

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA
ORDERING THE CONDITIONAL VACATION
OF A 20-FOOT-WIDE TEMPORARY
EMERGENCY ACCESS EASEMENT ON
LOTS 5, 6, 7, 17, 18 AND 29 WITHIN SUMMER
CREEK, PHASE ONE SUBDIVISION
(VACATION #18-03) SUBJECT TO THE
EASEMENT AREA ON LOTS 6, 7, 17, 18 AND
29 BEING DEEDED TO THE MERCED
IRRIGATION DISTRICT (MID)**

WHEREAS, Bright Development, Inc. is the owner of lots 6, 7, 17, 18, and 29 of the Summer Creek Phase 1 Subdivision, and Lot 5 of the Summer Creek Phase 1 Subdivision is privately owned by Chris and Hassan Curtis (collectively “Owners”); and

WHEREAS, the Owners have applied for the vacation of the 20-foot-wide Temporary Emergency Vehicle Access (EVA) Easement on Lots 5, 6, 7, 17, 18, and 29 as described in Exhibit “A” attached hereto and incorporated herein and shown on the map shown in Exhibit “B,” attached hereto and incorporated herein; and

WHEREAS, the Merced Irrigation District (MID) has an easement over the location of the City’s 20-foot-wide Temporary EVA and it does not intend to vacate this easement as it remains necessary for their operations; and

WHEREAS, by adoption of Resolution No. 2018-75 on November 19, 2018, the City Council declared its intention to consider the vacation of a 20-foot-wide temporary emergency access easement on 7 lots, including Lots 5, 6, 7, 17, 18 and 29 within Summer Creek, Phase One Subdivision, as described in Exhibit “A” and shown on the map at Exhibit “B,” attached hereto; and

WHEREAS, Resolution No. 2018-75 fixed a time and place for hearing all persons interested in or objecting to the proposed vacation to wit: On Monday, December 17, 2018, at the hour of 6:00 p.m. of said day, in the

Council Chambers of the City Council, 678 West 18th Street, Merced, California, which said time was not less than fifteen (15) days from the above-mentioned date and passage of Resolution No. 2018-75; and

WHEREAS, Resolution No. 2018-75 was published in the manner prescribed by Section 8320 of the Streets and Highways Code of the State of California; and

WHEREAS, the public hearing was held on December 17, 2019, and was continued to January 7, 2019, at which time the public hearing was held and continued to February 19, 2019; and

WHEREAS, on November 21, 2018, notices were conspicuously posted along the lines of the property proposed to be vacated, not more than three hundred (300) feet apart, which notices consisted of copies of Resolution No. 2018-75 and,

WHEREAS, the vacation of the public right-of-way as proposed by Resolution No. 2018-75 was submitted to the Planning Commission on October 3, 2018, which found the proposed vacation to be in conformity with the general plan.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council finds from all of the evidence submitted that the temporary emergency access easement for Lots 5, 6, 7, 17, 18 and 29 of the Summer Creek, Phase One Subdivision, as described in Exhibit "A" and shown on the map at Exhibit "B," is unnecessary for emergency vehicle access.

SECTION 2. The City Council finds that it is in the best interest of the City for the easement areas on Lots 6, 7, 17, 18 and 29 to be deeded by Bright Development, Inc. to the Merced Irrigation District (MID) as a condition of this vacation.

SECTION 3. It is hereby ordered that the temporary emergency access easement for Lots 5, 6, 7, 17, 18 and 29 within Summer Creek, Phase One Subdivision lying within the above described territory be and the same is hereby abandoned and vacated, pursuant to the provisions of Part 3, Division 9, of the Streets and Highways Code of the State of California,

being the Public Streets, Highways, and Services Easements Vacation Law, subject to the Condition listed in Exhibit “C,” attached hereto and incorporated herein. This Resolution shall only become effective and recorded when the condition set forth in Exhibit “C” has been satisfactorily completed.

SECTION 4. The City Clerk is directed to cause a certified copy of this resolution, attested under seal of the City of Merced, to be recorded in the Office of the County Recorder of Merced County, once the condition set forth in Exhibit “C” has been satisfactorily completed and the Director of Development Services, or designee has sent a memorandum to the City Clerk stating that the condition has been satisfactorily completed.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ of _____, 2019, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Kelly Fincher 2-12-19
City Attorney Date

EXHIBIT 'A'

**Legal Description for
Abandonment of 20' Wide Temporary Emergency Access Easement
Summer Creek Phase 1 (A.P.N. 008-391-005, 006, 007, 017, 018 and 029)**

The north 20.00 feet of Lots 5, 6, 7, 17, 18 and 29 as shown on the map of Summer Creek Phase 1 filed in Book 62 of Official Plats, at Pages 43 through 47, inclusive, Merced County Records, lying in Section 16, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the City of Merced, County of Merced, State of California.

This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.



Sean Harp 5/1/2018
Sean Harp, P.L.S. 7823 Date

EXHIBIT A

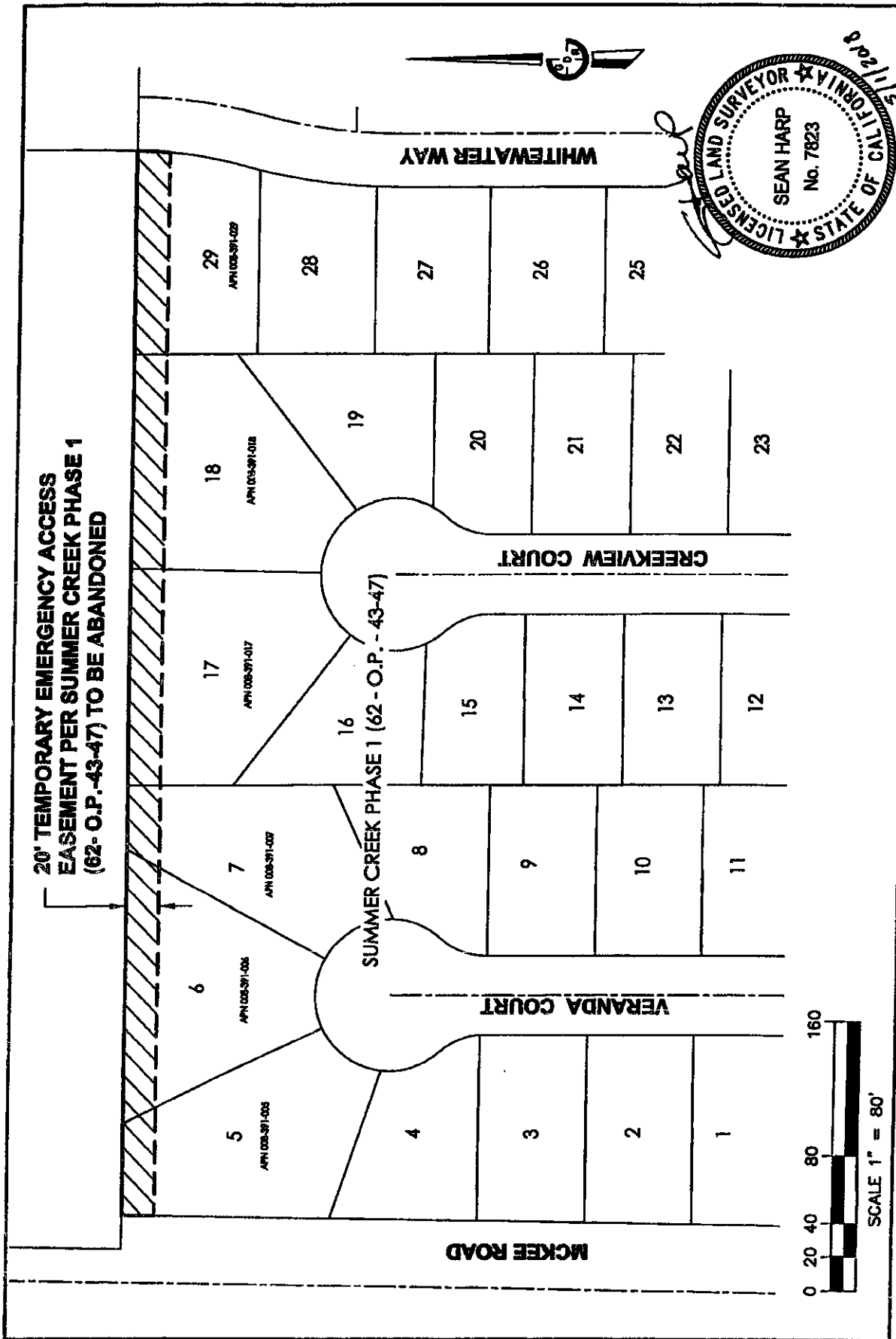


EXHIBIT B

GDR ENGINEERING, Inc. ENGINEERING/SURVEYING/PLANNING 1505 Walnut Street, Suite 200, Merced, CA 95307 PH: (209) 535-3360 www.gdrengineering.com	ABANDONMENT OF TEMPORARY EMERGENCY ACCESS EASEMENT FOR SUMMER CREEK PHASE 1 CITY OF MERCED, COUNTY OF MERCED, CALIFORNIA	
	JOB NO.: 18022 APRIL, 2018 SHEET 1 OF 1	

EXHIBIT C
CONDITIONS FOR VACATION #18-03

The 20-foot-wide temporary emergency vehicle access easement shown on Lots 6, 7, 17, 18, and 29 of the Summer Creek Phase One Subdivision shall be deeded to the Merced Irrigation District (MID). The vacation of the easement shall not be effective until the property has been transferred from Bright Development, Inc. to MID.