

FORM APPROVED COUNTY COUNSEL  
 BY: PATRICIA MUNROE  
 DATE: 4/10/13

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

546  
A



**FROM:** Economic Development Agency/Facilities Management and  
 Transportation Department

**SUBMITTAL DATE:**  
 February 13, 2013

**SUBJECT:** Right of Way Acquisition Agreement for the Magnolia Grade Separation Project

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached Right of Way Acquisition Agreement for Parcel 0784-010A, within a portion of Assessor's Parcel Number 172-390-041;
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:	\$ 20,116	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

BY: Jennifer L. Sargent

**County Executive Office Signature**

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

Prev. Agn. Ref.: N/A

District: 2/2

Agenda Number

3-30

ATTACHMENTS FILED  
 WITH THE CLERK OF THE BOARD

**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; and
4. Authorize and allocate the sum of \$3,216 to acquire Parcel 0784-010A, within a portion of Assessor's Parcel Number 172-390-041 and \$16,900 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 purchase of a permanent easement of a portion of Assessor's Parcel Number 172-390-041 with Riverside County Flood Control for the price of \$3,216. There are costs of \$16,900 associated with this transaction.

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

**FINANCIAL DATA:** (Commences on Page 3)

**FINANCIAL DATA:**

The following summarizes the funding necessary for the permanent easement of a portion of Assessor's Parcel Number 172-390-041:

Right of Way Acquisition Agreement	\$ 3,216
Preliminary Title Report:	\$ 400
County Appraisal:	\$ 6,500
EDA/FM Real Property Staff Time:	\$10,000
Total Estimated Acquisition Costs:	\$20,116

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.

Attachment:  
Right of Way Acquisition Agreement

**RIGHT OF WAY ACQUISITION AGREEMENT**

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This Right of Way Acquisition Agreement, ("Agreement"), is made by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("County"), and Riverside County Flood Control and Water Conservation District, a body politic ("District"). County and District are sometimes collectively referred to as "Parties".

**RECITALS**

WHEREAS, District owns the fee simple title of certain real property located in the unincorporated area of Riverside County, California, as a portion of Arlington Channel referenced as RCFC Parcel 1020-2, being the larger legal parcel, described in Grant Deed recorded on May 5, 1949 in Book 1073 Pages 563 through 569 inclusive, of the Official Records of the County of Riverside, as depicted on the Plat Map identified as Attachment "1", attached hereto and made a part hereof. The real property consisting of 2.48 acres of land with Assessor's Parcel Number: 172-390-041 ("Property"); and

WHEREAS, District desires to sell to the County and the County desires to purchase an easement for public road purposes, in a portion of the Property ("ROW"), being 336 square feet, for the purpose of constructing the Magnolia Avenue Grade Separation Project ("Project") as follows: Easement Deed referenced as Parcel 0784-010A (RCFC Parcel 1020-2B) and described on Attachment "2" attached hereto and made a part hereof; pursuant to the terms and conditions set forth herein; and

WHEREAS, the Effective Date is the date on which this Agreement is approved and fully executed by County and District as listed on the signature page of this Agreement;

NOW, THEREFORE, in consideration of the payment and other obligations set forth below, District and County mutually agree as follows:

1           1.     County shall:

2                   A.     Pay to the District the amount of Three Thousand Two Hundred  
3 Sixteen Dollars (\$3,216) ("Purchase Price"), which is specifically agreed by the Parties  
4 to be the full amount of compensation due and owing to District for the ROW, conveyed  
5 by said deed, when title to said ROW vests in Count.

6                   B.     Pay District to replace the items listed in Attachment "3." The  
7 amount is included in Paragraph 1A.

8                   C.     Not oversee nor bear responsibility for ensuring whether District  
9 expends the compensation tendered to District to replace items described in  
10 Attachment "3".

11                  D.     Tender payment of the entire Purchase Price to District within 30  
12 days from the mutual execution of this Agreement to the Riverside County Flood  
13 Control and Water Conservation District.

14           2.     District shall:

15                   A.     Upon the approval by the Board of Supervisors of the Riverside  
16 County Flood Control and Water Conservation District, execute, acknowledge, and  
17 deliver to Craig Olsen, Real Property Agent for the County, an Easement Deed in favor  
18 of the County dated \_\_\_\_\_ identified as Parcel Number 0784-010A (RCFC  
19 Parcel 1020-2B);

20                   B.     Be responsible for replacing fencing upon the completion of  
21 Project as compensated for in Attachment "3."

22           3.     It is mutually understood and agreed by and between the parties hereto  
23 that the right of possession and use of the subject property by County, including the  
24 right to remove and dispose of improvements, as shown on design drawings for the  
25 Magnolia Avenue Grade Separation Project, which shall be inspected by the District  
26 while in construction, shall commence upon the execution of this Agreement by all  
27 parties. The amount shown in Paragraph 1A includes, but is not limited to, full  
28 payment for such possession and use.



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

DEC 11 2012

3 Dated: \_\_\_\_\_

Riverside County Flood Control and  
Water Conservation District

4  
5 By: Marion Ashley  
6 Marion Ashley, Chairman  
7 Board of Supervisors

8 APPROVED AS TO FORM:

9 Pamela J. Walls  
10 County Counsel

11 By: Synthia M. Gunzel  
12 Cynthia M. Gunzel  
13 Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM, Clerk

By: Kecia Harper-Ihem  
DEPUTY

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

14 ATTEST:

15 Kecia Harper-Ihem  
16 Clerk of the Board

By: \_\_\_\_\_  
17 John J. Benoit, Chairman  
18 Board of Supervisors

19 By \_\_\_\_\_  
20 Deputy

RECOMMEND FOR APPROVAL

21 APPROVED AS TO FORM:

22 Pamela J. Walls  
23 County Counsel

24 By: Patricia Munroe  
25 Patricia Munroe  
26 Deputy County Counsel

Riverside County Flood Control and  
Water Conservation District

27 By: Warren D. Williams  
28 Warren D. Williams  
General Manager—Chief Engineer

ATTACHMENT "1"  
Assessor's Plat Map



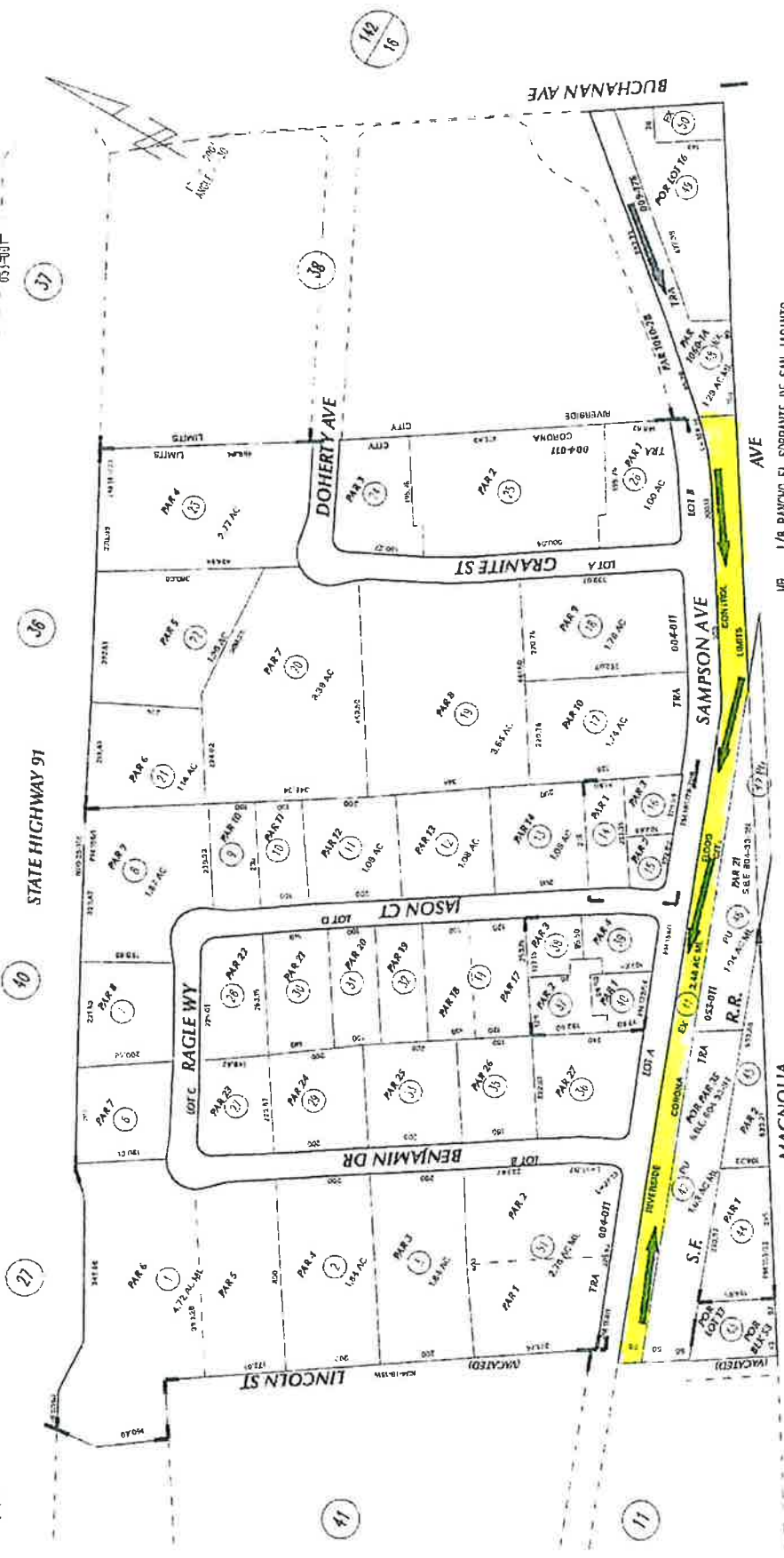
172-39  
139-25

I.R.A. 004-017  
009-176  
033-401

SEC. 21 28 29 T. 3S. R. 6W  
- CITY OF RIVERSIDE - CORONA -

STATE HIGHWAY 91

THIS MAP WAS PREPARED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION HEREON. IT MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING CODE ORDINANCES.  
AUG 1 7 2006



1/8 RANCHO EL SOBRANTE DE SAN JACINTO  
1/44 RESUB. RIVERSIDE LAND & IRRIGATING COMPANY  
PL 133/22-24 PARCEL MAP NO. 20451  
PL 149/39-42 PARCEL MAP NO. 22751  
PL 153/53-55 PARCEL MAP NO. 23359  
PL 168/1-5 PARCEL MAP NO. 20568  
PL 165/78-79 PARCEL MAP NO. 24692  
PL 172/54-56 PARCEL MAP NO. 26374

AUG 5 0 7555

ASSESSOR'S MAP BK 172 PG 35  
Riverside County, Calif.

DATE: 08/01/06 MAPS EXIST: 36161

866

MAP 7086



## ATTACHMENT "2"

### Legal Description and Plat Map

1. A portion of APN: 172-390-041; Parcel 0784-010A (RCFC Parcel 1020-2B)

EXHIBIT "A"  
MAGNOLIA AVENUE (GRADE SEPARATION)  
LEGAL DESCRIPTION  
0784-010A

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED BY GRANT DEED RECORDED MAY 5, 1949, IN BOOK 1073, PAGES 563 THROUGH 569, INCLUSIVE, OFFICIAL RECORDS OF THE RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, LYING WITHIN RANCHO EL SOBRANTE DE SAN JACINTO, HEREINAFTER REFERRED TO AS "RCFC PARCEL 1020-2B", DESCRIBED AS FOLLOWS.

**COMMENCING** AT THE INTERSECTION OF THE CENTERLINE OF MAGNOLIA AVENUE (66.00 FOOT NORTHWESTERLY 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 BUCHANAN STREET (44.00 FOOT SOUTHWESTERLY HALF-WIDTH) AS DESCRIBED BY DEED RECORDED FEBRUARY 19, 1988 AS INSTRUMENT NUMBER 44315, OFFICIAL RECORDS OF SAID RECORDER OF RIVERSIDE COUNTY;

THENCE S 56°22'11" W ALONG SAID CENTERLINE OF MAGNOLIA AVENUE, A DISTANCE OF 1255.14 FEET;

THENCE LEAVING SAID CENTERLINE AT RIGHT ANGLES, N 33°37'49" W, A DISTANCE OF 66.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID MAGNOLIA AVENUE, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE S 56°22'11" W ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 28.00 FEET;

THENCE N 33°37'49" W, A DISTANCE OF 12.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 78.00 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, SAID CENTERLINE OF MAGNOLIA AVENUE;

THENCE N 56°22'11" E ALONG SAID PARALLEL LINE, A DISTANCE OF 28.00 FEET;

THENCE S 33°37'49" E, A DISTANCE OF 12.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING: 336 SQUARE FEET, OR 0.008 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.

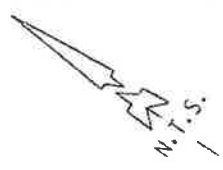
REFERENCE IS HEREBY MADE TO RIVERSIDE COUNTY MAP NUMBER 955-M, ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR OF RIVERSIDE COUNTY, CALIFORNIA.

SEE ATTACHED EXHIBIT "B"

APPROVED BY: *Timothy F. Rayburn*  
DATE: 10/11/2012



P.O.C. EXHIBIT "B"



RS 31/89-91

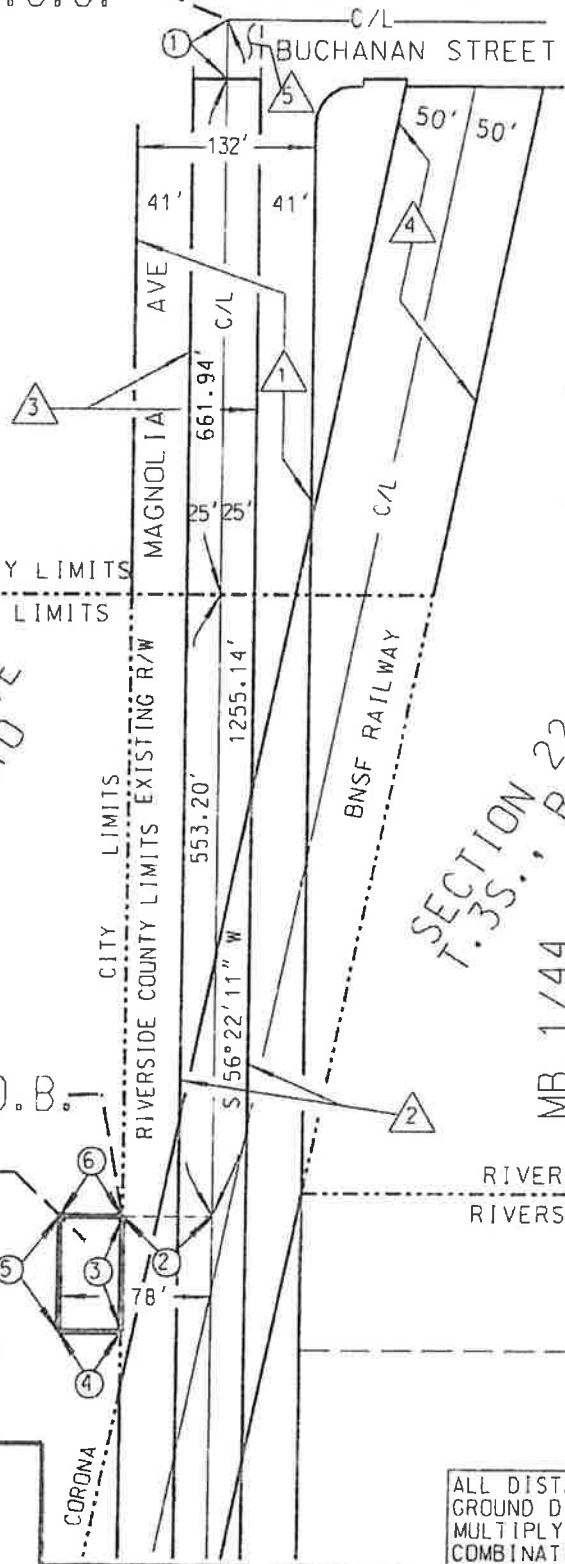
RANCHO EL SOBRANTE DE SAN JACINTO

T.P.O.B.

PARCEL 0784-010A

336 SQ.FT.  
0.008 AC.

APN 172-390-041  
BK 1073 PG 563-569  
REC. 5/5/1949



- ① RW PER BOOK "R" PG 548. OF DEEDS. REC. 2/8/1877 SAN BERNARDINO CO.
- ② RW VACATED PER S.M.B. 12 PG 283 DATED 6/18/1913 & QUITCLAIMED TO PAC. ELEC. RR CO. REC. 11/5/1913, IN BOOK 385 PGS. 232-239. OF DEEDS RIV. CO.
- ③ FINAL ORDER OF CONDEMNATION INST. #48580. REC. 3/7/1983 (PCL 6113-1), RIV. CO.
- ④ RW IN FAVOR OF RIVERSIDE, SANTA ANA AND LOS ANGELES RAILWAY COMPANY PER BOOK 63 PGS 111-112. OF DEEDS, REC. 7/9/1887 SAN BERNARDINO COUNTY
- ⑤ RW PER INST. #87306. REC. 03/15/1991

LINE DATA

- ① S 56°22'11" W - 40.00'
- ② N 33°37'49" W - 66.00'
- ③ S 56°22'11" W - 28.00'
- ④ N 33°37'49" W - 12.00'
- ⑤ N 56°22'11" E - 28.00'
- ⑥ S 33°37'49" E - 12.00'

T.35. R.6W.  
MB 1/44

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.: 0784-010A
PROJECT: MAGNOLIA AVE (GRADE SEPARATION)	PREPARED BY: BCIII
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.
APPROVED BY: <i>Timothy F. Raymond</i> DATE: 10/11/2012	DATE: OCTOBER, 2012
	W.O. NO.: B7-0784
	SHEET 1 OF 1 SHEET

ATTACHMENT "3"

Item	Description	Cost
1	Approx. 80 LF chain link fencing @ \$15/LF	\$1,200
	Total Site Improvements	\$1,200