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10 CITY OF TEMECULA, a municipal corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE, MENIFEE JUSTICE CENTER**

13
14 CITY OF TEMECULA, a municipal
corporation,

15 Plaintiff,

16 v.

17 JOSE LEONARDO GARCIA;
MAYERLING ALIDA MONTEROS-
18 GARCIA; ANY AND ALL PERSONS
UNKNOWN HAVING OR CLAIMING
19 TO HAVE ANY TITLE OR INTEREST IN
OR TO THE PROPERTY SOUGHT TO
20 BE CONDEMNED HEREIN; AND DOES
1 THROUGH 100, INCLUSIVE,

21 Defendants.
22

Case No. CVSW2303954

**STIPULATION FOR ENTRY OF
JUDGMENT AND FINAL ORDER OF
CONDEMNATION**

[APN: 957-150-005]

Assigned for All Purposes To Hon. Angel M.
Bermudez

Dept: M301

Complaint Filed: May 23, 2023

[Exempt from filing fees pursuant to Govt. Code § 6103]

23 This Stipulation for Entry of Judgment and Final Order of Condemnation is entered
24 by and between Plaintiff City of Temecula, a municipal corporation (“City”) and
25 Defendants Jose Leonardo Garcia and Mayerling Alida Monteros-Garcia (collectively
26 “Defendant Owners”). City and Defendant Owners hereby stipulate and agree as follows:

27 1. City filed the Complaint in Eminent Domain herein on May 23, 2023, to
28 acquire by eminent domain the real property interests (collectively “Subject Property

1 Interests”) described below on portions of the real property commonly known as 31270
2 Tommy Lane, Temecula, and identified as Riverside County Tax Assessor’s Parcel Number
3 957-150-005 (“Property”) in connection with the Nicolas Road from Butterfield Stage Road
4 to the Calle Girasol/Nicolas Road Connection (“Project”). The Subject Property Interests
5 that the City is condemning in this eminent domain proceeding consist of the following:

6 a. An approximate 26,957 square foot permanent maintenance and access
7 easement on the Property for the construction of certain public street, drainage, access,
8 public utility and related improvements, and all uses necessary or convenient thereto in
9 connection with the Project. The approximate 26,957 square foot permanent maintenance
10 and access easement is described more particularly in ATTACHMENT A and depicted on
11 ATTACHMENT B to Resolution No. 2023-14 (a certified copy of which was attached as
12 Exhibit “1” to the Complaint in Eminent Domain herein), and in the form of the Judgment
13 in Condemnation attached as EXHIBIT 1 hereto and incorporated herein by this reference
14 (“Judgment in Condemnation”).

15 b. An approximate 31,520 square foot temporary construction easement
16 with a term of twelve months on the Property to facilitate the construction of certain public
17 street, drainage, access, public utility and related improvements, and all uses necessary or
18 convenient thereto in connection with the Project. The approximate 31,520 square foot
19 temporary construction easement is described more particularly on ATTACHMENT A-1
20 and depicted on ATTACHMENT B-1 to Resolution No. 2023-14 (a certified copy of which
21 was attached as Exhibit “1” to the Complaint in Eminent Domain herein), and in the form
22 of the Judgment in Condemnation attached as EXHIBIT 1 hereto.

23 2. The City is acquiring the Subject Property Interests for the construction of the
24 Project. Said Subject Property Interests are required to protect the street improvements that
25 will be constructed within the existing right of way as part of the construction and extension
26 of Nicolas Road from erosion. The Subject Property Interests are required for the
27 construction of drainage improvements in connection with the Project, including
28 construction of culverts, and related improvements, to protect the street improvements from

1 erosion and flooding, and to provide access to the permanent maintenance and access
2 easement.

3 3. Defendant Owners filed an Answer dated August 24, 2023, asserting that they
4 are the record owners of the Property described in the Complaint.

5 4. The City and Defendant Owners have agreed to fully resolve pursuant to this
6 Stipulation all of the claims of Defendant Owners arising in connection with the City’s
7 acquisition of the Subject Property Interests for the construction of the Project, this eminent
8 domain proceeding, and the construction and use of the Project, as proposed. The City and
9 Defendant Owners agree that the Court may enter the Judgment in Condemnation in the
10 form attached as EXHIBIT 1 attached hereto and incorporated herein by this reference.

11 5. All of the named defendants in this proceeding were served or dismissed.

12 6. On October 2, 2023, the Court authorized the service by publication of
13 Defendant Any and All Persons Unknown Having or Claiming to Have any Title or Interest
14 in or to the Property Sought to be Condemned Herein (“Defendant Any and All Persons
15 Unknown”). Defendant Any and All Persons Unknown was served by publication pursuant
16 to Code of Civil Procedure (“CCP”) Section 414.50. In accordance with the Order
17 authorizing service by publication, Defendant Any and All Persons Unknown was served
18 by publication in *The Press Enterprise* on October 30, 2023, November 6, 2023, November
19 13, 2023, and November 20, 2023. The summons and complaint was also posted on the
20 Property on October 26, 2023. The Proof of Publication of Summons for Any And All
21 Persons Unknown was filed with the Court on December 4, 2023. Defendant Any and All
22 Persons Unknown did not file an answer or responsive pleading in this proceeding within
23 the time required by law. Accordingly, on December 27, 2023, the City requested that the
24 Court enter the default of Defendant Any and All Persons Unknown. The Court entered the
25 default of Defendant Any and All Persons on December 27, 2023.

26 7. The City is filing concurrently herewith a Request for Dismissal of
27 Defendants Doe 1 through 100, inclusive.

28 8. Defendant Owners warrant that Defendant Owners are the sole record fee

1 owners of the Property.

2 9. Defendant Owners further warrant that except for public utilities of record
3 that may be located in the area Subject Property Interests, Defendant Owners know of no
4 other person or entity that has an interest in or right to possess any portion of Subject
5 Property Interests that the City is condemning herein.

6 10. As evidenced by the Notice of Deposit filed by the City with the Court on
7 June 30, 2023, the City deposited the sum of \$59,600 (Fifty-Nine Thousand Six Hundred
8 Dollars) with the State Treasurer’s Office on June 26, 2023, as the probable amount of
9 compensation to be awarded for the Subject Property Interests in this proceeding
10 (“Condemnation Deposit”).

11 11. Pursuant to the Verified Application and Stipulation for Partial Withdrawal of
12 Funds on Deposit submitted by the City and Defendant Owners and the Order approving
13 said Verified Application entered on November 7, 2023, Defendant Owners withdrew from
14 the Condemnation Deposit the sum of \$10,000 (Ten Thousand Dollars). Accordingly,
15 \$49,600 (Forty-Nine Thousand Six Hundred Dollars) remains on deposit with the State
16 Treasurer’s Office (“Remaining Condemnation Deposit”).

17 12. The City and Defendant Owners agree that the total just compensation that
18 the City will pay to or for the benefit of Defendant Owners in connection with this eminent
19 domain proceeding for the City’s acquisition of the Subject Property Interests in connection
20 with the construction of the Project as proposed, inclusive of statutory interest, attorneys’
21 fees and costs is \$148,925 (One Hundred Forty-Eight Thousand Nine Hundred Twenty-
22 Five Dollars) (“Total Just Compensation”).

23 13. Defendant Owners expressly acknowledge that payment of the Total Just
24 Compensation of \$148,925 will be the full and final settlement of any and all of the claims
25 of Defendant Owners arising out of or in connection with the City’s acquisition of the
26 Subject Property Interests in connection with the Project, and includes and satisfies any and
27 all other payments, if any, that the City may be required by law to pay to Defendant Owners
28 in this eminent domain proceeding. The Total Just Compensation of \$148,925 includes, but

1 is not limited to, compensation for the City’s acquisition of the Subject Property Interests,
2 severance damages, cost-to-cure damages, inverse condemnation, pre-condemnation
3 damages, de facto taking, claims and damages relating to loss of access or impacts to
4 access, loss of rents, loss of profits, costs, litigation expenses, expert witness fees, appraisal
5 costs, attorneys’ fees, interest, any claims and damages asserted by Defendant Owners or
6 that Defendant Owners could assert in this eminent domain proceeding, and any other
7 damages of every kind and nature suffered or to be suffered by Defendant Owners by
8 reason of the City’s acquisition of the Subject Property Interests, the construction and use
9 of Project as proposed, and this eminent domain proceeding.

10 14. Except for breach of any terms or conditions contained in this Stipulation,
11 Defendant Owners waive and forever release the City including its councilmembers,
12 successors, officers, employees, attorneys, agents, representatives, and anyone acting on
13 behalf of the City, of and from any and all claims, demands, actions or causes of action, or
14 liabilities, known or unknown, based upon or arising in connection with the City’s
15 acquisition of the Subject Property Interests, the construction of the Project as proposed for
16 which the City is acquiring the Subject Property Interests, from any claims and damages
17 that Defendant Owners raised or could have raised in this eminent domain proceeding, and
18 from any and all claims, demands or causes of action or liabilities relating to this eminent
19 domain proceeding.

20 15. Defendant Owners expressly waive any and all claims or rights that they may
21 have under California Civil Code Section 1542, or under any statute or common law or
22 equitable principle of similar effect as these may relate to the City’s acquisition of the
23 Subject Property Interests for the construction of the Project as proposed, the Project as
24 proposed for which the City is acquiring the Subject Property Interests, and this eminent
25 domain proceeding. California Civil Code Section 1542 provides as follows:

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
27 THAT THE CREDITOR OR RELEASING PARTY DOES
28 NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
FAVOR AT THE TIME OF EXECUTING THE RELEASE
AND THAT, IF KNOWN BY HIM OR HER, WOULD
HAVE MATERIALLY AFFECTED HIS OR HER

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SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Initials of Defendant Owners: _____

16. The City of Temecula will pay the Total Just Compensation of \$148,925 for the benefit of Defendants as follows:

a. Defendant Owners acknowledge that the State Treasurer’s Office has disbursed for the benefit of Defendant Owners the sum of \$10,000.

b. Within five business days of receipt of the entry of Judgment in Condemnation by the Court, the City will submit to the State Treasurer’s Office a copy of the Judgment in Condemnation directing the State Treasurer’s Office to disburse for the benefit of Defendant Owners the \$49,600 Remaining Condemnation Deposit.

i. The State Treasurer’s Office shall issue a warrant for the \$49,600 Remaining Condemnation Deposit payable to “Jose Leonardo Garcia and Mayerling Alida Monteros-Garcia” and will mail said warrant by first-class mail addressed as follows:

Jose Leonardo Garcia
Mayerling Alida Monteros-Garcia
40016 Pasadena Drive
Temecula, California 92591

c. The City will issue a check for the benefit of Defendant Owners in the amount of \$89,325 (Eighty Nine Thousand Three Hundred Twenty-Five Dollars), which is the difference between the \$148,925 Total Just Compensation and the \$59,600 Condemnation Deposit, payable to “Law Offices of Robert A. Stack” within 30 days of the entry of Judgment in this proceeding. Should the City not issue a check in the amount of \$89,325 (Eighty Nine Thousand Three Hundred Twenty-Five Dollars) within 30 days of entry of Judgment in this proceeding, a judgment interest rate will accrue at the statutory rate commencing 30 days after the Judgment is entered. The statutory daily interest is calculated to be \$10.39 (rounded). The City will transmit the warrant for the \$89,325 for

1 the benefit of Defendant Owners by federal express or other overnight courier addressed as
2 follows:

3 Robert A. Stack, Esq.
4 Law Offices of Robert A. Stack
5 4445 Eastgate Mall, Suite 200
6 San Diego, California 92121

7 17. Defendant Owners agrees that, within seven (7) business days of receipt of
8 the \$49,600 Remaining Condemnation Deposit described in Paragraph 16.b.i. above,
9 Defendant Owners shall execute and return to counsel for the City an Acknowledgement of
10 Receipt of Remaining Condemnation Deposit in the form attached as EXHIBIT 2 hereto.

11 18. Defendant Owners agree that within seven (7) business days of receipt by
12 their counsel of the \$89,325 described in Paragraph 16.c. above from the City of Temecula,
13 their counsel, Robert A. Stack, Esq. will execute and return to counsel for the City an
14 Acknowledgment of Receipt of Just Compensation, acknowledging the receipt of the
15 \$89,325, in the form attached as EXHIBIT 3 hereto.

16 19. The State Treasurer’s Office shall disburse any interest that has accrued on
17 the Condemnation Deposit or Remaining Condemnation Deposit by issuing a warrant for
18 said amount to City of Temecula, and mailing it by first-class mail as follows:

19 City of Temecula
20 Attention: Ron Moreno
21 Director of Public Work/City Engineer
22 41000 Main Street
23 Temecula, California 92590

24 20. The parties acknowledge that the City’s effective date of possession of the
25 Subject Property Interests is March 28, 2024 (“Date of Possession”), pursuant to the Order
26 of Possession entered by the Court on February 27, 2024, which was served on Defendant
27 Owners on February 27, 2024.

28 21. The water rights, if any, of Defendant Owners in and to the Property are not

1 condemned in this eminent domain proceeding.

2 22. City will cause to be installed, as part of the Project, certain fencing depicted
3 in green on the Exhibit labeled “PROPERTY EXHIBIT POST-PROJECT DATE 5-14-
4 2024”, a true and correct copy of which is attached as EXHIBIT 4 and incorporated herein
5 by this reference. The City will provide a key to access the gate for the fencing installed by
6 the City. Any fencing installed by Defendant Owners, at their sole cost and expense, at
7 other locations along the perimeter of the permanent maintenance and access easement or
8 other portions of the Property are subject to Defendant Owners’ compliance with any
9 applicable laws, regulations or permits. Fencing is allowed on the Property along the
10 Property lines with Calle Girasol and Tommy Lane at Defendant Owners sole cost and
11 expenses subject to Defendants Owners’ compliance with any applicable laws, regulations,
12 or permits.

13 23. Defendant Owners represent and warrant the following:

14 a. That Defendant Owners have no actual knowledge of any claims or
15 liens presently claimed or which will be claimed against the Subject Property Interests;

16 b. That Defendant Owners will not further encumber the Subject Property
17 Interests or allow the Subject Property Interests to be further encumbered before entry of
18 the Final Order of Condemnation in this proceeding and the recordation thereafter;

19 c. That, except for any notices of record as of the date the City filed the
20 Complaint in Eminent Domain herein, Defendant Owners have no notice of any pending or
21 threatened action or proceeding arising from the condition of the Subject Property Interests,
22 or alleged violation of environmental, health, or safety statutes, ordinances, or regulations;

23 d. That neither this Stipulation nor anything it requires or provides,
24 including the transfer of the Subject Property Interests to the City, violates or will violate
25 any contract, agreement, or instrument to which Defendant Owners are a party, or that
26 affects the Subject Property Interests, and that the conveyance of the Subject Property
27 Interests to the City pursuant to this eminent domain proceeding, and the execution of this
28 Stipulation does not require consent of any person who is not a party to this Stipulation; and

1 e. That, except for this eminent domain proceeding, Defendant Owners
2 do not have actual knowledge of any pending, threatened, or potential litigation, action, or
3 proceeding against the Subject Property Interests.

4 24. Each party shall bear its own litigation expenses, including but not limited to
5 all attorney's fees, appraisers' fees, expert witness fees, and any and all other fees or costs
6 of any nature in this eminent domain proceeding.

7 25. Each party to this Stipulation waives the right to all post-judgment challenges
8 to this Stipulation and the proceedings herein, including the right to appeal.

9 26. The Parties hereto have stipulated that a Statement of Decision and Notice of
10 Entry of Judgment is hereby waived.

11 27. In effecting this Stipulation, each of the Parties has had the opportunity to
12 receive full and complete legal advice about the provisions of this Stipulation, and each
13 signatory to the Stipulation certifies that they have read all of this Stipulation and that they
14 understand it. This Stipulation has been fully negotiated between the City and Defendant
15 Owners, and shall be construed as if drafted by all Parties to this Stipulation.

16 28. This Stipulation is made and executed, and is intended to be performed,
17 within the State of California, and is to be construed under California law.

18 29. If any provision of this Stipulation is held invalid, void, or unenforceable, the
19 remaining provisions shall nevertheless remain in full force and effect and shall not be
20 impaired or invalidated by the failed provision.

21 30. The City and Defendant Owners agree that this Stipulation may be executed
22 in counterparts, each of which shall be deemed on original instrument, and all, when taken
23 together, shall constitute the Stipulation.

24 31. Upon filing of the Acknowledgment of Receipt of Remaining Condemnation
25 Deposit and the Acknowledgment of Receipt of Just Compensation described in Paragraphs
26 17 and 18 above, the City will be entitled to apply to the Court for an entry of a Final Order
27 of Condemnation in the form attached as EXHIBIT 5 hereto without further notice to
28 Defendant Owners. No further notice need be given to Defendant Owners of any hearing

1 on this matter. The City, however, agrees to provide to counsel for Defendant Owners a
2 copy of the Final Order of Condemnation entered in this eminent domain proceeding.

3 32. The Court will retain jurisdiction of this case to enforce the provisions of this
4 Stipulation.

5
6 DEFENDANT JOSE LEONARDO GARCIA

7
8 Dated: 11/12/24 By: *Jose Leonardo Garcia*
9 JOSE LEONARDO GARCIA

10
11 MAYERLING ALIDA MONTEROS-GARCIA

12
13 Dated: 11/12/24 By: *Mayerling A. Monteros Garcia*
14 MAYERLING ALIDA
15 MONTEROS-GARCIA

16 APPROVED AS TO FORM:

17
18 LAW OFFICES OF ROBERT A. STACK
19 ROBERT A. STACK

20 Dated: 11/12/24 By: *Robert A. Stack*
21 ROBERT A. STACK
22 Attorneys for Defendants
23 JOSE LEONARDO GARCIA and
24 MAYERLING ALIDA MONTEROS-
25 GARCIA
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CITY OF TEMECULA, a municipal corporation

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Dated: _____

By: _____

AARON ADAMS, CITY MANAGER

APPROVED AS TO FORM:

RICHARDS, WATSON & GERSHON
A Professional Corporation
PAULA GUTIERREZ BAEZA

Dated: _____

By: _____

PAULA GUTIERREZ BAEZA
Attorneys for Plaintiff City of Temecula

RICHARDS WATSON GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION



EXHIBIT 1 TO STIPULATION FOR JUDGMENT
FORM OF JUDGMENT IN CONDEMNATION

EXHIBIT 1 TO STIPULATION FOR ENTRY OF JUDGMENT

1 PETER M. THORSON (BAR NO. 83088)
CITY ATTORNEY
2 CITY OF TEMECULA
3 RICHARDS, WATSON & GERSHON
A Professional Corporation
4 REGINA N. DANNER (BAR NO. 137210)
rdanner@rwglaw.com
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6 MANE KHACHATRYAN (BAR NO. 329506)
mkhachatryan@rwglaw.com
7 1 Civic Center Circle, PO Box 1059
Brea, California 92822-1059
8 Telephone: 714.990.0901
Facsimile: 714.990.6230

9 Attorneys for Plaintiff
10 CITY OF TEMECULA, a municipal corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE, MENIFEE JUSTICE CENTER**

14 CITY OF TEMECULA, a municipal
corporation,

15 Plaintiff,

16 v.

17 JOSE LEONARDO GARCIA;
MAYERLING ALIDA MONTEROS-
18 GARCIA; ANY AND ALL PERSONS
UNKNOWN HAVING OR CLAIMING
19 TO HAVE ANY TITLE OR INTEREST IN
OR TO THE PROPERTY SOUGHT TO
20 BE CONDEMNED HEREIN; AND DOES
1 THROUGH 100, INCLUSIVE,

21 Defendants.
22

Case No. CVSW2303954

**[PROPOSED] JUDGMENT IN
CONDEMNATION**

[APN: 957-150-005]

Assigned for All Purposes To Hon. Angel M.
Bermudez
Dept: M301

Complaint Filed: May 23, 2023

[Exempt from filing fees pursuant to Govt. Code § 6103]

23 Upon review of the Stipulation for Entry of Judgment and Final Order of
24 Condemnation between Plaintiff City of Temecula, a municipal corporation (“City”) and
25 Defendants Jose Leonardo Garcia and Mayerling Alida Monteros-Garcia (collectively
26 “Defendant Owners”), it appears to the Court that the City and Defendant Owners
27 stipulated that the Court may enter the Judgment in Condemnation as set forth herein, and it
28 further appears to the Court that it is proper to enter this Judgment in Condemnation.

1 Accordingly, the Court enters this Judgment in Condemnation as follows:

2 1. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the City is
3 condemning pursuant to this eminent domain proceeding the real property interests
4 described in Paragraph 1.a. and 1.b. below (referred to below collectively as “Subject
5 Property Interests”) on portions of the real property commonly known as 31270 Tommy
6 Lane, Temecula, and identified as Riverside County Tax Assessor’s Parcel Number 957-
7 150-005 (“Property”) in connection with the Nicolas Road from Butterfield Stage Road to
8 the Calle Girasol/Nicolas Road Connection (“Project”). The Subject Property Interests that
9 the City is condemning in this eminent domain proceeding consist of the following:

10 a. An approximate 26,957 square foot permanent maintenance and access
11 easement (“Subject Easement”) on the Property for the construction of certain public street,
12 drainage, access, public utility and related improvements, and all uses necessary or
13 convenient thereto in connection with the Project, including construction of drainage
14 improvements and installation of rip rap. Pursuant to said permanent maintenance and
15 access easement, City has the right to construct drainage improvements and install rip rap in
16 the Subject Easement, and has the right to access and maintain said approximate 26,957
17 square foot Subject Easement. The approximate 26,957 square foot permanent
18 maintenance and access easement is described below and described more particularly in
19 ATTACHMENT A and depicted on ATTACHMENT B attached hereto and incorporated
20 herein by this reference:

21 CITY ACCESS AND MAINTENANCE EASEMENT

22 APN: 957-150-005

23 That portion of Parcel 1 of Parcel Map No. 13678, in the City of
24 Temecula, County of Riverside, State of California, as shown on
25 the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in
the Office of the County Recorder of said Riverside County,
described as follows:

26 COMMENCING at the Centerline Intersection of Nicolas Road
27 and Calle Girasol as shown on said Parcel Map No. 13678;

28 Thence along the centerline of said Nicolas Road North 65°58'34"
East 146.35 feet;

1 Thence leaving said centerline South 24°01'26" East 55.00 feet to
2 the northwesterly line of said Parcel 1, said point being the TRUE
POINT OF BEGINNING;

3 Thence South 42°16'03" East 41.83 feet; Thence South 01°18'58"
4 East 93.45 feet; Thence South 27°05'17" East 35.33 feet; Thence
5 South 25°17'01" West 34.58 feet; Thence South 16°30'15" East
6 95.17 feet; Thence South 06°25'33" West 24.98 feet; Thence
7 South 33°35'08" West 36.10 feet; Thence South 65°59'24" West
8 13.54 feet to the southwesterly line of said Parcel 1;

9 Thence along the southwesterly, and northwesterly line of said
10 Parcel 1 the following courses: North 24°00'36" West 295.98 feet;

11 Thence North 23°22'06" East 33.97 feet;

12 Thence North 65°58'34" East 91.36 feet to the TRUE POINT OF
13 BEGINNING.

14 Containing 0.62 Acres, or 26,957 Square feet, more or less

15 b. An approximate 31,520 square foot temporary construction easement
16 with a term of twelve months ("TCE") on the Property to facilitate the construction of
17 certain public street, drainage, access, public utility and related improvements, and all uses
18 necessary or convenient thereto in connection with the Project. The City has the right to
19 possess and use the approximate 31,520 square foot TCE to facilitate the construction of the
20 Project. The term of said TCE ends twelve months from the March 28, 2024 effective date
21 of possession. The approximate 31,520 square foot TCE is described below and is
22 described more particularly on ATTACHMENT A-1 and depicted on ATTACHMENT B-1
23 hereto:

24 **TEMPORARY CONSTRUCTION EASEMENT**

25 **APN: 957-150-005**

26 That portion of Parcel 1 of Parcel Map No. 13678, in the City of
27 Temecula, County of Riverside, State of California, as shown on
28 the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in
the Office of the County Recorder of said Riverside County,
described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road
and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34"
East 146.35 feet;

Thence leaving said centerline South 24°01'26" East 55.00 feet to

1 the northwesterly line of said Parcel 1, said point being the TRUE
2 POINT OF BEGINNING;
3 Thence along said northwesterly line North 65°58'34" East 20.07;
4 Thence leaving said northwesterly line South 24°01'26" East 39.89
5 feet;
6 Thence South 09'18'59" East 134.69 feet;
7 Thence South 12°18'16" West 43.83 feet;
8 Thence South 16°30'15" East 76.62 feet;
9 Thence South 06°25'33" West 29.42 feet;
10 Thence South 33°35'08" West 41.42 feet;
11 Thence South 65°59'24" West 16.44 feet to the southwesterly line
12 of said Parcel 1;
13 Thence along said southwesterly and the northwesterly lines of
14 said Parcel 1 North 24°00'36" West 305.98 feet;
15 Thence North 23°22'06" East 33.97 feet;
16 Thence North 65°58'34" East 91.36 feet to the TRUE POINT OF
17 BEGINNING.

Containing 0.72 Acres, or 31,520 Square Feet, more or less

18 2. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the City is
19 acquiring the Subject Easement in connection with the Project. Said Subject Easement is
20 required to protect the street improvements that will be constructed within the existing right
21 of way as part of the construction and extension of Nicolas Road from erosion. The Subject
22 Easement is required for the construction of drainage improvements in connection with the
23 Project, including construction of culverts, and related improvements, to protect the street
24 improvements from erosion and flooding, and to provide access to the permanent
25 maintenance and access easement.

26 3. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the public
27 interest and necessity require that the City acquire the Subject Property Interests for a
28 public use, namely for the construction of certain off-site improvements, consisting of
public street, drainage, access and related improvements, and all uses necessary or thereto

1 in connection with the extension of Nicolas Road from Butterfield Stage Road to the Calle
2 Girasol/Nicolas Road connection (“Project”). The City is entitled to condemn the real
3 property interests described in Paragraph 6 below for such uses by virtue of the provisions
4 of California Constitution Article 1, Section 19, California Government Code Sections
5 37350, 37350.5, 37351, 40404, and 66462.5, California Code of Civil Procedure Sections
6 1230.010, et seq. (Eminent Domain Law), including but not limited to Sections 1240.010,
7 1240.020, 1240.110, 1240.120, 1240.510, 1240.610, 1240.650, and by other provisions of
8 law. Code of Civil Procedure Section 1240.010 provides that “[t]he power of eminent
9 domain may be exercised to acquire property only for a public use. Where the Legislature
10 provides by statute that a use, purpose, object, or function is one for which the power of
11 eminent domain may be exercised, such action is deemed to be a declaration by the
12 Legislature that such use, purpose, object, or function is a public use.” Government Code
13 Section 66462.5(c) authorizes the City and the developer of a project for which the
14 construction of offsite improvements are required to enter into an agreement requiring the
15 developer to complete the improvements pursuant to Government Code Section 66462 at
16 such time as the City acquires an interest in the land that will permit such improvements to
17 be constructed. Government Code Section 66462.5(a) provides that a city or county may
18 “acquire by negotiation or commence eminent domain proceedings pursuant to Title 7
19 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure to acquire an
20 interest in the land which will permit the improvements to be made, including proceedings
21 for immediate possession of the property under Article (commencing with Section
22 1255.410) of Chapter 6 of that title.”

23 4. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
24 Project, as planned and designed, is in the public interest and necessity and is needed to
25 construct the public street, drainage, access, public utility and related improvements in
26 connection with the proposed extension of Nicolas Road from Butterfield Stage Road to the
27 Calle Girasol/Nicolas Road connection. The Subject Property Interests are required to
28 protect the street improvements that will be constructed within the existing right of way as

1 part of the construction and extension of Nicolas Road from erosion. The Subject Property
2 Interests are required for the construction of drainage improvements in connection with the
3 Project, including construction of culverts, and related improvements, to protect the street
4 improvements from erosion and flooding, and to provide access to the permanent
5 maintenance and access easement.

6 5. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that to the
7 extent that there are any public utility easements in the area of the Subject Property
8 Interests, the public use for which the City seeks to acquire the Subject Property Interests,
9 namely for the construction of certain public improvements, consisting of public street,
10 drainage, access, public utility and related improvement, and all uses necessary and
11 convenient thereto in connection with the Project, will not unreasonably interfere with or
12 impair the continuance of the public use to which any easement holders may have
13 appropriated the areas (Code of Civil Procedure Section 1240.510).

14 6. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the public
15 interest and necessity require the Project; the Project is planned and located in the manner
16 that will be most compatible with the greatest public good and the least private injury; the
17 Subject Property Interests are necessary for the Project; and the City has made an offer to
18 the owners of record to purchase the Subject Property Interests as required by Government
19 Code Section 7267.2.

20 7. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that on
21 October 2, 2023, the Court authorized the service by publication of Defendant Any and All
22 Persons Unknown Having or Claiming to Have any Title or Interest in or to the Property
23 Sought to be Condemned Herein (“Defendant Any and All Persons Unknown”). Defendant
24 Any and All Persons Unknown was served by publication pursuant to Code of Civil
25 Procedure (“CCP”) Section 414.50. In accordance with the Order authorizing service by
26 publication, Defendant Any and All Persons Unknown was served by publication in *The*
27 *Press Enterprise* on October 30, 2023, November 6, 2023, November 13, 2023, and
28 November 20, 2023. The summons and complaint was also posted on the Property on

1 October 26, 2023. The Proof of Publication of Summons for Any And All Persons
2 Unknown was filed with the Court on December 4, 2023. Defendant Any and All Persons
3 Unknown did not file an answer or responsive pleading in this proceeding within the time
4 required by law. Accordingly, on December 27, 2023, the City requested that the Court
5 enter the default of Defendant Any and All Persons Unknown. The Court entered the
6 default of Defendant Any and All Persons on December 27, 2023. Upon review of the files
7 in this matter, the Court hereby enters a default judgment as to Any and All Persons
8 Unknown.

9 8. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
10 Defendants Doe 1 through 100, inclusive, are hereby dismissed.

11 9. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that on or
12 about June 26, 2023, the City deposited the sum of \$59,600 (Fifty-Nine Thousand Six
13 Hundred Dollars) with the State Treasurer’s Office as the probable amount of compensation
14 to be awarded for the Subject Property Interests in this proceeding pursuant to Code of
15 Civil Procedure Section 1255.010 (“Condemnation Deposit”). Pursuant to the Verified
16 Application and Stipulation for Partial Withdrawal of Funds on Deposit submitted by the
17 City and Defendant Owners and the Order approving said Verified Application entered on
18 November 7, 2023, Defendant Owners withdrew from the Condemnation Deposit the sum
19 of \$10,000 (Ten Thousand Dollars). Accordingly, \$49,600 (Forty-Nine Thousand Six
20 Hundred Dollars) remains on deposit with the State Treasurer’s Office (“Remaining
21 Condemnation Deposit”).

22 10. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the total
23 just compensation that the City will pay to or for the benefit of Defendant Owners in
24 connection with this eminent domain proceeding for the City’s acquisition of the Subject
25 Property Interests in connection with the construction of the Project as proposed, inclusive
26 of statutory interest, attorneys’ fees and costs is \$148,925 (One Hundred Forty-Eight
27 Thousand Nine Hundred Twenty-Five Dollars) (“Total Just Compensation”).

28 11. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the

1 payment of the Total Just Compensation of \$148,925 for the benefit of Defendant Owners
2 will be the full and final settlement of any and all of the claims of Defendant Owners
3 arising out of or in connection with the City’s acquisition of the Subject Property Interests
4 in connection with the Project, and includes and satisfies any and all other payments, if any,
5 that the City may be required by law to pay to Defendant Owners in this eminent domain
6 proceeding. The Total Just Compensation of \$148,925 includes, but is not limited to,
7 compensation for the City’s acquisition of the Subject Property Interests, severance
8 damages, cost-to-cure damages, inverse condemnation, pre-condemnation damages, de
9 facto taking, claims and damages relating to loss of access or impacts to access, loss of
10 rents, loss of profits, costs, litigation expenses, expert witness fees, appraisal costs,
11 attorneys’ fees, interest, any claims and damages asserted by Defendant Owners or that
12 Defendant Owners could assert in this eminent domain proceeding, and any other damages
13 of every kind and nature suffered or to be suffered by Defendant Owners by reason of the
14 City’s acquisition of the Subject Property Interests, the construction and use of Project as
15 proposed, and this eminent domain proceeding.

16 12. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that except for
17 breach of any terms or conditions contained in this Stipulation, Defendant Owners waive
18 and forever release the City including its councilmembers, successors, officers, employees,
19 attorneys, agents, representatives, and anyone acting on behalf of the City, of and from any
20 and all claims, demands, actions or causes of action, or liabilities, known or unknown,
21 based upon or arising in connection with the City’s acquisition of the Subject Property
22 Interests, the construction of the Project as proposed for which the City is acquiring the
23 Subject Property Interests, from any claims and damages that Defendant Owners raised or
24 could have raised in this eminent domain proceeding, and from any and all claims, demands
25 or causes of action or liabilities relating to this eminent domain proceeding.

26 13. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant
27 to the Stipulation, Defendant Owners expressly waive any and all claims or rights that they
28 may have under California Civil Code Section 1542, or under any statute or common law or

1 equitable principle of similar effect as these may relate to the City’s acquisition of the
2 Subject Property Interests for the construction of the Project as proposed, the Project as
3 proposed for which the City is acquiring the Subject Property Interests, and this eminent
4 domain proceeding. California Civil Code Section 1542 provides as follows:

5 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
6 THAT THE CREDITOR OR RELEASING PARTY DOES
7 NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
8 FAVOR AT THE TIME OF EXECUTING THE RELEASE
9 AND THAT, IF KNOWN BY HIM OR HER, WOULD
10 HAVE MATERIALLY AFFECTED HIS OR HER
11 SETTLEMENT WITH THE DEBTOR OR RELEASED
12 PARTY.

13 14. IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the City
14 of Temecula will pay the Total Just Compensation of \$148,925 for the benefit of
15 Defendants as follows:

16 a. Defendant Owners acknowledge that the State Treasurer’s Office has
17 disbursed for the benefit of Defendant Owners the sum of \$10,000.

18 b. Within five business days of receipt of the entry of Judgment in
19 Condemnation by the Court, the City will submit to the State Treasurer’s Office a copy of
20 the Judgment in Condemnation directing the State Treasurer’s Office to disburse for the
21 benefit of Defendant Owners the \$49,600 Remaining Condemnation Deposit.

22 i. The State Treasurer’s Office shall issue a warrant for the
23 \$49,600 Remaining Condemnation Deposit payable to “Jose
24 Leonardo Garcia and Mayerling Alida Monteros-Garcia” and
25 will mail said warrant by first-class mail addressed as follows:

26 Jose Leonardo Garcia
27 Mayerling Alida Monteros-Garcia
28 40016 Pasadena Drive
Temecula, California 92591

c. The City will issue a check for the benefit of Defendant Owners in the
amount of \$89,325 (Eighty Nine Thousand Three Hundred Twenty-Five Dollars), which is

1 the difference between the \$148,925 Total Just Compensation and the \$59,600
2 Condemnation Deposit, payable to “Law Offices of Robert A. Stack” within 30 days of the
3 entry of Judgment in this proceeding. Should the City not issue a check in the amount of
4 \$89,325 (Eighty Nine Thousand Three Hundred Twenty-Five Dollars) within 30 days of
5 entry of Judgment in this proceeding, a judgment interest rate will accrue at the statutory
6 rate commencing 30 days after the Judgment is entered. The statutory daily interest is
7 calculated to be \$10.39 (rounded). The City will transmit the warrant for the \$89,325 for
8 the benefit of Defendant Owners by federal express or other overnight courier addressed as
9 follows:

10 Robert A. Stack, Esq.
11 Law Offices of Robert A. Stack
12 4445 Eastgate Mall, Suite 200
13 San Diego, California 92121

14 15. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
15 Owners will, within seven (7) business days of receipt of the \$49,600 Remaining
16 Condemnation Deposit described above, execute and return to counsel for the City an
17 Acknowledgement of Receipt of Remaining Condemnation Deposit in the form attached as
18 EXHIBIT 2 to the Stipulation.

19 16. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, within
20 seven (7) business days of receipt by Robert A. Stack, Esq., counsel for Defendant Owners,
21 of the \$89,325 described above from the City of Temecula, counsel for Defendant Owners
22 will execute and return to counsel for the City an Acknowledgment of Receipt of Just
23 Compensation, acknowledging the receipt of the \$89,325, in the form attached as EXHIBIT
24 3 to the Stipulation.

25 17. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, the State
26 Treasurer’s Office will disburse any interest that has accrued on the Condemnation Deposit
27 or Remaining Condemnation Deposit by issuing a warrant for said amount to City of
28 Temecula, and mailing it by first-class mail as follows:

1 City of Temecula
2 Attention: Ron Moreno
3 Director of Public Work/City Engineer
4 41000 Main Street
5 Temecula, California 92590

6 18. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City’s
7 effective date of possession of the Subject Property Interests is March 28, 2024 (“Date of
8 Apportionment”), pursuant to the Order of Possession entered by the Court on February 27,
9 2024, which was served on Defendant Owners on February 27, 2024.

10 19. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the water
11 rights, if any, of Defendant Owners in and to the Property are not condemned in this
12 eminent domain proceeding.

13 20. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that City will
14 cause to be installed, as part of the Project, certain fencing depicted in green on the Exhibit
15 attached as EXHIBIT 4 to the Stipulation labeled “PROPERTY EXHIBIT POST-
16 PROJECT DATE 5-14-2024”. The City will provide a key to access the gate for the
17 fencing installed by the City. Any fencing installed by Defendant Owners, at their sole cost
18 and expense, at other locations along the perimeter of the permanent maintenance and
19 access easement or other portions of the Property are subject to Defendant Owners’
20 compliance with any applicable laws, regulations or permits.

21 21. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that each party
22 shall bear its own litigation expenses, including but not limited to all attorney’s fees,
23 appraisers’ fees, expert witness fees, and any and all other fees or costs of any nature in this
24 eminent domain proceeding.

25 22. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to
26 the Stipulation, each party to this Stipulation waived the right to all post-judgment
27 challenges to this Stipulation and the proceedings herein, including the right to appeal.

28 ///

///

ATTACHMENT A
Description of Permanent Access and Maintenance Easement

EXHIBIT "A"
LEGAL DESCRIPTION
CITY MAINTENANCE EASEMENT
APN: 957-150-005, GARCIA PROPERTY

That portion of Parcel 1 of Parcel Map No. 13678, in the City of Temecula, County of Riverside, State of California, as shown on the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in the Office of the County Recorder of said Riverside County, described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34" East 146.35 feet;

Thence leaving said centerline South 24°01'26" East 55.00 feet to the northwesterly line of said Parcel 1, said point being the **TRUE POINT OF BEGINNING**;

Thence South 42°16'03" East 41.83 feet;

Thence South 01°18'58" East 93.45 feet;

Thence South 27°05'17" East 35.33 feet;

Thence South 25°17'01" West 34.58 feet;

Thence South 16°30'15" East 95.17 feet;

Thence South 06°25'33" West 24.98 feet;

Thence South 33°35'08" West 36.10 feet;

Thence South 65°59'24" West 13.54 feet to the southwesterly line of said Parcel 1;

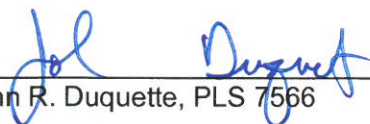
Thence along the southwesterly, and northwesterly line of said Parcel 1 the following courses: North 24°00'36" West 295.98 feet;

Thence North 23°22'06" East 33.97 feet;

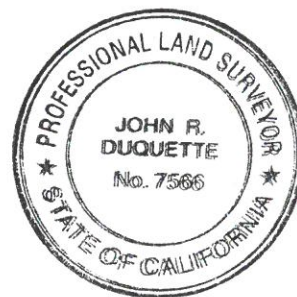
Thence North 65°58'34" East 91.36 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.62 Acres, or 26,957 Square feet, more or less

This description was prepared
by me or under my direction.


John R. Duquette, PLS 7566

Date: 5/1/20

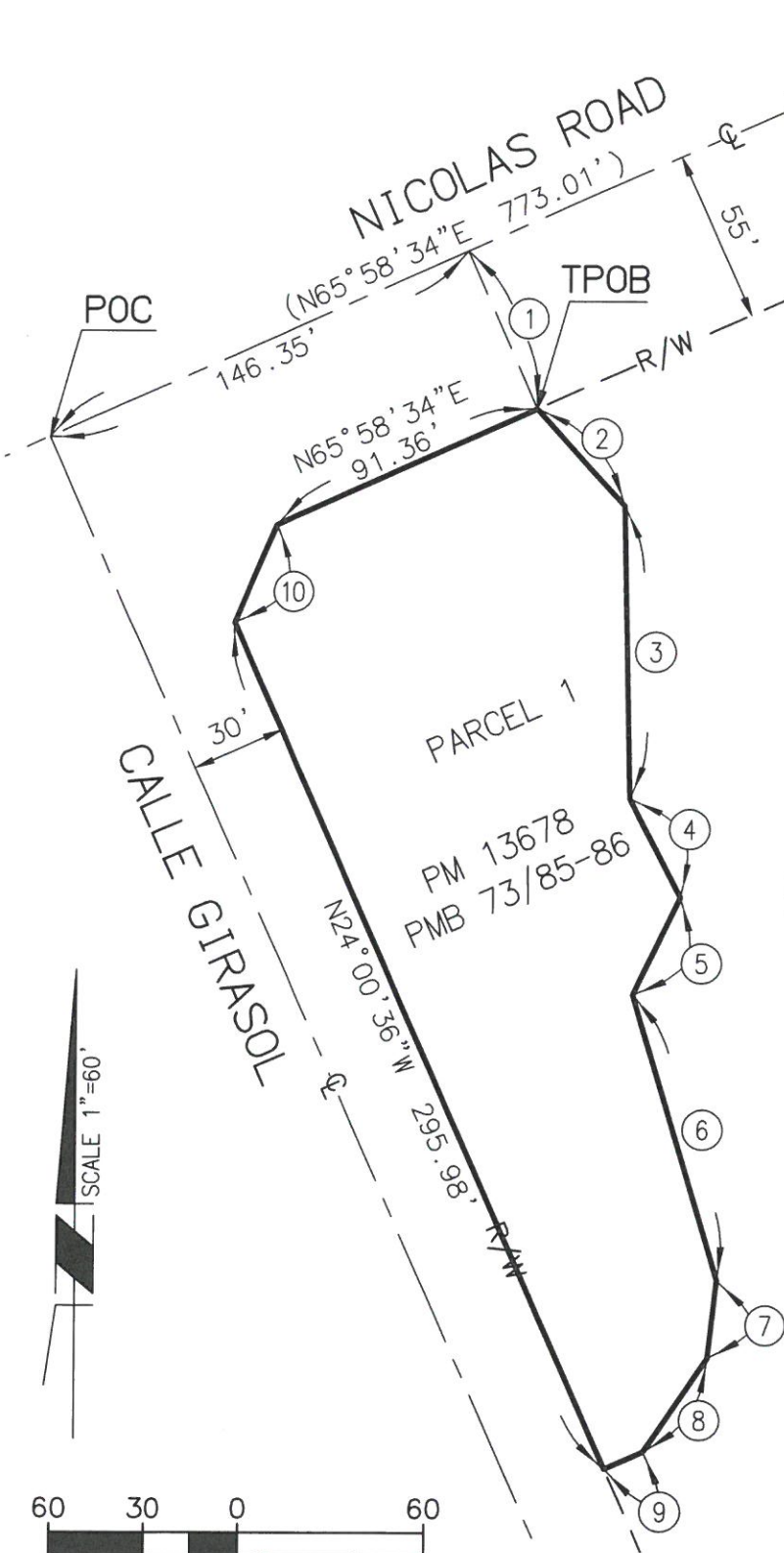


Michael Baker International
40810 County Center Drive, Suite 200
Temecula, CA 92591

May 1, 2020
JN 175051
Page 1 of 1

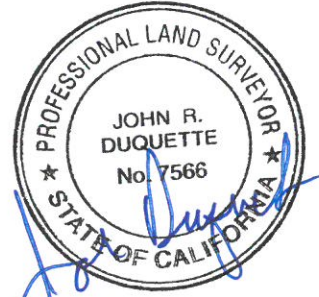
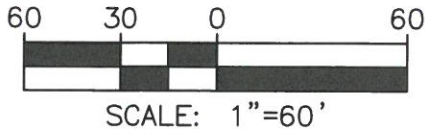
ATTACHMENT B
Depiction of Permanent Access and Maintenance Easement

EXHIBIT "B"
CITY MAINTENANCE EASEMENT
 APN: 957-150-005
 GARCIA PROPERTY



DATA TABLE		
(NO)	BEARING/DELTA	LENGTH
1	N24°01'26"W	55.00'
2	N42°16'03"W	41.83'
3	N01°18'58"W	93.45'
4	N27°05'17"W	35.33'
5	N25°17'01"E	34.58'
6	N16°30'15"W	95.17'
7	N06°25'33"E	24.98'
8	N33°35'08"E	36.10'
9	N65°59'24"E	13.54'
10	N23°22'06"E	33.97'

POC = POINT OF COMMENCEMENT
 TPOB = TRUE POINT OF BEGINNING
 () = INDICATES RECORD DATA PER
 PM 13678, PMB 73/85-86



SHEET 1 OF 1

Michael Baker
INTERNATIONAL

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ATTACHMENT A-1
Description of Temporary Construction Easement

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN: 957-150-005, GARCIA PROPERTY

That portion of Parcel 1 of Parcel Map No. 13678, in the City of Temecula, County of Riverside, State of California, as shown on the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in the Office of the County Recorder of said Riverside County, described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34" East 146.35 feet;

Thence leaving said centerline South 24°01'26" East 55.00 feet to the northwesterly line of said Parcel 1, said point being the **TRUE POINT OF BEGINNING**;

Thence along said northwesterly line North 65°58'34" East 20.07;

Thence leaving said northwesterly line South 24°01'26" East 39.89 feet;

Thence South 09°18'59" East 134.69 feet;

Thence South 12°18'16" West 43.83 feet;

Thence South 16°30'15" East 76.62 feet;

Thence South 06°25'33" West 29.42 feet;

Thence South 33°35'08" West 41.42 feet;

Thence South 65°59'24" West 16.44 feet to the southwesterly line of said Parcel 1;

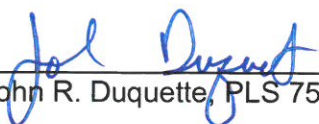
Thence along said southwesterly and the northwesterly lines of said Parcel 1 North 24°00'36" West 305.98 feet;

Thence North 23°22'06" East 33.97 feet;

Thence North 65°58'34" East 91.36 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.72 Acres, or 31,520 Square Feet, more or less

This description was prepared by me or under my direction.



John R. Duquette, PLS 7566

Date: 5/1/20



Michael Baker International
40810 County Center Drive, Suite 200
Temecula, CA 92591

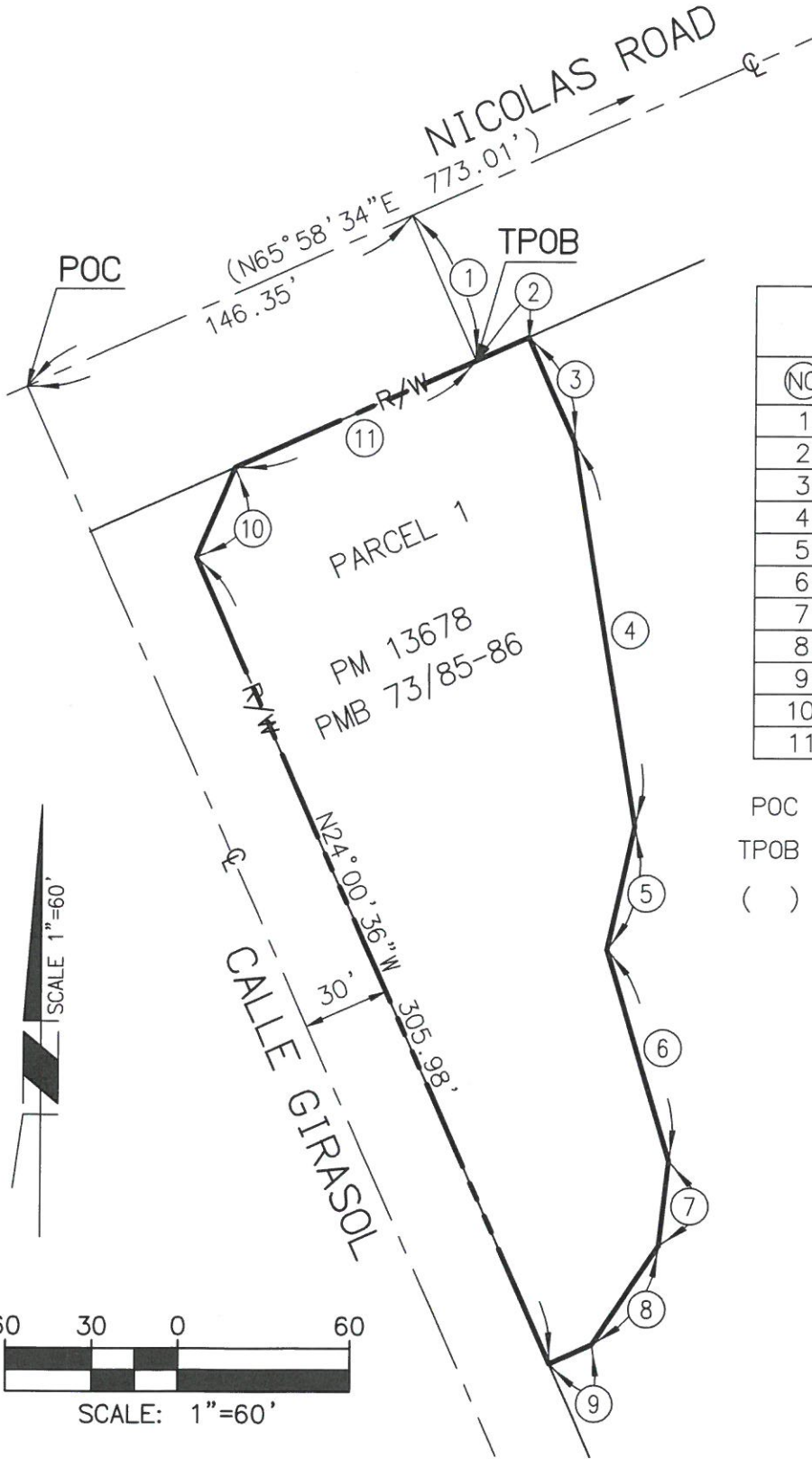
May 1, 2020
JN 175051
Page 1 of 1

ATTACHMENT B-1
Depiction of Temporary Construction Easement

EXHIBIT "B"

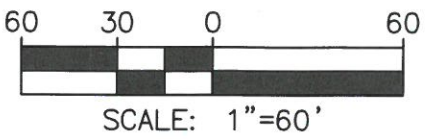
TEMPORARY CONSTRUCTION EASEMENT

APN: 957-150-005
GARCIA PROPERTY



DATA TABLE		
NO	BEARING/DELTA	LENGTH
1	N24°01'26"W	55.00'
2	N65°58'34"E	20.07'
3	N24°01'26"W	39.89'
4	N09°18'59"W	134.69'
5	N12°18'16"E	43.83'
6	N16°30'15"W	76.62'
7	N06°25'33"E	29.42'
8	N33°35'08"E	41.42'
9	N65°59'24"E	16.44'
10	N23°22'06"E	33.97'
11	N65°58'34"E	91.36'

POC = POINT OF COMMENCEMENT
TPOB = TRUE POINT OF BEGINNING
() = INDICATES RECORD DATA PER
PM 13678, PMB 73/85-86



SHEET 1 OF 1

Michael Baker
INTERNATIONAL

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EXHIBIT 2 TO STIPULATION FOR JUDGMENT
FORM OF ACKNOWLEDGMENT OF RECEIPT OF
CONDEMNATION DEPOSIT

EXHIBIT 2 TO STIPULATION FOR ENTRY OF JUDGMENT

1 PETER M. THORSON (BAR NO. 83088)
CITY ATTORNEY
2 CITY OF TEMECULA

3 RICHARDS, WATSON & GERSHON
A Professional Corporation
4 REGINA N. DANNER (BAR NO. 137210)
rdanner@rwglaw.com
5 PAULA GUTIERREZ BAEZA (BAR NO. 198653)
pbaeza@rwglaw.com
6 MANE KHACHATRYAN (BAR NO. 329506)
mkhachatryan@rwglaw.com
7 1 Civic Center Circle, PO Box 1059
Brea, California 92822-1059
8 Telephone: 714.990.0901
Facsimile: 714.990.6230

9 Attorneys for Plaintiff
10 CITY OF TEMECULA, a municipal corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE, MENIFEE JUSTICE CENTER**

14 CITY OF TEMECULA, a municipal
corporation,

15 Plaintiff,

16 v.

17 JOSE LEONARDO GARCIA;
MAYERLING ALIDA MONTEROS-
18 GARCIA; ANY AND ALL PERSONS
UNKNOWN HAVING OR CLAIMING
19 TO HAVE ANY TITLE OR INTEREST IN
OR TO THE PROPERTY SOUGHT TO
20 BE CONDEMNED HEREIN; AND DOES
1 THROUGH 100, INCLUSIVE,

21 Defendants.
22

Case No. CVSW2303954

**ACKNOWLEDGMENT OF RECEIPT
OF CONDEMNATION DEPOSIT**
[APN: 957-150-005]

Assigned for All Purposes To Hon. Angel M.
Bermudez
Dept: M301

Complaint Filed: May 23, 2023

[Exempt from filing fees pursuant to Govt. Code § 6103]

23
24 Pursuant to the Judgment in Condemnation entered in this eminent domain
25 proceeding on _____, 2024, Defendants Jose Leonardo Garcia and Mayerling
26 Alida Monteros-Garcia (collectively “Defendant Owners”) hereby acknowledge receipt
27 from the State Treasurer’s Office of the sum of \$49,600 (Forty-Nine Thousand Six Hundred
28 Dollars). Said \$49,600 represents the principal that remained on deposit with the State

ACKNOWLEDGMENT OF RECEIPT OF CONDEMNATION DEPOSIT

1 Treasurer's Office from the original \$59,600 condemnation deposit made by the City.
2 Defendant Owners previously withdrew \$10,000 from the original \$59,600 condemnation
3 deposit.

4
5
6 DATED: _____

By: Jose Leonardo Garcia
JOSE LEONARDO GARCIA

7
8
9
10 DATED: _____

By: Mayerling Alida Monteros Garcia
MAYERLING ALIDA MONTEROS-
GARCIA

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EXHIBIT 3 TO STIPULATION FOR JUDGMENT
FORM OF ACKNOWLEDGMENT OF RECEIPT OF
JUST COMPENSATION

EXHIBIT 3 TO STIPULATION FOR ENTRY OF JUDGMENT

1 PETER M. THORSON (BAR NO. 83088)
CITY ATTORNEY
2 CITY OF TEMECULA

3 RICHARDS, WATSON & GERSHON
A Professional Corporation
4 REGINA N. DANNER (BAR NO. 137210)
rdanner@rwglaw.com
5 PAULA GUTIERREZ BAEZA (BAR NO. 198653)
pbaeza@rwglaw.com
6 MANE KHACHATRYAN (BAR NO. 329506)
mkhachatryan@rwglaw.com
7 1 Civic Center Circle, PO Box 1059
Brea, California 92822-1059
8 Telephone: 714.990.0901
Facsimile: 714.990.6230

9 Attorneys for Plaintiff
10 CITY OF TEMECULA, a municipal corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE, MENIFEE JUSTICE CENTER**

14 CITY OF TEMECULA, a municipal
corporation,

15 Plaintiff,

16 v.

17 JOSE LEONARDO GARCIA;
MAYERLING ALIDA MONTEROS-
18 GARCIA; ANY AND ALL PERSONS
UNKNOWN HAVING OR CLAIMING
19 TO HAVE ANY TITLE OR INTEREST IN
OR TO THE PROPERTY SOUGHT TO
20 BE CONDEMNED HEREIN; AND DOES
1 THROUGH 100, INCLUSIVE,

21 Defendants.
22

Case No. CVSW2303954

**ACKNOWLEDGMENT OF RECEIPT
OF JUST COMPENSATION**
[APN: 957-150-005]

Assigned for All Purposes To Hon. Angel M.
Bermudez
Dept: M301

Complaint Filed: May 23, 2023

[Exempt from filing fees pursuant to Govt. Code § 6103]

23 Pursuant to the Judgment in Condemnation entered in this eminent domain
24 proceeding on _____, 2024, Robert A. Stack, Esq., hereby acknowledges receipt
25 from the City of Temecula of the sum of \$89,325 (Eighty Nine Thousand Three Hundred
26 Twenty-Five Dollars) for the benefit of Defendant property owners Jose Leonardo Garcia
27 and Mayerling Alida Monteros-Garcia (collectively “Defendant Owners”). Said \$89,325 is
28 the difference between the \$148,925 Total Just Compensation in this proceeding and the

ACKNOWLEDGMENT OF RECEIPT OF JUST COMPENSATION

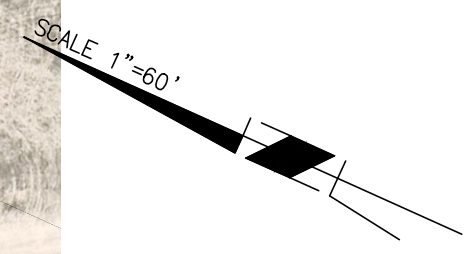
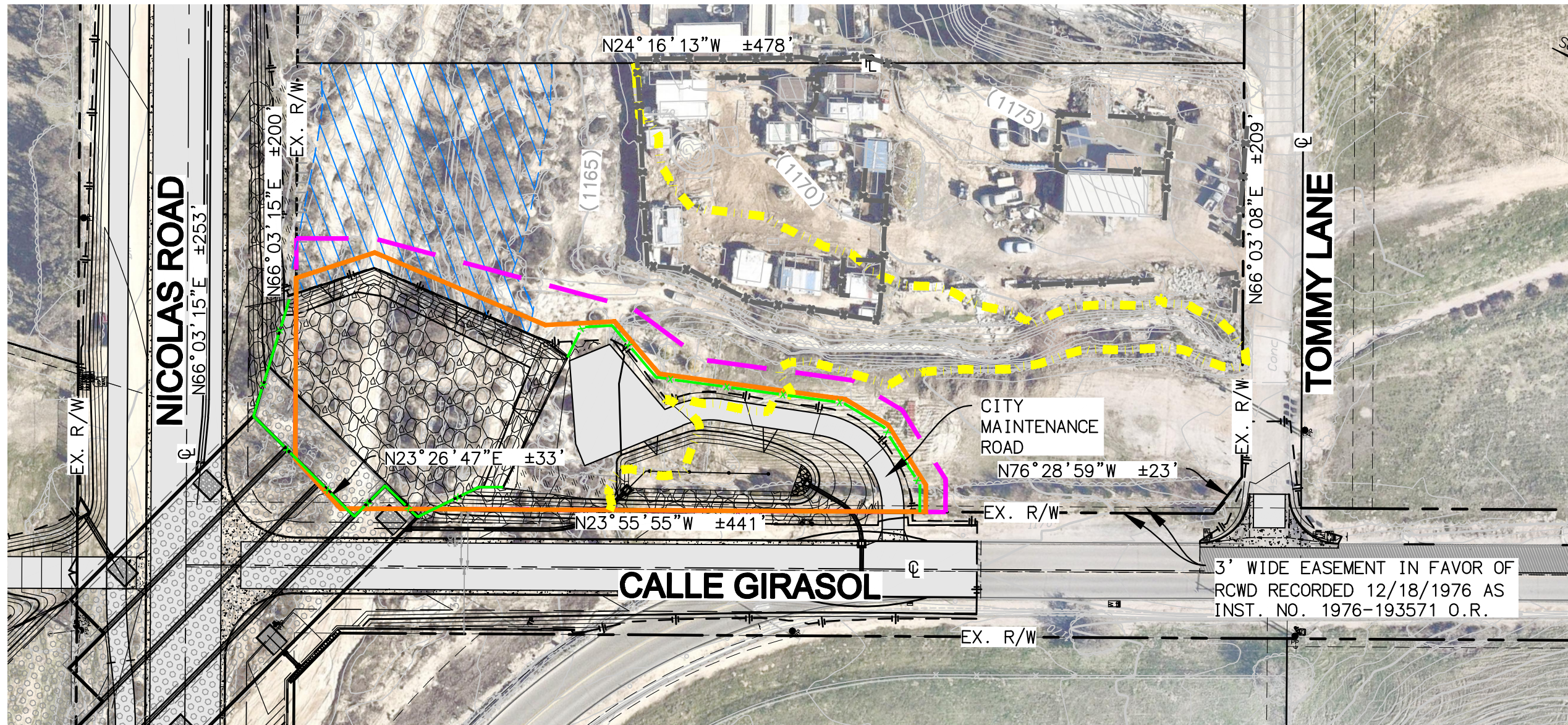
1 \$59,600 Condemnation Deposit disbursed by the State Treasurer's Office for the benefit of
2 Defendant Owners.

3
4
5 DATED: _____ By: _____

6 ROBERT A. STACK, ESQ.
7 COUNSEL FOR DEFENDANTS JOSE
8 LEONARDO GARCIA AND
9 MAYERLING ALIDA MONTEROS-
10 GARCIA

EXHIBIT 4 TO STIPULATION FOR JUDGMENT

EXHIBIT DEPICTING LOCATION OF FENCING

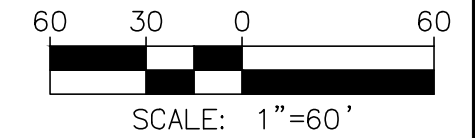


LEGEND:

- TOP OF SLOPE
- TOE OF SLOPE
- RIP RAP
- CITY MAINTENANCE EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- APPROXIMATE POST-PROJECT 100-YEAR FLOOD (DESIGN STORM) LIMITS
- EXISTING FENCING
- PROPOSED FENCING

DESCRIPTION	GROSS (S.F.)
LOT AREA	± 107,970
EXIST. UTILITY EASEMENTS	± 1,330
TEMPORARY CONSTRUCTION EASEMENT	± 31,520*
CITY MAINTENANCE EASEMENT	± 26,957
APPROXIMATE POST-PROJECT 100-YEAR FLOOD LIMITS	± 55,370
APPROXIMATE REMAINING USABLE LOT AREA	± 44,280*

*TEMPORARY CONSTRUCTION EASEMENT SQUARE FOOTAGE IS NOT COMPUTED IN THE REMAINING USABLE LOT AREA SQUARE FOOTAGE.



DISCLAIMER:

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Michael Baker
INTERNATIONAL

PROPERTY EXHIBIT
POST-PROJECT

OWNER: GARCIA
APN: 957-150-005
31270 TOMMY LANE
TEMECULA, CA 92591
DATE: 05-14-2024

H:\PROJECTS\175051\CADD\LAND\EXHIBITS\PROPERTY OWNERS\GARCIA POST PROJECT.DWG FENTON, CANDICE 5/14/2024 5:03 PM

EXHIBIT 5 TO STIPULATION FOR JUDGMENT
FORM OF FINAL ORDER OF CONDEMNATION

EXHIBIT 5 TO STIPULATION FOR ENTRY OF JUDGMENT

1 PETER M. THORSON (BAR NO. 83088)
CITY ATTORNEY
2 CITY OF TEMECULA

3 RICHARDS, WATSON & GERSHON
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7 1 Civic Center Circle, PO Box 1059
Brea, California 92822-1059
8 Telephone: 714.990.0901
Facsimile: 714.990.6230

9 Attorneys for Plaintiff
10 CITY OF TEMECULA, a municipal corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE, MENIFEE JUSTICE CENTER**

14 CITY OF TEMECULA, a municipal
corporation,

15 Plaintiff,

16 v.

17 JOSE LEONARDO GARCIA;
MAYERLING ALIDA MONTEROS-
18 GARCIA; ANY AND ALL PERSONS
UNKNOWN HAVING OR CLAIMING
19 TO HAVE ANY TITLE OR INTEREST IN
OR TO THE PROPERTY SOUGHT TO
20 BE CONDEMNED HEREIN; AND DOES
1 THROUGH 100, INCLUSIVE,

21 Defendants.
22

Case No. CVSW2303954

**[PROPOSED] FINAL ORDER OF
CONDEMNATION AND
WITHDRAWAL OF LIS PENDENS**

[APN: 957-150-005]

Assigned for All Purposes To Hon. Angel M.
Bermudez
Dept: M301

Complaint Filed: May 23, 2023

[Exempt from filing fees pursuant to Govt. Code § 6103]

23 The Judgment in Condemnation was entered by the Court in this proceeding on
24 _____, 2024. It appears to the Court’s satisfaction that the Total Compensation in
25 the sum of \$148,925 (One Hundred Forty-Eight Thousand Nine Hundred Twenty-Five
26 Thousand Dollars) has been paid for the benefit of Defendant property owners Jose
27 Leonardo Garcia and Mayerling Alida Monteros-Garcia (collectively “Defendant
28 Owners”), it appears to the Court that the City and Defendant Owners stipulated that the

1 Court may enter the Judgment in Condemnation as set forth herein, and it further appears to
2 the Court that it is proper to enter this Judgment in Condemnation. Accordingly, the Court
3 enters this Judgment in Condemnation as follows:

4 1. IT IS HEREBY ORDERED AND ADJUDGED that the City is condemning
5 pursuant to this eminent domain proceeding the real property interests described in
6 Paragraph 1.a. and 1.b. below (referred to below collectively as “Subject Property
7 Interests”) on portions of the real property commonly known as 31270 Tommy Lane,
8 Temecula, and identified as Riverside County Tax Assessor’s Parcel Number 957-150-005
9 (“Property”) in connection with the Nicolas Road from Butterfield Stage Road to the Calle
10 Girasol/Nicolas Road Connection (“Project”). The Subject Property Interests that the City
11 is condemning in this eminent domain proceeding consist of the following:

12 a. An approximate 26,957 square foot permanent maintenance and access
13 easement (“Subject Easement”) on the Property for the construction of certain public street,
14 drainage, access, public utility and related improvements, and all uses necessary or
15 convenient thereto in connection with the Project, including construction of drainage
16 improvements and installation of rip rap. Pursuant to said permanent maintenance and
17 access easement, City has the right to construct drainage improvements and install rip rap in
18 the Subject Easement, and has the right to access and maintain said approximate 26,957
19 square foot Subject Easement. The approximate 26,957 square foot permanent
20 maintenance and access easement is described below and described more particularly in
21 ATTACHMENT A and depicted on ATTACHMENT B attached hereto and incorporated
22 herein by this reference:

23 CITY ACCESS AND MAINTENANCE EASEMENT

24 APN: 957-150-005

25 That portion of Parcel 1 of Parcel Map No. 13678, in the City of
26 Temecula, County of Riverside, State of California, as shown on
27 the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in
28 the Office of the County Recorder of said Riverside County,
described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road
and Calle Girasol as shown on said Parcel Map No. 13678;

1 Thence along the centerline of said Nicolas Road North 65°58'34"
2 East 146.35 feet;

3 Thence leaving said centerline South 24°01'26" East 55.00 feet to
4 the northwesterly line of said Parcel 1, said point being the TRUE
5 POINT OF BEGINNING;

6 Thence South 42°16'03" East 41.83 feet; Thence South 01°18'58"
7 East 93.45 feet; Thence South 27°05'17" East 35.33 feet; Thence
8 South 25°17'01" West 34.58 feet; Thence South 16°30'15" East
9 95.17 feet; Thence South 06°25'33" West 24.98 feet; Thence
10 South 33°35'08" West 36.10 feet; Thence South 65°59'24" West
11 13.54 feet to the southwesterly line of said Parcel 1;

12 Thence along the southwesterly, and northwesterly line of said
13 Parcel 1 the following courses: North 24°00'36" West 295.98 feet;

14 Thence North 23°22'06" East 33.97 feet;

15 Thence North 65°58'34" East 91.36 feet to the TRUE POINT OF
16 BEGINNING.

17 Containing 0.62 Acres, or 26,957 Square feet, more or less

18 b. An approximate 31,520 square foot temporary construction easement
19 with a term of twelve months ("TCE") on the Property to facilitate the construction of
20 certain public street, drainage, access, public utility and related improvements, and all uses
21 necessary or convenient thereto in connection with the Project. The City has the right to
22 possess and use the approximate 31,520 square foot TCE to facilitate the construction of the
23 Project. The term of said TCE ends twelve months from the March 28, 2024 effective date
24 of possession. The approximate 31,520 square foot TCE is described below and is
25 described more particularly on ATTACHMENT A-1 and depicted on ATTACHMENT B-1
26 hereto:

27 **TEMPORARY CONSTRUCTION EASEMENT**

28 **APN: 957-150-005**

That portion of Parcel 1 of Parcel Map No. 13678, in the City of Temecula, County of Riverside, State of California, as shown on the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in the Office of the County Recorder of said Riverside County, described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34"

1 East 146.35 feet;
2 Thence leaving said centerline South 24°01'26" East 55.00 feet to
3 the northwesterly line of said Parcel 1, said point being the TRUE
4 POINT OF BEGINNING;
5 Thence along said northwesterly line North 65°58'34" East 20.07;
6 Thence leaving said northwesterly line South 24°01'26" East 39.89
7 feet;
8 Thence South 09'18'59" East 134.69 feet;
9 Thence South 12°18'16" West 43.83 feet;
10 Thence South 16°30'15" East 76.62 feet;
11 Thence South 06°25'33" West 29.42 feet;
12 Thence South 33°35'08" West 41.42 feet;
13 Thence South 65°59'24" West 16.44 feet to the southwesterly line
14 of said Parcel 1;
15 Thence along said southwesterly and the northwesterly lines of
16 said Parcel 1 North 24°00'36" West 305.98 feet;
17 Thence North 23°22'06" East 33.97 feet;
18 Thence North 65°58'34" East 91.36 feet to the TRUE POINT OF
19 BEGINNING.
20 Containing 0.72 Acres, or 31,520 Square Feet, more or less

2. IT IS HEREBY ORDERED AND ADJUDGED that the public interest and
necessity require that the City acquire the Subject Property Interests for a public use,
namely for the construction of certain off-site improvements, consisting of public street,
drainage, access and related improvements, and all uses necessary or thereto in connection
with the Project. The City is entitled to condemn the real property interests described in
Paragraph 6 below for such uses by virtue of the provisions of California Constitution
Article 1, Section 19, California Government Code Sections 37350, 37350.5, 37351, 40404,
and 66462.5, California Code of Civil Procedure Sections 1230.010, et seq. (Eminent
Domain Law), including but not limited to Sections 1240.010, 1240.020, 1240.110,
1240.120, 1240.510, 1240.610, 1240.650, and by other provisions of law. Code of Civil
Procedure Section 1240.010 provides that “[t]he power of eminent domain may be

1 exercised to acquire property only for a public use. Where the Legislature provides by
2 statute that a use, purpose, object, or function is one for which the power of eminent
3 domain may be exercised, such action is deemed to be a declaration by the Legislature that
4 such use, purpose, object, or function is a public use.” Government Code Section
5 66462.5(c) authorizes the City and the developer of a project for which the construction of
6 offsite improvements are required to enter into an agreement requiring the developer to
7 complete the improvements pursuant to Government Code Section 66462 at such time as
8 the City acquires an interest in the land that will permit such improvements to be
9 constructed. Government Code Section 66462.5(a) provides that a city or county may
10 “acquire by negotiation or commence eminent domain proceedings pursuant to Title 7
11 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure to acquire an
12 interest in the land which will permit the improvements to be made, including proceedings
13 for immediate possession of the property under Article (commencing with Section
14 1255.410) of Chapter 6 of that title.”

15 3. IT IS FURTHER ORDERED AND ADJUDGED that the Project, as planned
16 and designed, is in the public interest and necessity and is needed to construct the public
17 street, drainage, access, public utility and related improvements in connection with the
18 proposed extension of Nicolas Road from Butterfield Stage Road to the Calle
19 Girasol/Nicolas Road connection. The Subject Property Interests are required to protect the
20 street improvements that will be constructed within the existing right of way as part of the
21 construction and extension of Nicolas Road from erosion. The Subject Property Interests
22 are required for the construction of drainage improvements in connection with the Project,
23 including construction of culverts, and related improvements, to protect the street
24 improvements from erosion and flooding, and to provide access to the permanent
25 maintenance and access easement.

26 4. IT IS FURTHER ORDERED AND ADJUDGED that to the extent that there
27 are any public utility easements in the area of the Subject Property Interests, the public use
28 for which the City seeks to acquire the Subject Property Interests, namely for the

1 construction of certain public improvements, consisting of public street, drainage, access,
2 public utility and related improvement, and all uses necessary and convenient thereto in
3 connection with the Project, will not unreasonably interfere with or impair the continuance
4 of the public use to which any easement holders may have appropriated the areas (Code of
5 Civil Procedure Section 1240.510).

6 5. IT IS FURTHER ORDERED AND ADJUDGED that the public interest and
7 necessity require the Project; the Project is planned and located in the manner that will be
8 most compatible with the greatest public good and the least private injury; the Subject
9 Property Interests are necessary for the Project; and the City has made an offer to the
10 owners of record to purchase the Subject Property Interests as required by Government
11 Code Section 7267.2.

12 6. IT IS FURTHER ORDERED AND ADJUDGED that the water rights, if any,
13 of Defendant Owners in and to the Property are not condemned in this eminent domain
14 proceeding.

15 7. IT IS HEREBY ORDERED AND ADJUDGED that all taxes and
16 assessments, penalties, and costs that are a lien on the approximate 26,957 square foot
17 Subject Easement are hereby canceled as of the March 28, 2024 Date of Apportionment
18 pursuant to Revenue and Taxation Code Section 5081, et seq.

19 8. IT IS HEREBY ORDERED AND ADJUDGED that upon recordation of a
20 certified copy of this Final Order of Condemnation in the Official Records of the County of
21 Riverside, the easement interest in the 26,957 square foot permanent Subject Easement on
22 the Property described more particularly in ATTACHMENT A and ATTACHMENT B for
23 the construction of certain public street, drainage, access, public utility and related
24 improvements, and all uses necessary or convenient thereto in connection with the Project,
25 including the right to access and maintain said easement, will vest in the City.

26 9. IT IS HEREBY ORDERED AND ADJUDGED that upon the recordation of
27 a certified copy of this Final Order of Condemnation in the Official Records of the County
28 of Riverside, the City's right to possess and use the approximate 31,520 square foot TCE on

1 the Property described more particularly in ATTACHMENT A-1 and ATTACHMENT B-1
2 to facilitate the construction of certain public street, drainage, access, public utility and
3 related improvements, and all uses necessary or convenient thereto in connection with the
4 Project for a period of twelve months from the March 28, 2024 effective date of possession
5 is confirmed.

6 10. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Notice
7 of Lis Pendens recorded in this proceeding on July 11, 2023 as Document Number 2023-
8 0201680 of Official Records of the County of Riverside, California is hereby withdrawn.
9 Recordation of this Final Order of Condemnation and Withdrawal of Lis Pendens shall
10 provide notice of this withdrawal pursuant to Code of Civil Procedure Section 405.50.

11 IT IS SO ORDERED.

12
13 DATED: _____ By: _____
14 JUDGE OF THE SUPERIOR COURT
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ATTACHMENT A
Description of Permanent Access and Maintenance Easement

EXHIBIT "A"
LEGAL DESCRIPTION
CITY MAINTENANCE EASEMENT
APN: 957-150-005, GARCIA PROPERTY

That portion of Parcel 1 of Parcel Map No. 13678, in the City of Temecula, County of Riverside, State of California, as shown on the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in the Office of the County Recorder of said Riverside County, described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34" East 146.35 feet;

Thence leaving said centerline South 24°01'26" East 55.00 feet to the northwesterly line of said Parcel 1, said point being the **TRUE POINT OF BEGINNING**;

Thence South 42°16'03" East 41.83 feet;

Thence South 01°18'58" East 93.45 feet;

Thence South 27°05'17" East 35.33 feet;

Thence South 25°17'01" West 34.58 feet;

Thence South 16°30'15" East 95.17 feet;

Thence South 06°25'33" West 24.98 feet;

Thence South 33°35'08" West 36.10 feet;

Thence South 65°59'24" West 13.54 feet to the southwesterly line of said Parcel 1;

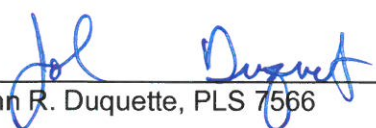
Thence along the southwesterly, and northwesterly line of said Parcel 1 the following courses: North 24°00'36" West 295.98 feet;

Thence North 23°22'06" East 33.97 feet;

Thence North 65°58'34" East 91.36 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.62 Acres, or 26,957 Square feet, more or less

This description was prepared
by me or under my direction.

 Date: 5/1/20
John R. Duquette, PLS 7566

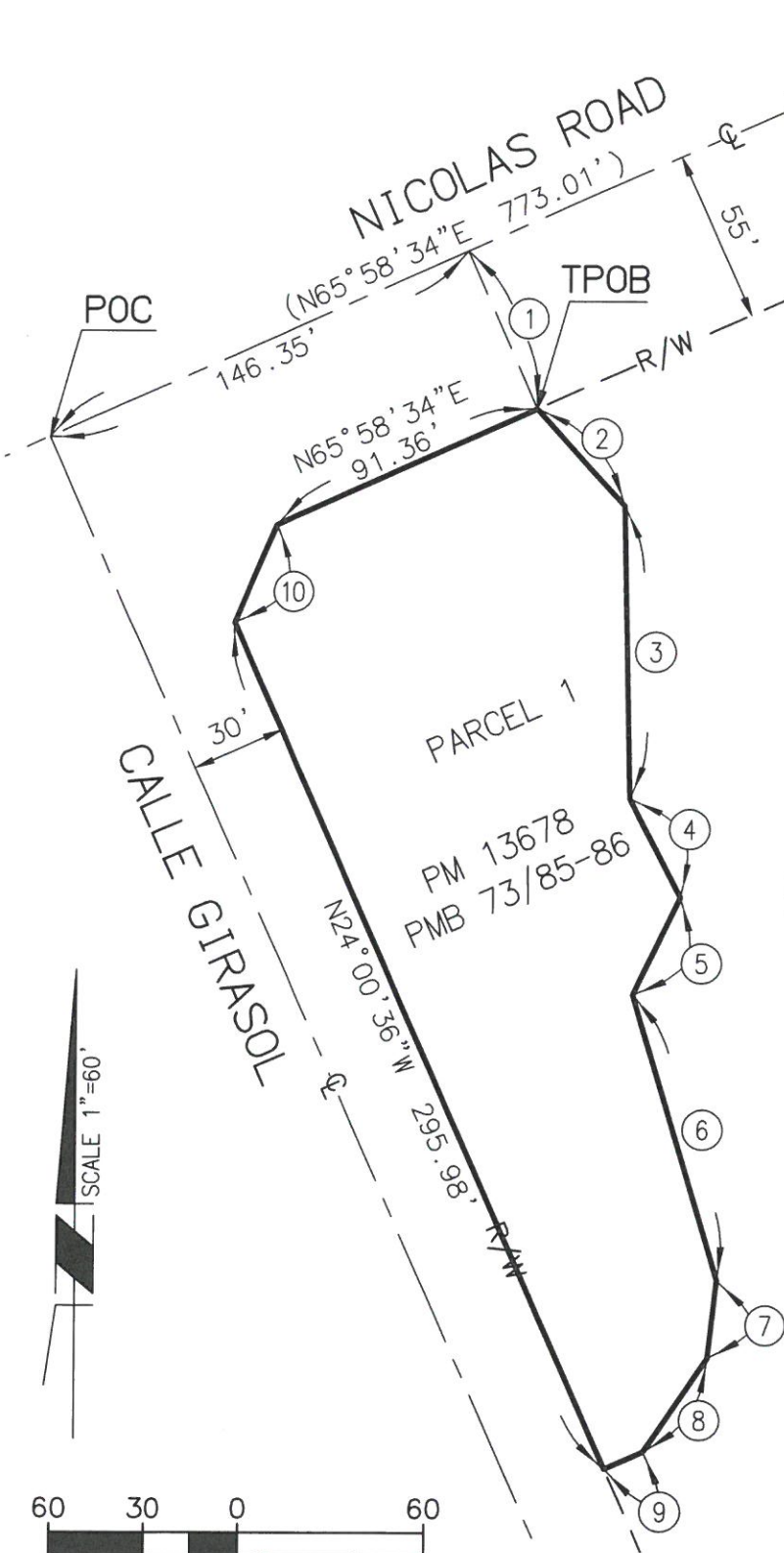


Michael Baker International
40810 County Center Drive, Suite 200
Temecula, CA 92591

May 1, 2020
JN 175051
Page 1 of 1

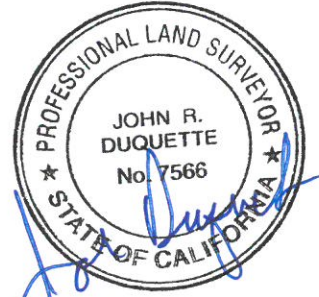
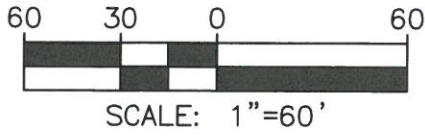
ATTACHMENT B
Depiction of Permanent Access and Maintenance Easement

EXHIBIT "B"
CITY MAINTENANCE EASEMENT
 APN: 957-150-005
 GARCIA PROPERTY



DATA TABLE		
(NO)	BEARING/DELTA	LENGTH
1	N24° 01' 26" W	55.00'
2	N42° 16' 03" W	41.83'
3	N01° 18' 58" W	93.45'
4	N27° 05' 17" W	35.33'
5	N25° 17' 01" E	34.58'
6	N16° 30' 15" W	95.17'
7	N06° 25' 33" E	24.98'
8	N33° 35' 08" E	36.10'
9	N65° 59' 24" E	13.54'
10	N23° 22' 06" E	33.97'

POC = POINT OF COMMENCEMENT
 TPOB = TRUE POINT OF BEGINNING
 () = INDICATES RECORD DATA PER
 PM 13678, PMB 73/85-86



SHEET 1 OF 1

Michael Baker
INTERNATIONAL

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ATTACHMENT A-1
Description of Temporary Construction Easement

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN: 957-150-005, GARCIA PROPERTY

That portion of Parcel 1 of Parcel Map No. 13678, in the City of Temecula, County of Riverside, State of California, as shown on the map recorded in Book 73, Pages 85 and 86 of Parcel Maps, in the Office of the County Recorder of said Riverside County, described as follows:

COMMENCING at the Centerline Intersection of Nicolas Road and Calle Girasol as shown on said Parcel Map No. 13678;

Thence along the centerline of said Nicolas Road North 65°58'34" East 146.35 feet;

Thence leaving said centerline South 24°01'26" East 55.00 feet to the northwesterly line of said Parcel 1, said point being the **TRUE POINT OF BEGINNING**;

Thence along said northwesterly line North 65°58'34" East 20.07;

Thence leaving said northwesterly line South 24°01'26" East 39.89 feet;

Thence South 09°18'59" East 134.69 feet;

Thence South 12°18'16" West 43.83 feet;

Thence South 16°30'15" East 76.62 feet;

Thence South 06°25'33" West 29.42 feet;

Thence South 33°35'08" West 41.42 feet;

Thence South 65°59'24" West 16.44 feet to the southwesterly line of said Parcel 1;

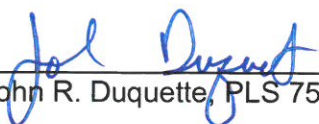
Thence along said southwesterly and the northwesterly lines of said Parcel 1 North 24°00'36" West 305.98 feet;

Thence North 23°22'06" East 33.97 feet;

Thence North 65°58'34" East 91.36 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.72 Acres, or 31,520 Square Feet, more or less

This description was prepared by me or under my direction.



John R. Duquette, PLS 7566

Date: 5/1/20



Michael Baker International
40810 County Center Drive, Suite 200
Temecula, CA 92591

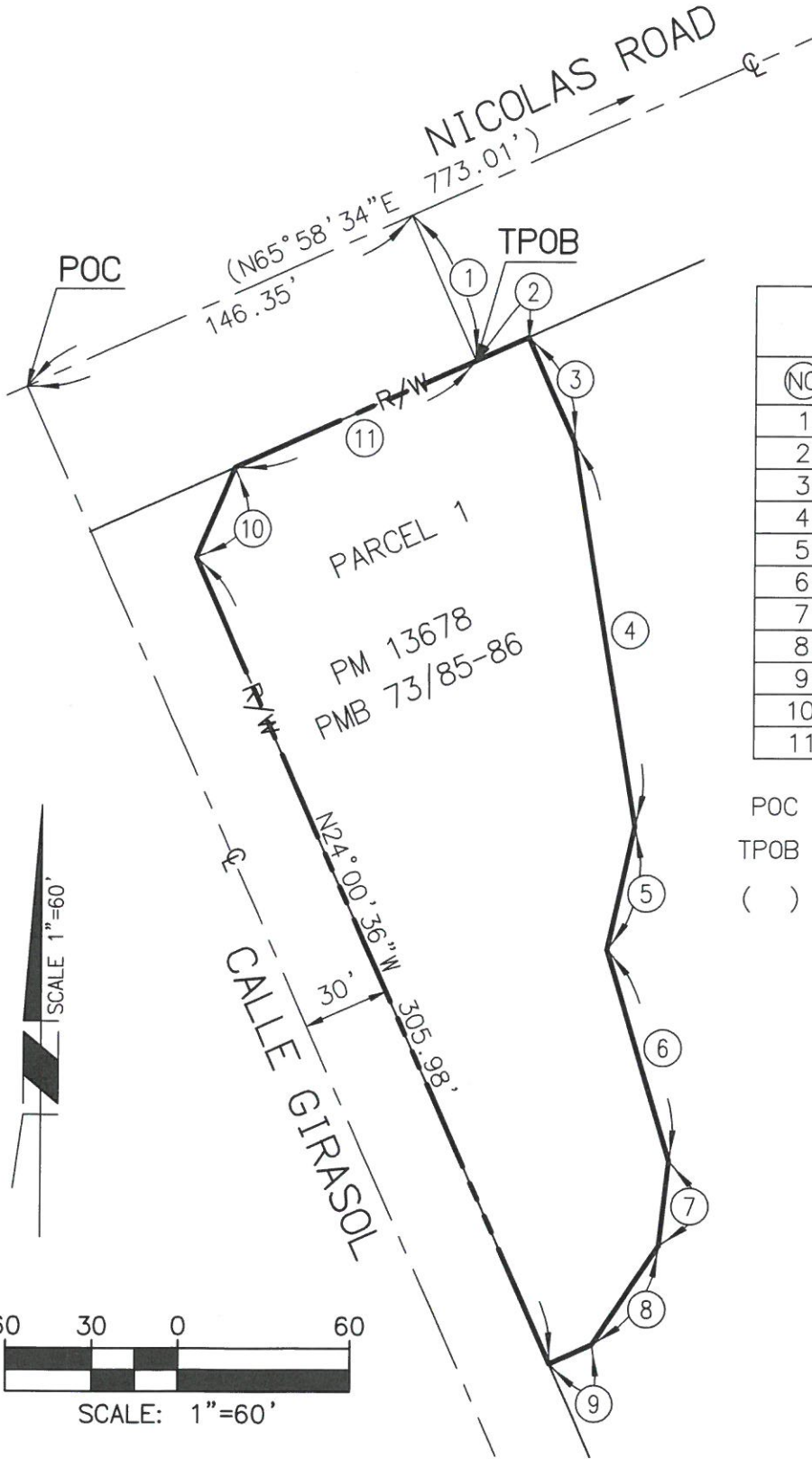
May 1, 2020
JN 175051
Page 1 of 1

ATTACHMENT B-1
Depiction of Temporary Construction Easement

EXHIBIT "B"

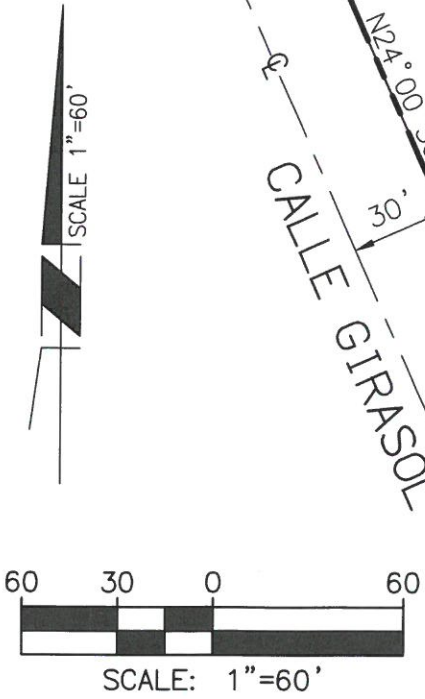
TEMPORARY CONSTRUCTION EASEMENT

APN: 957-150-005
GARCIA PROPERTY



DATA TABLE		
NO	BEARING/DELTA	LENGTH
1	N24°01'26"W	55.00'
2	N65°58'34"E	20.07'
3	N24°01'26"W	39.89'
4	N09°18'59"W	134.69'
5	N12°18'16"E	43.83'
6	N16°30'15"W	76.62'
7	N06°25'33"E	29.42'
8	N33°35'08"E	41.42'
9	N65°59'24"E	16.44'
10	N23°22'06"E	33.97'
11	N65°58'34"E	91.36'

POC = POINT OF COMMENCEMENT
TPOB = TRUE POINT OF BEGINNING
() = INDICATES RECORD DATA PER
PM 13678, PMB 73/85-86



SHEET 1 OF 1

Michael Baker
INTERNATIONAL

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