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



FROM: Economic Development Agency / Facilities Management and Transportation Department

November 10,2011

SUBJECT: Resolution No. 2011-214, Notice of Intention to Adopt a Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project – Home Gardens

RECOMMENDED MOTION: That the Board of Supervisors:

- 1. Approve Resolution No. 2011-214, Notice of Intention to Adopt a Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project;
- 2. Set a public hearing on Jan. 10, 2012 for Resolution No. 2012–004, Authorizing Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project; and
- 3. Direct the Clerk of the Board to send the required notice to the property owner as required per Section 1245.235 of the Code of Civil Procedure.

| Depan | Section 1245.235 of the Code of Civil Procedure. | | | | | | | | |
|----------|--|-------------------------------|----------|--|----------------------------|------|---------|--|--|
| | BACKGROUND: (Commences on Page 2) | | | | | | | | |
| | Juan C. Perez, Director | | | Robert F | ield | | | | |
| | Transportation Department | | | Assistant County Executive Officer/EDA | | | | | |
| 1 | FINANCIAL | Current F.Y. Total Cost: | | \$ O | In Current Year Budget: | | Yes | | |
| <i>)</i> | | Current F.Y. Net County Cost: | | \$ O | Budget Adjustment: | | No | | |
| | DATA | Annual Net County Co | ost: | \$ O | For Fiscal Year: | | 2011/12 | | |
| | COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No | | | | | | | | |
| | SOURCE OF FUNDS: Measure A | | | | Positions T Deleted Per | | | | |
| | App | | | 1.2 | Requires 4/5 | Vote | | | |
| | C.E.O. RECOMM | ENDATION: | AI FROVE | | | ** | | | |
| Policy | County Evenutiv | a Offica Signatura | BY fell | er L. Sargen | GUL | | | | |
| Ž | County Executiv | e Office Signature | - (Crame | . L. Cargen | | | | | |

Prev. Agn. Ref.: N/A

District: 2

Agenda Number:

3.8

(Rev 08/2010)

FORM APPROVED COUNTY COU

 \boxtimes

Dep't Recomm.:

Consent

Exec. Ofc.:

Pe

EDA-001a-F11 two signatures Form 11 (Rev 06/2003) Economic Development Agency / Facilities Management and Transportation Department Resolution No. 2011-214, Notice of Intention to Adopt a Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project – Home Gardens November 10, 2011 Page 2

BACKGROUND:

The purpose of the Magnolia Avenue Grade Separation Project ("Project") is to replace the existing Magnolia Avenue/Burlington Northern Santa Fe ("BNSF") at-grade railroad crossing in the community of Home Gardens in order to improve safety and traffic operations by eliminating the hazards and inefficiencies of trains passing through the flow of vehicular traffic.

The Project would construct a new four-lane overhead bridge over the existing BNSF tracks, above the entire BNSF right-of-way. The total length of the improvements would extend from approximately 500 feet west of Lincoln Street to approximately 550 feet east of Buchanan Street. The new bridge would be striped for four lanes of traffic on Magnolia Avenue. The length and clearance of the proposed bridge structure would accommodate the existing skewed railroad crossing, as well as the two existing railroad tracks and two additional future tracks (planned separately from this project), and would also provide space for frontage roads (proposed as part of this project).

The National Environmental Policy Act (NEPA) environmental determination (Categorical Exclusion) Section 6004: 23 CFR 771.117(d)(3) was approved on May 11, 2011 by District 8 Division of Environmental Planning for the California Department of Transportation.

The Economic Development Agency (EDA) has presented a written offer to purchase from the property owner as required by Government Code Section 7267.2. The amount of the offer is consistent with current property values in the Riverside area for this property type (and is based upon a fair market value appraisal report). EDA has also offered to pay the reasonable costs, not-to-exceed \$5,000, for an independent appraisal obtained by the property owner (as required by Code of Civil Procedure Section 1263.025).

Settlement has not been reached with the following property owner, although negotiation is still in process for the necessary right-of-way:

| Parcel | Ownership |
|-------------------------|---|
| No. | Assessor's Parcel No(s). |
| 0784-001A and 0784-001B | Southern Pacific Transportation Company |
| | 135-170-006 and portion of 135-151-020 |

The subject Notice of Intention would schedule a hearing on January 10, 2012 for proposed Resolution No. 2012-004 (Authorizing Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project). The scheduling of a Resolution of Necessity hearing on January 10, 2012 is needed in order to permit the Magnolia Avenue Grade Separation Project to move forward.

The county is authorized to acquire property by eminent domain pursuant to various statutes including Government Code, §25350.5.

This resolution has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA: (Commences on Page 3)

Economic Development Agency / Facilities Management and Transportation Department Resolution No. 2011-214, Notice of Intention to Adopt a Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project – Home Gardens November 10, 2011 Page 3

FINANCIAL DATA: The following summarizes the funding necessary for the acquisition of the property referenced above:

| Purchase Price: | \$ 85,000 |
|------------------------------------|---------------|
| Appraisal: | \$ 8,000 |
| Preliminary Title Report: | \$ 800 |
| EDA Real Property Costs: | \$ 15,000 |
| Total Estimated Acquisition Costs: | \$ 108,800 |

EDA has already covered the costs for due diligence (appraisal and preliminary title reports) and will be reimbursed by the Transportation Department. The remaining costs will be paid directly by the Transportation Department. All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 2011/12. Thus, no additional net county cost will be incurred as a result of this transaction.

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Resolution No. 2011-214

Notice of Intention to Adopt a Resolution of Necessity Regarding the Magnolia Avenue Grade Separation Project

WHEREAS, the portions of real properties that are the subjects of this Notice (collectively the "Subject Properties") are located in the unincorporated County of Riverside, State of California; are generally located within an area in the middle of Magnolia Avenue between Lincoln Street and Buchanan Street; are legally described and pictorially depicted on the documents attached hereto as Exhibits "A" and Exhibits "B" (and incorporated herein by this reference); are referred to on attached Exhibits "A" and Exhibits "B" as Parcels 0784-001A and 0784-001B;

WHEREAS, each one of the Subject Properties is listed below in Table One that includes the relevant Subject Property within its boundaries, and whereas each one of those larger real properties is listed below in Table One by its Riverside County Assessor's Parcel Number:

| TABLE ONE | | | | |
|--|---------------------------------|--|--|--|
| Riverside County | Subject Properties | | | |
| Assessor's Parcel Numbers Of the | | | | |
| Larger Real Properties | | | | |
| 135-170-006 and portion of 135-151-020 | Parcels 0784-001A and 0784-001B | | | |

WHEREAS, the proposed project that is the subject of this Notice (the "Proposed Project") is one to remove the existing Magnolia Avenue / Burlington Northern Santa Fe ("BNSF") at-grade railroad crossing and to construct a new fourlane overhead bridge over the existing BNSF tracks between 500 feet west of Lincoln Street to approximately 550 feet east of Buchanan Street in Riverside County. California to improve safety and traffic operations by eliminating the hazards and inefficiencies of trains passing through the flow of vehicular traffic;

WHEREAS, Parcels 0784-001A and 0784-001B, will be used for public road purposes, and for other uses incidental to the Proposed Project and required by the Proposed Project;

WHEREAS, the interests in property that are the subjects of this Notice (collectively the "Subject Property Interests") are fee simple interests;

WHEREAS, the statutes that authorize the County of Riverside to acquire the Subject Property Interests by eminent domain include Article 1, Section 19 of the California Constitution; Section 25350.5 of the Government Code; Section 760 of the Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.110, 1240.410, 1240.510, and 1240.610 of the Code of Civil Procedure.

Now, therefore, **BE IT RESOLVED AND ORDERED** as follows by the Board of Supervisors of Riverside County, State of California, in regular session assembled on November 22, 2011.

- 1. YOU ARE HEREBY NOTIFIED that this Board (at its public meeting on January 10, 2012 at 9:30 a.m. in the meeting room of the Board of Supervisors located on the 1st floor of the County Administrative Center, 4080 Lemon Street, Riverside, California) may decide to adopt a Resolution of Necessity that would authorize the County of Riverside to acquire the Subject Property Interests by eminent domain (and that would find and determine each of the following matters):
- (a) That the public interest and necessity require the Proposed Project;
- (b) That the Proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) That the Subject Property Interests are necessary for the Proposed Project;
- (d) That the offers required by Section 7267.2 of the Government Code have been made to the owner of record of the Subject Properties;

(e)

- 2 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21
 - to a public use, the use of the Proposed Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510) or the use of the Proposed Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610); (f)
 - That the Subject Property Interests are needed for road purposes;

That, to the extent that the Subject Properties are already devoted

- (g) That acquisition of the Subject Property Interests will promote the interests of the County of Riverside.
- 2. If (within 15 days from the mailing of this Notice) you file a written request to appear at the public meeting and be heard on the matters described above in 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), (or any one or more of them), you will have a right to appear at that meeting and be heard on those matters.
- 3. All such written requests to appear and be heard must be filed with the Clerk of the Riverside County Board of Supervisors.
- Your written request to appear and be heard must be filed within the fifteen (15) day time period. Failure to file such a timely written request will result in a waiver of your right to appear and be heard.
- Questions regarding the amount of compensation to be paid will not be a part of the public meeting and the Board will not consider such questions in determining whether a Resolution of Necessity should be adopted.
- 6. The Clerk of the Board of Supervisors shall cause a copy of this Notice to be sent by first-class mail to each person whose property may be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll (including the roll of state-assessed property).

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EXHIBIT "A" MAGNOLIA AVENUE (GRADE SEPARATION) LEGAL DESCRIPTION 0784-001A

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND CONVEYED TO PACIFIC ELECTRIC RAILWAY COMPANY AS DESCRIBED IN GRANT DEED RECORDED NOVEMBER 5, 1913, IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE, TOGETHER WITH THAT CERTAIN PARCEL OF LAND CONVEYED TO PACIFIC ELECTRIC RAILWAY COMPANY AS DESCRIBED IN QUITCLAIM DEED RECORDED APRIL 11, 1914, IN BOOK 390 PAGES 388 AND 389, BOTH OFFICIAL RECORDS OF THE RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, LYING WITHIN RANCHO EL SOBRANTE DE SAN JACINTO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF MAGNOLIA AVENUE (132.00 FEET WIDE) AND THE CENTERLINE OF LINCOLN STREET (88.00 FEET WIDE) AS SHOWN ON PARCEL MAP NUMBER 11337, ON FILE IN BOOK 194 PAGES 16 THROUGH 18, INCLUSIVE, OF PARCEL MAPS, RECORDS OF SAID RECORDER:

THENCE N 56°22'11" E ALONG SAID CENTERLINE OF MAGNOLIA AVENUE A DISTANCE OF 40.00 FEET TO A POINT ON THE NORTHEASTERLY LINE OF PARCEL NUMBER SIX GRANTED TO THE COUNTY OF RIVERSIDE BY GRANT DEED RECORDED NOVEMBER 22, 1913, IN BOOK 385 PAGES 353 THROUGH 355, INCLUSIVE, SAID OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING:

THENCE N 33°36'46" W ALONG SAID NORTHEASTERLY LINE, A DISTANCE OF 25.00 FEET TO THE MOST-NORTHERLY CORNER THEREOF, BEING A POINT ON THE NORTHWESTERLY LINE OF SAID GRANT DEED RECORDED IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE:

THENCE N 56°22'11" E ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 1,985.54 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 6113-1 AS DESCRIBED BY FINAL ORDER OF CONDEMNATION RECORDED MARCH 7, 1983, AS INSTRUMENT NUMBER 48580, SAID OFFICIAL RECORDS, BEING A POINT ON THE SOUTHWESTERLY LINE OF THE RIVERSIDE CITY LIMITS AS DESCRIBED BY THE REPORT OF THE BOUNDARY COMMISSION AS ANNEXATION NUMBER 24 SIGNATURE DATED MARCH 11, 1963:

THENCE S 33°37'31" E ALONG SAID SOUTHWESTERLY LINE OF PARCEL 6113-1, A DISTANCE OF 50.00 FEET TO THE MOST-SOUTHERLY CORNER THEREOF BEING A POINT ON THE SOUTHEASTERLY LINE OF SAID GRANT DEED RECORDED IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE:

THENCE S 56°22'11" W ALONG SAID SOUTHEASTERLY LINE, A DISTANCE OF 1,985.55 FEET TO THE MOST-EASTERLY CORNER OF SAID PARCEL SIX:

THENCE N 33°36'46" W ALONG SAID NORTHEASTERLY LINE OF PARCEL SIX, A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 99,277 SQUARE FEET, OR 2.279 ACRES, MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY DISTANCES SHOWN BY 1.000027271 TO OBTAIN GROUND DISTANCE.

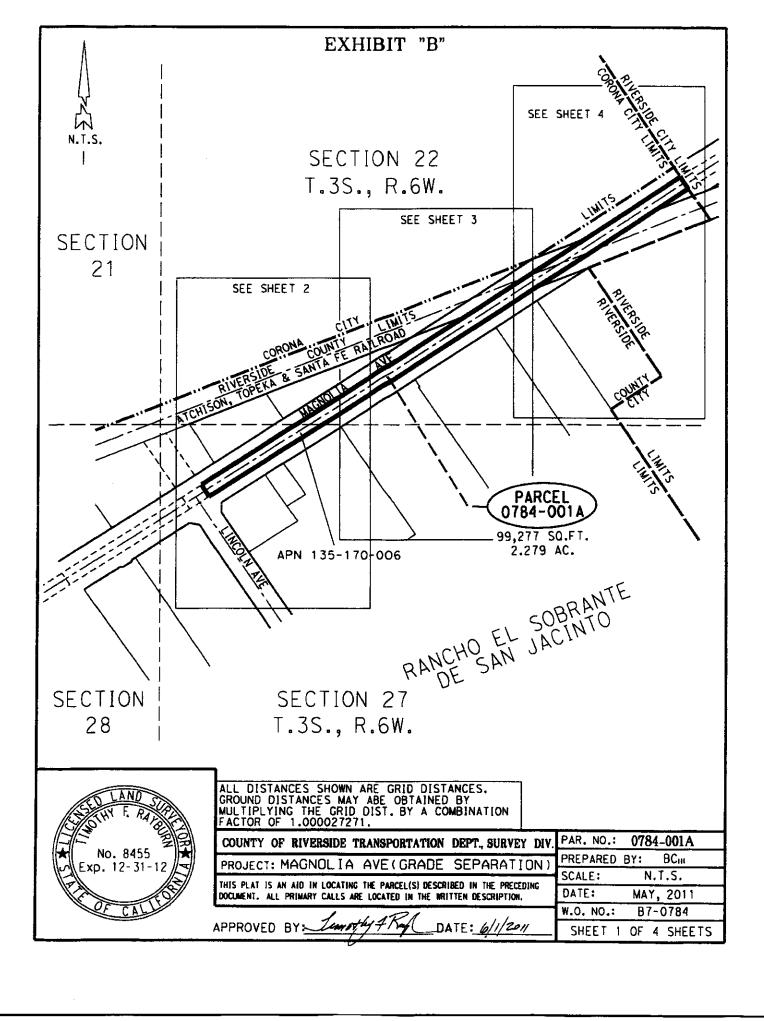
REFERENCE IS HEREBY MADE TO RIVERSIDE COUNTY MAP NUMBER 955-M, ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR OF RIVERSIDE COUNTY, CALIFORNIA.

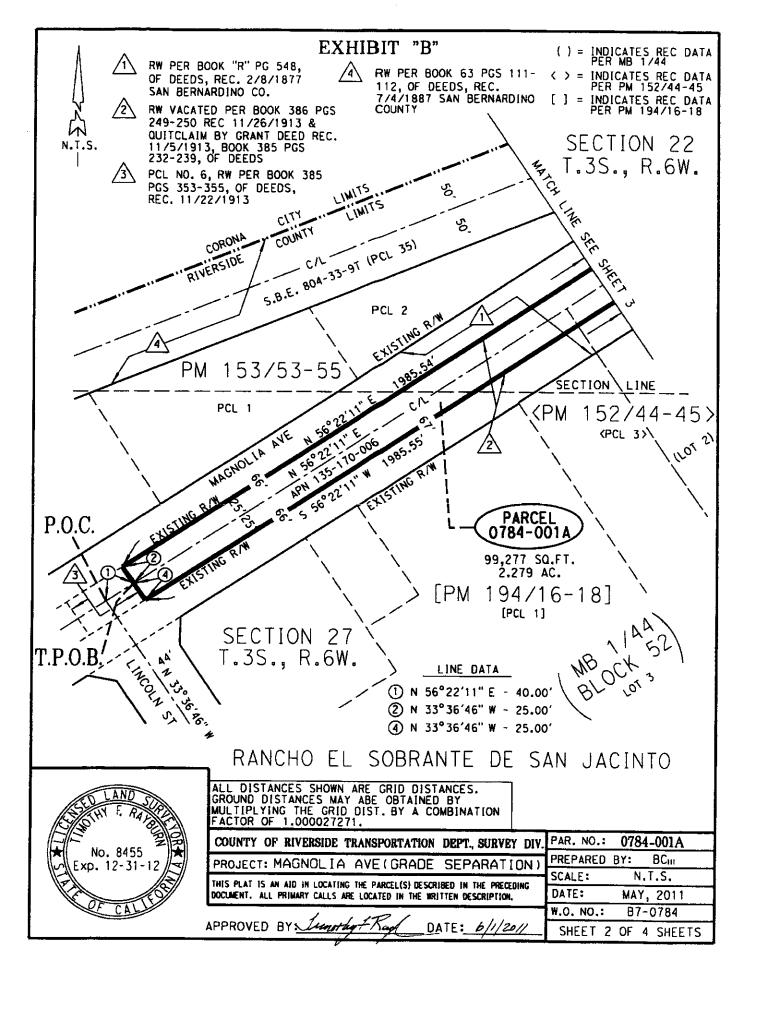
SEE ATTACHED EXHIBIT "B"

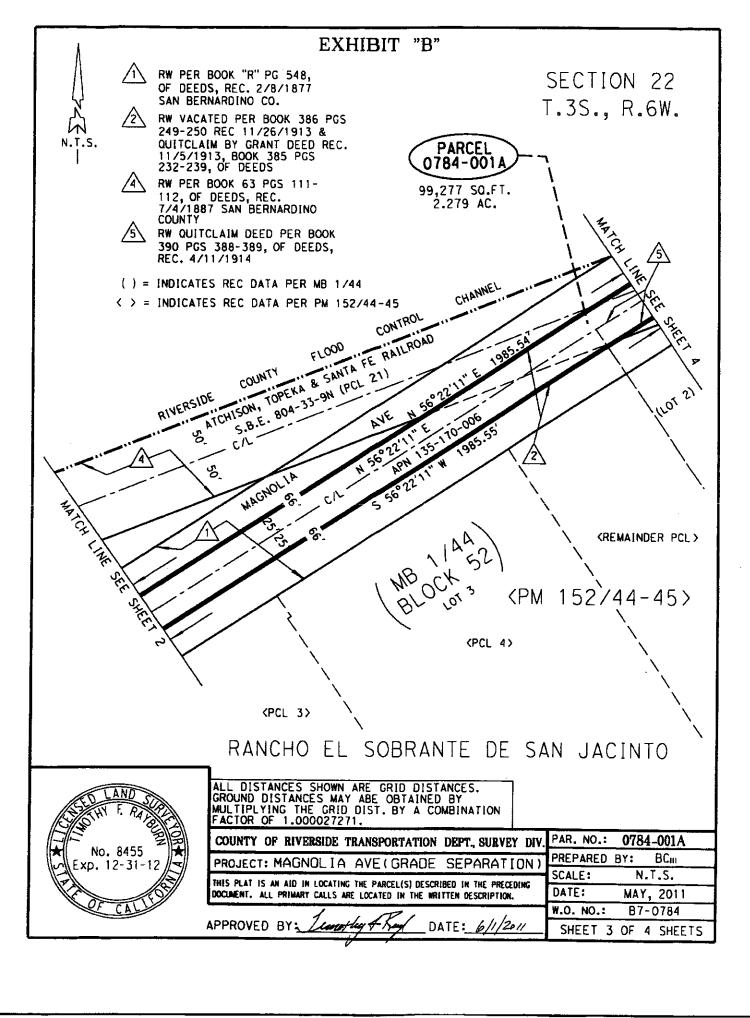
DATE: 6/1/2011

No. 8455 Exp. 12-31-12

PAGE 1 OF 1







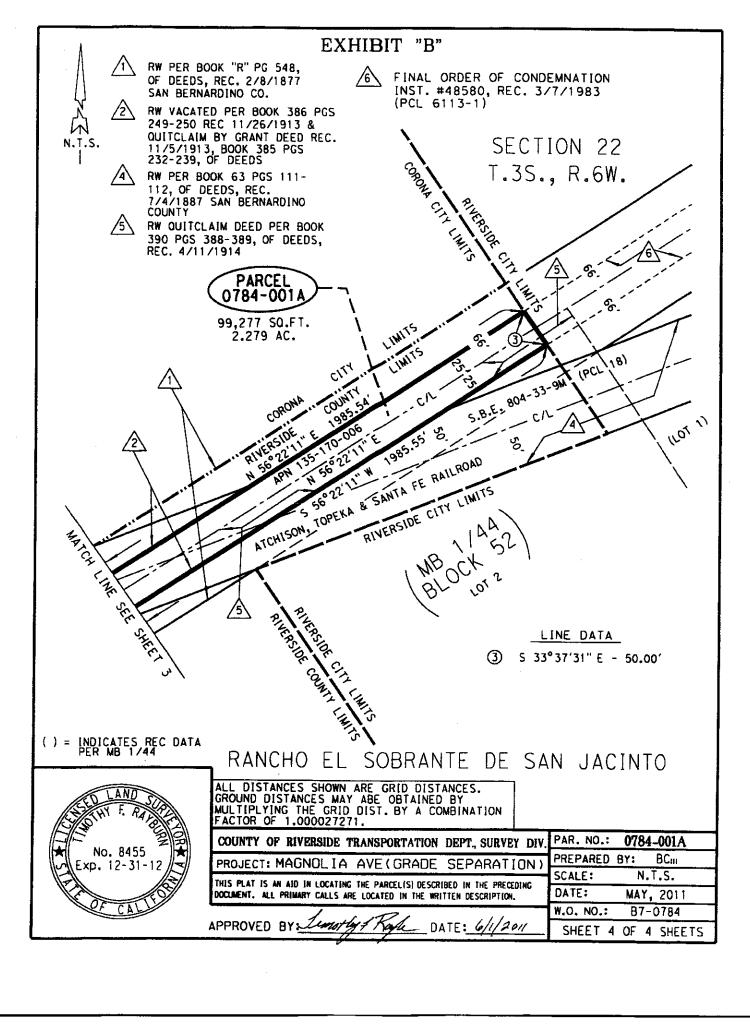


EXHIBIT "A" MAGNOLIA AVENUE (GRADE SEPARATION) LEGAL DESCRIPTION 0784-001B

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND CONVEYED TO PACIFIC ELECTRIC RAILWAY COMPANY AS DESCRIBED IN GRANT DEED RECORDED NOVEMBER 5, 1913, IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE, OFFICIAL RECORDS OF THE RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, LYING WITHIN RANCHO EL SOBRANTE DE SAN JACINTO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF MAGNOLIA AVENUE (132.00 FEET WIDE) AND THE CENTERLINE OF LINCOLN STREET (88.00 FEET WIDE) AS SHOWN ON PARCEL MAP NUMBER 11337, ON FILE IN BOOK 61, PAGES 28 AND 29, OF PARCEL MAPS, RECORDS OF SAID RECORDER;

THENCE S 56°22'11" W ALONG SAID CENTERLINE OF MAGNOLIA AVENUE A DISTANCE 40.00 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL NUMBER SIX GRANTED TO THE COUNTY OF RIVERSIDE BY GRANT DEED RECORDED NOVEMBER 22, 1913, IN BOOK 385 PAGES 353 THROUGH 355, INCLUSIVE, SAID OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING:

THENCE N 33°36'46" W ALONG SAID SOUTHWESTERLY LINE, A DISTANCE OF 25.00 FEET TO THE MOST-WESTERLY CORNER THEREOF, BEING A POINT ON THE NORTHWESTERLY LINE OF SAID GRANT DEED RECORDED IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE;

THENCE S 56°22'11" W ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 487.42 FEET;

THENCE S 33°37'49" E, A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID GRANT DEED RECORDED IN BOOK 385 PAGES 232 THROUGH 239, INCLUSIVE;

THENCE N 56°22'11" E ALONG SAID SOUTHEASTERLY LINE, A DISTANCE OF 487.40 FEET TO THE MOST-SOUTHERLY CORNER OF SAID PARCEL 6;

THENCE N 33°36'46" W ALONG SAID SOUTHWESTERLY LINE OF PARCEL 6, A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 24,371 SQUARE FEET, OR 0.559 ACRES, MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY DISTANCES SHOWN BY 1.000027271 TO OBTAIN GROUND DISTANCE.

REFERENCE IS HEREBY MADE TO RIVERSIDE COUNTY MAP NUMBER 955-M, ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR OF RIVERSIDE COUNTY, CALIFORNIA.

SEE ATTACHED EXHIBIT "B"

APPROVED BY: Jenothy 4 K

DATE 6/1/201/

No. 8455 Exp. 12-31-12

