

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



332A

FROM: Economic Development Agency/Facilities Management and Transportation Department

SUBMITTAL DATE:
January 17, 2013

SUBJECT: Temporary Construction Easement Agreement for the Sunset Avenue Grade Separation Project

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Temporary Construction Easement Agreement for Parcel 0529-004A, within a portion of Assessor's Parcel Number 538-340-006;
2. Authorize the Chairman of the Board to execute this agreement on behalf of the County;

(Continued)

Juan C. Perez, Director
Transportation and Land Management

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 57,818	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: City of Banning – 100%

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

Jennifer Sargent
Jennifer Sargent

FORM APPROVED COUNTY COMMISSIONER
BY: PATRICIA MUNROE
DATE: 12/5/12
Departmental Controller

FISCAL PROCEDURES APPROVED
BY: ANJUL ANJULO, CPA, AUDITOR-CONTROLLER
DATE: 1/15/13
BY: SAMUEL WONG

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.:

District: 5/5

Agenda Number:

3-22

RECOMMENDED MOTION: (Continued)

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;
4. Authorize and allocate the sum of \$22,459 for a temporary construction easement on Parcel 0529-004A, within a portion of Assessor's Parcel Number 538-340-006 and \$17,900 to pay all related transaction costs; and
5. Allocate the sum of \$17,459, which includes reserves for possible extensions that may be necessary for the temporary construction easement on Parcel 0529-004A.

BACKGROUND:

The Riverside County Transportation Department (RCTD) proposes to construct a grade separation at the Union Pacific Railroad (UPRR) and Sunset Avenue at-grade crossing in the City of Banning. The existing grade on Sunset Avenue would be lowered to obtain vertical clearance between Sunset Avenue and the existing railroad tracks (Project). As part of the Project, a new railroad bridge structure would be constructed and Sunset Avenue would be reconstructed to maintain two existing through lanes in each direction with added sidewalks for pedestrian circulation. In addition, the existing on/off ramps at the I-10/Sunset Avenue interchange would be reconstructed to accommodate the changes in elevation. The new ramps would be constructed within the same general alignment as the existing ramps.

Connection of the proposed grade separation would require a temporary shoo-fly track adjacent to and south of the existing UPRR mainline. A shoo-fly is a temporary by-pass necessary to maintain rail circulation through the project area during construction of the new structure. The shoo-fly would consist of two tracks constructed within the existing UPRR right-of-way extending both east and west of Sunset Avenue. Upon completion of the structure, the shoo-fly would be removed.

The Project is needed in order to improve traffic flow and increase public safety by eliminating the conflicting train/vehicle movement. This will serve to end traffic delays for motorists and emergency vehicles traveling north or south on Sunset Avenue caused by the at-grade crossing, as well as improve the efficient movement of goods through Riverside County.

The Notice of Exemption was filed and posted on December 8, 2010. RCTD staff conducted a review of the Project and it is exempt for the provisions of the California Environmental Quality Act (CEQA) based on Section 15282(g).

The National Environmental Policy Act (NEPA) environmental determination (Categorical Exclusion Section 6004; 23 CFR 771.117(d)(3) was approved on February 5, 2011, by District 8 Division of Environmental Planning for the California Department of Transportation.

(Continued)

BACKGROUND: (Continued)

The Economic Development Agency/Facilities Management (EDA/FM) has negotiated the temporary rights of a portion of Assessor's Parcel Number 538-340-006 from Citibank N.A. for the price of \$22,459. There are costs of \$17,900 associated with this transaction. Staff recommends and additional \$17,459 in reserves if extensions to the temporary construction easement are necessary.

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 acquisition and temporary construction easement of a portion of Assessor's Parcel Number 538-340-006:

Temporary Construction Easement	\$22,459
Reserve for Possible TCE Extensions	\$17,459
Preliminary Title Report	\$400
County Appraisal	\$5,500
EDA/FM Real Property Staff Time	\$12,000
Total Estimated Acquisition Costs	\$57,818

EDA/FM has already covered the costs for due diligence (Preliminary Title Report and Appraisal) 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 costs will be incurred as a result of this transaction.

Attachment:
Temporary Construction Easement Agreement

1 COUNTY OF RIVERSIDE, a political subdivision of the State of California ("County"),
2 and
3 Citibank N.A., a national banking association, as successor in interest to Redlands
4 Federal Savings and Loan Association
5 ("Grantor")

6 PROJECT: Sunset Avenue Grade Separation

7 PARCEL: 0529-004A

8 APN: 538-340-006 (Portion)

9
10 TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

11 This Temporary Construction Easement Agreement ("Agreement") is made by
12 and between the COUNTY OF RIVERSIDE, a political subdivision of the State of
13 California, ("County") and Citibank N.A., a national banking association, as successor
14 in interest to Redlands Federal Savings and Loan Association ("Grantor"). County and
15 Grantor are sometimes collectively referred to as "Parties."

16 1. The right is hereby granted to County to enter upon and use that portion
17 of the land of Grantor in the City of Banning, County of Riverside, State of California,
18 identified as Parcel No. 0529-004A, consisting of approximately .12 acres or 5,238
19 square feet as more fully described on Attachment "2," attached hereto, and made a
20 part hereof ("TCE Area"), which is a portion of Assessor's Parcel Number 538-340-006,
21 highlighted on Attachment "1," attached hereto and made a part hereof ("Property"), for
22 all lawful purposes necessary to facilitate and accomplish the construction of Sunset
23 Avenue Grade Separation Project ("Project").

24 2. 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 three months
26 from the thirty (30) day written notice. The County shall have the right to extend the
27 term of this temporary construction easement for a period of an additional one, two or
28 three months. The County shall provide a thirty (30) day written notice of its intention

1 to extend the term of the temporary construction easement. For each month the
2 County extends the term of the temporary construction easement, County shall pay
3 Grantor compensation based on the schedule set forth in Paragraph 13 below. The
4 compensation for the extended term shall be:

5 One-month extension: \$5,820.00;

6 Two-month extension: \$11,640.00;

7 Three-month extension: \$17,459.00.

8 Should the County desire to maintain the temporary construction easement for a period
9 longer than six months (i.e., the original three-month term, plus a three-month
10 extension), the County shall seek to negotiate a new temporary construction
11 agreement easement with Grantor.

12 3. It is understood that the County may enter upon the TCE Area solely from
13 Sunset Avenue for the purpose of getting equipment to and from the TCE Area.
14 County agrees not to damage the TCE Area or the remainder of the Property in the
15 process of performing such activities.

16 4. County shall be responsible to obtain, at the sole cost and expense of
17 County, any governmental permits, licenses and approvals required to use the TCE
18 Area for construction of the Project in accordance with all applicable laws, regulations
19 and governmental requirements, from those governmental authorities having
20 jurisdiction. County and its contractors, agents, employees, representatives and
21 invitees shall at all times use the TCE Area in accordance with all applicable laws,
22 statutes, ordinances, regulations, permits, licenses, and requirements of governmental
23 authorities and with all requirements of its insurance policies.

24 5. County shall neither cause nor suffer any waste of the TCE Area or the
25 remainder of the Property during the period of use of the TCE Area. For purpose of
26 this Agreement, "waste" shall include, but not be limited to, failure to keep the property
27 clean, failure to dispose of trash properly, and/or allowing deliberate or negligent
28 damage to the property. This Paragraph 5 does not address the presence of

1 hazardous materials, which is addressed in Paragraph 7 below. At the termination of
2 the period of use of the TCE Area by County, but before its relinquishment to Grantor,
3 (1) debris generated in furtherance of the Project will be removed from the TCE Area,
4 (2) the surface of the TCE Area will be appropriately graded, (3) all improvements in
5 and adjacent to the TCE Area, which had been removed, damaged or destroyed in the
6 course of construction of the Project, including but not limited to, the curb cut and
7 driveway ingress and egress to/from Sunset Avenue, landscaping, sidewalks, paving,
8 etc., will be replaced or restored, and (4) the TCE Area will be left in an orderly, safe
9 and neat condition.

10 6. County shall be solely responsible for any and all costs and expenses,
11 damages, and liabilities associated with the exercise of its rights under this Agreement
12 and its use of the TCE Area. County accepts complete liability for the acts, omissions
13 and negligence of the County and its agents, contractors, employees, representatives
14 and invitees while present upon the TCE Area or while exercising County's rights
15 hereunder. Without limiting the foregoing or any other provision of this Agreement,
16 County agrees to indemnify, save and hold harmless Grantor from any and all
17 liabilities, claims, losses, injuries, actions, damages, penalties, costs or expenses
18 arising from or on account of any breach by County or its contractors, agents,
19 employees, representatives or invitees of the terms and conditions of this Agreement,
20 negligence or any gross negligence or intentional misconduct or acts or omissions of
21 County or its contractors, agents, employees, representatives or invitees in connection
22 with the Project or the use of the TCE Area or any other activities pursuant to this
23 Agreement. This indemnity and hold harmless agreement includes indemnity against
24 all costs, expenses and liabilities including, without limitation, court costs, reasonable
25 attorneys' fees and costs in connection with any such injury, loss, damage or liability or
26 any such claim, or any proceeding brought thereon or in defense thereof.

27 7. Without limiting any of County's obligations under this or any other
28 section of this Agreement, County agrees that it shall not cause any hazardous

1 materials to be used, generated, stored or disposed of on, under or about, the TCE
2 Area. County assumes full liability and responsibility for any hazardous materials
3 introduced by County to the TCE Area.

4 8. Grantor hereby warrants that it is the owner of the Property described
5 above and that it has the right to grant County permission to enter upon and use the
6 TCE Area.

7 9. This Agreement is the result of negotiations between the parties hereto.
8 This Agreement is intended by the parties as a final expression of their understanding
9 with respect to the matters herein and is a complete and exclusive statement of the
10 terms and conditions thereof.

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

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

15 12. The Parties, their assigns and successors-in-interest, shall be bound by
16 all the terms and conditions contained in this Agreement.

17 13. County shall pay to the order of Grantor the sum of Twenty Two
18 Thousand Four Hundred Fifty Nine Dollars (\$22,459) for the right to enter upon and
19 use the TCE Area in accordance with the terms hereof.

20 14. Any action at law or in equity brought by either of the Parties hereto for
21 the purpose of enforcing a right or rights provided for by this Agreement shall be tried
22 in a court of competent jurisdiction in the County of Riverside, State of California, and
23 the Parties hereby waive all provisions of law providing for a change of venue in such
24 proceedings to any other county.

25 15. This Agreement may be signed in counterpart or duplicate copies, and
26 any signed counterpart or duplicate copy shall be equivalent to a signed original for all
27 purposes.

28 (SIGNATURES ON NEXT PAGE)

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

3 Dated: October 30, 2012

4 GRANTOR:

5
6 **Citibank N.A., a national banking**
7 **association, as successor in interest**
8 **to Redlands Federal Savings and**
9 **Loan Association**

10 By: 

11 Name: J. HARRINGTON

12 Its: SVP

11 JOHN HARRINGTON, SVP
CITI REALTY SERVICES
(818) 652-3133
EMP #000400947

13
14 COUNTY OF RIVERSIDE, a political
subdivision of the State of California

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

18 By: _____

19 John J. Benoit, Chairman
20 Board of Supervisors

21 By: _____
22 Deputy

23 APPROVED AS TO FORM:
24 Pamela J. Walls
25 County Counsel

26 By: 
27 Patricia Munroe
28 Deputy County Counsel

CO:ra/102412/310TR/14.791 S:\Real Property\TYPING\Docs-14.500 to 14.999\14.791.doc

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 MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

DEC 11 2006

POR. SEC 8 T.3S., R.1E
CITY OF BANNING

I.R.A. 001-020

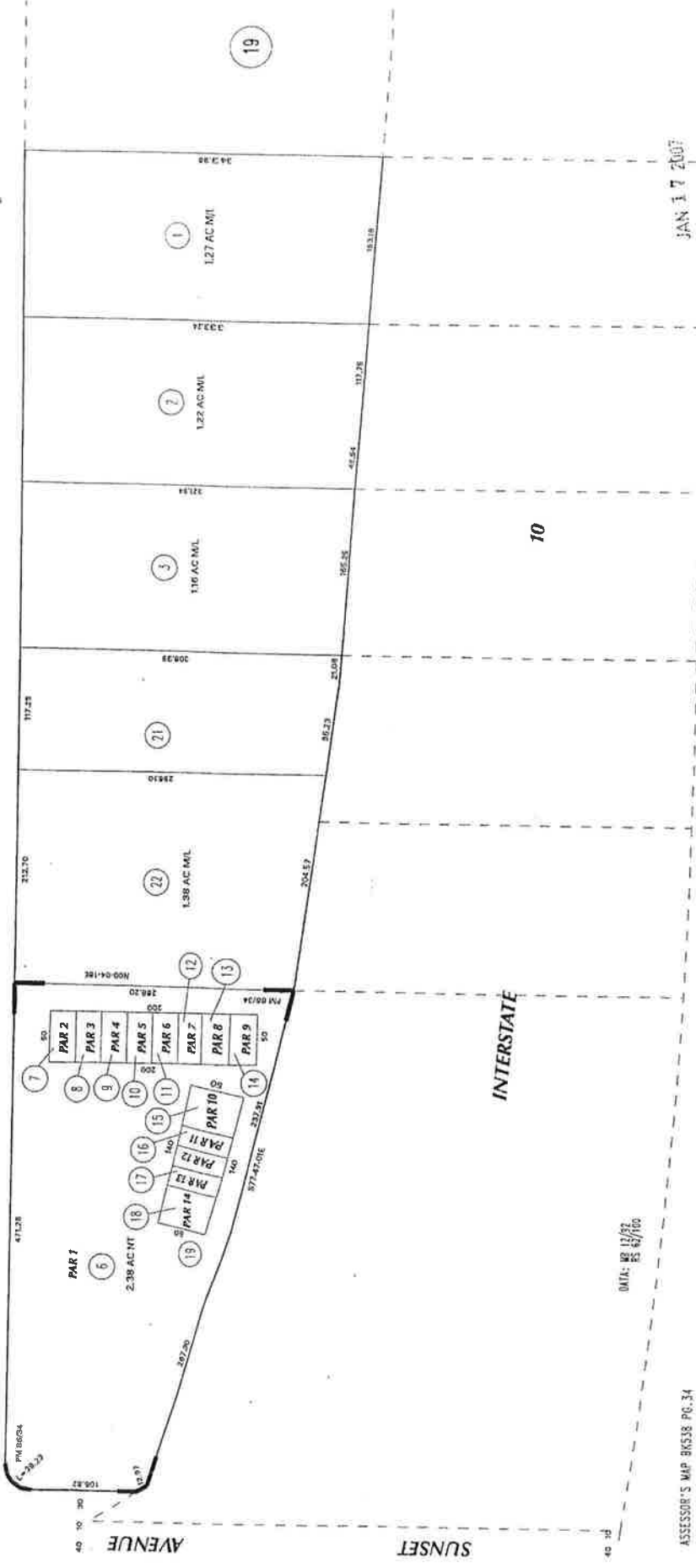
538-34
53E-19



537
09

RAMSEY

STREET



JAN 17 2007

Nov 2006

PM 86/34-35 PARCEL MAP NO. 16352

ASSESSOR'S MAP BK538 PG.34
Riverside County, Calif.

LCZ

DATE	D.C. NUMBER	NEW NUMBER
2/1/06	4	3-35
2/1/06	4	3-35
2/1/06	4	3-35

ATTACHMENT "2"

Parcel 0529-004A

EXHIBIT "A"
SUNSET AVENUE (GRADE SEPARATION)
LEGAL DESCRIPTION
0529-004A

AN EASEMENT FOR TEMPORARY CONSTRUCTION PURPOSES, BEING A PORTION OF PARCEL 1 OF PARCEL MAP 16352 ON FILE IN BOOK 86, PAGES 34 AND 35 OF PARCEL MAPS, RECORDS OF THE RECORDER OF RIVERSIDE COUNTY, CALIFORNIA IN THE CITY OF BANNING, CALIFORNIA WITHIN THE WEST ONE-HALF OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF RAMSEY STREET, (60.00 FOOT SOUTHERLY HALF-WIDTH) AS DESCRIBED BY A GRANT DEED RECORDED MAY 10, 1923 IN OFFICIAL RECORD BOOK 583 AT PAGE 50, OFFICIAL RECORDS OF SAID RECORDER, AND THE CENTERLINE OF SUNSET AVENUE (40.00 FEET EASTERLY HALF-WIDTH), BOTH AS SHOWN ON SAID PARCEL MAP;

THENCE N 89°59'19" E ALONG SAID CENTERLINE OF RAMSEY STREET, A DISTANCE OF 64.87 FEET;

THENCE LEAVING SAID CENTERLINE AT RIGHT ANGLES, S 00°00'41" E, A DISTANCE OF 59.99 FEET TO THE POINT OF INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE OF RAMSEY STREET AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID SUNSET AVENUE BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET AND AN INITIAL RADIAL BEARING OF N 00°00'41"W;

THENCE WESTERLY ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE AND SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 11°27'03", AN ARC DISTANCE OF 5.00 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID NON-TANGENT CURVE, S 23°12'59" E, A DISTANCE OF 68.77 FEET;

THENCE S 00°04'23" W, A DISTANCE OF 44.73 FEET;

THENCE S 36°55'20" W, A DISTANCE OF 45.34 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 10 (VARIABLE HALF-WIDTH) AS SHOWN ON COUNTY MAP NUMBER 204, PAGES 87 THROUGH 108, INCLUSIVE;

THENCE N 75°24'36" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 12.50 FEET TO AN ANGLE POINT THEREIN;

THENCE N 33°21'38" W CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 14.33 FEET TO THE POINT OF INTERSECTION WITH SAID EASTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE;

THENCE N 00°04'23" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 104.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET;

THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, NORTHERLY AND NORTHEASTERLY ALONG SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 78°27'53", AN ARC DISTANCE OF 34.24 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING: 5,238 SQUARE FEET, OR 0.120 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 1.000106481 TO OBTAIN GROUND DISTANCE.

REFERENCE IS HEREBY MADE TO RIVERSIDE COUNTY MAP NUMBER 956-I, ON FILE IN THE OF THE COUNTY SURVEYOR OF RIVERSIDE COUNTY, CALIFORNIA.

SEE ATTACHED EXHIBIT "B"

APPROVED BY: *Timothy F. Rayburn*
DATE: 12/11/2012



EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

SW 1/4 SECTION 8
T3S, R1E, S.B.M.

P.O.C.
(C/L INTR)

N 89°59'19" E
64.87'

C/L
RAMSEY STREET

GRANT DEED 381/24-25
REC. 02/24/1913

GRANT DEED 583/50
REC. 05/10/1923

T.P.O.B.
S 11°27'44" E(R)

S 00°00'41" E(R)
59.99'

EXISTING R/W
LINE DATA

CURVE DATA

- ① S 00°04'23" W - 44.73' Ⓐ R = 25.00'
 - ② N 75°24'36" W - 12.50' Δ = 11°27'03"
 - ③ N 33°21'38" W - 14.33' L = 5.00'
 - ④ N 00°04'23" E - 28.46'
-
- Ⓑ R = 25.00'
 - Δ = 78°27'53"
 - L = 34.24'

APN 538-340-006

- Ⓒ R = 25.00' (25.00')
- Δ = 89°54'56" (89°54'20")
- L = 39.23' (39.23')
- T = 24.96' (24.96')

GRANT DEED
INST. #15731
REC. 01/28/1981

PM 86/34-35 CITY
OF
PCL 1 BANNING

NOTE:

① 10' R/W PER GRANT DEED, BOOK OF DEEDS
506/223 REC. 11/08/1919.

RIV. CO. MAP NO.
204/87-108

||||| - INDICATES RESTRICTED ACCESS

ALL DISTANCES SHOWN ARE GRID DISTANCES.
GROUND DISTANCES MAY BE OBTAINED BY MULTIPLYING THE
GRID DIST. BY A COMBINATION FACTOR OF 1.000106481.

COUNTY OF RIVERSIDE TRANSPORTATION DEPT., SURVEY DIV.

PROJECT: SUNSET AVENUE (GRADE SEPARATION)

THIS PLAT IS AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE PRECEDING
DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DESCRIPTION.

PAR. NO.: 0529-004A

PREPARED BY: BCIII

SCALE: N.T.S.

DATE: JANUARY, 2012

W.O. NO.: C0-0529

SHEET 1 OF 1

APPROVED BY: *Timothy F. Rayburn* DATE: 12/14/2012



SECTION 7

SUNSET AVENUE

WEST LINE SECTION 8

EXISTING R/W

PARCEL
0529-004A

5,238 SQ.FT.
0.120 AC.

EXISTING R/W

C/L PER
PM 86/34-35

N.T.S.

④

①

②

③

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