

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California

RESOLUTION NO. 1920-48

RESOLUTION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT TO AUTHORIZE THE CONVEYANCE OF AN EASEMENT TO SANTA MARGARITA WATER DISTRICT FOR THE PURPOSES OF PROVIDING NECESSARY PUBLIC WATER FACILITIES TO NEWHART MIDDLE SCHOOL

WHEREAS, Santa Margarita Water District (SMWD) requires an easement from the Capistrano Unified School District (District) in order to access, construct, reconstruct, enlarge, improve, repair, operate, and maintain water pipelines and incidental appurtenances, connections, and structures (Facilities); and

WHEREAS, the Facilities will provide necessary public water facilities to Newhart Middle School (Newhart MS), located at 25001 Veterans Way in the City of Mission Viejo, identified as Orange County Assessor Parcel No. 808-521-02 (District Property) for the new STEAM Building at Newhart MS; and

WHEREAS, the easement sought by SMWD and the specific location of the easement is attached hereto as Exhibit 1, and is incorporated herein by this reference (SMWD Easement); and

WHEREAS, the SMWD Easement is located in an area that will not interfere with the District's operation of its academic facilities on the District Property, or otherwise negatively impact school operation; and

WHEREAS, Education Code § 17556 *et seq.* provides the authority for the District to convey easements after first adopting a resolution declaring such an intent and holding a public hearing to consider such a conveyance; and

WHEREAS, pursuant to Education Code § 17557, the District's Board of Trustees (Board) adopted Resolution No. 1920-41 (Resolution of Intent) on March 18, 2020, declaring its intention to consider the conveyance of the SMWD Easement to SMWD, and establishing April 29, 2020, at 7:00 p.m., or as soon thereafter as reasonably possible, as the time for the Board to conduct a public hearing at its regular meeting to be held at the District Board Room, located at 33122 Valle Road, San Juan Capistrano, California 92675, to receive public comments with respect to the proposed conveyance of the SMWD Easement to SMWD; and

WHEREAS, the District provided notice of the public hearing, as required by Education Code § 17558, by posting a copy of the Resolution of Intent in three public places within the District no later than April 19, 2020 and publishing notice of the hearing in the *Orange County Register* no later than April 24, 2020; and

WHEREAS, the Board conducted a public hearing on April 29, 2020, and considered all comments received, if any; and

WHEREAS, as authorized by Education Code § 17559, the Board may now consider and adopt a resolution to authorize the conveyance of the proposed SMWD Easement to SMWD, unless the Board receives a written protest signed by at least 10 percent of the qualified electors within the District; and

WHEREAS, the Board has not received a petition, signed by any qualified electors objecting to the conveyance of the SMWD Easement; and

WHEREAS, the Board desires to convey the SMWD Easement to SMWD in a manner substantially similar to that set forth in Exhibit 1, subject to the terms and conditions set forth therein.

NOW, THEREFORE, THE BOARD DOES HEREBY DETERMINE, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. At the public hearing held in accordance with Education Code §17557 and 17559, the Board provided an opportunity for public comment on the question of whether the District should convey the SMWD Easement, and the Board has considered any and all comments made or received at such time.

Section 3. The Board hereby authorizes the conveyance of the SMWD Easement to SMWD, in the manner and form set forth in Exhibit 1. The Board hereby authorizes the President of the Board or the Superintendent to execute and deliver the SMWD Easement to SMWD.

Section 4. The Board hereby authorizes the Superintendent, or the Superintendent's designee, to take such additional action or execute such additional documentation as may be reasonably required to effectuate the intent of this Resolution, including, but not limited to, the delivery of the executed deeds to the appropriate entities.

(Signatures on following page)

PASSED AND ADOPTED by the Board of Trustees of the Capistrano Unified School District on April 29, 2020, by the following vote:

AYES	(7)
NOES	(0)
ABSTAIN	(0)
ABSENT	(0)

I, Kirsten M. Vital, Secretary of the Capistrano Unified School District Board of Trustees, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at the meeting on April 29, 2020, by a roll call vote.

By: 
Gila Jones
Clerk of the Board of Trustees

By: 
Kirsten M. Vital, Superintendent
Secretary of the Board of Trustees

EXHIBIT 1

SMWD EASEMENT

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
Santa Margarita Water District
26111 Antonio Parkway
Rancho Santa Margarita, CA 92688

[Space Above This Line Is For Recorder's Use Only]

Mail Tax Statements to:
Santa Margarita Water District
26111 Antonio Parkway
Rancho Santa Margarita, CA 92688

This document is recorded for the benefit of SANTA MARGARITA WATER DISTRICT. The recording fee is exempt under *Section 27383* of the Government code. **NO CONSIDERATION**

(Signature)

**GRANT OF EASEMENT
TO
SANTA MARGARITA WATER DISTRICT**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a California nonprofit mutual benefit corporation ("Grantor"), hereby grants and conveys to **SANTA MARGARITA WATER DISTRICT**, a California water district formed and existing pursuant to *Section 34000, et. seq.*, of the Water Code of the State of California ("Grantee"), a perpetual non-exclusive easement and right-of-way for water pipelines, together with incidental appurtenances, connections and structures in, over, under, upon, along, through and across the respective portions of the real property described in Exhibit "A" attached hereto and diagrammed in Exhibit "B" attached hereto (the "Easement Area"). The easement and right-of-way granted herein are in gross.

The easement and right-of-way granted herein include the incidental rights to enter upon and pass and repass over and along the Easement Area for the construction (including, without limitation, grading, excavation and compaction of the Easement Area), reconstruction, enlargement, improvement, repair, operation and maintenance of the facilities to be constructed by Grantee and for ingress and egress to Grantee's property. After completion of any work performed by Grantee or its agents, contractors or employee which disturbs the surface of Grantor's property, Grantee shall restore the surface of such area as close as reasonable to its original character.

The easement and right-of-way acquired herein are acquired subject to the right of Grantors, their successors and assigns, to use the surface and subsurface of the land within the Easement Area to the extent that such use is compatible with the full and free exercise of the easement and right-of-way by Grantee; provided, however, that no fences, block walls, or other structures or other improvements shall be constructed upon, over and along the Easement Area without the prior written consent of Grantee, which consent shall not be unreasonably withheld or delayed.

No fill or paving of any nature shall be placed or maintained on the surface of the ground within the Easement Area, nor shall any earth be removed from the cover of the pipeline after construction, without prior written consent of Grantee, which consent shall not be unreasonably withheld or delayed.

Grantee shall have the right to use gates in all of Grantors' fences which presently or hereafter cross the Easement Area, and to remove, trim, cut and clear away any trees and brush whenever in Grantee's reasonable judgment the same shall be necessary for the convenient and safe exercise of the rights granted hereby.

IN WITNESS WHEREOF, this instrument has been executed this ____ day of _____, 20__.

CAPISTRANO UNIFIED SCHOOL DISTRICT
Grantor

By _____
Clark Hampton, Deputy Superintendent,
Business and Support Services

PLEASE NOTARIZE ALL SIGNATURES

ACKNOWLEDGMENT

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and no the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer) personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

The undersigned, being the duly appointed agent of **SANTA MARGARITA WATER DISTRICT**, a public corporation ("District"), Orange County, California, pursuant to its Resolution No. 88-10-2, does hereby accept on behalf of District, the grant of all interests in real estate for public purposes as described in the attached Grant of Easement dated the _____ day of _____, 2020, by and between District and **GG** and does hereby certify District consents to the recordation of the attached Grant of Easement.

DATED: _____

SANTA MARGARITA WATER DISTRICT

By: _____

Secretary

(SEAL)

EXHIBIT "A"
SANTA MARGARITA WATER DISTRICT
WATER EASEMENT
LEGAL DESCRIPTION

PARCEL A

THAT PORTION OF LOT 1 OF TRACT NO. 8807, IN THE CITY OF MISSION VIEJO, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 423, PAGES 43 THROUGH 50, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTHEASTERLY LINE OF SAID LOT 1, SAID POINT BEING THE NORTHWESTERLY TERMINUS OF THAT COURSE SHOWN AS "NORTH 47°19'00" WEST 218.35 FEET" ON SAID TRACT MAP, THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE, SOUTH 47°19'35" EAST 62.08 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 42°40'25" WEST, 8.30 FEET;

THENCE SOUTH 47°19'35" EAST, 20.60 FEET;

THENCE NORTH 42°40'25" EAST, 8.30 FEET TO SAID NORTHEASTERLY LINE;

THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE, NORTH 47°19'35" WEST, 20.60 FEET TO SAID TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 171 SQUARE FEET OR 0.004 ACRES, MORE OR LESS.

SUBJECT TO COVENANTS, CONDITIONS, RESERVATIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD, IF ANY.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B", ATTACHED HERETO AND MADE A PART HEREOF.

THIS DOCUMENT HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.


TIMOTHY S. FETTING P.L.S. 7542

01/27/2020
DATE



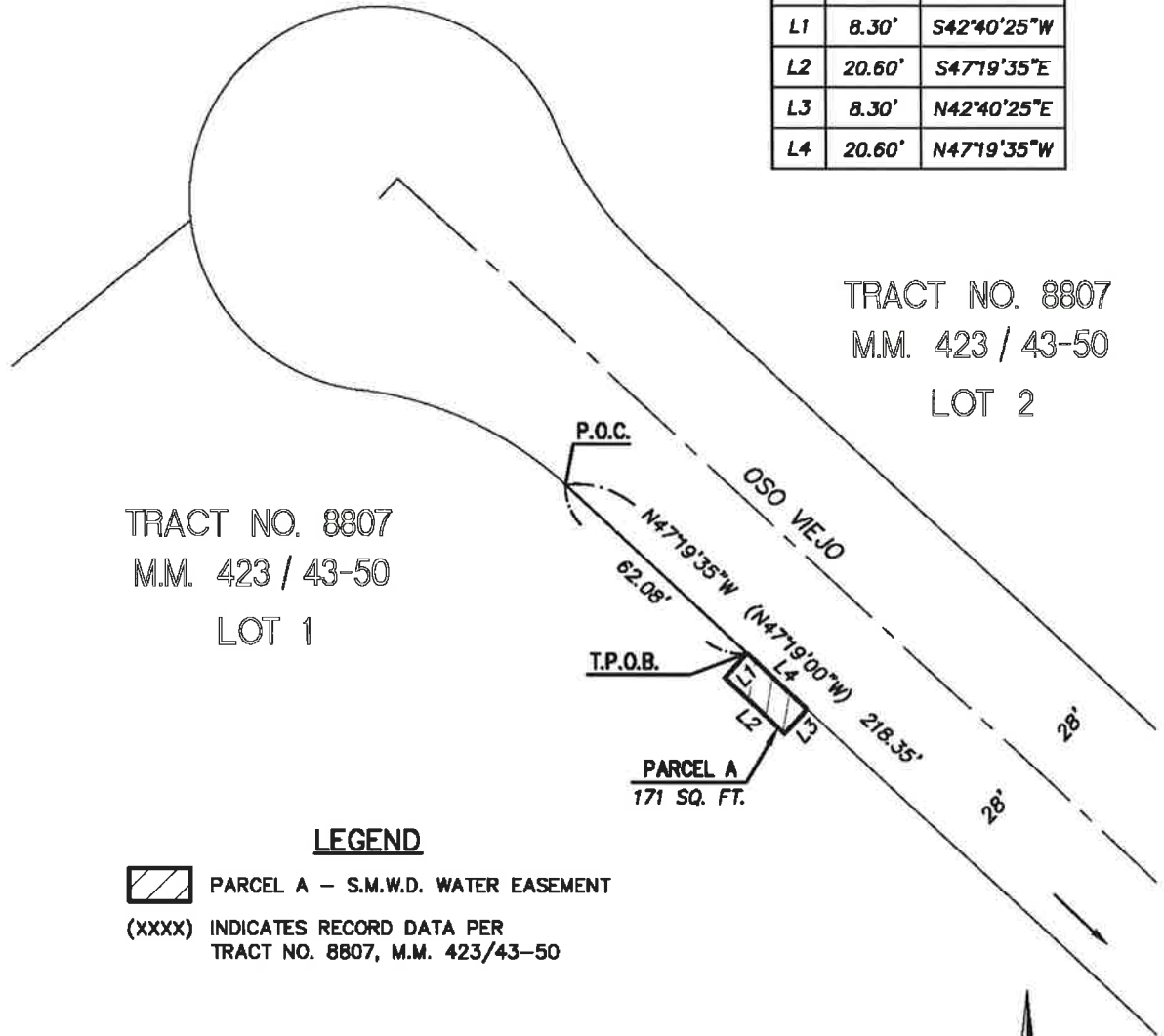
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PLAT TO ACCOMPANY
LEGAL DESCRIPTION

EXHIBIT "B"
S.M.W.D. WATER EASEMENT
IN THE CITY OF MISSION VIEJO
COUNTY OF ORANGE, STATE OF CALIFORNIA

SHEET 1 OF 1


LINE TABLE		
NO.	LENGTH	BEARING
L1	8.30'	S42°40'25"W
L2	20.60'	S47°19'35"E
L3	8.30'	N42°40'25"E
L4	20.60'	N47°19'35"W



TRACT NO. 8807
M.M. 423 / 43-50
LOT 1

TRACT NO. 8807
M.M. 423 / 43-50
LOT 2

LEGEND

-  PARCEL A - S.M.W.D. WATER EASEMENT
- (XXXX) INDICATES RECORD DATA PER
TRACT NO. 8807, M.M. 423/43-50



PREPARED BY ME OR UNDER MY DIRECTION:

Tim Fettig 01/27/2020
TIMOTHY S. FETTIG P.L.S. 7542 DATE



SCALE: 1" = 40'