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 Subject Property and said person(s) was/were provided with a written Appraisal Summary Statement and an Eminent Domain Process Summary; and

G. That pursuant to Government Code Section 7267.2 the owner(s) of record was/were offered just compensation for the Subject Property herein described.

NOW, THEREFORE the Board of Supervisors for the County of Santa Barbara, State of California does hereby find, determine, and resolve by at least four-fifths (4/5) vote:

1. The Subject Property is located within the County of Santa Barbara at 1775 Fernald Point Lane, in the State of California, County of Santa Barbara, Community of Montecito, and is a portion of Assessor's Parcel Number 007-380-007, described in Attachment 1, Native Landscape and Fish Passage Permanent Easement, as set forth in Exhibit "A" and shown in Exhibit "B", attached hereto are incorporated herein as though set forth at length and is made a part hereof.

2. The public interest and necessity require the PROJECT.

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

4. The Subject Property described in the Resolution is 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 COUNTY has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources.

7. The County Counsel of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the COUNTY for the acquisition of said Subject 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 Prejudgment 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 COUNTY for the acquisition of the Subject Property herein described.

BE IT RESOLVED that the real property interests described in Attachment 1, set forth in Exhibit "A" and shown in Exhibit "B" be acquired by eminent domain in the name of the County of Santa Barbara for public use 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 COUNTY 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 COUNTY to take immediate possession and use of said Subject Property for the public purposes.

PASSED AND ADOPTED by the County of Santa Barbara Board of Supervisors, State of California, this the _____ day of September, 2019, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

"COUNTY"
"COUNTY SANTA BARBARA"
a political subdivision of the State of California

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Steve Lavagnino, Chair
Board of Supervisors

By: _____
Sheila de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

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

By: _____
Scott Greenwood
Deputy County Counsel

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

ATTACHMENT "1"

NATIVE LANDSCAPING AND FISH PASSAGE EASEMENT

An easement for native landscape and fish passage ("Easement") for erosion control, riparian restoration and fish passage in the real property described in Exhibit A and depicted on Exhibit B attached hereto and incorporated herein. The area of the Easement is approximately 1,082 sq. ft.

The Easement will be used for the restoration and maintenance of Romero Creek as part of the Fernald Point Lane Bridge Replacement Project at Romero Creek # 862330, including erosion control and revegetation, riparian restoration, the safe passage of migratory aquatic wildlife, and will ensure that the migration within the low flow fish passage channel and notched rock weir will be protected and maintained in perpetuity by preventing any use that will impair or interfere with its purpose.

The Easement shall be monitored in accordance with California Fish and Game Code 1602, for the restoration of riparian vegetation and fish passage.

All other rights in the Easement not herein acquired shall be reserved to the owner including use rights that are not expressly prohibited herein and are not inconsistent with the purpose of the Easement.

Notwithstanding the foregoing, the following acts are expressly prohibited in the Easement:

- (a) The grading of land that would damage the vegetation, irrigation and fish passage facilities.
- (b) The physical removal of or damage to plants or other facilities installed as part of the restoration activities.
- (c) The physical removal of or damage to rest pools, notched rock weir or other facilities installed as part of the fish passage facility for migration of aquatic wildlife activities.
- (d) The placement of any materials, inert and/or organic, vegetation, or wildlife that may or will obstruct flow or operation of the fish passage facility.

State of California, Department of Fish & Wildlife, is an intended beneficiary of this Easement and shall have the right to enforce the conditions and restrictions imposed herein.

The Easement does not create a public street or highway.

The metes and bounds description, Exhibit "A" and depicted on Exhibit "B" of the Native Landscaping and Fish Passage Easement is as follows:

Exhibit "A"

**NATIVE LANDSCAPING AND FISH PASSAGE
EASEMENT**

APN: 007-380-007

LEGAL DESCRIPTION

That portion of the Fernald Tract, in the unincorporated territory of the County of Santa Barbara, State of California, shown on the map filed in the office of the County Recorder of said County in Book 8, Page 9 of Maps & Surveys, dated December 1914, described as follows:

COMMENCING at the northwest corner of Parcel 1 of Parcel Map No. 13,506 in said County, as per map recorded in Book 41, Pages 68 and 69 of Parcel Maps in the office of said County Recorder of said County, thence;

- 1) North 81°54'00" East, along the northerly line of said Parcel 1, 180.00 feet, to the northeast corner thereof, thence;
- 2) Leaving said northerly line of said Parcel 1, along the easterly line of said Parcel 1, South 15°17'30" East, 26.96 feet to the southerly face of the existing wall referred to in the "Wall Agreement" recorded in October 6th 1999, as instrument 1999-0081183, and the TRUE POINT OF BEGINNING, thence;
- 3) From said TRUE POINT OF BEGINNING, continuing along said easterly line of Parcel 1, South 15°17'30" East, 39.94 feet to the northerly face of a concrete wall on the southerly side of Romero Creek (formerly Picay Creek) (as it existed October 13,2016), thence;
- 4) Leaving said easterly line of Parcel 1, along said northerly face, North 83°50'45" East, 34.37 feet, to a point on said northerly face, said point being on a line 5 feet offset westerly from the westerly edge of a foot bridge as it existed October 13,2016, thence;
- 5) Leaving said northerly face of said wall, along said 5 foot offset line, North 08°59'50" West, 22.01 feet, to said southerly face of said "Wall Agreement" wall, thence;
- 6) Leaving said 5 foot offset line, along said southerly face of said "Wall Agreement" wall the following four courses, North 83°27'09" West, 12.15 feet, thence;
- 7) North 70°10'17" West, 6.66 feet, to a non-tangent curve concave southwesterly, the radial center of which bears South 50°24'45" West, 20.78 feet, thence;
- 8) Northwesterly along the arc of said non-tangent curve, through a central angle of 24°33'11", and arc length of 8.91 feet, thence;
- 9) North 75°56'03" West, 16.47 feet, to the TRUE POINT OF BEGINNING.

End of Description

Containing 1082 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

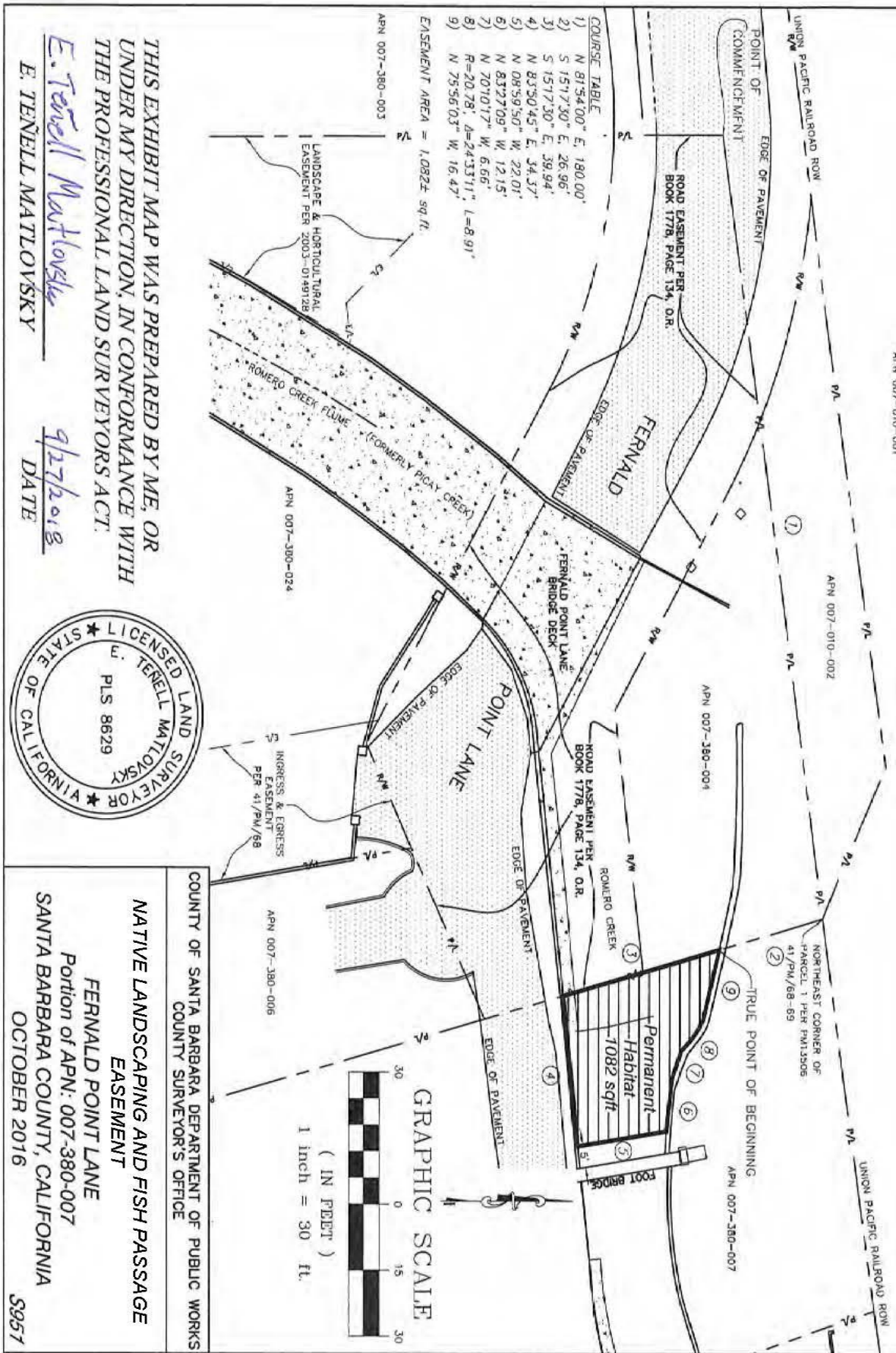
E. Teñell Matlovsky, PLS 8629



9/27/2018

Date

Exhibit "B"



THIS EXHIBIT MAP WAS PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

E. Tenell Matlovsky

9/27/2016

E. TENELL MATLOVSKY DATE



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

NATIVE LANDSCAPING AND FISH PASSAGE EASEMENT

FERNALD POINT LANE
Portion of APN: 007-380-007
SANTA BARBARA COUNTY, CALIFORNIA
OCTOBER 2016

1082 sq ft

Permanent Habitat

GRAPHIC SCALE
(IN FEET)
1 inch = 30 ft.

9957