RESOLUTION NO. 2020-124

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, DECLARING THE NECESSITY FOR THE ACQUISITION, BY EMINENT DOMAIN, OF A PERMANENT ROADWAY EASEMENT, PERMANENT UTILITY EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS, LOCATED IN THE BOUNDARY OF THE COUNTY OF RIVERSIDE, ON THE WEST SIDE OF NORTH MCKINLEY STREET BETWEEN ESTELLE STREET TO THE SOUTH AND BNSF RAILROAD TRACKS TO THE NORTH FOR THE MCKINLEY STREET GRADE SEPARATION PROJECT.

WHEREAS, the City of Corona (the "City") proposes to acquire permanent roadway easement, temporary utility easement and temporary construction easement interest in certain real property, located in the boundary of the County of Riverside, California, more particularly described as Assessor Parcel No. 115-300-026, for the construction and maintenance of the McKinley Street Grade Separation Project, in Corona, California, pursuant to the authority granted to it by sections 37350 and 6205 of the California Government Code; California Code of Civil Procedure sections 1230.01 and 1240.01; as well as the Cooperative Agreement between the County of Riverside and the City of Corona, executed by the parties and approved by the Board of Supervisors of Riverside County, California, as set forth in Resolution 2020-019, adopted on January 28 2020; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a Public Hearing for Wednesday, September 16, 2020 at 6:30 p.m., at the Corona City Hall, located at 400 South Vicentia Avenue, Corona, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each affected property owner was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, AS FOLLOWS:

Section 1. Compliance with California Code of Civil Procedure. There has been compliance by the City with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

<u>Section 2.</u> <u>Public Use.</u> The public use for which permanent roadway easement, temporary utility easement and temporary construction easement interests are to be acquired is for the construction and maintenance of the McKinley Street Grade Separation Project, located on North McKinley Street, south of the State Route 91 east bound on-ramp, in Corona, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain property necessary for such purposes.

Section 3. Description of Property. Attached and marked as Exhibit "A" are the legal descriptions and plat maps of the real property to be acquired by the City, which describe the general location and extent of the property with sufficient detail for reasonable identification. The real property is located within the boundary of the County of Riverside. Authority by the County to the City of Corona to acquire the necessary property interests is established by Resolution 2020-019, adopted by the Riverside County Board of Supervisors on January 28, 2020.

Section 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property described in Exhibit "A" is necessary for the proposed project; and
- (d) The offer required by section 7267.2 of the California Government Code was made.

Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the herein described real property subject to such existing public uses pursuant to section 1240.510 of the California Code of Civil Procedure.

<u>Section 6.</u> <u>More Necessary Public Use</u>. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the

extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

Section 7. Further Activities. Counsel for the City is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transaction required to acquire the subject real property.

<u>Section 8.</u> <u>Effective Date.</u> This Resolution shall take effect upon adoption.

PASSED, APPROVED AND ADOPTED this 16th day of September, 2020.

	Mayor of the City of Corona, California
ATTEST:	
City Clerk of the City of Corona, California	

CERTIFICATION

I, Sylvia Edwards, City Clerk the City of Corona, Ca	alifornia, do hereby certify
that the foregoing Resolution was regularly passed and adopted by the	ne City Council of the City
of Corona, California, at a regular meeting thereof held on the 19 th d	lay of August, 2020 by the
following vote:	
AYES:	
NOES:	
ABSENT:	
ABSTAINED:	
IN WITNESS WHEREOF, I have hereunto set my ha	and and affixed the official
seal of the City of Corona, California, this 16th day of September, 202	.0.
City Clerk of the City of	Corona, California
[SEAL]	

EXHIBIT "A"

LEGAL DESCRIPTIONS AND PLAT MAPS

[SEE ATTACHED ELEVEN (11) PAGES] ATTACHMENT 1 - EWING

ROADWAY EASEMENT INTERESTS ATTACHMENT TO LEGAL DESCRIPTION APN: 115-300-026 PARCEL ID: MSGS-07 COMMERCIAL PROPERTY

The parcel of land described in Exhibit "B1" is to be acquired as an exclusive permanent easement for public streets and incidents and appurtenances thereto ("Roadway Easement"), over, above, on, within, across, along, about and through the land described in Exhibit "B-1" and depicted in Exhibit "B-2" in each case, incorporated herein by reference ("Roadway Easement Area")

Within the Roadway Easement Area, the easement rights shall also include the right to use the Roadway Easement to construct, use, install, maintain, repair, replace, improve, alter, relocate, and inspect utilities.

The easement rights shall include without limitation the right to reasonably access the Roadway Easement Area for all purposes associated with the Roadway Easement, which activities may include, but are not be limited to, trimming, cutting or clearing away from the Roadway Easement Area any trees, brush, and vegetation.

The City shall have the right to remove all improvements located within the Roadway Easement Area including, but not limited to, hardscape, and landscape improvements.

The City expressly reserves the right to convey, transfer or assign the easement rights subject to the same rights and limitations described herein.

EXHIBIT B1 LEGAL DESCRIPTION ROADWAY EASEMENT

Being a portion of Parcel 3 in the City of Corona, County of Riverside, State of California, as shown by Parcel Map 9603 on file in Book 45, Pages 67 and 68 of Parcel Maps, Records of Riverside County, more particularly described as follows:

COMMENCING at the southerly corner of said Parcel 3, said corner being 44.00 feet perpendicular form the centerline of Estelle Street (88.00 feet wide);

THENCE northwesterly along the southeasterly line of said Parcel 3, said line also being the northerly line of Estelle Street North 67°09'54" East, 288.15 feet to the beginning of a curve to the left, having a radius of 456.00 feet;

THENCE northeasterly along said curve, through a central angle of 04°38'25", an arc length of 36.93 feet to the **TRUE POINT OF BEGINNING**;

THENCE continuing northeasterly along said curve through a central angle of 03°39'18", an arc length of 29.09 feet:

THENCE North 12°20'45" East, 33.38 feet to a point on the northeasterly line of said Parcel 3, said point also being on the westerly line of McKinley Street;

THENCE along said northeasterly line North 34°10'31" West, 26.71 feet;

THENCE South 14°14'27" West, 71.13 feet to the TRUE POINT OF BEGINNING.

Containing an area of 0.025 acres, more or less.

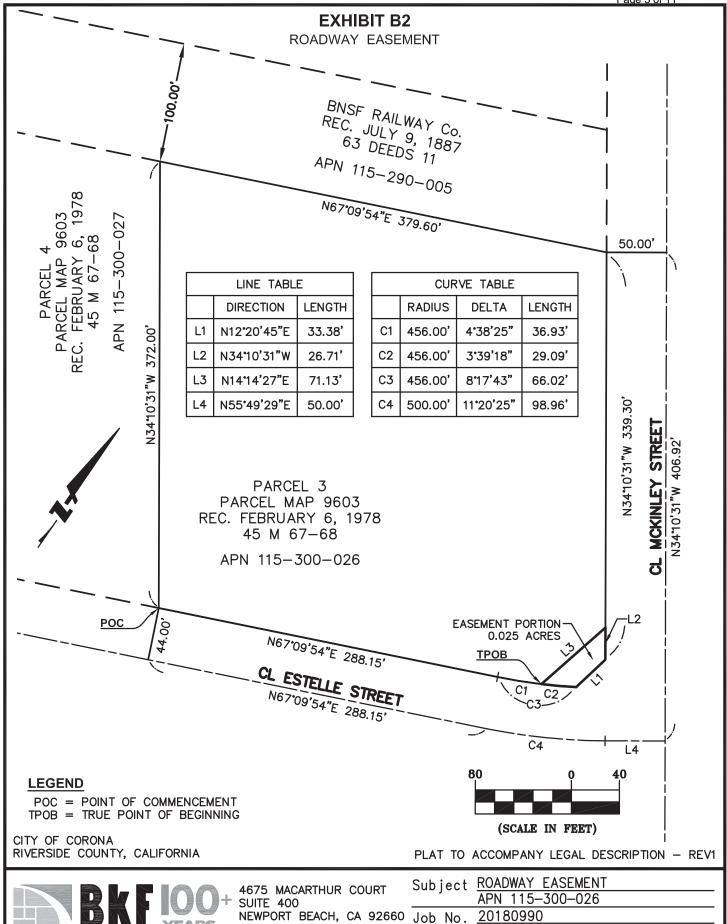
As shown on plat attached hereto and by this reference made part hereof as Exhibit B2.

Davis Thresh, P.L.S. No. 6868

4/09/2020

Dated





ENGINEERS . SURVEYORS . PLANNERS

949-526-8460 949-526-8499 (FAX)

Date 4/09/20 Chkd.WS By NP 1 OF 1 SHEET

PERMANENT UTILITY EASEMENT ATTACHMENT TO LEGAL DESCRIPTION APN: 115-300-026 PARCEL ID: MSGS-07 COMMERCIAL PROPERTY

The City of Corona, a Municipal Corporation, and its employees, agents, representatives, contractors, successors and assigns (collectively, the "City") in connection with the construction of the McKinley Grade Separation Project ("Project") is acquiring the parcel of land described in Exhibit "C-1" as a permanent non-exclusive easement ("Utility Easement") for underground natural gas distribution and transmission, electric distribution, and domestic water facilities (all hereinafter described as the "Facilities") as the City deems necessary, convenient or beneficial over, under, through, along, that parcel of land described in Exhibit "C-1" and depicted in Exhibit "C-2," in each case, incorporated herein by reference ("Easement Area") and for all other purposes connected therewith, and together with the reasonable right of ingress and egress to and from the Easement to access the Facilities and the right to use the property owner's abutting property during construction and maintenance of the Facilities. The right granted by this easement shall be binding upon and inure to the benefit of successors, heirs, and assigns of property owner and City and shall be deemed to run with the land.

The City expressly reserves the right to convey, transfer or assign the easement rights subject to the same rights and limitations described herein

This Utility Easement shall consist of the following described areas and shall all be located within the limits of the Easement Area: as depicted in said exhibit "C-2",

- The Easement Area will include an approximate ten (10) foot wide area ("Gas Easement Area") to excavate for, lay, construct, reconstruct, relocate, reconfigure, use, inspect, maintain, operate, repair, replace, patrol, change the size of, add to, or remove from time to time, one or more natural gas pipelines, conduits, and appurtenances (referred to as "Gas Facilities"). The top of the pipeline shall be a minimum of forty-two (42) inches from the surface (after construction and settlement) or such minimum depth as may be required by any applicable regulation, whichever is greater.
- The Easement Area will include an approximate ten (10) foot wide area ("Electric Easement Area") to excavate for, lay, construct, reconstruct, relocate, reconfigure, use, inspect, maintain, operate, repair, replace, patrol, change the size of, add to, or remove from time to time, one or more underground electrical conduit, duct banks, conductors, two (2) underground electric vaults and appurtenances described (referred to as "Electric Facilities").
- The Easement Area will include an approximate ten (10) foot wide area ("Water Easement Area") to excavate for, lay, construct, reconstruct, relocate, reconfigure, use, inspect, maintain, operate, repair, replace, patrol, change the size of, add to, or remove from time to time, one or more underground domestic water main pipes, valves, blow off assemblies, air release valves and appurtenances described (referred to as "Water Facilities").

Said Gas Facilities, Electric Facilities, and Water Facilities shall be located in a manner where all above ground improvements shall be located in a manner within five (5) foot from a retaining wall to be built approximately near the existing right of way limits of Estelle Street and McKinley Street. Additionally, said Gas Facilities, Electric Facilities, and Water Facilities will be located in a manner to not impede driveway entrances to the property.

There shall be no surface appurtenances to the Facilities (including, but not limited to meter station, meter pits, fences, signs) within existing drive aisles or parking areas.

The design and construction regarding the Facilities and all activities conducted in the Easement Area shall be in accordance with good, workmanlike standards in the industry and geographical area where this Easement Area is located, with the City at all times following the highest observed and accepted standards in the industry for the geographical area where this Easement Area is located.

Upon completion of work, The City will restore surface grades and install new asphalt concrete within the Easement Area to match existing conditions to the best extent possible.

Property owner may grant other easements over, along and across the Easement Area so long as such other easements do not interfere with purposes and uses of the Utility Easement. City shall have no right to grant additional easements or sub-easements on, along or across the Easement Area.

Property owner, its heirs, successors and assigns reserves the right to (1) use any surface or subsurface areas, provided such use does not unreasonably or substantially interfere with City's use of the Utility Easement; including but not limited to temporary storage of materials / equipment, parking of vehicles, and ingress/egress (2) improve the Easement Area surface with landscaping (except trees and deep-rooted shrubs), paved driveways, parking surfaces, sidewalks, curbs and gutters; provided, however, that before making any such improvements involving a change of grade, the property owner and its heirs, successors and assigns, shall notify the City in advance and comply with underground service alert notification requirements pursuant to Government Code section 4216.

The Easement Area shall be kept free of trees, deep-rooted shrubs, buildings and permanent structures of all kinds (except for the Facilities), that nothing shall be done to impair the City's vehicular access to or along the Utility Easement, and that nothing shall be done that unreasonably interferes with City's use of the Easement Area without the City's prior written consent.

EXHIBIT C1 LEGAL DESCRIPTION TEMPORARY CONSTRUCTION EASEMENT

Being a portion of Parcel 3 in the City of Corona, County of Riverside, State of California, as shown by Parcel Map 9603 on file in Book 45, Pages 67 and 68 of Parcel Maps, Records of Riverside County, more particularly described as follows:

BEGINNING at the southerly corner of said Parcel 3, said corner being 44.00 feet perpendicular form the centerline of Estelle Street (88.00 feet wide), said corner being the **TRUE POINT OF BEGINNING**;

THENCE northwesterly along the southeasterly line of said Parcel 3, said line also being the northerly line of Estelle Street North 67°09'54" East, 288.15 feet to the beginning of a curve to the left, having a radius of 456.00 feet;

THENCE Northeasterly along said curve, through a central angle of 04°38'25", an arc length of 36.93 feet;

THENCE North 14°14'27" East, 71.13 feet to a point on the northeasterly line of said Parcel 3, said point also being on the westerly line of McKinley Street;

THENCE along said northeasterly line North 34°10'31" West, 312.60 feet to the northerly corner of said Parcel 3;

Thence along the northwesterly line of said Parcel 3 South 67°09'54" West, 30.60 feet;

Thence South 34°10'31" East, 318.49 feet;

Thence South 14°14'27" West, 26.40 feet to the beginning of a non-tangent curve, concave Northwest, having a radius of 426.00 feet, the initial radial of which bears South 27°28'08" East;

Thence Southwesterly along said curve, through a central angle of 04°38'02", an arc length of 34.45 feet;

Thence South 67°09'54" West, 294.17 feet to the southwesterly line of said Parcel 3;

Thence South 34°10'31" East, 30.60 feet to the TRUE POINT OF BEGINNING.

Containing an area of 0.465 acres, more or less.

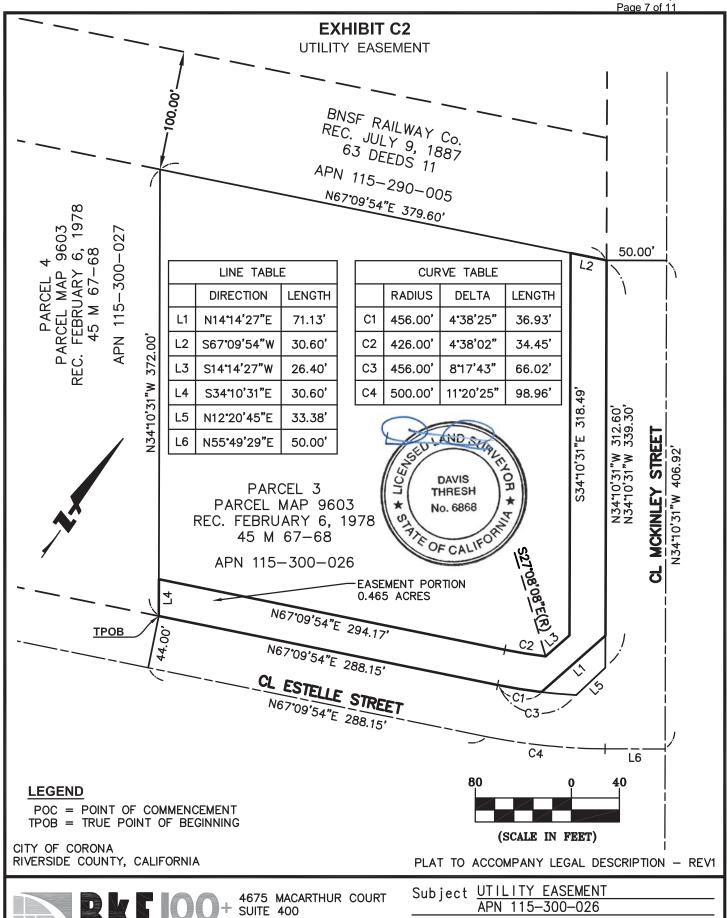
As shown on plat attached hereto and by this reference made part hereof as Exhibit C2.

Davis Thresh, P.L.S. No. 6868

4/09/2020

Dated







SUITE 400 NEWPORT BEACH, CA 92660 949-526-8460 949-526-8499 (FAX)

Subject	UTILITY EASEMENT
	APN 115-300-026
Job No.	20180990
By NP	
,	SHEET1 OF _1

TEMPORARY CONSTRUCTION EASEMENT ATTACHMENT TO LEGAL DESCRIPTION APN: 115-300-026 PARCEL ID: MSGS-07 COMMERCIAL PROPERTY

The parcel of land described in Exhibit "D1" is to be used for temporary construction purposes by City of Corona, a Municipal Corporation, and its employees, agents, representatives, contractors, successors and assigns (collectively, the "City") in connection with the construction of the McKinley Grade Separation Project ("Project"). The right of usage acquired for the non-exclusive temporary construction easement parcel described in Exhibit "D1" and depicted in Exhibit "D2" ("TCE") shall be for a period of twenty-four (24) consecutive months. However, the actual physical construction activities within the TCE area shall be limited to a period of two (2) consecutive months for the construction of the western most driveway to the property "West Driveway" and six (6) consecutive months for the construction of retaining walls, within the twenty-four (24) month TCE period (the "Construction Period"). During the Construction Period, the City's use and occupancy of the TCE will remain non-exclusive.

The City expressly reserves the right to convey, transfer or assign the TCE subject to the same rights and limitations described herein.

Work Description / Easement Provisions:

- The City shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- The City's work activities shall include:
 - Removal of asphalt, concrete curbs, landscaping, drainage facilities and infrastructure and other features as required for the Project.
 - o Re-profile along Estelle Street to accommodate the increase in elevation of approximately fifteen (15) feet at the McKinley Street/Estelle Street intersection.
 - Install new driveway entrance at the south west corner of the property to replace the West Driveway.
 - o Removal and permanent closure of existing driveway near the southeast corner of the property "East Driveway" and regrade to match existing conditions.
 - o Construct curbs, gutters, retaining walls for new driveways from Estelle Street.
 - o Construct drainage improvements including under sidewalk drain, and ribbon gutters necessary to drain parking areas/drive aisles near West Driveways from Estelle Street.
- Construction activities shall occur to not create concurrent property inaccessibility for both the West Driveway and East Driveway, each driveway area including adjacent drainage and parking lot modifications shall be constructed while the other area is open/accessible to vehicular and pedestrian traffic by the property owner and their customers, employees, representatives, vendors, and maintenance staff. During the (2) month period, the West Driveway permanent improvements will be constructed restricting access along Estelle Street to only through the East Driveway. Upon completion of all West Driveway permanent improvements and made open and accessible to Estelle Street, the City will demolish and permanently close the East Driveway, thus restricting access from Estelle Street through the West Driveway only.
- Prior to construction / removal activities, the City shall examine existing irrigation and install as necessary temporary irrigation facilities, including but not limited to sprinklers, piping, and control valves, to maintain existing pattern and zones outside of construction area.

- The City shall maintain all existing drainage patterns during construction, including installation
 of temporary drainage facilities as necessary, such that drainage is not impeded on property or
 right of way.
- Reasonable pedestrian and vehicular access to the property shall be maintained.
- Improvements within the TCE area will be removed as needed by the City to allow for construction activities. Any improvements so removed will either be replaced in kind or included in the compensation paid by the City.
- Prior to the termination of the Construction Period, the City will remove from the TCE area all
 construction equipment including any temporary fence, temporary improvements, and all
 construction related debris.

EXHIBIT D1 LEGAL DESCRIPTION TEMPORARY CONSTRUCTION EASEMENT

Being a portion of Parcel 3 in the City of Corona, County of Riverside, State of California, as shown by Parcel Map 9603 on file in Book 45, Pages 67 and 68 of Parcel Maps, Records of Riverside County, more particularly described as follows:

BEGINNING at the southerly corner of said Parcel 3, said corner being 44.00 feet perpendicular form the centerline of Estelle Street (88.00 feet wide), said corner being the **TRUE POINT OF BEGINNING**;

THENCE northwesterly along the southeasterly line of said Parcel 3, said line also being the northerly line of Estelle Street North 67°09'54" East, 288.15 feet to the beginning of a curve to the left, having a radius of 456.00 feet;

THENCE Northeasterly along said curve, through a central angle of 04°38'25", an arc length of 36.93 feet:

THENCE North 14°14'27" East, 71.13 feet to a point on the northeasterly line of said Parcel 3, said point also being on the westerly line of McKinley Street;

THENCE along said northeasterly line North 34°10'31" West, 312.60 feet to the northerly corner of said Parcel 3;

THENCE along the northwesterly line of said Parcel 3 South 67°09'54" West, 10.20 feet;

THENCE South 34°10'31" East, 310.11 feet;

THENCE South 14°14'27" West, 62.12 feet to the beginning of a non-tangent curve, concave Northwest, having a radius of 446.00 feet, the initial radial of which bears South 26°54'08" East;

THENCE Southwesterly along said curve, through a central angle of 04°04'02", an arc length of 31.66 feet;

THENCE South 67°09'54" West, 199.68 feet;

THENCE North 22°50'06" West, 34.12 feet;

THENCE South 67°09'54" West, 97.32 feet to the southwesterly line of said Parcel 3;

THENCE South 34°10'31" East, 45.00 feet to the TRUE POINT OF BEGINNING.

Containing an area of 0.235 acres, more or less.

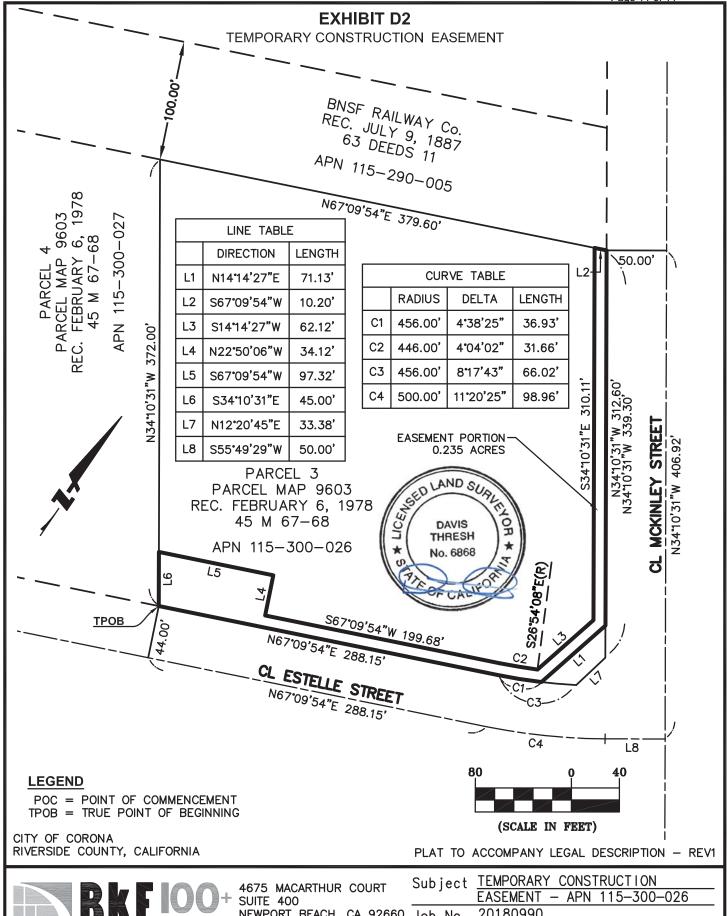
As shown on plat attached hereto and by this reference made part hereof as Exhibit D2.

Davis Thresh, P.L.S. No. 6868

4/09/2020

Dated







NEWPORT BEACH, CA 92660 949-526-8460 949-526-8499 (FAX)

Subject	TEMPORARY CONSTRUCTION	
	EASEMENT - APN 115-300-026	
Job No.	20180990	
	Date <u>4/09/20</u> Chkd. <u>WS</u>	
,	SHEET1 OF 1	