

Watersheds:	Guadalupe and Coyote
Project:	SF Bay Shoreline Project
Real Estate File Nos.:	2044-13 2044-14

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 18-**

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE  
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL  
PROPERTY BY EMINENT DOMAIN FOR THE SOUTH SAN FRANCISCO BAY  
SHORELINE PHASE 1 ECONOMIC IMPACT AREA 11 PROJECT  
NO. 26444001 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the United States Army Corps of Engineers (USACE), the Santa Clara Valley Water District (District) is working to construct the South San Francisco Bay Shoreline Phase 1 Economic Impact Area 11 Project No. 26444001 (Project), which will provide coastal flood protection to the community of Alviso and to infrastructure between Alviso Slough and Coyote Creek through the construction of four miles of Federal Emergency Management Agency certifiable coastal levees; and

WHEREAS, the Project will safeguard the Alviso community of approximately 2,500 residents and 3,000 commuters who work and travel through the area each day, the San Jose-Santa Clara Regional Wastewater Facility, and the Silicon Valley Advanced Water Purification Center; and

WHEREAS, the Project will also safeguard against future sea level rise, restore and enhance approximately 2,900 acres of tidal marsh and related habitat that was lost due to former salt ponds production activities. The new levees will be used as trails and will have connections to the Bay Trail network, with viewing platforms, interpretive signs, and benches; and

WHEREAS, the USACE is the federal sponsor for this Project and is responsible for design and construction of this multi-purpose project. The District is the local sponsor and is responsible for obtaining necessary rights of way, acquisition of both levee and ecotone fill and relocating utilities; and

WHEREAS, the USACE is proceeding with design of Reaches 1, 2 and 3 and is scheduled to begin construction of Reach 1 in the fall 2019. The District must provide the necessary rights of way to the USACE before they proceed with construction of Reach 1. The main design features of Reach 1 include: a flood risk management levee, ecotone habitat, maintenance access road/recreational trail, and the restoration of Pond A12; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7, of the California Code of Civil Procedure, Section 6, of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located near Madison Street, Alviso, California 95002, Santa Clara County Assessor's Parcel No. 015-25-012, and are described and depicted in Exhibits A and B attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure Section 1240.510; and

WHEREAS, on October 11, 2018, an offer package was sent to the property owner's P.O. Box, which is the address listed on the last equalized County assessment roll notice. This offer package was confirmed delivered on October 22, 2018 at 10:41 AM by certified mail; and

WHEREAS, to ensure that the package was received, on October 25, 2018, the District resent an offer package to the P.O. Box via certified mail with return receipt. On November 2, 2018 the District received confirmation that the package was delivered to and received at the P.O. Box by return receipt; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on December 11, 2018, to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

WHEREAS, the District's notice, mailed out on November 16, 2018, advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a hearing on December 11, 2018, to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project; and
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury; and
3. The Property described and depicted herein in Exhibits A and B is necessary for the Project; and

Determining and Declaring the Public Necessity for the Acquisition of Certain Real Property or Interests in Real Property by Eminent Domain for the South San Francisco Bay Shoreline Phase 1 Economic Impact Area 11 Project No. 26444001 (Code Of Civil Procedure Sections 1245.220, *Et Seq.*)

Resolution No. 18-

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4. The District made the offer required by Government Code Section 7267.2 to the owners of record; and
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property; and
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on March 22, 2016, adopted a Final Environmental Impact Report; and
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure Section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on December 11, 2018.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

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LINDA J. LEZOTTE  
Vice Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

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Clerk/Board of Directors

# EXHIBIT A

## (TEMPORARY WORK AREA EASEMENT FILE 2044-13)

A temporary work area easement and right-of-way in, on, over and across the land described below, for a period not to exceed forty-eight (48) months, beginning with the date possession of the land is delivered to the District, for use by the United States, its representatives, agents, and contractors as a work area, including the right to deposit fill thereon, move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the **San Francisco Bay Shoreline Phase 1 Economic Impact Area 11 (EIA 11) Project**, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

This temporary construction easement is granted under the express conditions listed below:

1. This easement is necessary for the purpose of constructing the **San Francisco Bay Shoreline Phase 1 Economic Impact Area 11 (EIA 11) Project** and related activities incident to construction. This temporary work area easement shall continue in full force and effect for a period of forty-eight (48) months to complete construction of the **San Francisco Bay Shoreline Phase 1 Economic Impact Area 11 (EIA 11) Project**.
2. The District agrees to use all reasonable efforts to keep the roadway covered by this easement open to traffic and to not interfere with residential occupants or construction activity of Landowner on site. The District will keep the area covered by the easement clean and remove all debris related to its construction.
3. The District agrees to indemnify and hold harmless the Landowner from and against any and all claims, damages, liabilities, costs or any expenses whatsoever, arising from or caused, directly or indirectly by the entry onto the property by Holder or its agents, employees, invitees, contractors and subcontractors.

## EXHIBIT A

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF BLOCK 69 AS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED ON SEPTEMBER 30, 2005 AS DOCUMENT NUMBER 18605126 OF OFFICIAL RECORDS AND ALSO AS SHOWN ON THAT CERTAIN MAP FILED IN BOOK D OF MAPS ON PAGE 184 AND ALSO AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED ON AUGUST 27, 1976 IN BOOK 378 OF MAPS AT PAGE 55, AND ALSO BEING A PORTION OF MADISON STREET AS SHOWN ON SAID MAP AND ALSO AS SHOWN ON SAID RECORD OF SURVEY, ALL IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE CAST ALUMINUM MONUMENT 138 ON THE SOUTHERLY LINE OF SAID RECORD OF SURVEY, SAID POINT ALSO SHOWN AS POINT NUMBER 3955 ON SAID RECORD OF SURVEY;

THENCE ALONG SAID SOUTHERLY LINE OF SAID RECORD OF SURVEY, SOUTH 89° 47' 34" EAST, 43.58 FEET TO THE **POINT OF BEGINNING**;

THENCE LEAVING SAID SOUTHERLY LINE, NORTH 02° 31' 31" EAST, 17.93 FEET TO A POINT ON THE CENTER LINE OF SAID MADISON STREET;

THENCE ALONG SAID CENTER LINE OF SAID MADISON STREET, NORTH 49° 07' 40" EAST, 82.58 FEET;

THENCE LEAVING SAID CENTER LINE, SOUTH 02° 31' 31" WEST, 34.41 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID MADISON STREET, SAID LINE ALSO BEING THE NORTHWESTERLY LINE OF BLOCK 69;

THENCE SOUTH 56° 58' 37" EAST, 69.74 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID BLOCK 69, SAID LINE ALSO BEING THE SOUTHERLY LINE OF SAID RECORD OF SURVEY;

THENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 47' 34" WEST, 120.19 FEET TO THE **POINT OF BEGINNING**.

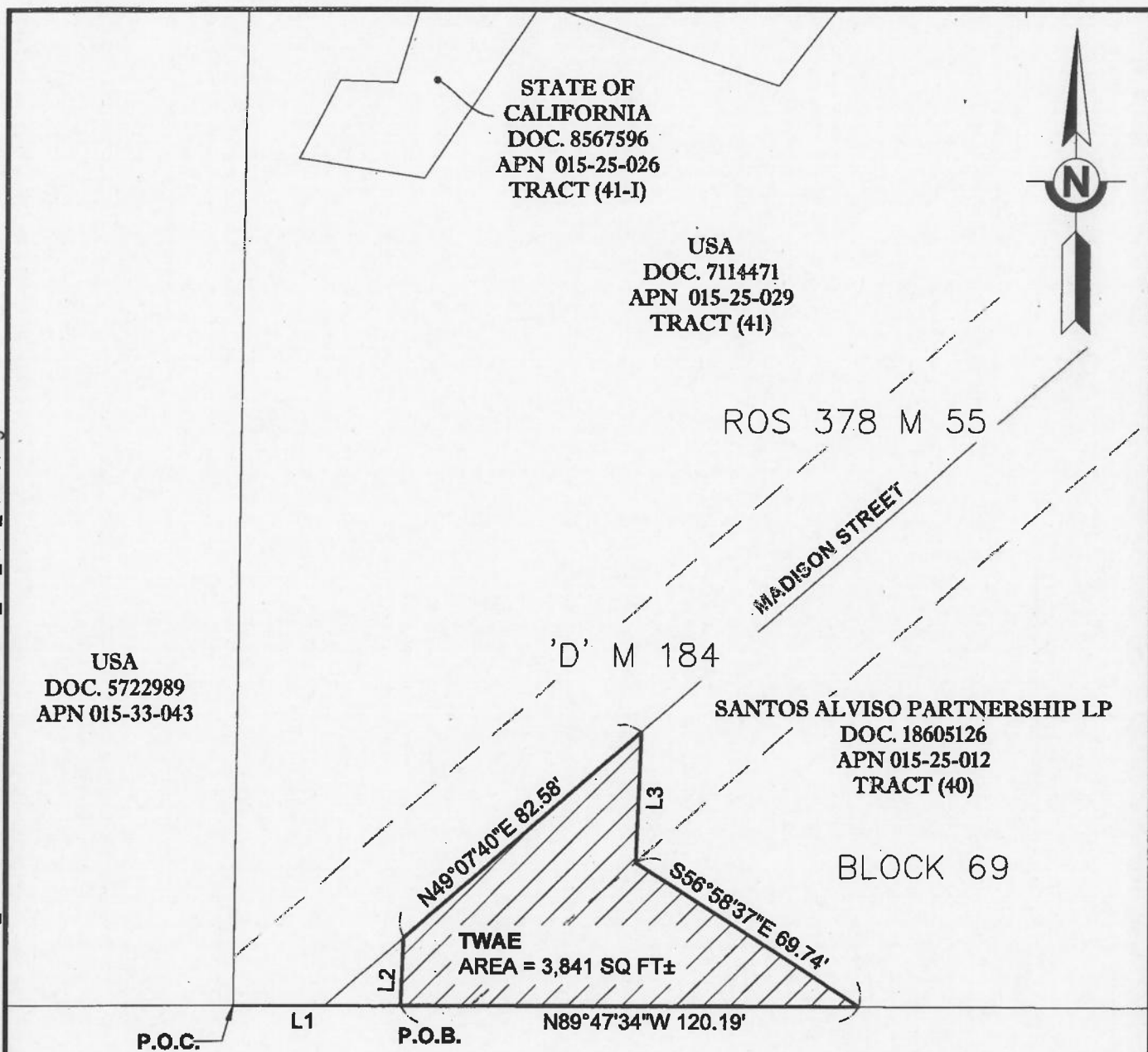
CONTAINING 3,841 SQUARE FEET OF LAND, MORE OR LESS.

### **BASIS OF BEARINGS:**

BEARINGS ARE BASED ON AND IDENTICAL TO SAID RECORD OF SURVEY FILED ON AUGUST 27, 1976 IN BOOK 378 OF MAPS AT PAGE 1 THROUGH 57 IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.



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USA  
DOC. 15625716  
APN 015-33-053

**TWAE (TEMPORARY WORK AREA EASEMENT)**

Line Table		
Line #	Bearing	Length
L1	S89°47'34"E	43.58'
L2	N02°31'31"E	17.93'
L3	S02°31'31"W	34.41'

Santa Clara Valley Water District



SCALE: N.T.S.

RESU FILE NO.	2044-13
APN	015-25-012
TITLE REPORT NO.	0621008979

SHEET 1 OF 1

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## **EXHIBIT B**

### **(FLOOD PROTECTION LEVEE EASEMENT FILE 2044-14)**

A perpetual and assignable right and easement in the land described below to construct, maintain, repair, operate, patrol and replace a flood protection levee, including all appurtenances thereto; reserving, however, to the Landowners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Said easement area shall be kept clear of any type of building, fences, structure, pavement, or trees unless prior written approval is obtained from the District.

The easement shall include the right to construct, reconstruct, inspect, maintain, and repair a protection levee, and appurtenant structures, together with the right to trim or remove such trees or brush within the easement area as may constitute a hazard to persons or property or may interfere with the use of said area for the purpose granted. It also shall include the right to enter upon said land with vehicles, tools, implements, and other materials, take there from and use earth, rock, sand, and gravel for construction, maintenance, and repair of said channel, protections works, and appurtenant structures by said District, its officers, agents, and employees, and by persons under contract with it and their employees whenever and wherever necessary for flood control or storm drainage purposes.

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF MADISON STREET AS SHOWN ON THAT CERTAIN MAP FILED IN BOOK D OF MAPS ON PAGE 184 AND ALSO AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED ON AUGUST 27, 1976 IN BOOK 378 OF MAPS AT PAGE 55, ALL IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE CAST ALUMINUM MONUMENT 138 ON THE SOUTHERLY LINE OF SAID RECORD OF SURVEY, SAID POINT ALSO SHOWN AS POINT NUMBER 3955 ON SAID RECORD OF SURVEY;

THENCE ALONG SAID SOUTHERLY LINE OF SAID RECORD OF SURVEY, SOUTH 89° 47' 34" EAST, 23.76 FEET TO THE **POINT OF BEGINNING**, SAID POINT ALSO BEING A POINT ON THE CENTER LINE OF SAID MADISON STREET;

THENCE ALONG SAID CENTER LINE OF SAID MADISON STREET, NORTH 49° 07' 40" EAST, 27.26 FEET;

THENCE LEAVING SAID CENTER LINE, SOUTH 02° 31' 31" WEST, 17.93 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID RECORD OF SURVEY;

## **EXHIBIT B**

THENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 47' 34" WEST, 19.82 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 178 SQUARE FEET OF LAND, MORE OR LESS.

### **BASIS OF BEARINGS:**

BEARINGS ARE BASED ON AND IDENTICAL TO SAID RECORD OF SURVEY FILED ON AUGUST 27, 1976 IN BOOK 378 OF MAPS AT PAGE 1 THROUGH 57 IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.



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USA  
DOC. 5722989  
APN 015-33-043

USA  
DOC. 7114471  
APN 015-25-029  
TRACT (41)

ROS 378 M 55

'D' M 184

FPLE  
AREA = 178 SQ FT±

MADISON STREET

SANTOS ALVISO PARTNERSHIP LP  
DOC. 18605126  
APN 015-25-012  
TRACT (40)

BLOCK 69

P.O.C. L1 P.O.B. L4

USA  
DOC. 15625716  
APN 015-33-053



FPLE (FLOOD PROTECTION LEVEE EASEMENT)

Line Table		
Line #	Bearing	Length
L1	S89°47'34"E	23.76'
L2	N49°07'40"E	27.26'
L3	S02°31'31"W	17.93'
L4	N89°47'34"W	19.82'

Santa Clara Valley Water District



SCALE: N.T.S.

RESU FILE NO.	2044-14
APN	015-25-012
TITLE REPORT NO.	0621008979

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