

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

543A



FORM APPROVED COUNTY COUNSEL
BY: *[Signature]* 11/4/12
DATE
PATRICIA MUNROE

FROM: Economic Development Agency/Facilities Management and Transportation Department

SUBMITTAL DATE:
November 8, 2012

SUBJECT: Temporary Construction Access Agreement for the Magnolia Avenue Grade Separation Project

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Temporary Construction Access Agreement within a portion of Assessor's Parcel Number 135-151-021;
2. Authorize the Chairman of the Board to execute this agreement on behalf of the County;
3. Authorize the Assistant County Executive Officer/EDA, or his designee, to execute any other documents and administer all actions necessary to complete this transaction; and

(Continued)

[Signature]

Juan C. Perez, Director
Transportation and Land Management

[Signature]

Robert Field
Assistant County Executive Officer/EDA

FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY: *[Signature]* 11/7/12
DATE
SAMUEL WONG

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 12,150	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

COMPANION ITEM ON BOARD AGENDA: No

SOURCE OF FUNDS: TUMF (100%)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
[Signature]
BY: Jennifer L. Sargent
County Executive Office Signature

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

RECOMMENDED MOTION: (Continued)

4. Authorize and allocate the sum of \$1,000 to temporarily acquire a portion of Assessor's Parcel Number 135-151-021 and \$11,150 to pay all related transaction costs.

BACKGROUND:

The Riverside County Transportation Department (RCTD) proposes 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 conflicts of trains passing through the flow of vehicular traffic (Project).

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 the project).

The California Environmental Quality Act (CEQA) environmental determination (Statutory Exemption) Public Resources Code 21080.13 was approved on May 11, 2011, by the Riverside County Transportation Department.

The National Environmental Policy Act (NEPA) environmental determination (Categorical Exclusion) Section 6004: 23 CRF 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/Facilities Management (EDA/FM) has negotiated the temporary rights of a portion of Assessor's Parcel Number 135-151-021 with Sparks Property Investment, LLC for the price of \$1,000. There are costs of \$11,150 associated with this transaction.

This Form 11 has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA:

The following summarizes the funding necessary for the temporary construction access of a portion of Assessor's Parcel Number 135-151-021:

Temporary Construction Access:	\$ 1,000
Estimated Title and Escrow Charges:	\$ 0
Preliminary Title Report:	\$ 400
County Appraisal:	\$ 4,750
EDA/FM Real Property Staff Time:	\$ 6,000
Total Estimated Acquisition Costs:	\$12,150

(Continued)

FINANCIAL DATA: (Continued)

EDA/FM has already covered the costs for due diligence (appraisal and preliminary title report) and has been or 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 2012/13. Thus, no additional net county cost will be incurred as a result of this transaction.

Attachments:
Temporary Construction Access Agreement

1 COUNTY OF RIVERSIDE, a political subdivision of the State of California
2 (“County”), and

3
4 Sparks Property Investment LLC, a California limited liability company
5 (“Grantor”)

6
7 PROJECT: Magnolia Avenue Grade Separation
8 PARCEL: 0784-020
9 APN: 135-151-021
10

11 TEMPORARY CONSTRUCTION ACCESS AGREEMENT

12 This Temporary Construction Access Agreement (“Agreement”) is made by and
13 between the COUNTY OF RIVERSIDE, a political subdivision of the State of California,
14 (“County”) and Sparks Property Investment LLC, a California limited liability company
15 (“Grantor”). County and Grantor are sometimes collectively referred to as “Parties.”

16 1. The right is hereby granted to County to enter upon and use the land of
17 Grantor in the County of Riverside, State of California, described as portion of
18 Assessor’s Parcel Number 135-151-021, highlighted on Attachment “1,” attached
19 hereto (“Property”), and made a part hereof, for all purposes necessary to facilitate and
20 accomplish the construction of the Magnolia Avenue Grade Separation Project.

21 2. The temporary construction access, used during construction of the
22 Project, consisting of approximately 150 square feet as designated on Attachment “2,”
23 attached hereto, and made a part hereof (“TCA Area”).

24 3. A thirty (30) day written notice shall be given to Grantor prior to using the
25 rights herein granted. The rights herein granted may be exercised for (24) twenty-four
26 months from the thirty (30) day written notice, or until completion of said project,
27 whichever occurs later.

28 4. It is understood that the County may enter upon the TCA Area where

1 appropriate or designated for the purpose of getting equipment to and from the TCA
2 Area. County agrees not to damage the TCA Area in the process of performing such
3 activities.

4 5. During the term of County's entry and use of the TCA Area identified as
5 Parcel No. 0784-020, County shall not commit or create, or suffer to be committed or
6 created, any waste, hazardous condition and/or nuisance to occur upon the portion of
7 the Property.

8 6. At the termination of the period of use of TCA Area by County, but before
9 its relinquishment to Grantor, debris generated by County's use will be removed and
10 the surface will be graded and left in a neat condition.

11 7. Grantor shall be held harmless from all claims of third persons arising
12 from the County's use of the TCA Area permitted under this Agreement; however, this
13 hold harmless agreement does not extend to any property damage the undersigned
14 may have suffered by reason of hazardous waste on the property nor does it hold
15 harmless the owner(s) from any liability as a consequence of the presence of
16 hazardous waste on the property.

17 8. Grantor hereby warrants that they are the owners of the Property
18 described above and that they have the right to grant County permission to enter upon
19 and use the Property.

20 9. This Agreement is the result of negotiations between the parties hereto.
21 This Agreement is intended by the parties as a final expression of their understanding
22 with respect to the matters herein and is a complete and exclusive statement of the
23 terms and conditions thereof. No provision contained herein shall be construed against
24 the County solely because it provided or prepared this Agreement in its executed form.

25 10. This Agreement shall not be changed, modified, or amended except upon
26 the written consent of the parties hereto.

27 11. This Agreement supersedes any and all other prior agreements or
28 understandings, oral or written, in connection therewith.

1 In Witness Whereof, the Parties have executed this Agreement the day and year
2 below written.

3 Dated: August 31, 2012

4 GRANTOR:
5 **Sparks Property Investment LLC, a**
6 **California limited liability company**

7 By: 

8 Name: Ian Sparks

9 Its: Managing Member

10
11
12 Dated: _____

COUNTY OF RIVERSIDE


13
14 ATTEST:
15 Kecia Harper-Ihem
16 Clerk of the Board

17 By: _____
18 John F. Tavaglione, Chairman
19 Board of Supervisors

20 By: _____
21 Deputy

22 APPROVED AS TO FORM:

23 Pamela J. Walls
24 County Counsel

25 By: 
26 Patricia Munroe
27 Deputy County Counsel

ATTACHMENT "1"
Assessor's Plat Map

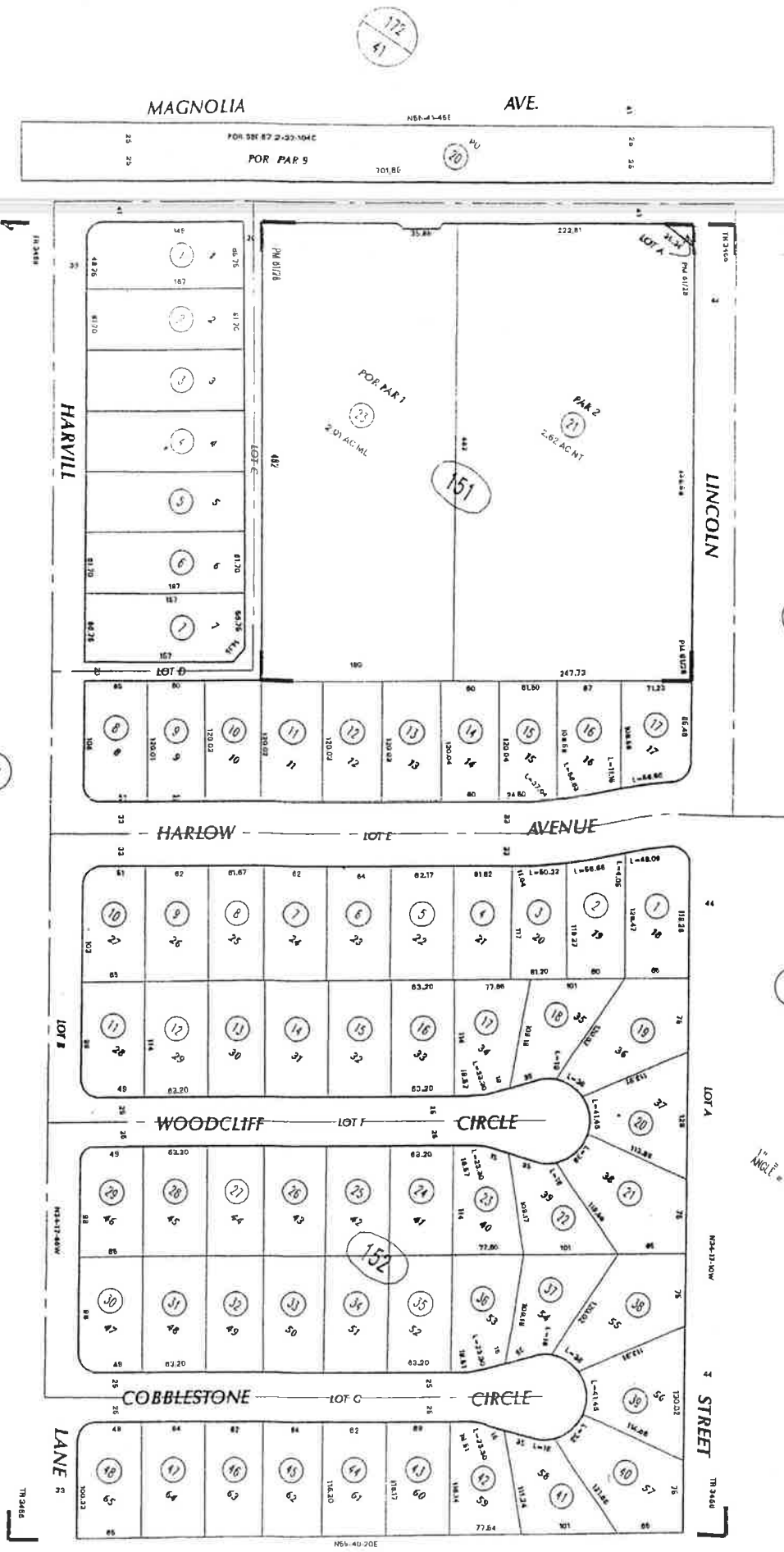
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL MAP NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION BUILDING ORDINANCES.

T. R. A. 033-001
033-002

135-15
6-48-3

NOV 15 2007



ASSESSOR'S MAP BK135 PG. 15
Diversified Growth, Inc.

4777

PL 61/28-29 PARCEL MAP NO. 11337
MB 56/16-18 TRACT MAP NO. 3466

M.A. 20073

DATE	BY	REV
07/27	SSB	28.73
08/11	SSB	1.31

172
41

14

17

18

33

19

ATTACHMENT "2"

Parcel No. 0784-020

Assessor's Parcel Number 135-151-021

EXHIBIT "A"
MAGNOLIA AVENUE (GRADE SEPARATION)
LEGAL DESCRIPTION
0784-020

AN EASEMENT FOR TEMPORARY CONSTRUCTION PURPOSES, LYING WITHIN PARCEL 2 OF PARCEL MAP 11357 ON FILE IN BOOK 61, PAGES 28 AND 29 OF PARCEL MAPS, 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 (66.00 FOOT SOUTHEASTERLY HALF-WIDTH) AS DESCRIBED BY DEED RECORDED FEBRUARY 8, 1877, IN BOOK R, PAGES 548 AND 549, OFFICIAL RECORDS OF THE RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, AND THE CENTERLINE OF LINCOLN AVENUE (44.00 FOOT HALF-WIDTH) AS SHOWN ON PARCEL MAP 11337 ON FILE IN BOOK 61, PAGES 28 AND 29 OF PARCEL MAPS, RECORDS OF SAID RECORDER OF RIVERSIDE COUNTY;

THENCE S 56° 22' 11" W ALONG SAID CENTERLINE OF MAGNOLIA AVENUE, A DISTANCE OF 180.41 FEET;

THENCE S 33° 37' 49" E, A DISTANCE OF 66.00 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID MAGNOLIA AVENUE, ALSO BEING THE NORTHWESTERLY LINE OF SAID PARCEL 2, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID RIGHT OF WAY LINE CONTINUING S 33°37'49" E, A DISTANCE OF 5.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 71.00 FEET SOUTHEASTERLY OF, AS MEASURED AT RIGHT ANGLES TO, SAID CENTERLINE OF MAGNOLIA AVENUE;

THENCE S 56°22'11" W ALONG SAID PARALLEL LINE, A DISTANCE OF 30.00 FEET.

THENCE N 33°37'49"W, A DISTANCE OF 5.00 FEET TO A POINT ON SAID SOUTHEASTERLY RIGHT OF WAY LINE OF MAGNOLIA AVENUE AND THE NORTHWESTERLY LINE OF SAID PARCEL 2;

THENCE N 56° 22' 11" E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE AND SAID NORTHWESTERLY LINE OF PARCEL 2, A DISTANCE OF 30.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING: 150 SQUARE FEET, OR 0.003 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: _____

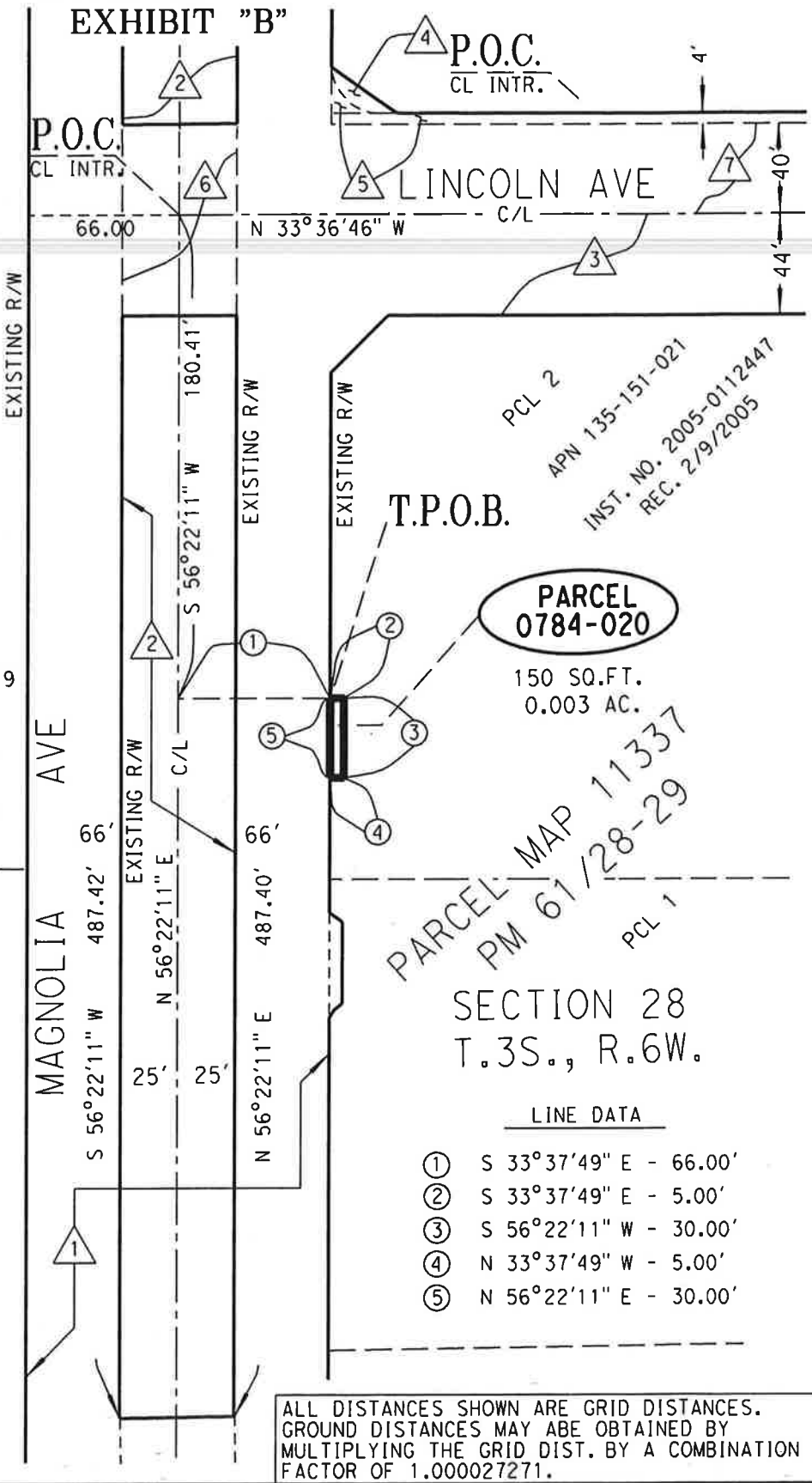
DATE: _____

K. Teich
7-30-12



SECTION 27
T.3S., R.6W.
RANCHO EL SOBRANTE
DE SAN JACINTO
COUNTY OF RIVERSIDE

EXHIBIT "B"



- ① RW PER BOOK "R" PGs 548 & 549 OF DEEDS, REC. 2/8/1877 SAN BERNARDINO CO.
- ② RW VACATED PER BOOK 386 PGS 249-250 REC 11/26/1913 & QUITCLAIM BY GRANT DEED REC. 11/5/1913, BOOK 385 PGS 232-239, OF DEEDS
- ③ R/W PER PARCEL MAP 11337 PM 61/28-29
- ④ RW PER INST. #232169, REC. 6/22/1990, RIV. CO.
- ⑤ RW PER INST. #107674, REC. 10/22/1969, RIV. CO.
- ⑥ PCL NO. 6, RW PER BOOK 385 PGS 353-355, OF DEEDS, REC. 11/22/1913
- ⑦ 1948 ROAD BOOK R/W PER RESOLUTION, SUPERVISOR MINUTES BOOK 40, PAGES 239-240 REC. 5/3/1948

PARCEL 0784-020

150 SQ.FT.
0.003 AC.

PARCEL MAP 11337
PM 61/28-29
PCL 1

SECTION 28
T.3S., R.6W.

LINE DATA

- ① S 33°37'49" E - 66.00'
- ② S 33°37'49" E - 5.00'
- ③ S 56°22'11" W - 30.00'
- ④ N 33°37'49" W - 5.00'
- ⑤ N 56°22'11" E - 30.00'

ALL DISTANCES SHOWN ARE GRID DISTANCES. GROUND DISTANCES MAY BE OBTAINED BY MULTIPLYING THE GRID DIST. BY A COMBINATION FACTOR OF 1.000027271.



COUNTY OF RIVERSIDE TRANSPORTATION DEPT., SURVEY DIV.	PAR. NO.: 0784-020
PROJECT: MAGNOLIA AVE (GRADE SEPARATION)	PREPARED BY: JCM
THIS PLAT IS AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE PRECEDING DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DESCRIPTION.	SCALE: N.T.S.
	DATE: JULY, 2012
	W.O. NO.: B7-0784
	SHEET 1 OF 1 SHEET

APPROVED BY: *[Signature]* DATE: 7-30-12