

Attachment B

ATTACHMENT B

Resolution of Necessity

Assessor Parcel Number 037-245-017

ATTACHMENT B

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

IN THE MATTER OF INSTITUTING
PROCEEDINGS AND MAKING A
FINDING OF PUBLIC NECESSITY FOR
THE ACQUISITION OF CERTAIN
PROPERTY BY THE SANTA BARBARA
COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
FROM 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 a portion of fee interest, an Access Easement and Temporary Construction Easements, (collectively “Acquisitions”), 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 Attachments 1 through 3 and Exhibits “A” and “B” of each Attachment attached hereto and incorporated herein; and

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

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

C. The Acquisitions in the Subject Property are 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:

1. Attachment 1 – Construction Easement.
2. Attachment 2 – Permanent Non-Exclusive Access Easement.
3. Attachment 3 – Fee Parcel.

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

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

E. That the real property interests described in Attachments 1 through 3, respectively set forth in Exhibits “A” and shown in Exhibits “B” are within the boundaries of the DISTRICT and hereinafter described as necessary for the benefit of the DISTRICT in the public interest; and

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

G. That pursuant to Government Code Section 7267.2 the owner of record was offered and provided a written summary of the just compensation for the real property interests described in Attachments 1 through 3, respectively set forth in Exhibits “A” and shown in Exhibits “B” sought to be acquired; and

H. That the public interest and necessity require the real property interests described in Attachments 1 through 3, respectively set forth in Exhibits “A” and shown in Exhibits “B” hereinafter described for public use, namely, flood control purposes related to the Lower Mission Creek Flood Control Project; and

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

J. That the real property interests described in Attachments 1 through 3, respectively described in Exhibits “A” and shown in Exhibits “B” are necessary for the Lower Mission Creek Flood Control Project.

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

1. The Acquisitions in Subject Property are 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:

- A. Attachment 1 – Temporary Construction Easement.
- B. Attachment 2 – Permanent Non-Exclusive Access Easement.
- C. Attachment 3 – Fee Parcel.

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

2. The public interest and necessity require the Project.

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

4. The real property interests described in Attachments 1 through 3, respectively set forth in Exhibits "A" and shown in Exhibits "B" described in the Resolution are necessary for the Project.

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

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

7. The County Counsel of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the DISTRICT for the acquisition of said real property interests described in Attachments 1 through 3, respectively set forth in Exhibits "A" and shown in Exhibits "B", and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Counsel are necessary for the processing of the litigation.

8. The County Counsel and the Director of the Public Works Department are hereby authorized to expend funds available to the DISTRICT for the acquisition of the real property interests described in Attachments 1 through 3, respectively set forth in Exhibits "A" and shown in Exhibits "B".

BE IT RESOLVED that the real property interests described in Attachments 1 through 3, respectively set forth in Exhibits "A" and shown in Exhibits "B" be acquired by eminent domain in the name of the Santa Barbara County Flood Control and Water Conservation District for flood control purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the DISTRICT such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion are authorized to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and or an order or orders permitting said DISTRICT to take immediate possession and use of said real property for the public purposes.

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

AYES:

NOES:

ABSTAINED:

ABSENT:

SANTA BARBARA COUNTY FLOOD
CONTROL and WATER CONSERVATION DISTRICT

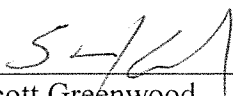
By: _____
Steve Lavagnino, Chair

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

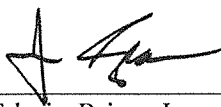
By: _____
Sheila de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

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



Scott Greenwood
Deputy County Counsel



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

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 commencing on or after April 1, 2020 and terminating thereafter on or before December 31, 2020, 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, Exhibit “A” and depicted on Exhibit “B” of the TCE area is as follows:

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.

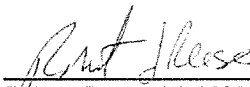
Commencing on the southwesterly line of Chapala Street 227 feet southeasterly from the southeasterly line of Gutierrez Street, which point is also the Point of Beginning of the first parcel described in 3547-01-01 of said FOC;

thence along the northwesterly line of said Parcel 3547-01-01, which line is noted in said FOC as "thence at right angles northeasterly 230.1 feet to the point of beginning" 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.

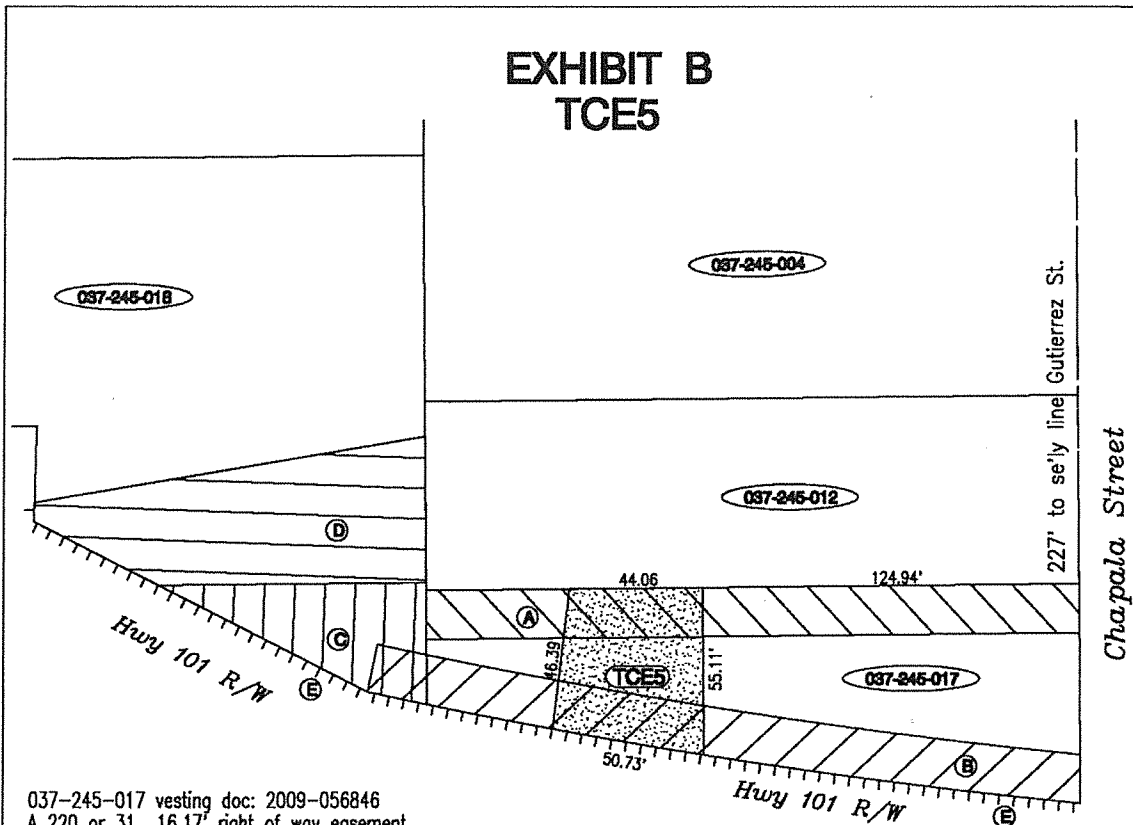
This description has been prepared by me in accordance with provisions of the Professional Land Surveyors Act.


Robert Reese, LS 6208

2019.09.22
date



EXHIBIT B TCE5



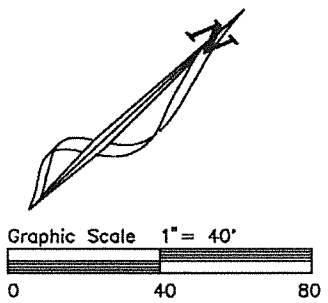
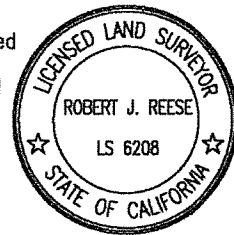
- 037-245-017 vesting doc: 2009-056846
 A 220 or 31 16.17' right of way easement
 B 2005-084810 16' access and drainage easmt to state & (1)
 C 2005-084810 access and drainage easmt to state & (1)
 D 2005-084180 access and drainage easmt to state & (1)
 E 2005-084810 abutter's access to hwy relinquishment
 (1) building restriction: no permanent structure or fixture

TCE5 2394sq.ft. Perm. Access Easement

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

Robert J. Reese

date: 2019.09.22



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

APN 037-245-017

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

ATTACHMENT 2

PERMANENT NON-EXCLUSIVE ACCESS EASEMENT

A permanent, non-exclusive access easement for flood control purposes in the real property on a portion of Santa Barbara County Assessor's Parcel Number 037-245-017, as shown on Exhibit A (attached hereto and incorporated herein), to provide access necessary for the construction, and thereafter, the use and maintenance of Lower Mission Creek Flood Control Improvement and Restoration Project, Reach 2B-2, District Project #SC8042. The non-exclusive easement contains approximately 2,720 sq. ft.

All other rights in the non-exclusive access easement not herein acquired are reserved in the owners.

This non-exclusive access easement does not create a public street or highway.

EXHIBIT A
T5-B


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, lying southwesterly of the following described line.

Beginning at a point on the southwesterly line of Chapala Street 227 feet southeasterly from the southeasterly line of Gutierrez Street, which point is also the Point of Beginning of the first parcel described in 3547-01-01 of said FOC;

- 1) thence along the northwesterly line of said Parcel 3547-01-01, which line is noted in said FOC as "thence at right angles northeasterly 230.1 feet to the point of beginning", South 42°25'12" West, 169.00 feet;
- 2) thence leaving said northwesterly line, South 40°20'20" East, 16.13 feet to a point 16.00 feet southeasterly of said northwesterly line as measured at right angles;
- 3) thence parallel with and distant 16.00 feet from said northwesterly line, North 42°25'12" East, 171.03 feet to a point on the southwesterly line of Chapala Street;
- 4) thence along the southwesterly line of Chapala Street, North 47°34'48" West, 16.00 feet to the point of beginning.

The above described parcel of land contains approximately 2720 square feet and is as shown on Exhibit B, attached hereto and made a part hereof.

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

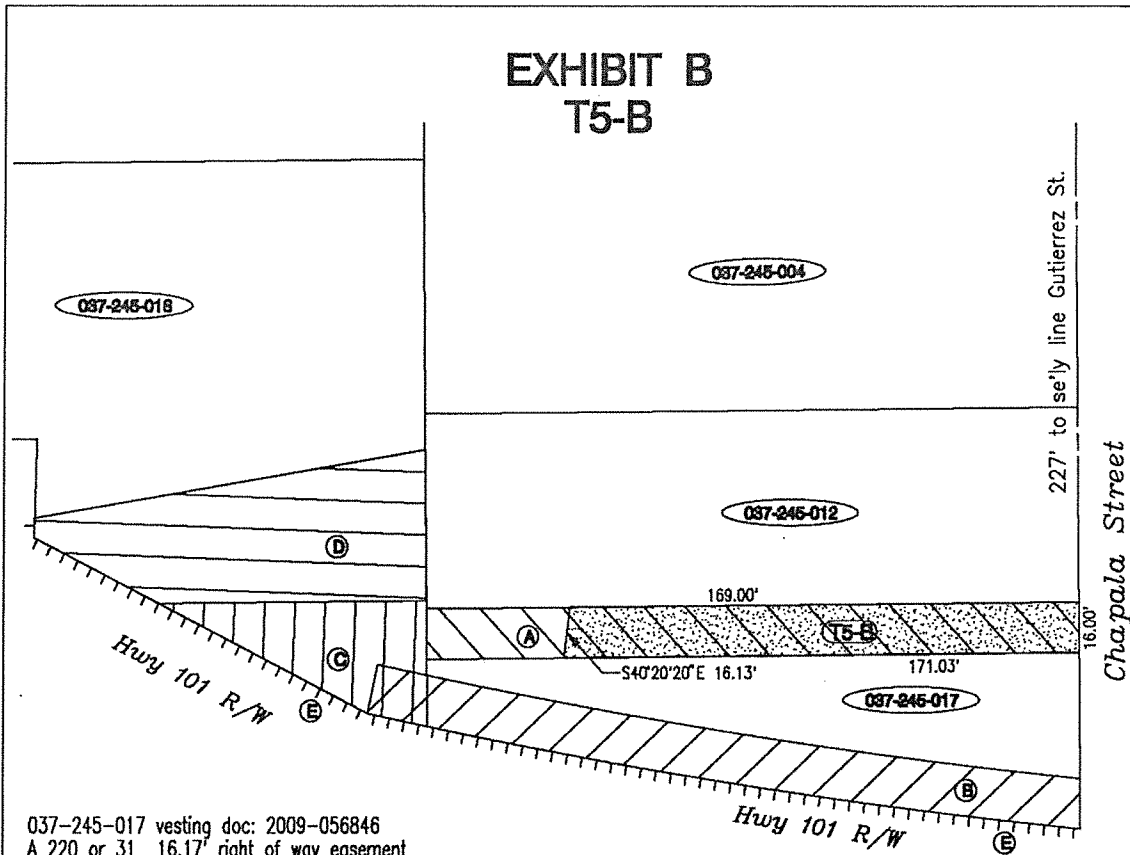


Robert Reese, LS 6208

2019.09.22
date



EXHIBIT B T5-B



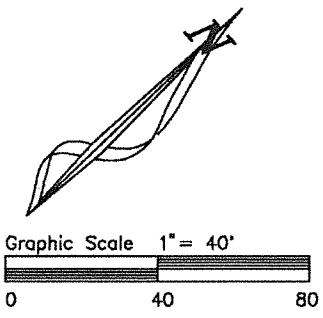
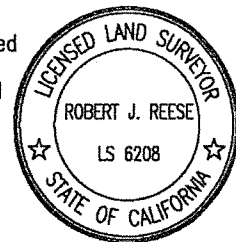
- 037-245-017 vesting doc: 2009-056846
- A 220 or 31 16.17' right of way easement
- B 2005-084810 16' access and drainage easmt to state & (1)
- C 2005-084810 access and drainage easmt to state & (1)
- D 2005-084180 access and drainage easmt to state & (1)
- E 2005-084810 abutter's access to hwy relinquishment
- (1) building restriction: no permanent structure or fixture

T5-B 2720sq.ft. Perm. Access Easement

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

Robert J. Reese

date: 2019.09.22



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

APN 037-245-017

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

ATTACHMENT 3

EXHIBIT A T5-A

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, lying southwesterly of the following described line.

Beginning at a point on the northwesterly line of the first portion of Parcel 3547-01-01 of said FOC, which point bears South 43°35'12" West, 169.00 feet and South 47°34'48" East, 227.00 feet from the intersection of the southwesterly line of Chapala Street with the southeasterly line of Gutierrez Street;
thence South 40°20'20" East, 46.39 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".

EXCEPTING THEREFROM any portion of said Parcel 3547-01 of FOC.

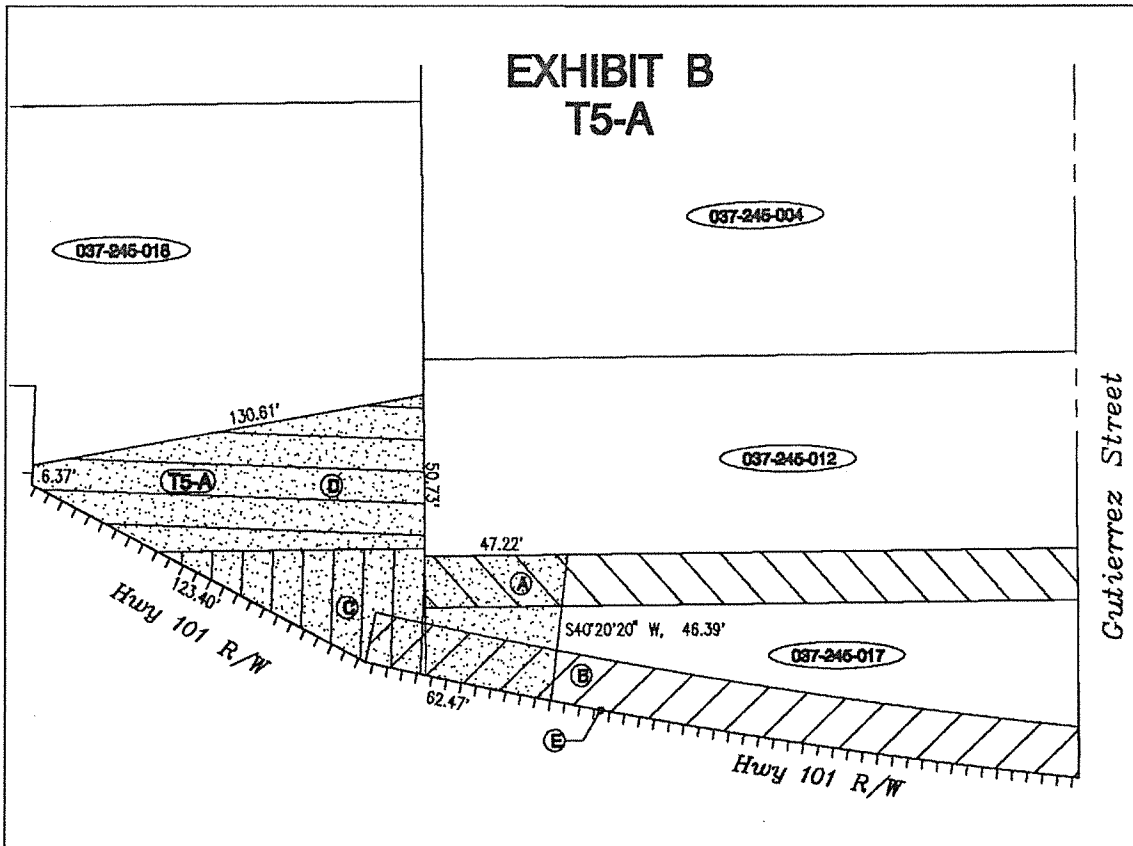
The above described parcel of land contains approximately 8320 square feet and is as shown on Exhibit B, attached hereto and made a part hereof.

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


Robert Reese, LS 6208

2019.09.17
date

EXHIBIT B T5-A

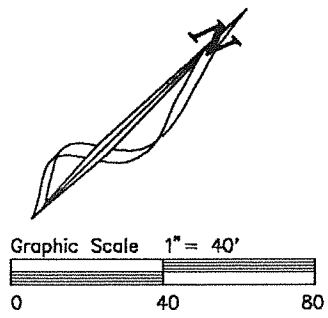
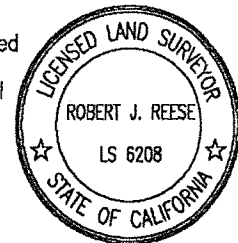


- 037-245-017 vesting doc: 2009-056846
- A 220 or 31 16.17' right of way easement
 - B 2005-084810 16' access and drainage easmt to state & (1)
 - C 2005-084810 access and drainage easmt to state & (1)
 - D 2005-084180 access and drainage easmt to state & (1)
 - E 2005-084810 abutter's access to hwy relinquishment
- (1) building restriction: no permanent structure or fixture
- T5-A 8302sq.ft. Fee Parcel

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

Robert J. Reese

date: 2019.09.17



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

APN 037-245-017

FEE PARCEL
SANTA BARBARA COUNTY
FLOOD CONTROL DISTRICT
SANTA BARBARA COUNTY, CALIFORNIA