

ATTACHMENT D

**Temporary Construction Easement
&
Agreement
and
Certificate of Acceptance**

District Project: Lower Mission Creek
District Project #: SC8042
APN: 037-245-012
Real Prop. File: 003784
Easement : TCE3

TEMPORARY CONSTRUCTION EASEMENT & AGREEMENT
(NOT FOR RECORDATION)

317 CHAPALA STREET, LLC., owner of all that real property in the City of Santa Barbara, County of Santa Barbara, State of California, referenced as 317 Chapala Street, Santa Barbara, California, and more particularly described as County Assessor's Parcel Number 037-245-012, (the "Subject Property"), as OWNER herein, on behalf of themselves, their successors and assigns

FOR A VALUABLE CONSIDERATION, OWNER DOES HEREBY GRANT TO

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, its successors and assigns (hereinafter referred to as "DISTRICT"), a temporary construction easement and right of way, including the right to enter, store materials and equipment, move workers, equipment, and materials over, within and upon a portion of the Subject Property (hereinafter referred to as the "Temporary Construction Easement" or "TCE").

The Temporary Construction Easement Area shall include approximately 2,108 square feet of the Subject Property, which is more particularly described in Exhibit "A" and depicted on Exhibit "B" attached hereto and incorporated by this reference (hereinafter the "TCE3 Area"). The Temporary Construction Easement shall be used for the specified period of time set forth below in connection with the construction, installation, replacement, repair and use of facilities as part of the Lower Mission Creek Flood Control Improvement and Restoration Project, Reaches 2B Phase II & 3, District Project #SC8042, designed to reduce the risk of potential flooding during major storm and rainfall events ("Project"). The TCE3 includes, but is not limited to, the right of entry, the right to store materials and equipment, the right to conduct construction staging and such other necessary incidental purposes required for the implementation and construction of the Project.

1. The Temporary Construction Easement shall be for a period of nine (9) months, which shall begin on April 1, 2020, and shall expire on December 31, 2020. The DISTRICT shall have the right to extend the Temporary Construction Easement term in additional one-month increments if the DISTRICT determines in its sole and absolute discretion that additional time beyond the nine-month period is necessary for construction. In such case, the DISTRICT shall have the unilateral right to extend the Temporary Construction Easement period through construction completion and agrees to compensate OWNER Five Hundred Forty Dollars (\$540) for each one-month extension term exercised. Payment for any such extensions shall be paid by

the DISTRICT to OWNER concurrent with DISTRICT's written notice to OWNER of the DISTRICT's intent to exercise such extension provisions. If extensions are required DISTRICT shall notify OWNER of the extension(s) no less than fourteen (14) calendar days in advance of the then current termination date.

2. The OWNER agrees to keep the TCE3 Area free of personnel, materials or objects that may obstruct construction during the term of this TCE3.

3. The DISTRICT, its authorized agents, employees and contractors shall exercise reasonable precautions necessary to prevent damage to and protect the Property during DISTRICT's entry thereon.


4. DISTRICT, its authorized agents, employees and contractors shall replace and/or repair any improvements on OWNER's property that are destroyed, damaged, or relocated as a result of the DISTRICT's negligence under this TCE3. If any OWNER's improvements are damaged or removed by DISTRICT, its authorized agents, employees and contractors, they shall be restored or replaced by DISTRICT to as near the condition and location at the time it was damaged as is practicable.

5. By DISTRICT 'S exercise of this TCE, OWNER assumes no liability for loss or damage to DISTRICT'S property, or injury to or death of any agent, employee, or contractor of DISTRICT, unless said loss, damage, injury, or death is solely as a result of the OWNER'S negligence or other wrongful act.

6. DISTRICT agrees to defend, indemnify and hold harmless OWNER from any claims or damages resulting from DISTRICT's exercise of this TCE3 but only in proportion to and to the extent such claims or damages are caused by the negligent or intentional acts or omissions of the DISTRICT'S use of the Portion, unless said claims or damages are solely as a result of the OWNER'S negligence or other wrongful act.

7. Signatory for the OWNER does hereby certify that OWNER is the sole owner of the Property; represents and warrants that she is authorized to sign on behalf of the OWNER, have communicated the contents, rights and duties of this TCE to all parties having an interest in the Property, and that no additional signatures are required to grant the interest and perform the obligations specified herein.

"OWNER"
317 CHAPALA STREET, LLC

By: 
Tonia Gallardo
Its: Manager

Date: 2/21/2020

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


ATTEST
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Gregg Hart, Chair
Board of Directors

By: _____
Deputy

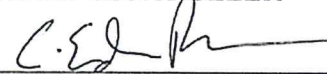
Date: _____

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 

Scott Greenwood
Deputy County Counsel

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

By: 

C. Edwin Price, Jr.
Deputy Auditor-Controller

APPROVED:

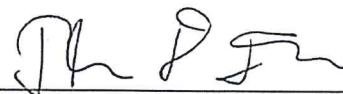
By: _____
Scott D. McGolpin, Director
Public Works Department

APPROVED AS TO FORM:
RAY AROMATORIO
CEO/RISK MANAGEMENT

By: 

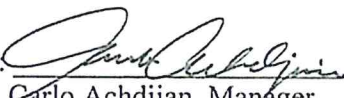
Greg Milligan
Safety Officer

APPROVED:

By: 

Tom Fayram, Deputy Director
Public Works, Flood Control

APPROVED:

By: 

Carlo Achdjian, Manager
Real Property Division

EXHIBIT A
TCE3

A portion of the parcel of land in Block 270 in the City of Santa Barbara, County of Santa Barbara, State of California, described as Parcel One in the Grant Deed to the 317 Chapala Street LLC, recorded August 16, 2013, as Instrument Number 2013-055465, Official Records of the County of Santa Barbara, described as follows:

The Northeasterly 34.00 feet of the Southwesterly 81.35 feet of Parcel One of said Grant Deed, as measured at right angles to the southwesterly line thereof;
AND ALSO the Southwesterly 6.35 feet of Parcel Two of said Grant Deed, as measured at right angles to the southwesterly line thereof, to wit:

Commencing at the westerly corner of said Parcel One of said Grant Deed:

- Course 1 thence, northeasterly along the northwesterly line of said Parcel One, North 42°25'12" East, 47.35 feet to the TRUE POINT OF BEGINNING;
- Course 2 thence, continuing along said northwesterly line of said Parcel One and said Parcel Two, North 42°25'12" East, 34.00 feet;
- Course 3 thence, parallel with and 81.35 feet distant northeasterly from the southwesterly line of said Parcel One, South 47°34'48" East, 62.00 feet to a point on the southeasterly line of said Parcel One;
- Course 4 thence, along the southeasterly line of said Parcel One, South 42°25'12" West, 34.00 feet;
- Course 5 thence, North 47°34'48" West 62.00 feet to the TRUE POINT OF BEGINNING.

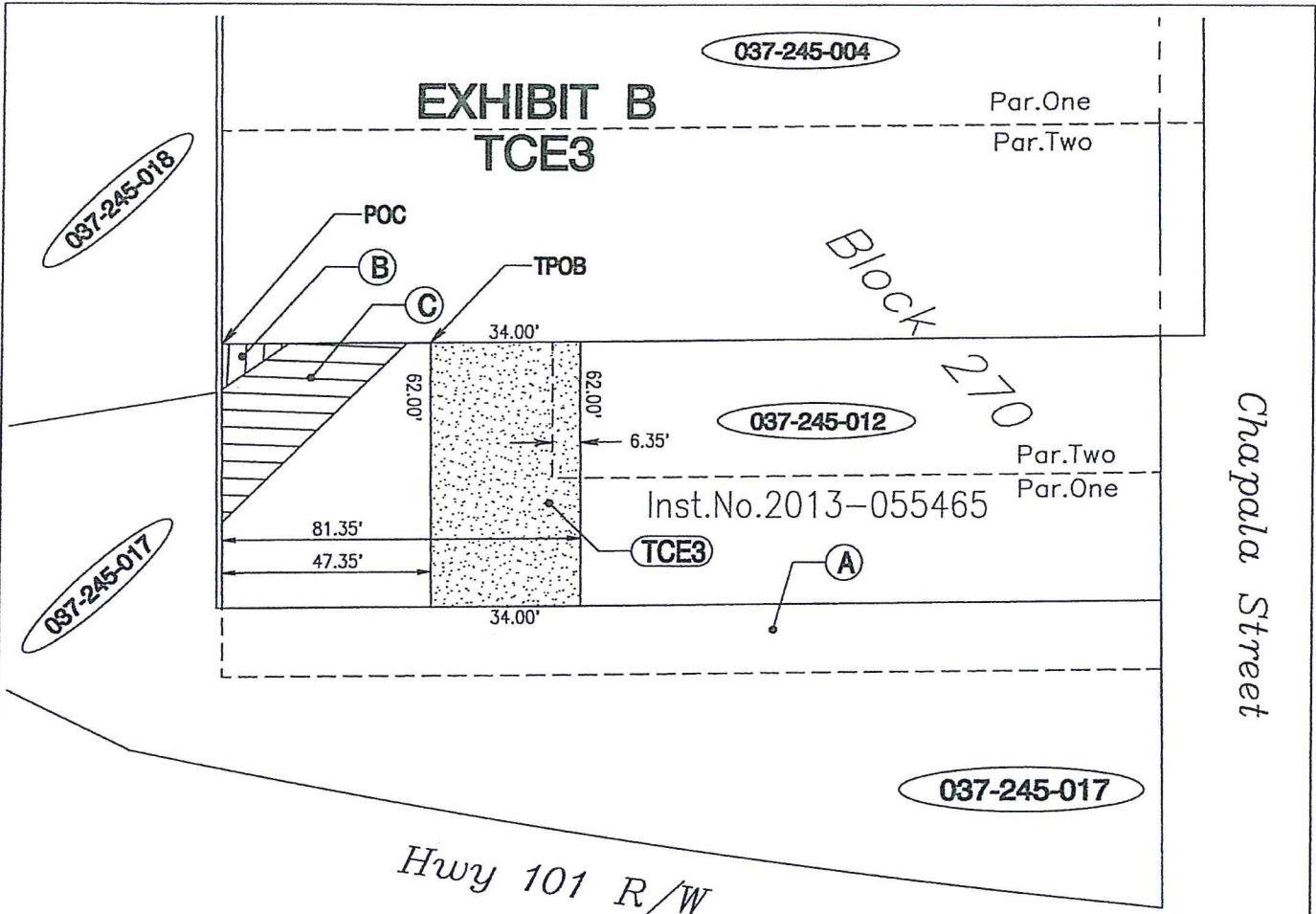
The above described parcel of land contains approximately 2108 square feet and is as shown on Exhibit B, attached hereto and made a part hereof.

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





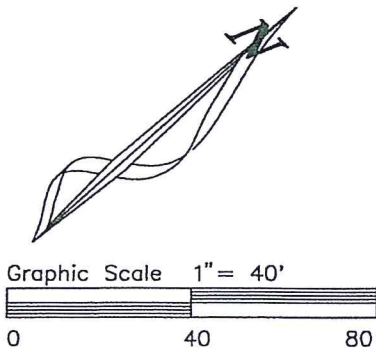
037-245-012 vesting doc: 2013-055465
 A 2013-055465: 16.17' ingress/egress easmnt
 B 2368 OR 966: flood control easmnt
 C 2368 OR 969: flood control access easmnt

TCE3 2108sq.ft. Temp.Const.Easement

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

Robert J. Reese

date: 2020.03.03



COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS
 FLOOD CONTROL DISTRICT

APN 037-245-012

TEMPORARY CONSTRUCTION EASEMENT
 SANTA BARBARA COUNTY
 FLOOD CONTROL DISTRICT
 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 within the Temporary Construction Easement & Agreement dated February 21, 2020, from 317 CHAPALA STREET, LLC., as OWNER, to 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, 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 April 7, 2020, 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 _____, 2020.

MONA MIYASATO, 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: _____
Sheila de la Guerra, Deputy

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 

Scott Greenwood
Deputy County Counsel