

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

502B



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
August 29, 2008

SUBJECT: General vacation of portions of Smiley Boulevard, in the Reche Canyon area, Fifth Supervisorial District.

RECOMMENDED MOTION: Adopt Resolution No. 2008-394, General Vacation of Smiley Boulevard.

BACKGROUND: The vacation of Smiley Boulevard was initiated at the request of the applicant, Henry Melendez. The applicant proposes that Smiley Boulevard be vacated to allow only the local residents to use the roadway.

Currently Smiley Boulevard is gated at north end and according to the applicant has been gated for more than twelve years. The gate has been built to the satisfaction of the Fire Department. The portions of Smiley Boulevard to be vacated are not in the County Maintained Road System.

All adjacent property owners have been notified by mail of this proposed vacation. The Transportation Department staff received six (6) letters in favor of the proposed vacation and one (1) letter in opposition. There has been ongoing negotiation with the one objecting property owner and the applicant. With the assistance of County Counsel and the Transportation Department, an agreement has been reached. This vacation was presented to the Planning Commission on July 20, 2005. The Planning Commission recommended approval.

Juan C. Perez
Director of Transportation

AM
Attachments: Resolution No. 2008-394
Exhibit "A", "B" and "C"

REVIEWED BY EXECUTIVE OFFICE

DATE 9/2/08
Jina Grande
Departmental Consultant

FORM APPROVED COUNTY COUNSEL
BY: *Gordon V. Woo* 8/25/08
GORDON V. WOO DATE

Policy
 Policy

Consent
 Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.

District: 5

Agenda Number:

9.6

2
3 **RESOLUTION NO. 2008-394**

4 **GENERAL VACATION OF PORTIONS OF SMILEY BOULEVARD**

5 **IN THE RECHE CANYON AREA**

6 **(AB 04008)**

7 **(FIFTH SUPERVISORIAL DISTRICT)**

8
9 **WHEREAS**, the hereinafter-described Smiley Boulevard lying between the
10 northerly right-of-way line of Reche Canyon Road and south of the northerly boundary
11 line of Riverside County is a non-county-maintained public road; and

12
13 **WHEREAS**, pursuant to Streets and Highways Code Section 8321, a petition has
14 been filed with the Board of Supervisors of the County of Riverside, State of California,
15 requesting the general vacation of Smiley Boulevard in the Reche Canyon area of the
16 County of Riverside; and,

17
18 **WHEREAS**, on September 16, 2008, the Board of Supervisors of the County of
19 Riverside adopted Resolution No. 2008-393, giving notice of intention to vacate Smiley
20 Boulevard; and,

21
22 **WHEREAS**, Resolution No. 2008-393 has been duly published, and posted
23 pursuant to the provisions of the Streets and Highways Code; and,

1 **RESOLUTION NO. 2008-394**

2
3 **WHEREAS**, a public hearing has been conducted and the Board of Supervisors of
4 the County of Riverside has considered the evidence offered by persons interested in the
5 matter; and,

6
7 **WHEREAS**, pursuant to Streets and Highways Code Section 8324 the Board of
8 Supervisors of the County of Riverside has determined that the highway created as a non-
9 county-maintained public road as described herein is not useful as a non-motorized
10 transportation facility; and,

11
12 **WHEREAS**, the Board of Supervisors of the County of Riverside has determined
13 that the herein-described Smiley Boulevard is unnecessary for present or prospective
14 public use; now, therefore;

15
16 **BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of Supervisors
17 of the County of Riverside, State of California, in regular session assembled on
18 October 7, 2008, that pursuant to Section 8324(b) of the Streets and Highways Code, the
19 County of Riverside hereby vacates those portions of Smiley Boulevard specifically
20 identified in Exhibit "A" attached hereto and incorporated by this reference, being in the
21 County of Riverside, State of California, subject to each and every condition so agreed
22 upon in the Agreement of Conditions Precedent to Vacation of Smiley Boulevard which is
23 attached hereto as Exhibit "B" and incorporated by this reference, as well as each and
24 every condition so agreed upon in the Grant of Easement Agreement which is attached
25 hereto as Exhibit "C" and incorporated by this reference.

1 **RESOLUTION NO. 2008-394**

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EXCEPTING AND RESERVING from the vacation an easement for any existing public utilities and public service facilities, together with the right to maintain, operate, replace, remove, or renew such facilities, pursuant to Section 8340 of the Streets and Highways Code.

FURTHER EXCEPTING AND RESERVING from the vacation any existing private access rights, including but not limited to any easement rights or other right of a person, in, to, or over Smiley Boulevard, pursuant to Section 8352 of the Streets and Highway Code.

BE IT FURTHER RESOLVED, DETERMINED AND ORDERED that the Clerk of the Board is directed to cause a certified copy of this Resolution to be recorded in the office of the Recorder of the County of Riverside, California.

AM
W.O.# AB 04008

FORM APPROVED COUNTY COUNSEL
BY: Gordon V. Woo 8/25/08
GORDON V. WOO DATE

EXHIBIT "A"

LOCATION PLAT

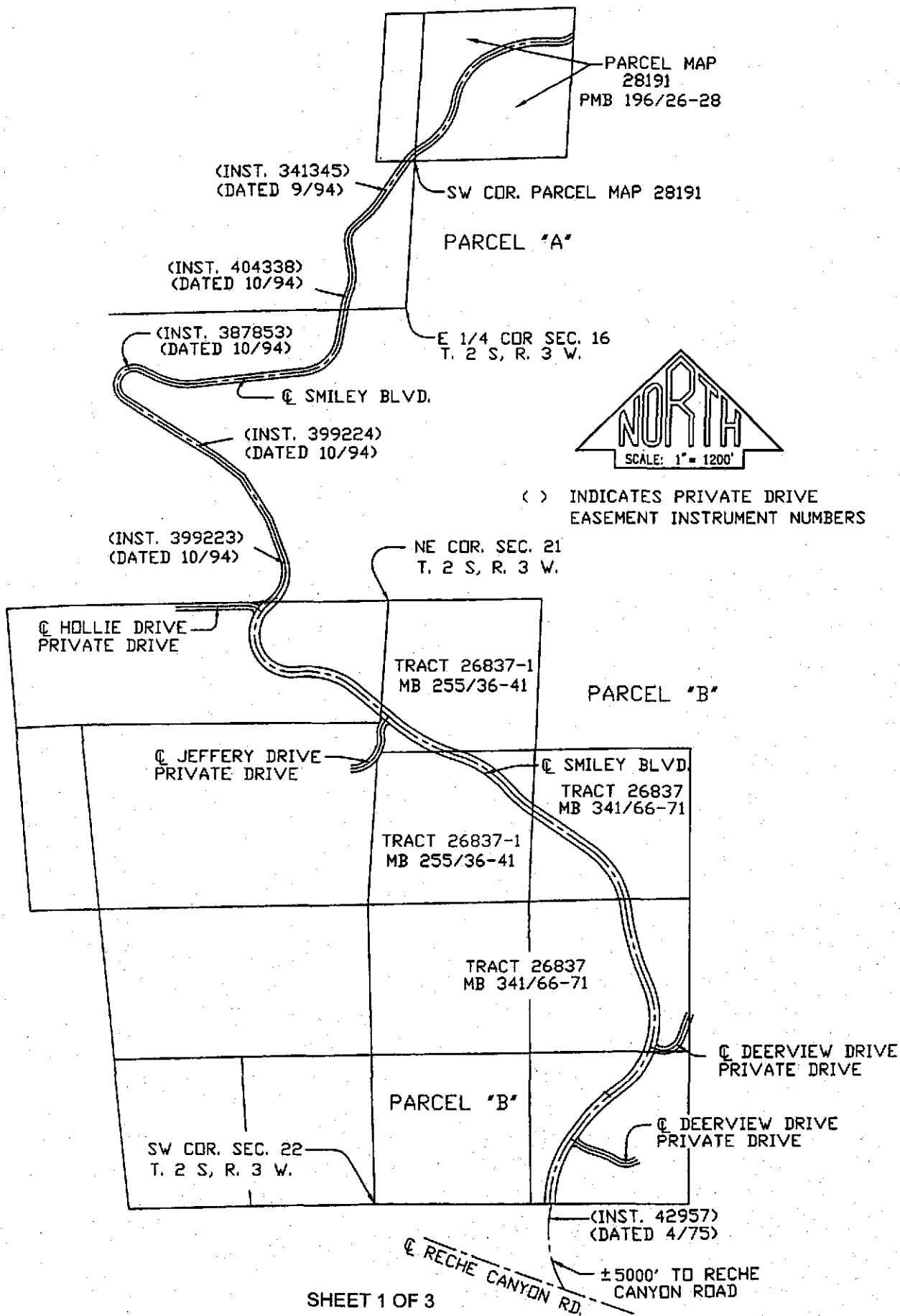


EXHIBIT "A"

VACATING PORTIONS OF SMILEY BOULEVARD



NTS
SEC16
T2S R3W
SBM

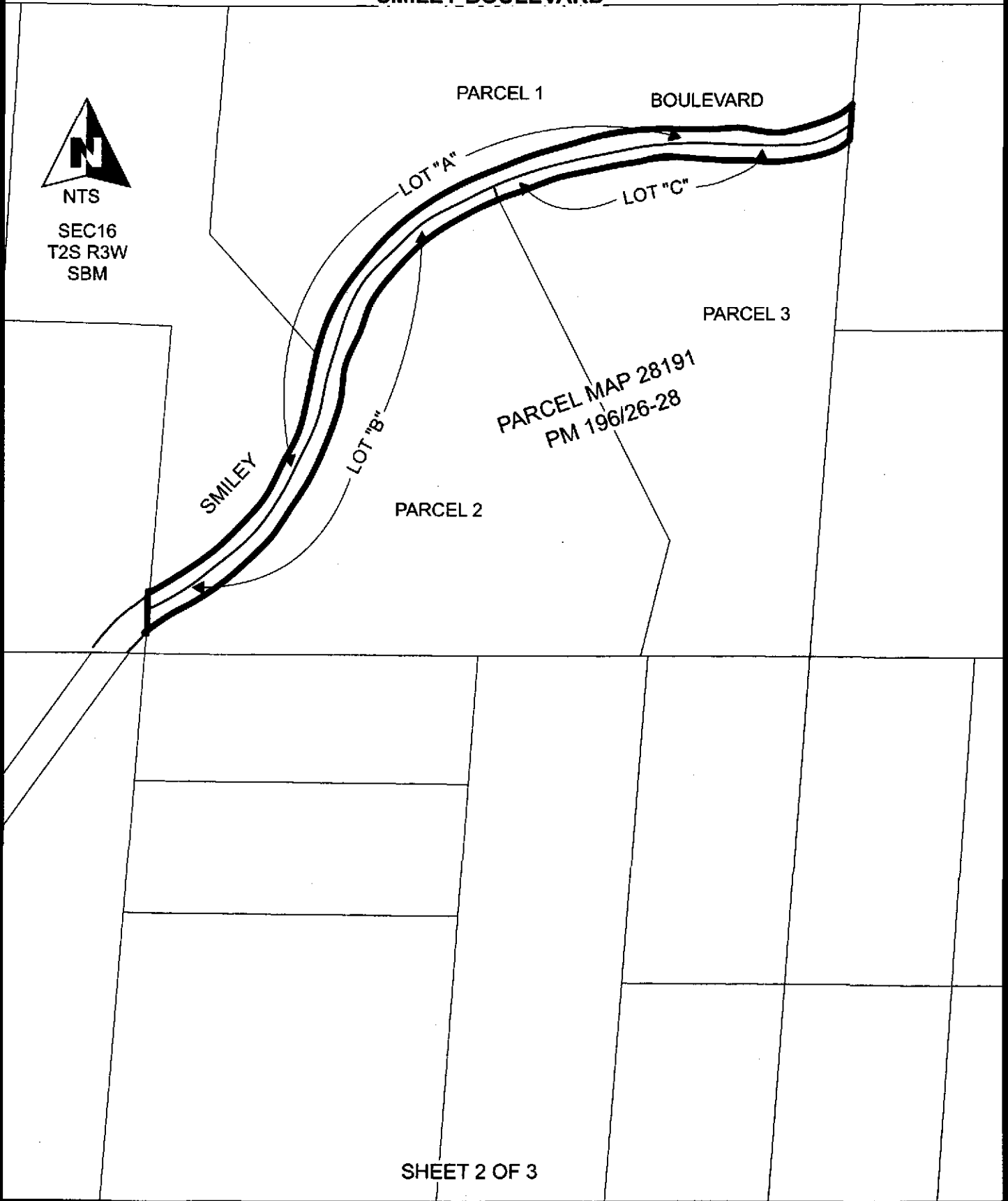


EXHIBIT "A"

VACATING PORTIONS OF SMILEY BOULEVARD

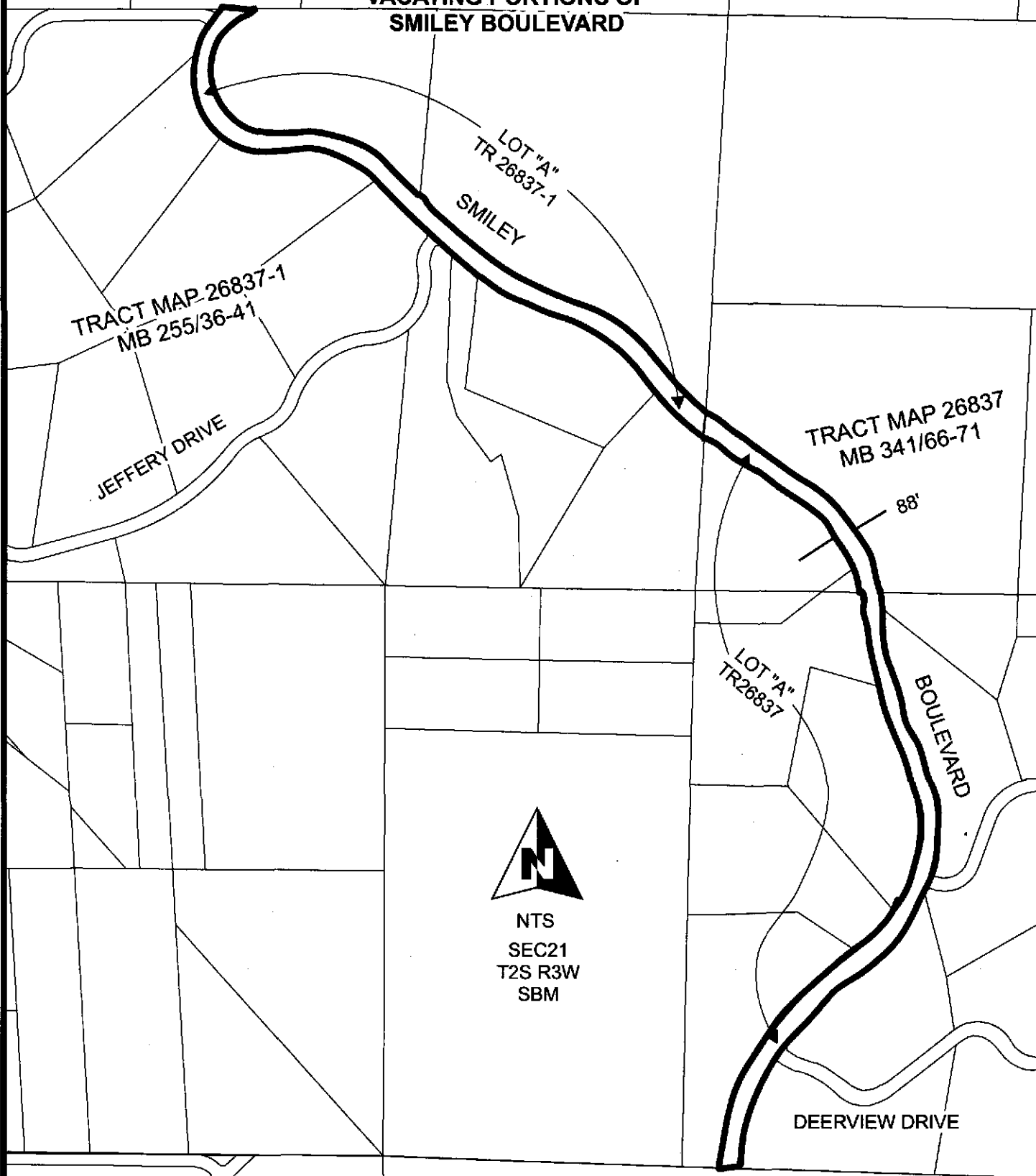


EXHIBIT "B"

**AGREEMENT OF CONDITIONS PRECEDENT TO
VACATION OF SMILEY BOULEVARD**

This Agreement is entered into by and between the County of Riverside Department of Transportation ("COUNTY") and William W. Bonadiman ("BONADIMAN").

WHEREAS, Smiley Boulevard is a non-county-maintained public road lying between the northerly right-of-way line of Reche Canyon Road and south of the northerly boundary line of Riverside County.

WHEREAS, a general vacation has been requested of that portion of Smiley Boulevard described within the Location Plat which is attached as Exhibit "A" to Resolution No. 2008-394, and more particularly described as follows:

Parcel A

All of Lots "A", "B" and "C" (60.00 feet wide) as shown on Parcel Map 28191, recorded in Book 196, pages 26 through 28, inclusive of Parcel Map, records of Riverside County lying within Section 15, Township 2 South, Range 3 West, San Bernardino Meridian.

Parcel B

All of Lot "A" (88.00 feet wide) as shown on Parcel Map 26837, recorded in Book 341, pages 66 through 71, inclusive, together with all of Lot "A" (88.00 feet wide) as shown on Tract Map 26837-1 recorded in Book 255, pages 26 through 41, inclusive, records of Riverside County lying within Sections 21 and 22, Township 2 South, Range 3 West, San Bernardino Meridian.

(Hereinafter referred to as "Smiley Blvd.")

NOW, THEREFORE, in consideration of COUNTY supporting the vacation of Smiley Blvd, and by executing this Agreement BONADIMAN covenants, agrees and represents as follows:

(1) A Homeowners Association has been created and said Homeowners Association, its successors and/or assigns in interests shall maintain Smiley Blvd. at all times in a decent, safe and sanitary condition in accordance with general prevailing standards of maintenance, and pay all costs and expenses incurred in doing so.

(2) Any and all gates which currently lie along or across Smiley Blvd., and any and all gates which will be placed along or across Smiley Blvd. at any time in the future, will operate automatically, rather than manually, and must be approved by the Riverside County Fire Department. Any gate along or across Smiley Blvd. which is not in conformity with the requirements of this paragraph must be removed by BONADIMAN at the expense of BONADIMAN.

(3) Secondary access must be constructed for all phases of Tract Map 26837, recorded in Book, 341, pages 66 through 71, inclusive, records of Riverside County, more particularly described as follows:

Parcel A

All of Lots "A", "B" and "C" (60.00 feet wide) as shown on Parcel Map 28191, recorded in Book 196, pages 26 through 28, inclusive of Parcel Map, records of Riverside County lying within Section 15, Township 2 South, Range 3 West, San Bernardino Meridian.

Parcel B

All of Lot "A" (88.00 feet wide) as shown on Parcel Map 26837, recorded in Book 341, pages 66 through 71, inclusive, together with all of Lot "A" (88.00 feet wide) as shown on Tract Map 26837-1 recorded in Book 255, pages 26 through 41, inclusive, records of Riverside County lying within Sections 21 and 22, Township 2 South, Range 3 West, San Bernardino Meridian.

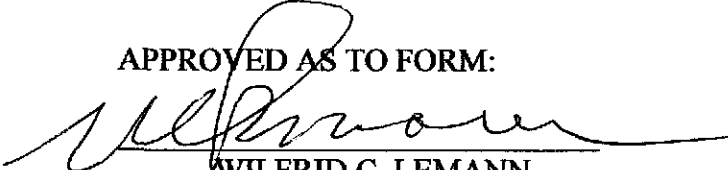
(4) The general vacation of Smiley Boulevard, as set forth above, shall not affect any private access rights, including but not limited to any easement rights, in existence as of the date of this Agreement, in, to, or over Smiley Boulevard, pursuant to Section 8352 of the Streets and Highways Code.


(5) This Agreement and all the obligations contained herein shall constitute covenants running with the land and shall be binding on and for the benefit of BONADIMAN, his transferees, successors and assigns, and any other present or future interest holders or estate holders of any portion or all of Smiley Blvd. vacated by operation of Resolution No. 2008-394. This Agreement shall be recorded along with Resolution No. 2008-394 by the County Clerk.

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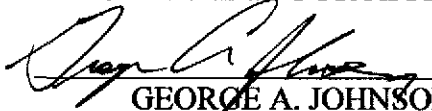
IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Agreement to be executed by setting hereunto their signatures on the day and year respectively written herein below.

APPROVED AS TO FORM:


WILFRID C. LEMANN
Attorney for William W. Bonadiman

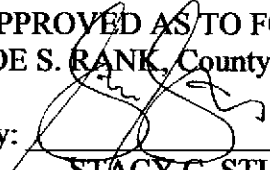

WILLIAM W. BONADIMAN
2-21-08
Date Signed

RECOMMENDED FOR APPROVAL:


GEORGE A. JOHNSON
Director of Transportation Department
Riverside County Department of Transportation

APPROVED AS TO FORM:

JOE S. RANK, County Counsel

By: 
STACY C. STURM
Deputy County Counsel
Attorneys for County of Riverside

COUNTY OF RIVERSIDE

By: _____
Chairman, Board of Supervisors

ATTEST:
NANCY ROMERO
Clerk of the Board

By: _____
Deputy

[Seal]

EXHIBIT "C"

Recording Requested by:

When Recorded Return To.:

BONADIMAN-McCAIN, INC.
280 S. LENA RD.
SAN BERNARDINO, CA 92408

GRANT OF EASEMENT

NO TAX DUE

For a valuable consideration received, Bonadiman-McCain, Inc., a California Corporation, Grantor, hereby grants and conveys to Flora Leckwar, a widow, and Billie Bachelor, a single woman, as joint tenants, with right of survivorship, as Grantees,

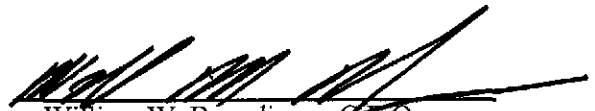
A NON-EXCLUSIVE easement for the purpose of ingress and egress for a duration of perpetuity from the execution of document over the following described real property located in the County of Riverside, State of California:

See Exhibits "A" & "B" attached hereto and made a part hereof.

This agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, administrators, executors, successors and assigns.

This NON-EXCLUSIVE Easement will authorize the Grantees unhindered ingress and egress.

IN WITNESS WHEREOF, these presents have executed this instrument this 30th day of March, 2008


William W. Bonadiman, C.E.O.
Bonadiman-McCain, Inc.

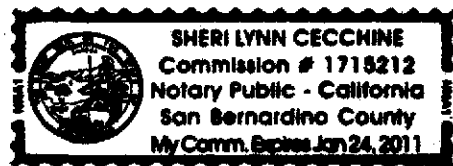
Notary Acknowledgment

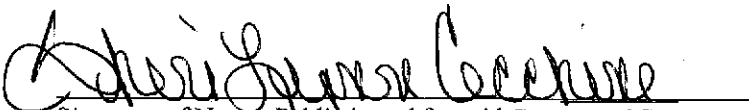
STATE OF CALIFORNIA:
COUNTY OF SAN BERNARDINO:

On 3/20, 2008, before me Sheri Lynn Cecchine, Notary Public personally appeared **William W. Bonadiman** who proved to me on the basis of satisfactory evidence to be the person(x) whose name(x) 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(x) on the instrument ~~the person(x), or the entity upon behalf of which the person(x) 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 of Notary Public in and for said County and State

[NOTARY SEAL]

EXHIBIT "C"
LEGAL DESCRIPTION

EASEMENT A:

A PORTION OF SMILEY BOULEVARD FROM THE EASTERLY LINE OF THE NORTHWEST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 3 WEST, TO THE SOUTHERLY LINE OF NORTHEAST ONE QUARTER OF THE NORTHEAST ONE QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 3 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THAT PORTION OF SMILEY BOULEVARD DEDICATED BY PARCEL MAP NUMBER 28191, RECORDED IN BOOK 196 OF PARCEL MAPS, PAGES 26 THROUGH 28 INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA;

TOGETHER WITH THAT PORTION DESCRIBED IN INSTRUMENT NO. 404338, RECORDED OCTOBER 20, 1994 OFFICIAL RECORDS OF SAID COUNTY.

EASEMENT B:

A PORTION OF SMILEY BOULEVARD FROM THE SOUTHERLY LINE OF THE NORTHEAST ONE QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 3 WEST, TO THE SOUTHERLY LINE OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 3 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS;


THAT PORTION DESCRIBED IN INSTRUMENT NO. 387853, RECORDED OCTOBER 6, 1994 OFFICIAL RECORDS OF SAID COUNTY.

TOGETHER WITH THAT PORTION DESCRIBED IN INSTRUMENT NO. 399224, RECORDED OCTOBER 17, 1994 OFFICIAL RECORDS OF SAID COUNTY.

TOGETHER WITH THAT PORTION DESCRIBED IN INSTRUMENT NO. 399223, RECORDED OCTOBER 17, 1994 OFFICIAL RECORDS OF SAID COUNTY.

SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, EASEMENTS, OFFERS OF DEDICATIONS, RIGHTS AND RIGHT OF WAYS OF RECORD.

THESE EASEMENTS HAVE BEEN DESCRIBED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.


Edward J. Bonadiman, PLS Date
Exp. 12-31-09 2-22-08

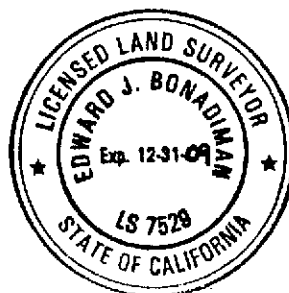


EXHIBIT "C" LOCATION PLAT



NE COR. SEC. 16
T. 2 S, R. 3 W.

EASEMENT A

INST. 404338
REC. 10/20/94

PARCEL MAP
28191
P.M.B.
196/26-28

ORDER OF CONDEMNATION
INST. 221584
REC. 6/24/97

SW COR. PARCEL MAP 28191

CENTERLINE SMILEY BLVD.

EAST 1/4 COR. SEC. 16
T. 2 S, R. 3 W.

INST. 387853
REC. 10/6/94

EASEMENT B

LEGEND:

— LIMITS OF
EASEMENT

INST. 399224
REC. 10/17/94

EASEMENT B

INST. 399223
REC. 10/17/94

SE COR. SEC. 16
T. 2 S, R. 3 W.

TRACT MAP
26837-1
M.B. 255/36-41



JOSEPH E. BONADIMAN & ASSOCIATES INC.
consulting engineers land surveyors

234 N. Arrowhead Ave., San Bernardino, CA. 92408
Phone: (909)885-3806 Fax: (909)381-1721