

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

303 A



**FROM:** TLMA - Transportation Department

**SUBMITTAL DATE:**  
 April 11, 2013

**SUBJECT:** Construction and Maintenance Agreement between the Burlington Northern Santa Fe Railroad and the County of Riverside for the proposed Magnolia Ave. Railroad Grade Separation Project.

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

1. Approve the attached Construction and Maintenance Agreement between the Burlington Northern Santa Fe Railroad and the County of Riverside for the proposed Magnolia Ave. Railroad Grade Separation Project;
2. and Authorize the Chairman of the Board to execute the same.

**BACKGROUND:** Magnolia Avenue is a four-lane Arterial Highway that provides primary

Juan C. Perez  
 Director of Transportation and Land Management

CSS:css  
 (Continued On Attached Page)

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 1,414,050	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/2014

<b>SOURCE OF FUNDS:</b> 11% (TUMF) 89% (Prop 1B-TCIF) Project No. B7-0784	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
There are no General Funds used in this project.	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY: Tina Grande  
 Tina Grande

**County Executive Office Signature**

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

Prev. Agn. Ref. 5/1/12 3.28

District: 2/2 Agenda Number:

The Honorable Board of Supervisors

RE: Construction and Maintenance Agreement between the Burlington Northern Santa Fe Railroad and the County of Riverside for the proposed Magnolia Ave. Railroad Grade Separation Project.

April 11, 2013

Page 2 of 3

access to commercial, industrial and residential land uses in the Home Gardens Community of Riverside County, which abuts the City of Riverside to the east and City of Corona to the north. A Burlington Northern Santa Fe (BNSF) at grade crossing currently exists on Magnolia Avenue between Lincoln Street and Buchanan Street. Vehicles, pedestrians and bicycles all traverse the crossing at the BNSF railroad tracks. At this crossing, there are two mainline tracks that service freight trains, as well as Metrolink and Amtrak commuter trains. The railroad crosses Magnolia Avenue at a sharp angle, which limits visibility and increases the potential for train-vehicle accidents. Currently, 41 freight and 27 passenger trains pass through Magnolia Avenue grade crossing on a daily basis, which is projected to increase to 62 freight and 38 passenger trains by 2030. The increase in number of trains will cause more frequent interruptions in the normal flow of vehicle traffic creating additional congestion in the area.

The proposed project will grade separate Magnolia Avenue where it currently crosses the BNSF mainline tracks at grade providing the following benefits to the public:

- Improve vehicular traffic circulation, public safety, and provide uninterrupted and efficient access for motorists, residents, businesses, pedestrians and emergency vehicles in the area.
- Contribute to enhancing the operational characteristics (i.e. speed, efficiency and reliability) of freight and passenger trains through Riverside County by eliminating conflicts between railroad traffic and vehicle traffic.
- Substantially reduce particulate matter from idling vehicles causing a reduction in greenhouse gas emissions.

On July 29, 2008, the Board of Supervisors approved Resolution No. 2008-353 and the Project Baseline Agreement between the County of Riverside (sponsoring agency), the California Transportation Commission (funding agency) and the California Department of Transportation - Caltrans (oversight agency) to secure Trade Corridor Improvement Funds (TCIF) for the construction phase of this project. This project has been identified to receive \$13.7 million from the TCIF program. TCIF funding requirements include a stipulation that a construction contract for the project must be executed on or before December 31, 2013.

On July 14, 2009, the Board of Supervisors approved a Right-of-Entry Agreement between BNSF and the County to allow access onto the BNSF right-of-way by County personnel for the purpose of designing the improvements.

On May 1, 2012, the Board of Supervisors approved an agreement with the Western Riverside Council of Governments (WRCOG) that provides \$2,000,000 in TUMF funds for the Magnolia Avenue Grade Separation Project.

The project has been environmentally cleared; final plans, specifications and estimates have been prepared and right-of-way acquisition efforts are in progress.

This agreement provides the terms and conditions under which the County will construct and maintain the proposed improvements. The terms require the County to reimburse the railroad for the following anticipated items to be provided by BNSF:

The Honorable Board of Supervisors

RE: Construction and Maintenance Agreement between the Burlington Northern Santa Fe Railroad and the County of Riverside for the proposed Magnolia Ave. Railroad Grade Separation Project.

April 11, 2013

Page 3 of 3

<b>BNSF Expenses (Paid to BNSF by County)</b>	
Administrative Fee	\$2,000
Temporary Construction License	\$105,846
Easement	<u>\$50,748</u>
	\$158,594
Flagging Estimate	\$800,000
Inspection Estimate	\$200,000
Track Work	\$1,260,000
Signal	<u>\$450,000</u>
	\$2,710,000

The terms also require BNSF to contribute funding towards the cost of constructing the improvements. BNSF's contribution has been determined to be as follows:

<b>BNSF Contribution</b>	\$1,454,544
--------------------------	-------------

# **OVERPASS AGREEMENT**

BNSF File No. **BF10004212**  
Magnolia Avenue Overpass  
U.S. D.O.T. No. 026517B, 026518H, 027471T, 027472A  
LS 7602  
MP 20.20 to 20.38  
San Bernardino Subdivision

This Agreement ("**Agreement**"), is executed to be effective as of    ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), and the County of Riverside, a political subdivision of the State of California ("**Agency**").

## **RECITALS:**

WHEREAS, BNSF owns and operates a line of railroad in and through the County of Riverside, State of California;

WHEREAS, Agency desires to improve existing Magnolia Avenue at-grade crossings by constructing a new crossing at separated grades to be known as Magnolia Avenue Overpass and designated as D.O.T. No. 026517B on BNSF's San Bernardino Subdivision, MP 20.29; and

WHEREAS, the existing northbound and southbound Magnolia Avenue roads and the two pedestrian at-grade crossings will be permanently closed and removed upon completion of construction and the placing in service of said Overpass.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE I)      SCOPE OF WORK**

1. The term "**Project**" as used herein includes any and all work related to the construction of the proposed Magnolia Avenue Overpass (hereinafter referred to as the "**Structure**"), more particularly described on the Exhibit A attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent

track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation. During construction of the Structure, temporary controls must be in compliance with the most recent version of the Manual of Uniform Traffic Control Devices ("MUTCD"), U.S. Department of Transportation.

## **ARTICLE II)      BNSF OBLIGATIONS**

In consideration of the covenants of Agency set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon Agency's payment to BNSF of an administrative fee in the sum of Two Thousand Dollars and No/100 dollars (\$2,000.00), together with the sum of One-hundred and Five Thousand Eight-hundred Forty-Six and No/100 Dollars (\$105,846) for Temporary Construction License, BNSF hereby grants to Agency, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's right-of-way described further on Exhibit A, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way;
- (b) Construct, operate, maintain, renew and/or relocate upon said right-of-way, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with the Agency's use of the Structure;
- (c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with the Agency's use of the Structure.
- (d) Require the Agency or its contractor to execute a Temporary Construction Crossing Agreement, for any temporary crossing requested to aid in the construction of this Project.

The term of the Temporary Construction License begins on the Effective Date and ends upon completion of the project (completion date of the project shall be the recordation date of the Notice of Completion). The Temporary Construction License and related rights given by BNSF to Agency in this provision are without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is

for construction of the Structure only and shall not be used by Agency for any other purpose. Agency acknowledges and agrees that Agency shall not have the right, under the Temporary Construction License, to use the Structure for any other purpose than construction. In the event Agency is evicted by anyone owning, or claiming title to or any interest in said right-of-way, BNSF will not be liable to Agency for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to Agency herein.

Upon Agency's payment to BNSF of the additional sum of Fifty-thousand Seven-hundred Forty-Eight dollars (\$50,748), such payment to be made within sixty (60) days of the giving of the Notice to Proceed pursuant to Article III, Section 17 of this Agreement, and provided further that Agency is in compliance with the terms and conditions of this Agreement, BNSF will grant to Agency, its successors and assigns, an easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's right-of-way as is necessary to use and maintain the Structure, substantially in the form of Exhibit B attached to this Agreement. If Agency fails to pay BNSF within the thirty day time period set forth in the preceding sentence, BNSF may stop construction of the Project until full payment is received by BNSF.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of Agency, which approval will not be unreasonably withheld. Construction of the Project must include the following railroad work by BNSF:

- (a) Procurement of materials, equipment and supplies necessary for the railroad work;
- (b) Preliminary engineering, design, and contract preparation;
- (c) Furnishing of flagging services during construction of the Project as required and set forth in further detail on Exhibit C;
- (d) Furnishing engineering and inspection as required in connection with the construction of the Project;
- (e) Providing a contract project coordinator, at Agency's expense, to serve as a project manager for the Project;

- (f) Removal of the existing Magnolia Avenue roadways and pedestrian at-grade crossings, including removal of the automatic warning devices, and any necessary track work required to bring track back to BNSF standard, and obliteration of the crossing between the rails and two feet outside thereof; and
- (g) Construction of temporary roadway at-grade crossings and installation of automatic warning devices at Agency's expense.

3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements.

4. Agency agrees to reimburse BNSF for work of an emergency nature caused by Agency or Agency's contractor in connection with the Project which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of Agency and Agency agrees to fully reimburse BNSF for all such emergency work.

5. BNSF may charge Agency for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.

6. During the construction of the Project, BNSF will send Agency progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Agency must reimburse BNSF for completed force-account work within forty-five (45) days of the date of the invoice for such work. Upon completion of the Project, BNSF will send Agency a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 6 herein, Agency must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which is past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to Agency under this section. For purposes of computing the time limits prescribed by Section 911.2 of the CALIFORNIA GOVERNMENT CODE for the presentment of a claim against Agency, the cause of action for failure to reimburse BNSF for the cost of the Railroad Work performed by it pursuant to this Agreement shall

be deemed to have accrued one hundred eighty (180) days from the date of the final invoice.

### **ARTICLE III) AGENCY OBLIGATIONS**

In consideration of the covenants of BNSF set forth herein and the faithful performance thereof, Agency agrees as follows:

1. Agency must furnish to BNSF plans and specifications for the Project. Four sets of said plans (reduced size 11" x 17"), together with two copies of calculations, and two copies of specifications in **English Units**, must be submitted to BNSF for approval prior to commencement of any construction. BNSF will give Agency final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF's final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet the subjective standards of BNSF, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building codes.
2. Agency must make any required application and obtain all required permits and approvals for the construction of the Project.
3. Agency must provide for and maintain minimum vertical and horizontal clearances, as required in Exhibit C and as approved by BNSF as part of the plans and specifications for the Project.

Prior to execution of this Agreement Agency shall have provided to BNSF exact minimum vertical and horizontal clearances for the Project, and such Final Clearances must have been previously approved by BNSF and attached hereto and incorporated herein as Exhibit A and Exhibit C ("Final Clearances"). Agency shall not deviate from the Final Clearances agreed to prior to this Agreement without the prior written approval of BNSF.

4. Agency must acquire all rights of way necessary for the construction of the Project.
5. Agency must make any and all arrangements, in compliance with BNSF's Utility Accommodation Manual (<http://www.bnsf.com/communities/faqs/pdf/utility.pdf>), for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project..



6. Agency must construct the Project as shown on the attached Exhibit A and do all work ("Agency's Work") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF hereunder. Agency must furnish all labor, materials, tools and equipment for the performance of Agency's Work. The principal elements of Agency's Work are as follows:

- (a) Construction of the Structure;
- (b) All necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's right-of-way;
- (c) Provide suitable drainage, both temporary and permanent;
- (d) Installation of a gate in the fence along the south boundary of BNSF's right of way in order to provide BNSF with permanent access for maintenance purposes;
- (e) Temporary Installation of K-Rail (Jersey) barriers and chain link fencing along Magnolia Avenue between the tracks and the traveled roadways, this railing and fencing will not be installed where it would interfere with the public using Magnolia Avenue during the first construction phases, which will require the road to be open to the public;
- (f) Construction and removal of a temporary pedestrian roadway detour crossing of the tracks, including chain link fence;
- (g) Provide appropriate pedestrian control during construction;
- (h) Installation and maintenance of a 10-ft. high fence and concrete combination (throw fence) on the outside barrier of the Structure;
- (i) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF; and
- (j) Removal and obliteration of those portions of the existing Magnolia Avenue at-grade crossings (P.U.C. No.'s 002B-20.30 and 002B-20.35, D.O.T. Crossing No.'s 026517B and 026518H) and Magnolia bike lane at-grade crossings (P.U.C. No.'s 002B-20.20-D and 002B-20.40-D, D.O.T. Crossing No.'s 027472A and 027471T) from a line measured from two feet outside the rails to BNSF's property lines;

7. Agency must apply and maintain said D.O.T. Crossing number 026517B and Public Utility Commission (P.U.C.) Crossing No. 002B-20.33 in a conspicuous location on the Structure.

8. Agency's Work must be performed by Agency or Agency's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

9. For any future inspection, maintenance, or construction activity, either routine or otherwise, performed by subcontractors on behalf of the Agency, Agency shall require the subcontractors to comply with the provisions of the attached Exhibit C and execute an agreement attached hereto As Exhibit C-1. Prior to performing any future activities with its own personnel, Agency shall: comply with all of BNSF's applicable safety rules and regulations; require any Agency employee performing maintenance to complete the safety training program at the BNSF's Internet Website "[contractororientation.com](http://contractororientation.com)"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance.

10. Agency must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, Agency must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

11. Agency or its contractor(s) must submit four (4) copies of any plans (including two sets of calculations in **English Units**) for proposed shoring, falsework or cribbing to be used over, under, or adjacent to BNSF's tracks to BNSF's Manager of Public Projects for approval. The shoring, falsework or cribbing used by Agency's contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

12. Agency must include the following provisions in any contract with its contractor(s) performing work on said Project:

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The Contractor will be responsible for contacting BNSF's Engineering Representative – Greg Rousseau at (909) 386-4079, BNSF's Signal Representative – Dennis Skeels at (909) 386-4053 and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The Contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The Contractor must also use all reasonable methods when

working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.

- (b) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.
- (c) Failure to mark or identify these Lines will be sufficient cause for BNSF's to stop construction at no cost to the Agency or BNSF until these items are completed.
- (d) In addition to the liability terms contained elsewhere in this Agreement, the Contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

13. Agency must require compliance with the obligations set forth in this agreement, including Exhibit C and Exhibit C-1, and incorporate in each prime contract for construction of the Project, or the specifications therefor (i) the provisions set forth in Articles III and IV; and (ii) the provisions set forth in Exhibit C, Exhibit C-1, and Exhibit F attached hereto and by reference made a part hereof.

14. Except as otherwise provided below in this Section 14, all construction work performed hereunder by Agency for the Project will be pursuant to a contract or contracts to be let by Agency, and all such contracts must include the following:

- (a) All work performed under such contract or contracts within the limits of BNSF's right-of-way must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
- (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (c) No work will be commenced within BNSF's right-of-way until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance;
- (d) To facilitate scheduling for the Project, Agency shall have its contractor give BNSF's representative, Greg Rousseau at (909) 386-4079, thirty (30) calendar days advance notice of the proposed times and dates for work windows. BNSF and Agency's contractor will establish mutually agreeable work windows for the Project. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF and Agency will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project; and
- (e) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth on Exhibit F, attached to this Agreement and incorporated herein.

15. Agency must advise the appropriate BNSF Manager of Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, Agency must notify BNSF's Manager of Public Projects, in writing, of the date on which Agency and/or its Contractor will meet with BNSF for the purpose of making final inspection of the Project.

**16. TO THE FULLEST EXTENT PERMITTED BY LAW, AGENCY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND**

OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) AGENCY'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT GRANTED TO AGENCY PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO AGENCY PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) AGENCY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE STRUCTURE BY AGENCY, OR (VII) AN ACT OR OMISSION OF AGENCY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY AGENCY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

17. Agency must give BNSF's Manager of Public Projects written notice to proceed ("Notice to Proceed") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from Agency.

18. Agency must perform all necessary work to obtain the permanent closure of Magnolia Avenue across BNSF's right-of-way and must barricade the road approaches prior to completion of the Project. BNSF will cooperate with Agency to achieve the closure of both eastbound and westbound Magnolia Avenue and both pedestrian crossings and will remove the crossing surfaces within its right-of-way.

#### **ARTICLE IV) JOINT OBLIGATIONS**

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's written approval prior to the commencement of any such changes or modifications from Greg Rousseau at (909) 386-4079.

2. The work hereunder must be done in accordance with the Bridge Requirements set forth on Exhibit F and the detailed plans and specifications approved by BNSF.

3. Agency must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations of either BNSF or its related railroads, or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Agency (or any of its contractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Agency (or any of its contractors), in BNSF's opinion, prosecutes the Project work in a manner that is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) Agency fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by Agency or its contractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until proof of additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

PATRICIA ROMO, P.E.  
DEPUTY DIRECTOR, TRANSPORTATION  
COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT  
4080 LEMON STEET, 8<sup>TH</sup> FLOOR  
RIVERSIDE, CA 92501  
PHONE: (951) 955-6740  
FAX: (951) 955-3198  
EMAIL: [PROMO@RCTLMA.ORG](mailto:PROMO@RCTLMA.ORG)

Agency must supervise and inspect the operations of all Agency contractors to ensure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of BNSF. If BNSF determines that proper supervision and inspection are not being performed by Agency personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating right-of-way). Construction of the Project will not proceed until Agency corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify the County of Riverside for appropriate corrective action.

BNSF's share of the project costs ("BNSF's Share") shall be the sum of One-Million Four-Hundred Fifty-Four Thousand Five-Hundred Forty-Four and No/100 Dollars (**\$1,454,544**), which is five percent (5%) of the costs for preliminary engineering, right-of-way and construction of a theoretical structure pursuant to Federal guidelines referenced herein below;

- (a) Where a grade crossing is eliminated by grade separation, the structure and approaches required to transition to a theoretical highway profile which would have been constructed if there were no railroad present, for the number of lanes on the existing highway and in accordance with the current design standards of the appropriate state highway agency; and
- (b) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described in 23 CFR 646.210(c)(1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

Additionally, local, state, and federal funds will be used in the construction of the Project. The total actual cost of construction for the Project is presently estimated to be **\$50,364,933**, more particularly described (together with BNSF's Share) on Exhibit G attached hereto and incorporated herein.

6. Pursuant to this section and Article II, Section 6 herein, Agency must reimburse BNSF in full for the actual costs of all work performed by BNSF under this Agreement,

less BNSF's Share as set forth in Article IV, Section 5 herein. BNSF's Share must be paid upon completion of the Project.

In any action brought under this Agreement, the prevailing Party shall be entitled to recover its actual costs and attorneys fees pursuant to California Civil Code Section 1717, as well as other litigation costs, including expert witness fees. The prevailing Party shall also be entitled to recover all actual attorneys fees and litigation costs incurred in connection with the enforcement of a judgment arising from such action or proceeding.

7. All expenses detailed in statements sent to Agency pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Title 23 U.S. Code, Title 23 Code of Federal Regulations, and the Federal-Aid Policy Guide , U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement.

8. The parties mutually agree that neither construction activities for the Project, nor future maintenance of the Structure once completed, will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

9. Subject to the restrictions imposed by Article IV, Section 8 above, the construction of the Project will not commence until Agency gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference D.O.T. Crossing No. 026517B and must state the time that construction activities will begin.

10. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions stated in Exhibit F, BNSF and Agency agree to the following terms upon completion of construction of the Project:

- (a) Agency will own and maintain, at its sole cost and expense, the Structure, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadways to BNSF gates installed pursuant to this Agreement. BNSF may, at its option, perform maintenance on the Structure in order to avoid conflicts with train operations. BNSF will notify Agency prior to performing any such maintenance on the Structure. In the event such maintenance involves emergency repairs, BNSF will notify Agency at its earliest opportunity. Agency must fully reimburse BNSF for the costs of maintenance performed by BNSF pursuant to this subsection.



- (b) Agency must, at Agency's sole cost and expense, keep the Structure painted and free from graffiti.
- (c) Agency must provide BNSF with any and all necessary permits and maintain roadway traffic controls, at no cost to BNSF, whenever requested by BNSF to allow BNSF to inspect the Structure or to make emergency repairs thereto.
- (d) It is expressly understood by Agency and BNSF that any right to install utilities will be governed by a separate permit or license agreement between the parties hereto.
- (e) Agency must keep the Structure and surrounding areas clean and free from birds, pigeons, scavengers, vermin, creatures and other animals.
- (f) If Agency (including its contractors and agents) or BNSF, on behalf of Agency, performs (i) alterations or modifications to the Structure, or (ii) any maintenance or other work on the Structure with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the Structure vertically above the top of the rail, then Agency or its contractors and/or agents must procure and maintain the following insurance coverage, which may be changed from time to time:

Railroad Protective Liability insurance naming only **BNSF** as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to **BNSF** prior to performing any work or services under this Agreement
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

As used in this paragraph, "**BNSF**" means "Burlington Northern Santa Fe, LLC", "BNSF RAILWAY COMPANY" and the subsidiaries, successors, assigns and affiliates of each.

In lieu of providing a Railroad Protective Liability Policy, Agency may participate in BNSF's Blanket Railroad Protective Liability Insurance Policy if available to Agency or its contractors. The limits of coverage are the same as above.

11. Agency hereby grants to BNSF, at no cost or expense to BNSF, a permanent right of access from Agency property to BNSF tracks for maintenance purposes.

12. Agency must provide one set of as built plans (prepared in **English Units**) to BNSF, as well as one set of computer diskettes containing as built CAD drawings of the Structure and identifying the software used for the CAD drawings. The "as built plans" must comply with the Bridge Requirements set forth on Exhibit F and depict all information in BNSF engineering stationing and mile post pluses. The "as built plans" must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and facilities must be shown.

13. Subject to the restrictions imposed by Article IV, Section 8 above and in accordance with the requirements of Article III, Section 9 above, Agency must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's right-of-way for **INSPECTION OR MAINTENANCE** purposes, and the BNSF Manager of Public Projects will determine if flagging is required. If the construction work hereunder is contracted, Agency must require its prime contractor(s) to comply with the obligations set forth in Exhibit C and Exhibit C-1, as the same may be revised from time to time. Agency will be responsible for its contractor(s) compliance with such obligations.

14. BNSF may, at its expense, make future changes or additions to the railroad components of the structure if necessary or desirable in BNSF's sole discretion, including, without limitation the following: (i) the right to raise or lower the grade or change the alignment of its tracks, (ii) the right to lay additional track or tracks, (iii) the right to build other facilities in connection with the operation of its railroad. BNSF shall, at its expense, have full right to make such changes or additions, provided such changes or additions must not change or alter the Structure herein proposed to be constructed and provided further, however, that should it become necessary or desirable in the future to change, alter, widen or reconstruct the Structure to accommodate railroad Projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by such changes to the Structure will be the sole responsibility of the Agency.

15. Agency may, at Agency's sole expense, alter or reconstruct the highway components of the Structure if necessary or desirable, due to traffic conditions or pedestrian or other recreational traffic, provided, however, that any such alteration or

reconstruction must receive BNSF's prior written approval as evidenced by either a supplement to this Agreement, or execution of a new agreement that provides for the termination of this Agreement. Furthermore, any alteration or reconstruction of the highway components of the Structure will be covered by a Commission Order.

16. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto, as well as the State of California and the Federal Highway Administration, for a period of three (3) years from the date of final BNSF invoice under this Agreement.

17. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

18. In the event construction of the Project does not commence within two (2) years of the Effective Date, this Agreement will become null and void.

19. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

20. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

21. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein) is the full and complete agreement between BNSF and Agency with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

22. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF:

BNSF Railway Company:  
BNSF's Manager of Public Projects  
740 East Carnegie Drive  
San Bernardino, CA 92408

Agency:

Patricia Romo, P.E.  
Deputy Director, Transportation  
County of Riverside Transportation Department  
4080 Lemon Street, 8<sup>th</sup> Floor  
Riverside, CA 92501

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

**AGENCY**

**COUNTY OF RIVERSIDE**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

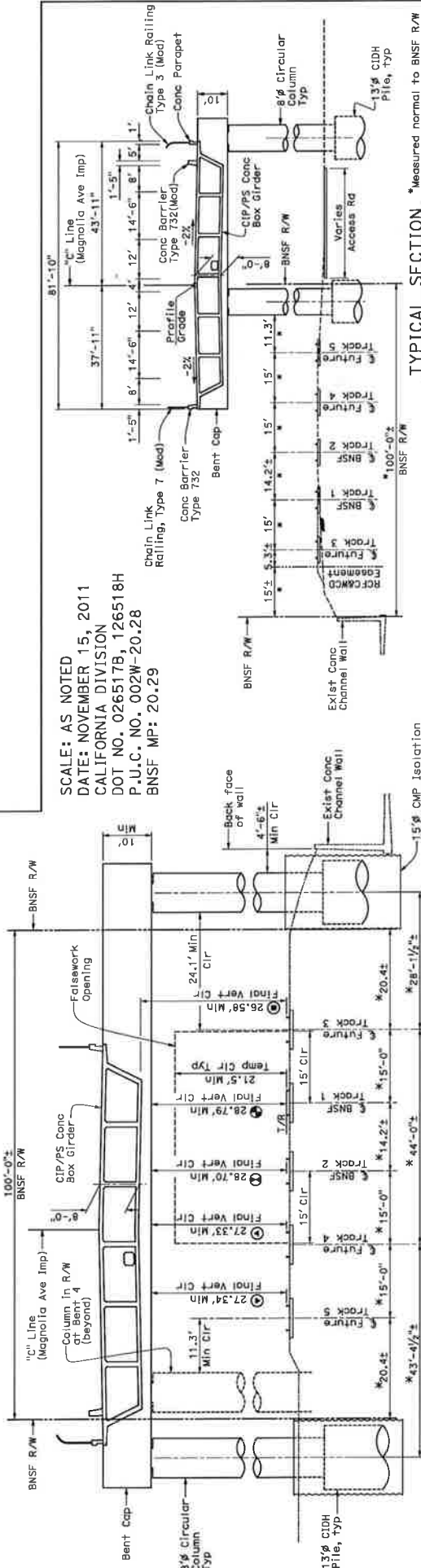
\_\_\_\_\_

FORM APPROVED COUNTY COUNSEL

BY: MR. Victor 4/10/13  
MARSHAL VICTOR DATE

**EXHIBIT "A"**

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

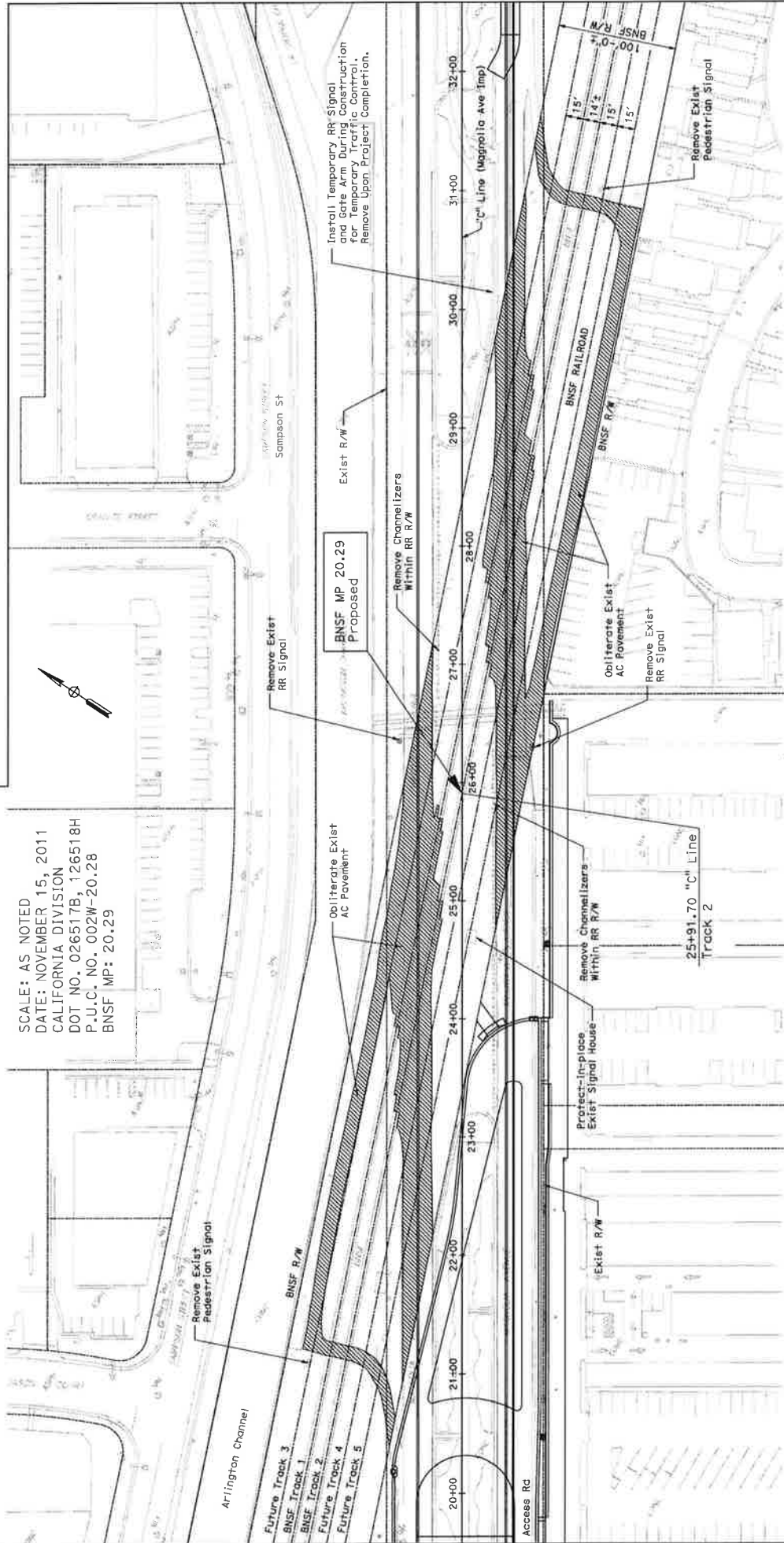


Notes:  
Elevations at Future tracks and  
BNSF R/W are assumed to be same  
as adjacent existing track elevations.

# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29



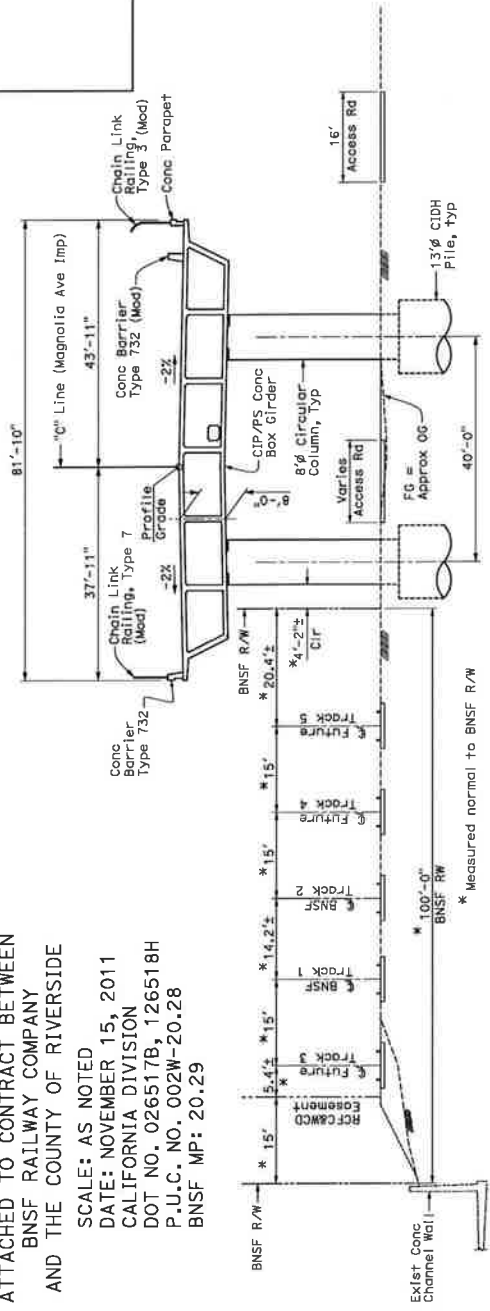
DESCRIPTION  
REMOVE EXISTING MAGNOLIA AVENUE GRADE CROSSING  
AND CONSTRUCT NEW OVERHEAD OVER BNSF RAIL CORRIDOR

PLAN  
1"=80'

# EXHIBIT "A"

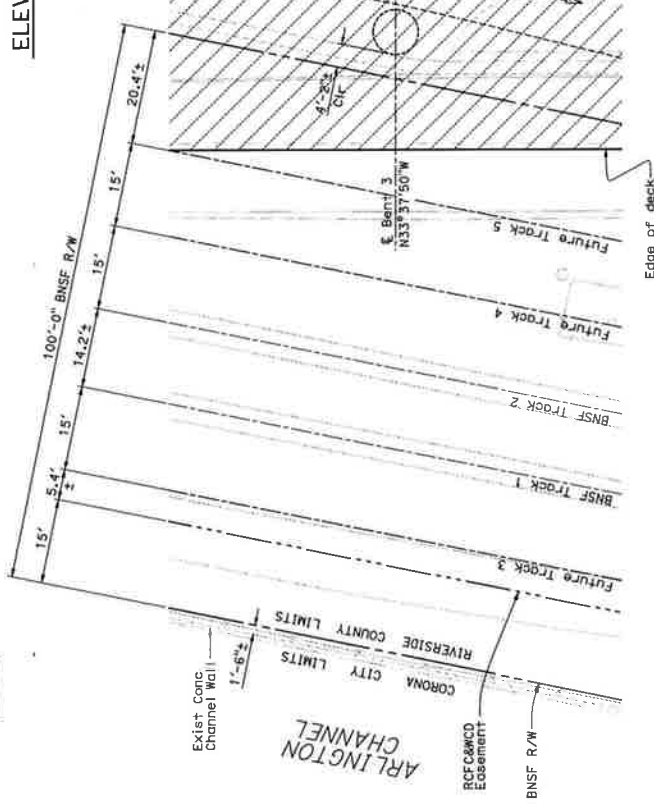
ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
 DATE: NOVEMBER 15, 2011  
 CALIFORNIA DIVISION  
 DOT NO. 026517B, 126518H  
 P.U.C. NO. 002W-20.28  
 BNSF MP: 20.29



**ELEVATION - BENT 3**  
 No Scale

Note:  
 For minimum vertical clearances  
 see "Sheet 1 of 8".



**PLAN - BENT 3**  
 No Scale

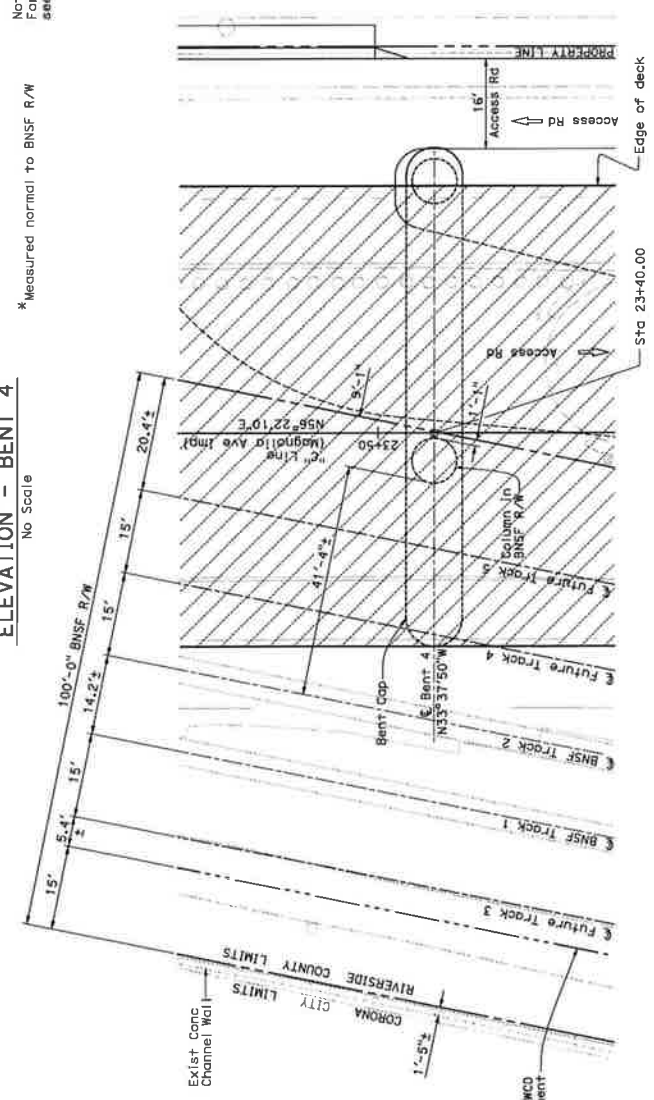
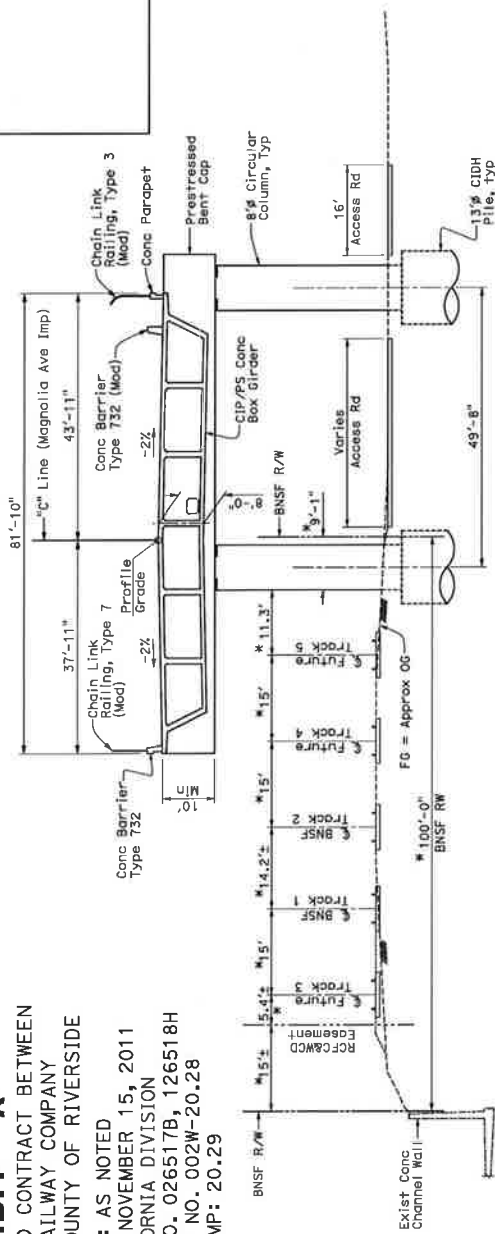
LEGEND  
 Proposed Bridge Limits



# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

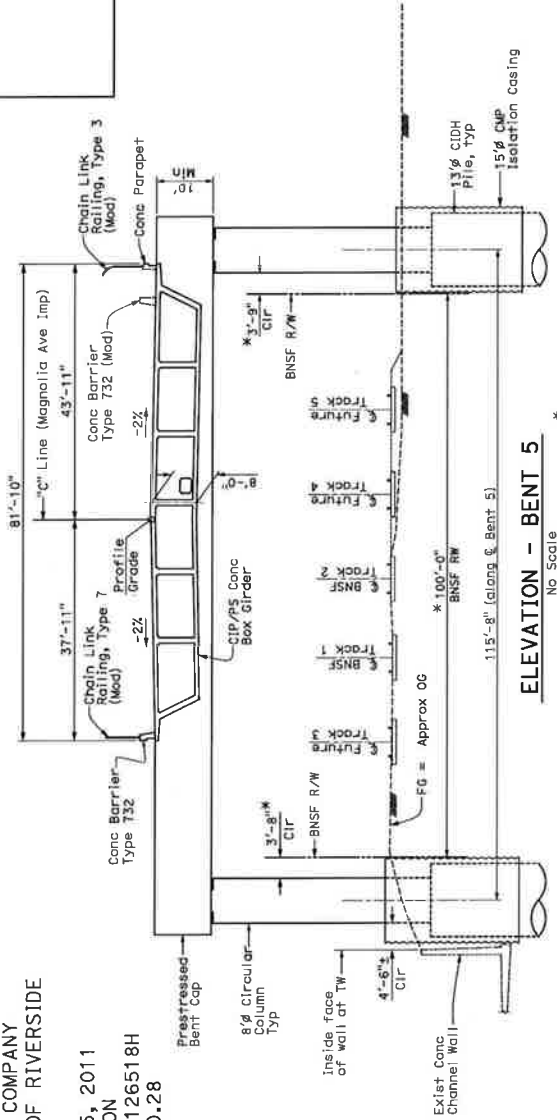
SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29



# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29

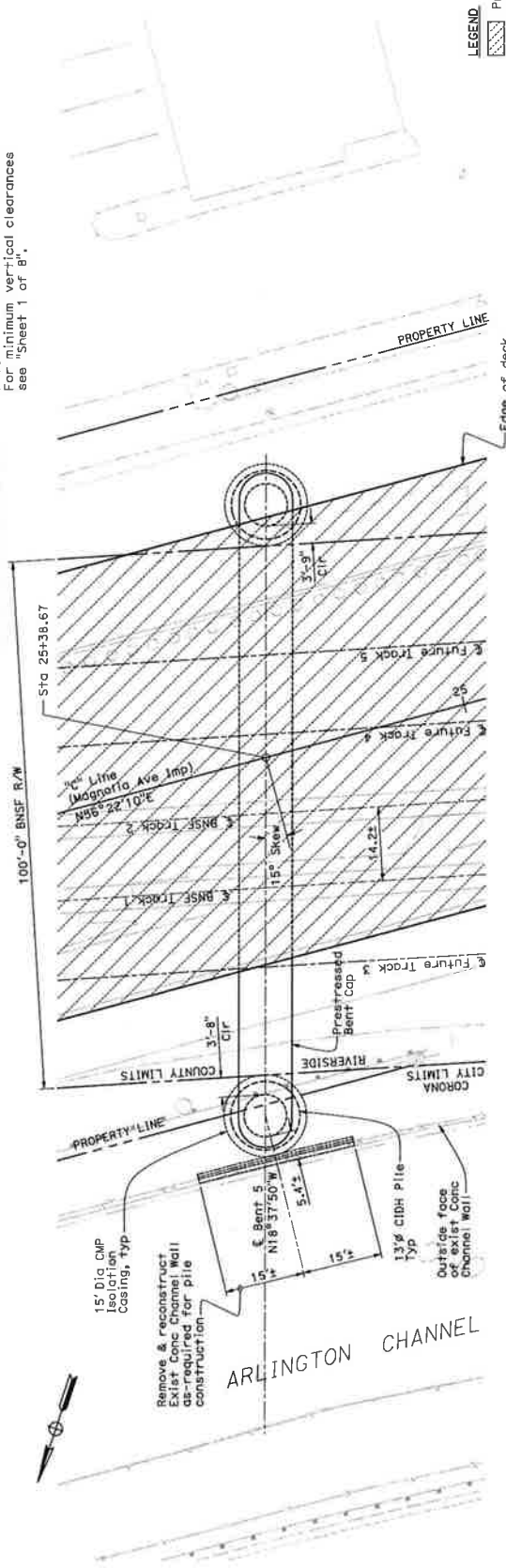


**ELEVATION - BENT 5**

No Scale

\* Measured normal to BNSF R/W

Note:  
For minimum vertical clearances  
see "Sheet 1 of 8".



**PLAN - BENT 5**

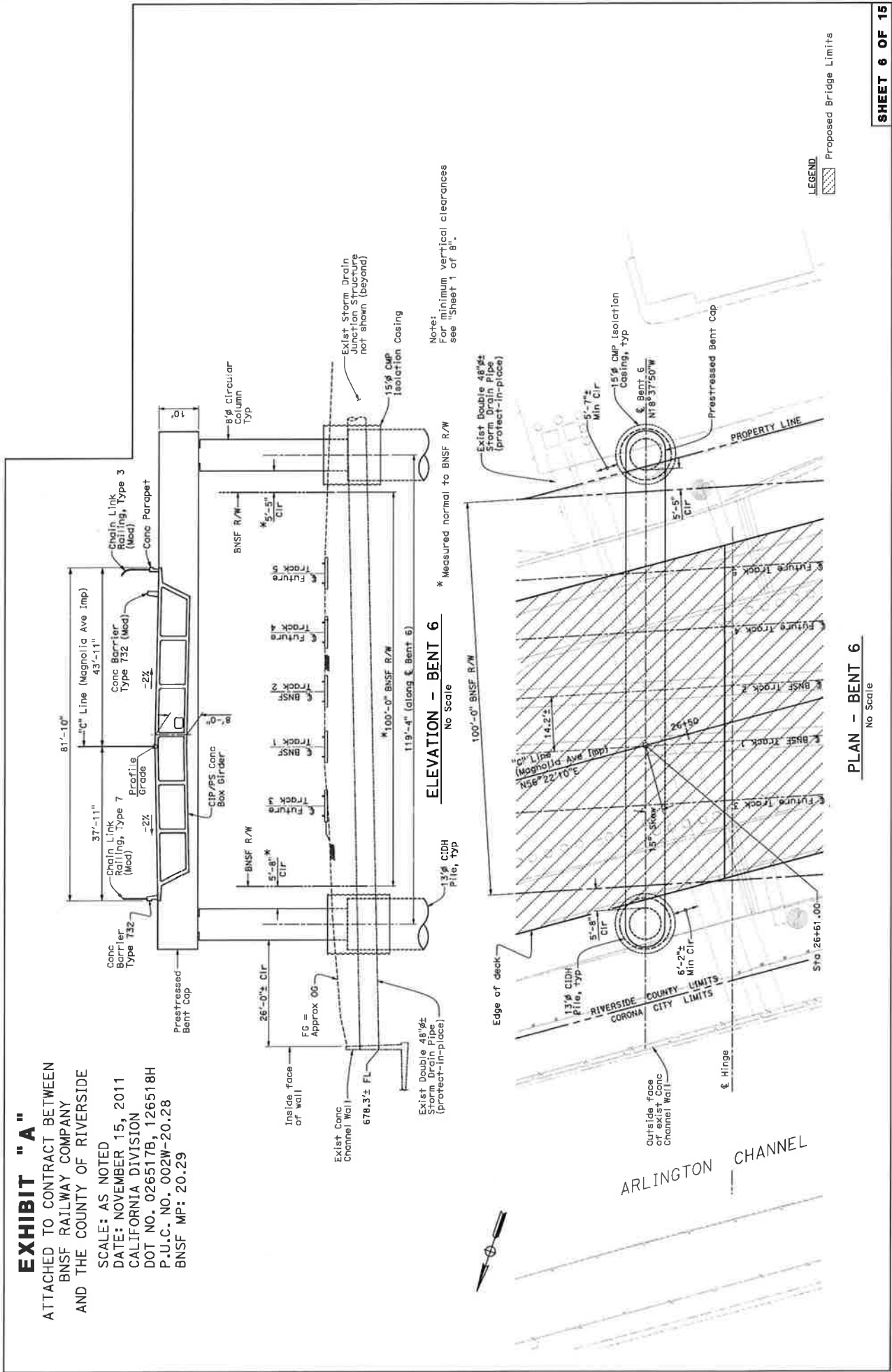
No Scale

LEGEND  
Proposed Bridge Limits

# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29



## ELEVATION - BENT 6

No Scale  
\* Measured normal to BNSF R/W  
Note: For minimum vertical clearances see Sheet 1 of 8.

## PLAN - BENT 6

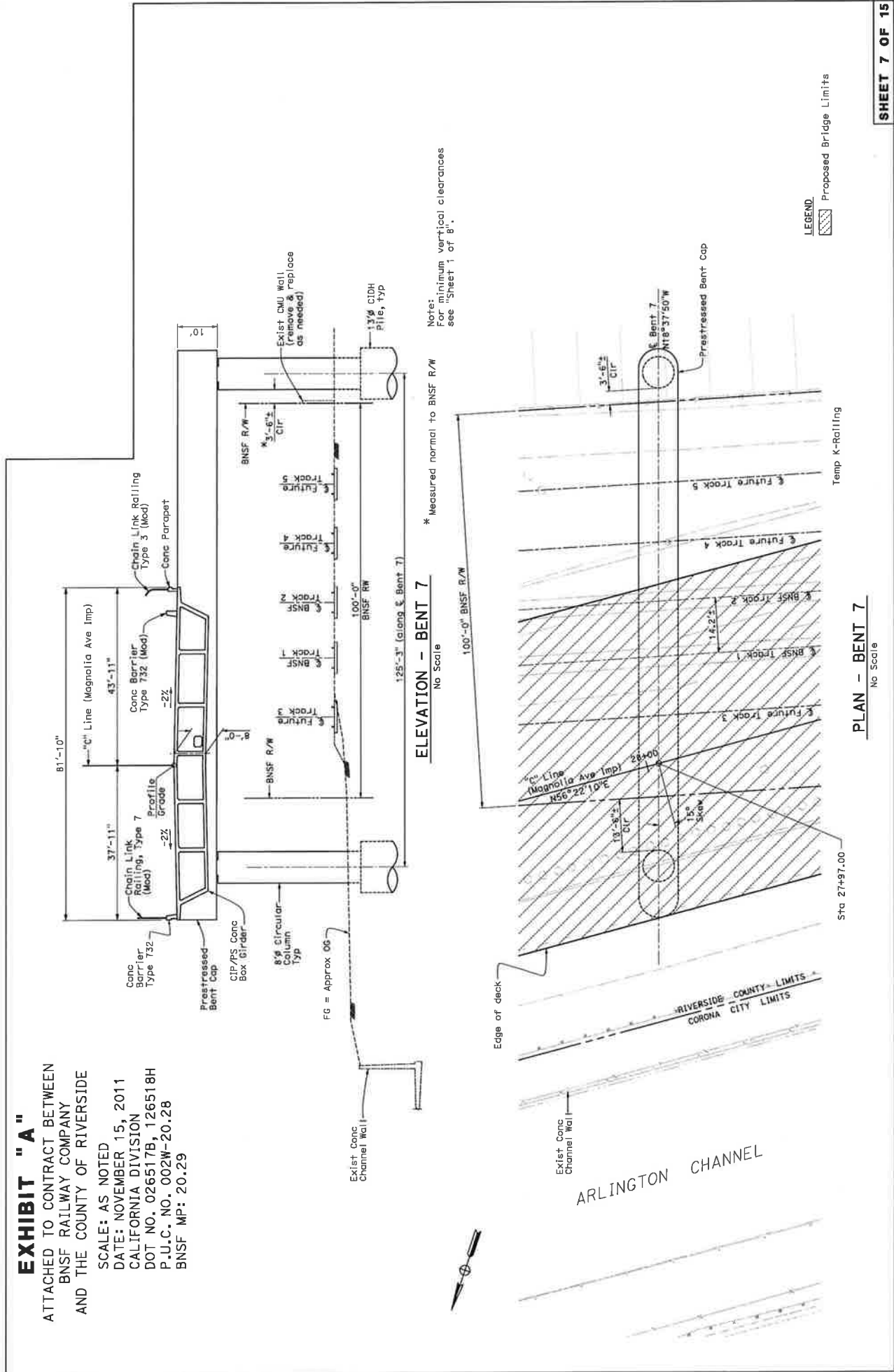
No Scale

LEGEND  
Proposed Bridge Limits

# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29



## ELEVATION - BENT 7

No Scale

\* Measured normal to BNSF R/W  
Notes:  
For minimum vertical clearances  
see "Sheet 1 of 8".

LEGEND  
Proposed Bridge Limits

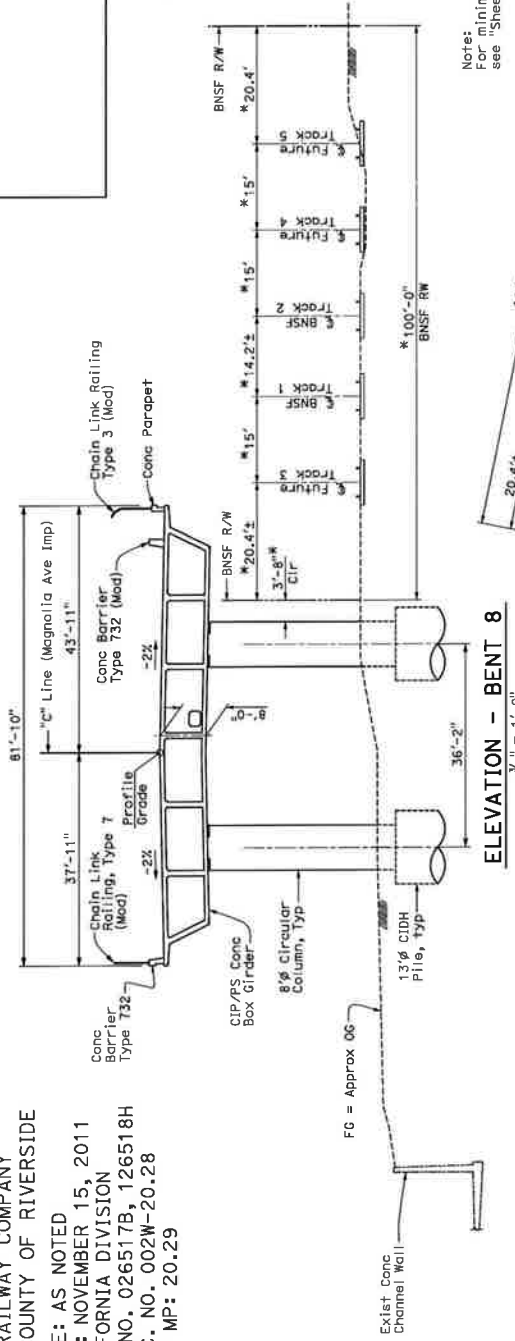
## PLAN - BENT 7

No Scale

**EXHIBIT "A"**

ATTACHED TO CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND THE COUNTY OF RIVERSIDE

SCALE: AS NOTED  
DATE: NOVEMBER 15, 2011  
CALIFORNIA DIVISION  
DOT NO. 026517B, 126518H  
P.U.C. NO. 002W-20.28  
BNSF MP: 20.29

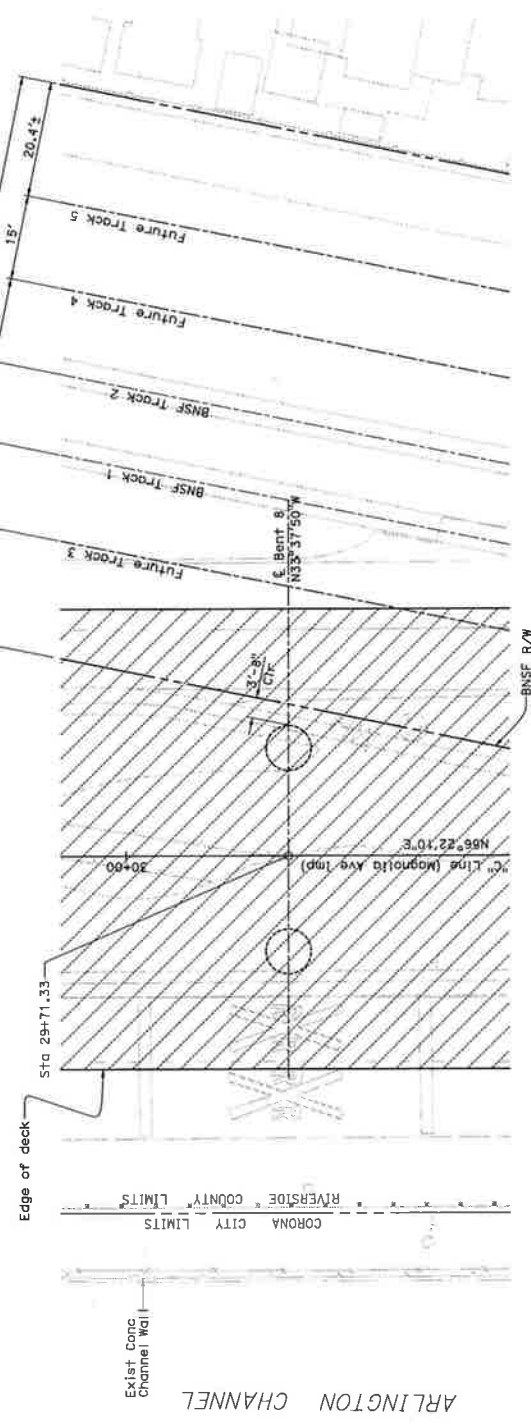


**ELEVATION - BENT 8**

1/2" = 1'-0"

\* Measured normal to BNSF R/W

Notes:  
For minimum vertical clearances  
see "Sheet 1 of 8".

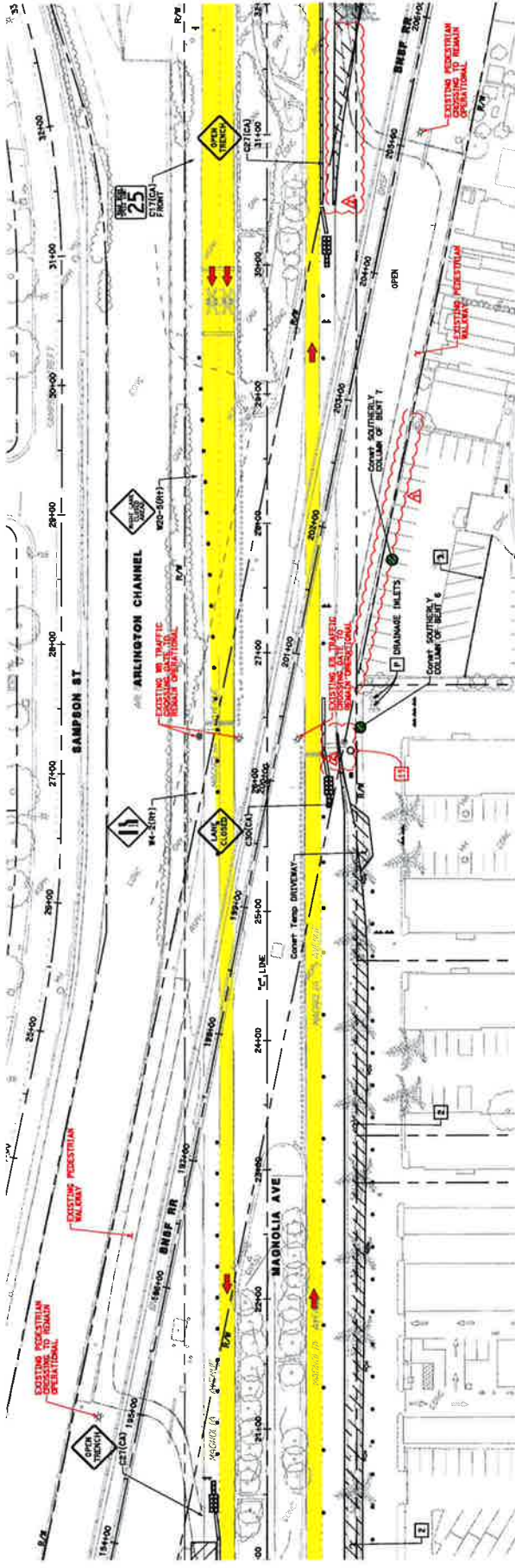


**PLAN - BENT 8**

1/2" = 1'-0"

LEGEND  
Proposed Bridge Limits

**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE



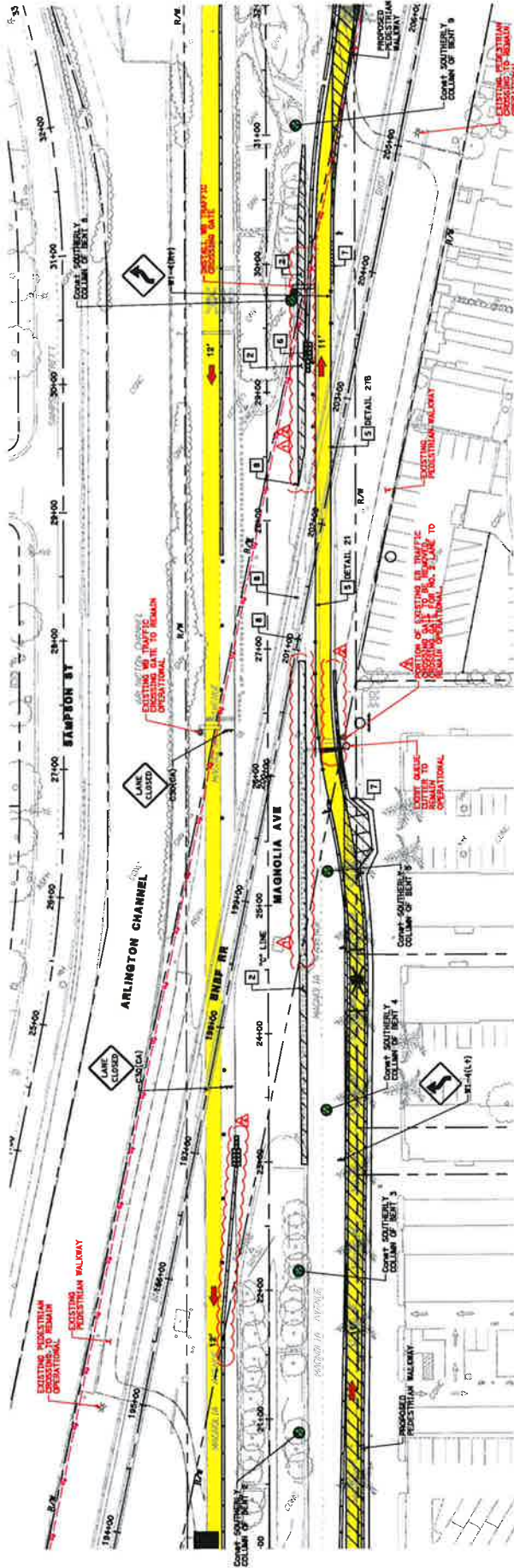
**STAGE 1**

- CONSTRUCTION WORK**  
 STAGE 1 CONSISTS OF PREPARATIONS FOR SHIFTING EX MAGNOLIA TRAFFIC AND CONSTRUCTION OF BEIT 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.
- TRAFFIC HANDLING**  
 DOWN DIRECTIONS OF MAGNOLIA TRAFFIC ARE REDUCED TO 1 LANE EACH TO PROVIDE SPACE FOR CONSTRUCTION OF PERMANENT OR TEMPORARY PAVEMENT.  
 TEMPORARY PEDESTRIAN CROSSING ENCLOSURES TO ALTERNATE PER ROADWAY WIDENING.
- BASE COORDINATION**  
 CONSTRUCTION OF THE BEIT 1 COLUMN WILL REQUIRE THE PARTIAL REMOVAL OF THE MASONRY WALL ALONG BNSF R/W AND R/V PARKING LOT. THE MAJORITY OF THE REMOVAL WILL BE TO INSTALL THE BEIT 1 COLUMN. THE REMOVAL WILL BE IN ACCORD WITH THE CIVIL ENGINEER'S CONTRACTING. BEIT 1 COLUMN WILL BE CONSTRUCTED IN ACCORD WITH THE CIVIL ENGINEER'S CONTRACTING. TEMPORARY PAVEMENT BEING PLACED ALONG EX MAGNOLIA PARTIALLY ENCLOSURES ONTO BNSF R/W ACCESS TO PLACE TEMPORARY PAVEMENT.  
 TEMPORARY PEDESTRIAN CROSSING ENCLOSURES TO ALTERNATE PER ROADWAY WIDENING.
- FLAGMEN TO BE PRESENT DURING CONSTRUCTION.**

- LEGEND**
- Temp Pkwt
  - TRAFFIC DIRECTION
  - Conert Br Column
- CONSTRUCTION NOTES**
- 1. Conert Temp Pkwt
  - 2. Conert Temp Pkwt
  - 3. INSTALL TEMP FENCE
  - 4. RELOCATE QUEUE CUTTER CONTROLLER ASSEMBLY
  - 5. PROTECT IN PLACE



**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE



- LEGEND**
- Temp Pier
  - Temp Pier FROM PREVIOUS STAGE
  - Corner B' COLUMN
  - B' COLUMN FROM PREVIOUS STAGE
  - TRAFFIC DIRECTION
  - TEMP & RAIL
- CONSTRUCTION NOTES**
- 1 CORNER TEMP PIER
  - 2 0.42' AM
  - 3 0.15' CL2 AB
  - 4 INSTALL TEMP STRIPING
  - 5 INSTALL CRASH CURB/ARRAY 'TU11'
  - 6 INSTALL TEMP NARROW CRASH CURB, TL-2 END TREATMENT
  - 7 PAVE TEMP PMA AND REPLACE/INSTALL CROSSING SURFACE PANELS, IF NEEDED.

**STAGE 2**

**CONSTRUCTION WORK**  
 STAGE 2 CONSISTS OF WORK FOR THE REMAINING SOUTHERN COLUMNS OF THE SUPERSTRUCTURE AND TEMPORARY PAVEMENT FOR EA TRAFFIC TO BE SHIFTED TO THE EXISTING TRAFFIC SIGNALS AT LINCOLN AVE AND BUCHANAN WILL BE ADAPTED AND TEMPORARY PAVEMENT WILL BE PLACED OVER THE EXISTING MICHIGAN ISLAND AREA.

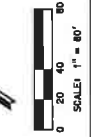
**TRAFFIC MARKING**  
 EA MAGNOLIA TRAFFIC (1 LANE) IS NOW SHIFTED ONTO PAVEMENT CONSTRUCTED IN STAGE 1 LANE. WB TRAFFIC (1 LANE) SWITCHED TO OUTER LANE.

**BNSF COORDINATION**  
 ALONG HOV 3 LANE OF MAGNOLIA ROADWAY WILL REQUIRE ABOUT 1' MINIMUM OF TEMPORARY PAVEMENT SURFACING. CONTRACTORS WILL NEED 30' ACCESS TO BE USED FOR WB MAGNOLIA TRAFFIC TO BE SHIFTED IN THE NEXT STAGE.

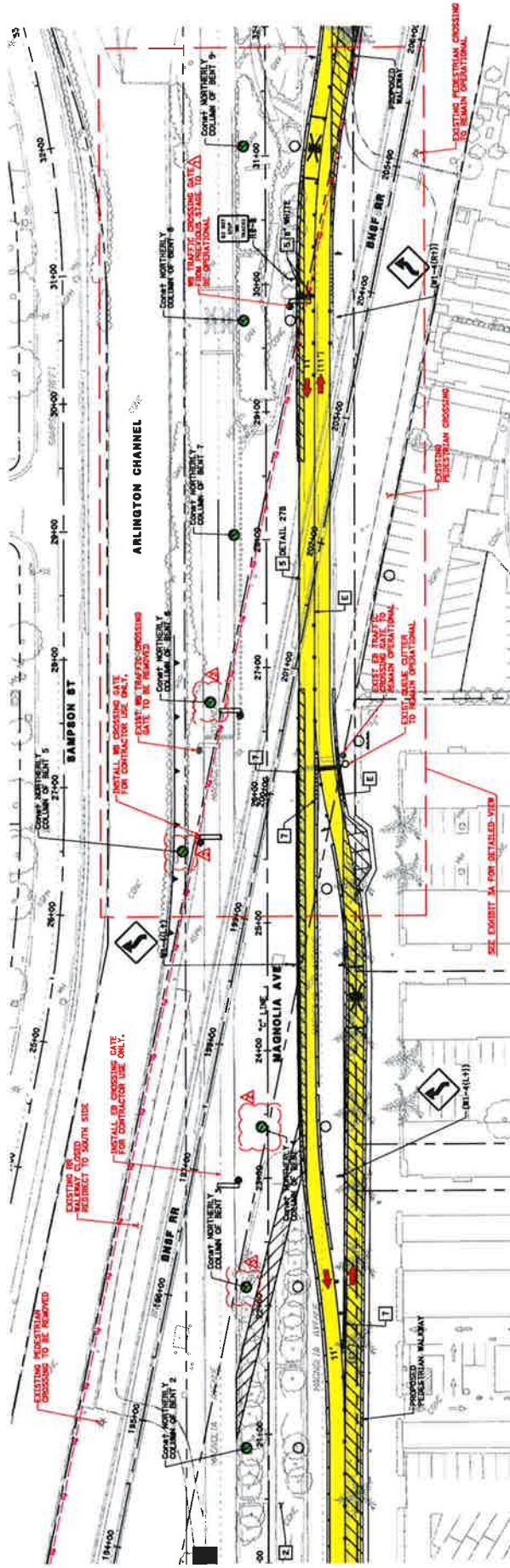
TEMPORARY CRASH CURBS, RAILS, AND CHANNELLIZERS ARE PLACED IN BNSF R/W BUT NOT WITHIN MINIMUM HORIZONTAL CLEARANCES.

ADJUST EA MAGNOLIA RR CROSSING DATE TO SERVICE 1 LANE (NO. 2 LANE).

FLAGMEN TO BE PRESENT DURING CONSTRUCTION.



**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE



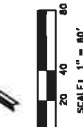
**STAGE 3A**  
**CONSTRUCTION WORK**  
 STAGE 3A INVOLVES CONSTRUCTION OF ABUTMENT 1 & 2, ALL NORTHERN COLUMNS AND FOUNDATIONS, A SECTION OF REMOVAL AND RECONSTRUCTION OF ARLINGTON CHANNEL, TO INSTALL THE FOUNDATION OF BEIT 8 NORTHERN COLUMN.

**TRAFFIC HANDLING**  
 NB MADROLIA TRAFFIC SHIFTED ALONG EB TRAFFIC INTERSECTIONS AT LINCOLN AVE AND AT MASHAMAN ST TO BE MODIFIED, EXISTING NB MADROLIA ROADWAY BETWEEN LINCOLN AND BUCHANAN IS NOW PERMANENTLY CLOSED.

**BNSF COORDINATION**  
 RELOCATION OF NB MADROLIA RR CROSSING DATE, AS FIRST ORDER OF WORK, THIS STAGE, BNSF WILL NEED TO RELOCATE THE DATE PRIOR TO OPENING THIS ROADWAY. THIS IS TO BE COMPLETED PRIOR TO THE START OF THIS STAGE.

**CONSTRUCTION NOTES:**  
 [2] CONTRACTOR TEMPORARY COLUMN OF BEIT 2  
 [5] CONTRACTOR TEMPORARY COLUMN OF BEIT 5  
 [7] INSTALL NARROW CRASH COURSE CURBSTOP, T1-2 END TREATMENT  
 [E] EXIST STRIPING FROM LAST STAGE

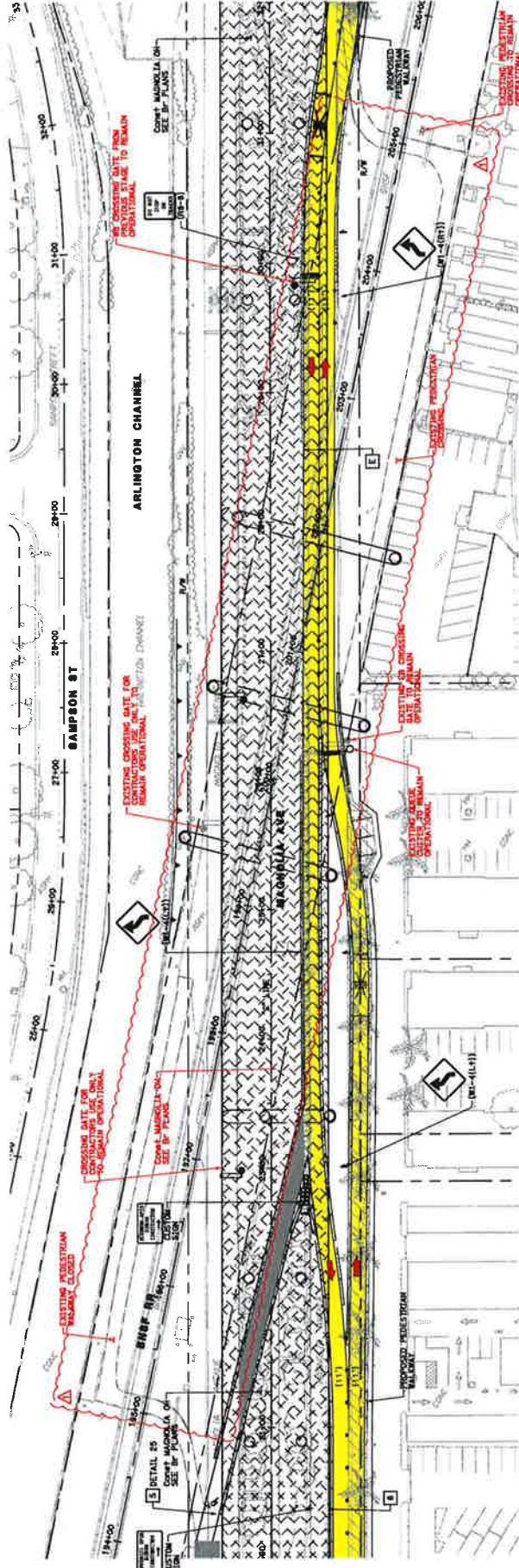
- LEGEND:**
- Temp Point
  - Temp Point FROM PREVIOUS STAGE
  - Contractor Column
  - OR COLUMN FROM PREVIOUS STAGE
  - TRAFFIC DIRECTION
- CONSTRUCTION NOTES:**
- [2] CONTRACTOR TEMPORARY COLUMN OF BEIT 2
  - [5] CONTRACTOR TEMPORARY COLUMN OF BEIT 5
  - [7] INSTALL NARROW CRASH COURSE CURBSTOP, T1-2 END TREATMENT
  - [E] EXIST STRIPING FROM LAST STAGE







**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE



**STAGE 3B**

**CONSTRUCTION WORK**  
 STAGE 3B INVOLVES ERECTING FALSEWORK OVER THE RR TRACKS, FALSEWORK ON THE SUPERSTRUCTURE, A WIRE WALL WEST OF THE RR TRACKS, AND PAVING, CURB, GUTTER, AND SIDEWALK NEAR BERKHAMM INTERSECTION.

**TRAFFIC HANDLING**  
 ARLINGTON TRAFFIC REMAINS THE SAME AS STAGE 3A.

- ▲ **RANGE COORDINATION** WITHIN ANY OF THE CONSTRUCTION ZONES OVER THE SAMPSON AND FLAME TEMPORARY A FULL-SCALE CONSTRUCTION TEMPORARY TRACKS OVER TRACKS OF EXISTING BNSF ARLINGTON RAILWAY (CLOSED IN STAGE 3A), A FLAGMAN WILL BE NEEDED.
- ▲ FLAGMEN TO BE PRESENT DURING CONSTRUCTION.

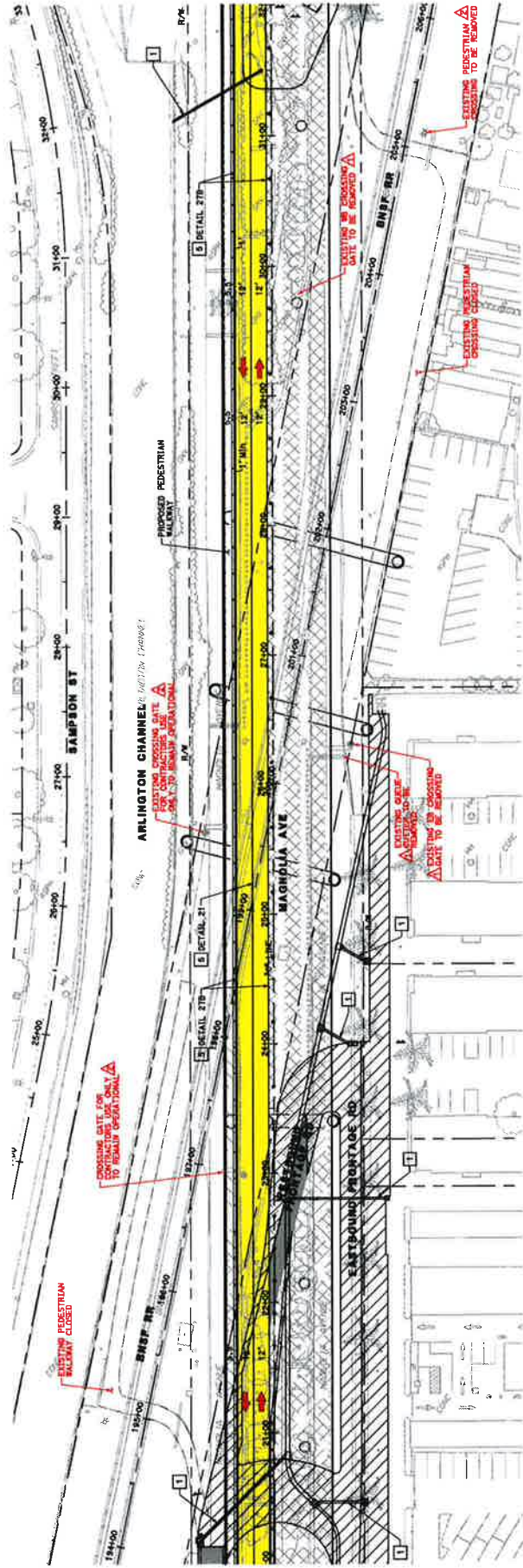
- LEGEND**
- Temp Pavt from Previous Stage
  - BRIDGE CONSTRUCTION
  - TRAFFIC DIRECTION
  - BY COLUMN FROM PREVIOUS STAGE

**CONSTRUCTION NOTES**

- E INSTALL TEMP STRIPING
- E INSTALL CRASH CUSHION ARRAY 7001'
- E EXIST STRIPING FROM LAST STAGE

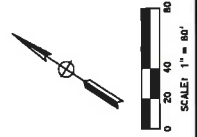


**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE

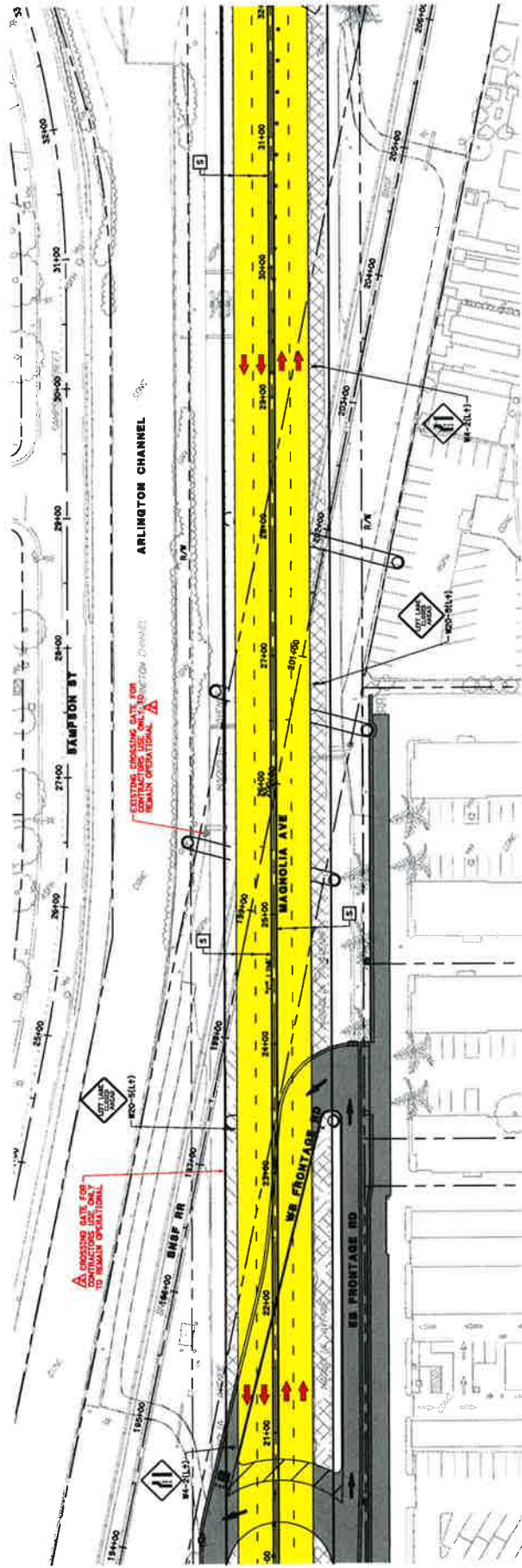


- LEGEND:**
- CONSTRUCTION WORK AREA
  - BRIDGE CONSTRUCTED FROM PREVIOUS STAGE
  - TRAFFIC DIRECTION
  - R/W COLUMN FROM PREVIOUS STAGE
- CONSTRUCTION NOTES:**
- 1 INSTALL DRAINAGE SYSTEM SEE DRAINAGE PLANS
  - 5 INSTALL TEMP STRIPING
- STAGE 4**
- START CONSTRUCTION
- END CONSTRUCTION

**STAGE 4**  
**CONSTRUCTION WORK**  
 STAGE 4 CONSISTS OF THE REMAINING WORK BETWEEN LINCOLN AVE AND BUCHANAN ST. SUCH AS CONSTRUCTION OF EB ROADWAY AND FRONTAGE AREAS. TEMPORARY/PERMANENT TRAFFIC SIGNALS WILL NEED TO BE PLACED OR RELOCATED AT BOTH LINCOLN AND BUCHANAN INTERSECTIONS.  
**TRAFFIC HANDLING**  
 EB AND WB MARQUILLA TRAFFIC NOW SHIFTED ONTO FINISHED PAVEMENT AND SUPERSTRUCTURE CONSTRUCTED LAST STAGE.  
**BNSF COORDINATION**  
 EB CROSSINGS ARE NO LONGER NEEDED.  
 CONTRACTORS WILL NEED R/W ACCESS TO RESTORE AREAS UNDER THE SUPERSTRUCTURE.  
 FLUMEN TO BE PRESENT DURING CONSTRUCTION.



**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
 BNSF RAILWAY COMPANY  
 AND THE COUNTY OF RIVERSIDE



- LEGEND**
- [Yellow Box] CONSTRUCTION WORK AREA
  - [Dashed Line] BRIDGE CONSTRUCTED FROM PREVIOUS STAGE
  - [Red Arrow] TRAFFIC DIRECTION
  - [Circle] or COLUMN FROM PREVIOUS STAGE
- CONSTRUCTION NOTES**
- [1] INSTALL DRAINAGE SYSTEM SEE DRAINAGE PLANS
  - [B] INSTALL TEMP STRIPING
- STAGE 5**
- START CONSTRUCTION
- END CONSTRUCTION

**STAGE 5**  
 CONSTRUCTION WORK  
 STAGE 5 CONSISTS OF THE REMAINING PAVEMENT AND MEDIAN ISLANDS AT BOTH LINCOLN AVE AND BUCHANAN INTERSECTIONS ALONG MAGNOLIA AVE.

**TRAFFIC HANDLING**  
 TRAFFIC WILL BE IN FINAL CONFIGURATION, CHANNELIZERS TO REDUCE LANES FROM 4 FOR CONSTRUCTION OF MEDIAN ISLANDS AT INTERSECTIONS.

**BNSF COORDINATION**  
 NO CROSSINGS ARE NO LONGER NEEDED.  
 CONTRACTORS WILL NEED BAY ACCESS TO RESTORE AREAS UNDER THE SUPERSTRUCTURE.  
 FLANKERS TO BE PRESENT DURING CONSTRUCTION.

**EXHIBIT "B"**

## EASEMENT AGREEMENT

### FOR CONSTRUCTION OF A SEPARATED GRADE CROSSING

(Overpass Agreement)

THIS EASEMENT AGREEMENT FOR CONSTRUCTING A NEW CROSSING AT SEPARATED GRADES ("**Easement Agreement**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2013 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("**Grantee**").

A. Grantor owns or controls certain real property situated at or near the vicinity of Riverside, County of Riverside, State of California, as described or depicted on **Exhibit "A-1"** attached hereto and made a part hereof (the "**Premises**").

B. Grantor and Grantee have entered into that certain Overpass Agreement dated as of \_\_\_\_\_ concerning improvements on or near the Premises (the "**Overpass Agreement**").

C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement and in the Overpass Agreement incorporated herein as if fully set forth in this instrument which terms shall be in full force and effect for purposes of this Easement even if the Overpass Agreement is, for whatever reason, no longer in effect.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **Section 1     Granting of Easement.**

- 1.1 **Easement Purpose.** The "**Easement Purpose**" shall be for the purposes set forth in the Overpass Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the Overpass Agreement.
- 1.2 **Grant.** Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"). Grantor may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the Overpass Agreement.
- 1.3 **Reservations by Grantor.** Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:
  - (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;

- (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
- (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

**Section 2 Terms of Easement.** The term of the permanent aerial and footing easements, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual. The term of the temporary easement, unless sooner terminated under provisions of this Easement Agreement, shall expire on the date that is twenty-four (24) months after the Effective Date.

**Section 3 No Warranty of Any Conditions of the Premises.** Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

**Section 4 Nature of Grantor's Interest in the Premises.** GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND GRANTEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. In case of the eviction of Grantee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Grantor of the affected rail corridor, Grantor shall not be liable to refund Grantee any compensation paid hereunder.

**Section 5 Improvements.** Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee

must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

**Section 6 Taxes and Recording Fees.** Grantee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Grantor or the Premises that are attributable to the Improvements. Grantee agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the Memorandum of Easement. In the event of Grantee's failure to do so, if Grantor shall become obligated to do so, Grantee shall be liable for all costs, expenses and judgments to or against Grantor, including all of Grantor's legal fees and expenses.

**Section 7 Environmental.**

7.1 **Compliance with Environmental Laws.** Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances" as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

7.2 **Notice of Release.** Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

7.3 **Remediation of Release.** In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

7.4 **Preventative Measures.** Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

7.5 **Evidence of Compliance.** Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 7**. Should Grantee not comply fully with the above-stated obligations of this **Section 7**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving ten (10) days' notice of termination upon



Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 9**.

## **Section 8**     **Default and Termination**

8.1     Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2     Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving ten (10) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

8.3     Effect of Termination or Expiration. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9**.

8.4     Non-exclusive Remedies. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the Overpass Agreement, at law or in equity.

## **Section 9**     **Surrender of Premises**

9.1     Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform **the following**:

- (a)     remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;
- (b)     repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;
- (c)     remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
- (d)     leave the Premises in the condition which existed as of the Effective Date.

9.2     Limited License for Entry. If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

**Section 10 Liens.** Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee pursuant to **Section 6**. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

**Section 11 Tax Exchange.** Grantor may assign its rights (but not its obligations) under this Easement Agreement to Goldfinch Exchange Company LLC, an exchange intermediary, in order for Grantor to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Grantor shall provide Grantee with a Notice of Assignment, attached as Exhibit C, and Grantee shall execute an acknowledgement of receipt of such notice.

**Section 12 Notices.** Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the Overpass Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

**Section 13 Recordation.** It is understood and agreed that this Easement Agreement shall not be in recordable form and shall not be placed on public record and any such recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as Exhibit "B-1" (the "**Memorandum of Easement**") subject to changes required, if any, to conform such form to local recording requirements. The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located. If a Memorandum of Easement is not executed by the parties and recorded as described above within 30 days of the Effective Date, Grantor shall have the right to terminate this Easement Agreement upon notice to Grantee.

**Section 14 Miscellaneous.**

14.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of California without regard to conflicts of law provisions.

14.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

14.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

14.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However,

nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

14.6 Time is of the essence for the performance of this Easement Agreement.

**ADMINISTRATIVE FEE**

15. Grantee acknowledges that a material consideration for this agreement, without which it would not be made, is the agreement between Grantee and Grantor, that the Grantee shall pay upon return of this Agreement signed by Grantee to Grantor's Broker a processing fee in the amount of \$2,000.00 over and above the agreed upon Acquisition Price. Said fee shall be made payable to BNSF Railway Company by a separate check.

[Signature page follows]

Witness the execution of this Easement Agreement as of the date first set forth above.

**GRANTOR:**

BNSF RAILWAY COMPANY, a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GRANTEE:**

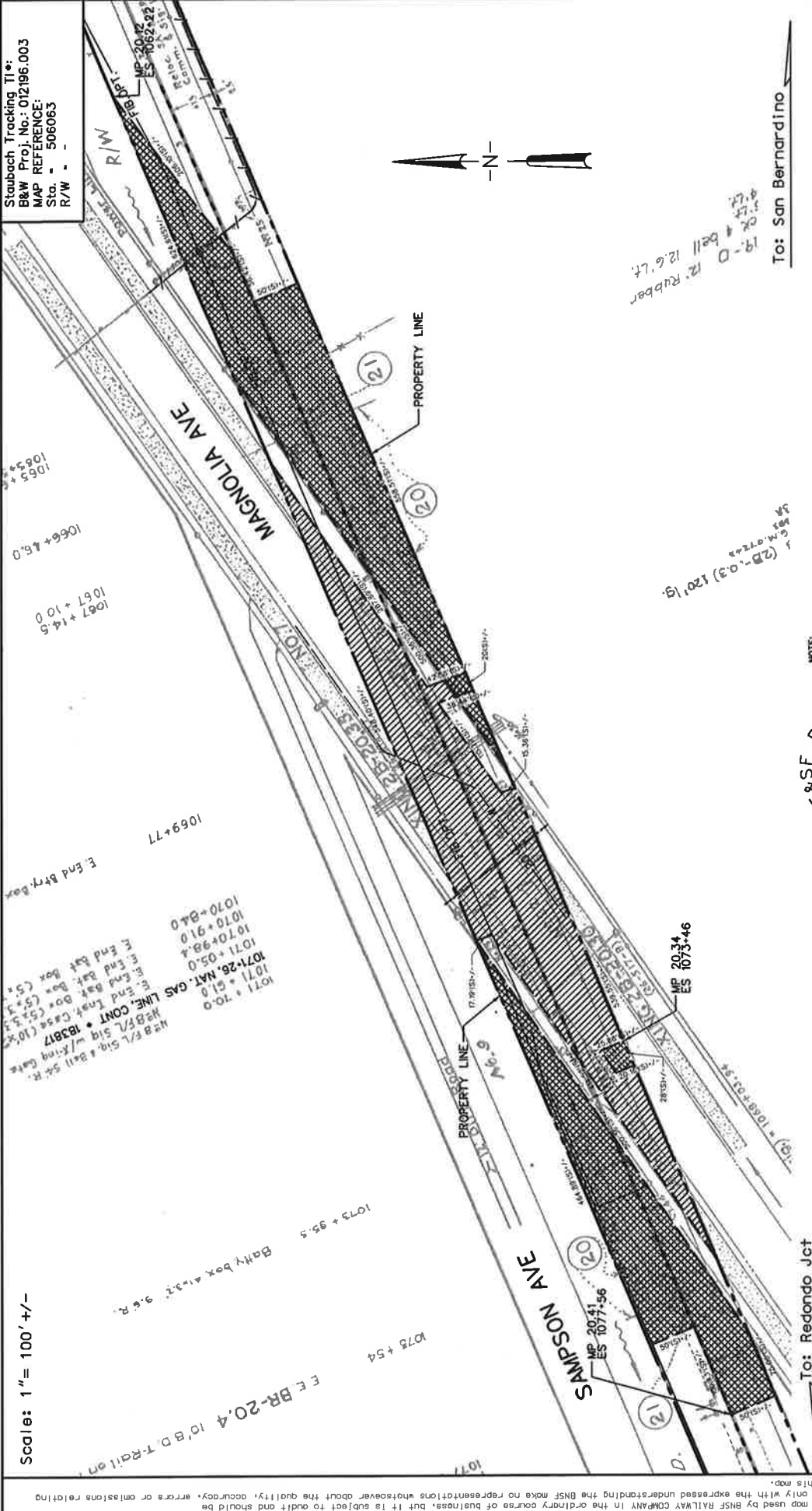
COUNTY OF RIVERSIDE, a political subdivision of  
the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "A-1"**

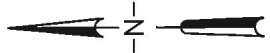
**Premises**

# EXHIBIT "A-1"

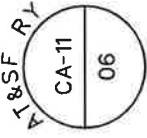


Scale: 1" = 100' +/-

Staebach Tracking T1\*  
 B&W Proj. No.: 012196.003  
 MAP REFERENCE:  
 STA. - 506063  
 R/W -



To: San Bernardino



NOTE: ALL RIGHT OF WAY SUBJECT TO EASEMENT NO. DAT-25334 TO BE SET ASHED FROM THE MAP OF THE CITY OF PALM SPRINGS TO THE CITY OF PALM SPRINGS AND THE CITY OF PALM SPRINGS. SUBJECT TO FEET OPTIC TOLERANCE.

MEASUREMENTS BASED ON PROVIDED SURVEYS  
 (S) MEASUREMENTS TAKEN OFF SURVEY  
 (M) MEASUREMENT

Legend:  
 [Hatched Area] Permanent Aerial Easement  
 [Hatched Area] Permanent Footing Easement  
 [Hatched Area] Temporary Construction Easement

To: Riverside County  
 Transportation Commission  
 At: Riverside  
 Riverside County  
 California

California Division  
 San Bernardino Subdivision  
 L.S. 7602-1 Val. Sec. 48060  
 AT&SF RY CA-11, Map 05  
 Sec. 1, R-SBM  
 April 04, 2013  
 M.P. 20.12-20.41 JHL

DRAWING NO. 3-57390

This map used by BNSF RAILWAY COMPANY in the ordinary course of business, but it is subject to audit and should be used only with the expressed understanding the BNSF make no representations whatsoever about the quality, accuracy, errors or omissions relating to this map.

**EXHIBIT "B-1"**

**MEMORANDUM OF EASEMENT**

**MEMORANDUM OF EASEMENT**

**THIS MEMORANDUM OF EASEMENT** is hereby executed this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and the **COUNTY OF RIVERSIDE**, a political subdivision of the State of California ("**Grantee**"), whose address for purposes of this instrument is \_\_\_\_\_, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

**WITNESSETH:**

**WHEREAS**, Grantor owns or controls certain real property situated in Riverside County, California, as described on **Exhibit "A-1"** attached hereto and incorporated herein by reference (the "**Premises**");

**WHEREAS**, Grantor and Grantee entered into an Easement Agreement, dated \_\_\_\_\_, 2013 (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

**WHEREAS**, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual.

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.



**IN WITNESS WHEREOF**, Grantor and Grantee have executed this Memorandum of Easement to as of the date and year first above written.

**GRANTOR:**

**BNSF RAILWAY COMPANY**, a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TARRANT**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2013,  
by \_\_\_\_\_ (name) as  
\_\_\_\_\_ (title) of **BNSF RAILWAY COMPANY**, a Delaware corporation.

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

(Seal)

**GRANTEE:**  
**COUNTY OF RIVERSIDE**, a political subdivision  
of the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_ (name) as  
\_\_\_\_\_, (title) of \_\_\_\_\_, a  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

(Seal)

# **EXHIBIT "C"**

## **To Construction and Maintenance Agreement**

### **CONTRACTOR REQUIREMENTS**

#### **Magnolia Ave Overpass**

#### **1.01 General**

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "Railway" where work is over or under on or adjacent to Railway property and/or right-of-way, hereafter referred to as "Railway Property", during the County of Riverside's ("County") **Construction of the Magnolia Ave Grade Separated Overpass Riverside County, CA, USDOT# 026517B on BNSF's San Bernardino Subdivision**.
- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit C-1 Agreement, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit C-1. Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.
- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.
- **1.01.04** The Contractor's right to enter Railway's Property is subject to the absolute right of Railway to cause the Contractor's work on Railway's Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway's Property, employees, and/or operations. Railway will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the Project work in a manner which is hazardous to Railway property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) COUNTY fails to pay Railway for the Temporary Construction License or the Easement. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. In the event of a breach of (i) the Exhibit C-1 Agreement, (ii) the Temporary Construction License, or (iii) the Easement, Railway may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the Project, Railway agrees to immediately notify the following individual in writing:

Patricia Romo, P.E.  
Deputy Director Transportation  
County of Riverside  
Transportation Department  
4080 Lemon Street, 8th floor  
Riverside, CA 92501  
Phone: (951)955-6740  
Fax: (951)955-3198  
E-mail: [PROMO@rctlma.org](mailto:PROMO@rctlma.org)

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under the Exhibit C-1 Agreement.
- **1.01.06** The Contractor must notify Patricia Romo, hereinafter referred to as ("**County**") and Railway's Manager Public Projects, telephone number 909-386-4472 at least thirty (30) calendar days before commencing any work on Railway Property. Contractor's notification to Railway must refer to Railway's file **BF10004340**.
- **1.01.07** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

- **1.01.08** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

### **1.02 Contractor Safety Orientation**

- **1.02.01** No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site [www.contractororientation.com](http://www.contractororientation.com). The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any work is performed on the Project. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.

### **1.03 Railway Requirements**

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by County.
- **1.03.02** The Contractor must notify the Railway's Division Engineer at 909-386-4504 and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.
- **1.03.03** The Contractor must abide by the following temporary clearances during construction:
  - 15'-0" Horizontally from centerline of nearest track
  - 21'-6" Vertically above top of rail
  - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
  - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
  - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
  - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts
- **1.03.04** Upon completion of construction, the following clearances shall be maintained:
  - 25' Horizontally from centerline of nearest track
  - 24.5' Vertically above top of rail

- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to County and must not be undertaken until approved in writing by the Railway, and until the County has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.
- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by County.
- **1.03.07** The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by COUNTY for approval before work is undertaken and this work must not be undertaken until approved by the Railway.
- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or materials across the Railways tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.
- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the **Railway's Resource Operations Center at 1(800) 832-5452**, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.
- **1.03.10** The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

#### **1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan**

- **1.04.01** Each Contractor that will perform work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site [www.contractororientation.com](http://www.contractororientation.com), which will be made available to Railway prior to commencement of any work on Railway Property.

During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.

### **1.05 Railway Flagger Services:**

- **1.05.01** The Contractor must give Railway's **Roadmaster (telephone 909-386-4061)** a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.
- **1.05.02** Unless determined otherwise by Railway's Project Representative, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:
  - **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.
  - **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.
  - **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.
  - **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
  - **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.
- **1.05.03** Flagging services will be performed by qualified Railway flaggers.
  - **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.
  - **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.

- **1.05.03c** The cost of flagger services provided by the Railway will be borne by COUNTY. The estimated cost for one (1) flagger is approximately between \$800.00-\$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**
- **1.05.03d** The current average train traffic on this route is 66 freight trains at 60 MPH and 22 passenger trains at 60 MPH.

### **1.06 Contractor General Safety Requirements**

- **1.06.01** Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations.
- **1.06.02** Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).
- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.
- **1.06.04** When Contractor employees are required to work on the Railway Property after normal working hours or on weekends, the Railway's representative in charge of the project must be notified. A minimum of two employees must be present at all times.
- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that



employee will be denied.

- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.
- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's Property.
- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, [www.contractororientation.com](http://www.contractororientation.com), however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**
- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.**
- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)
- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.
- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000

KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

### **1.07 Excavation:**

- **1.07.01** Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the Project work area. The Contractor must determine whether excavation on Railway's Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact **BNSF's Field Engineering Representative (909-386-4079)**. All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line.

**It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.**

- **1.07.02** The Contractor must cease all work and notify the Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.
- **1.07.03** All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.
- **1.07.04** Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

### **1.08 Hazardous Waste, Substances and Material Reporting:**

- **1.08.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under the Exhibit C-1 Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1(800) 832-5452, of such discovery: (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties: and (c) exercise due care with respect to the release, including the taking

of any appropriate measure to minimize the impact of such release.

## **1.09 Personal Injury Reporting**

- **1.09.01** The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.



# NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

(If injuries are in connection with rail equipment accident/incident, highway rail grade crossing accident or automobile accident, ensure that appropriate information is obtained, forms completed and that data entry personnel are aware that injuries relate to that specific event.)

### Injured Person Type:

- Passenger on train (C)
- Non-employee (N)   
*(i.e., emp of another railroad, or, non-BNSF emp involved in vehicle accident, including company vehicles)*
- Contractor/safety sensitive (CS)
- Contractor/non-safety sensitive (CN)
- Volunteer/safety sensitive (H)
- Volunteer/other non-safety sensitive (I)
- Non-trespasser (D) - to include highway users involved in highway rail grade crossing accidents who did not go around or through gates
- Trespasser (E) - to include highway users involved in highway rail grade crossing accidents who went around or through gates
- Non-trespasser (J) - Off Railway Property

If train involved, Train ID:

\_\_\_\_\_

Transmit attached information to Accident/Incident Reporting Center by:  
Fax 1-817-352-7595 or by Phone 1-800-697-6736 or email to: [Accident-Reporting.Center@BNSF.com](mailto:Accident-Reporting.Center@BNSF.com)

### Officer Providing Information:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Employee)

\_\_\_\_\_  
(Phone #)

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING  
REQUIREMENTS AND PROTECTED FROM DISCLOSURE PURSUANT TO 49  
U.S.C. 20903 AND 83 U.S.C. 490

# NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IT IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY

1. Accident City/St: \_\_\_\_\_ 2:  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

County: \_\_\_\_\_ 3. Temperature:  
\_\_\_\_\_ 4. Weather: \_\_\_\_\_  
(if non BNSF location)

Mile Post / Line Segment \_\_\_\_\_

5. Driver's License No. (and state) or other ID:  
\_\_\_\_\_ **SSN(required):** \_\_\_\_\_  
\_\_\_\_\_

6. Name (last, first, mi):  
\_\_\_\_\_  
\_\_\_\_\_

7. Address: \_\_\_\_\_ City:  
\_\_\_\_\_ St: \_\_\_\_\_ Zip: \_\_\_\_\_

8 Date of Birth: \_\_\_\_\_ and/or Age:  
\_\_\_\_\_ Gender: \_\_\_\_\_

(If available)  
Phone Number: \_\_\_\_\_  
Employer: \_\_\_\_\_

9. Injury: \_\_\_\_\_ 10. Body  
Part: \_\_\_\_\_  
(i.e. laceration, etc.)

(i.e. Hand, etc.)  
11. Description of Accident (To include location, action, result,  
etc.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Treatment:  
 First Aid Only  
\_\_\_\_\_  
\_\_\_\_\_

Required Medical Treatment

---

---

Other Medical Treatment

---

---

13. Dr. Name:

Date:

---

---

14: Dr. Address:

Street; \_\_\_\_\_ City:

St: \_\_\_\_\_ Zip: \_\_\_\_\_

---

15: Hospital Name:

---

---

16: Hospital Address:

Street; \_\_\_\_\_ City:

St: \_\_\_\_\_ Zip: \_\_\_\_\_

---

17: Diagnosis:

---

---

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS  
AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490



## EXHIBIT "C-1"

**Agreement  
Between  
BNSF RAILWAY COMPANY  
and the  
CONTRACTOR**

**BNSF RAILWAY COMPANY**  
**Attention: Manager Public Projects**

**Railway File: BF10004340**  
**Agency Project: Magnolia Ave Overpass Riverside County – 026517B**

The undersigned (hereinafter called, the "Contractor"), has entered into a contract (the "Contract") dated \_\_\_\_\_, 2013, with the **COUNTY of RIVERSIDE** ("County") for the performance of certain work in connection with the following project: **Construction of the Magnolia Ave Grade Separated Overpass Riverside County, CA, USDOT# 026517B on BNSF's San Bernardino Subdivision.**

Performance of such work will necessarily require Contractor to enter **BNSF RAILWAY COMPANY** ("Railway") right of way and property ("Railway Property"). The Contract provides that no work will be commenced within Railway Property until the Contractor employed in connection with said work for **COUNTY** (i) executes and delivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the coverage and limits specified in such Agreement and Section 3 herein. If this Agreement is executed by a party who is not the Owner, General Partner, President or Vice President of Contractor, Contractor must furnish evidence to Railway certifying that the signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Contract, has agreed and does hereby agree with Railway as follows:

### **Section 1. RELEASE OF LIABILITY AND INDEMNITY**

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's Property. **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF RAILWAY.**

**THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.**

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law. **THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILWAY FOR RAILWAY'S ACTS OF NEGLIGENCE.**

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

**Section 2. TERM**

This Agreement is effective from the date of the Contract until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

**Section 3. INSURANCE**

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post

2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to Railway.
- ◆ Additional insured endorsement in favor of and acceptable to Railway.
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to ***Railway*** employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this agreement.

B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
- ◆ Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- ◆ Waiver of subrogation in favor of and acceptable to Railway.
- ◆ Additional insured endorsement in favor of and acceptable to Railway.
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:

- ◆ Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- ◆ Waiver of subrogation in favor of and acceptable to Railway.

D. Railroad Protective Liability insurance naming only the **Railway** as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to remove any exclusion for punitive damages.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the **Railway** prior to performing any work or services under this Agreement
- ◆ Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate (if available) in Railway's Blanket Railroad Protective Liability Insurance Policy.

#### **Other Requirements:**

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

Contractor agrees to waive its right of recovery against **Railway** for all claims and suits against **Railway**. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against **Railway** for all claims and suits. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against **Railway** for loss of its owned or leased property or property under Contractor's care, custody, or control.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of **Railway**. If granted by **Railway**, self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all **Railway** liabilities that would

otherwise, in accordance with the provisions of this *Agreement*, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing the Work, Contractor shall furnish to *Railway* an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments. The certificate should be directed to the following addresses:

BNSF Railway Company  
c/o CertFocus  
P.O. Box 140528  
Kansas City, MO 64114  
Toll Free: 877-576-2378  
Fax number: 817-840-7487  
Email: [BNSF@certfocus.com](mailto:BNSF@certfocus.com)  
[www.certfocus.com](http://www.certfocus.com)

Contractor shall notify *Railway* in writing at least 30 days prior to any cancellation, non-renewal, substitution, or material alteration.

Any insurance policy must be written by a reputable insurance company acceptable to *Railway* or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provide.

If coverage is purchased on a "claims made" basis, Contractor hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Contractor agrees to provide evidence of such coverage as required hereunder.

Contractor represents that this *Agreement* has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this *Agreement*.

Not more frequently than once every five years, *Railway* may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain the insurance coverage(s) set forth herein, naming *Railway* as an additional insured, and shall require that the subcontractor shall release, defend, and indemnify *Railway* to the same extent and under the same terms and conditions as Contractor is required to release, defend, and indemnify *Railway* herein.

Failure to provide evidence as required by this section shall entitle, but not require, *Railway* to terminate this *Agreement* immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including,

without limitation, liability under the indemnity provisions of this *Agreement*. Damages recoverable by *Railway* shall not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving *Railway* arising out of this agreement, Contractor will make available any required policy covering such claim or lawsuit.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

For purposes of this section, *Railway* means “Burlington Northern Santa Fe LLC”, “BNSF RAILWAY COMPANY” and the subsidiaries, successors, assigns and affiliates of each.

#### **Section 4. EXHIBIT “C” CONTRACTOR REQUIREMENTS**

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Contract, and the Contractor Requirements set forth on Exhibit “C” attached to the Contract and this Agreement, , including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site.

#### **Section 5. TRAIN DELAY**

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. Damages for train delay are currently \$382.20 per hour per incident. **THE RATE THEN IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF TRAIN DELAY PURSUANT TO THIS AGREEMENT.**

**Contractor and its subcontractors must give Railway's representative (BNSF Project Engineer, 909-386-4079) four (4) weeks advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.**

**Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.**

Kindly acknowledge receipt of this letter by signing and returning to the Railway two original copies of this letter, which, upon execution by Railway, will constitute an Agreement between us.

\_\_\_\_\_  
**Contractor**

**BNSF Railway Company**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Name: \_\_\_\_\_  
Manager Public Projects

Title: \_\_\_\_\_

Accepted and effective this \_\_\_\_\_ day of 2013.

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Fax: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_



## EXHIBIT D

### Cost Estimate for Railroad Work

#### Track:

• <u>Flagging Estimate:</u>	<u>\$800,000</u>
• <u>Inspection Estimate:</u>	<u>\$200,000</u>
• <u>Track Work</u>	
▪ Temp at-grade detour xing (both tracks):	\$400,000
▪ Temp contractor at-grade xing - pipe gate/lock:	\$60,000
▪ Removal/Renewal to Standard of all xings and areas between:	\$800,000

#### Signal:

• Signal Detour:	\$250,000
• Signal Removal:	\$200,000

**TOTAL:** **\$2,710,000**

**EXHIBIT E**

[Public Projects Manager's letterhead]

Date: \_\_\_\_\_

Ms. Patricia Romo, P.E.  
Riverside County Transportation Department  
4080 Lemon Street, 8<sup>th</sup> Floor  
Riverside, CA 92501

Re: Final Approval of Plans and Specifications dated \_\_\_\_\_, 20\_\_\_\_,  
drafted by AECOM (hereinafter called, the "Plans and Specifications")

Dear Ms. Romo:

This letter serves as BNSF RAILWAY COMPANY's ("BNSF") final written approval of the Plans and Specifications covering the construction of Magnolia Avenue Grade Separation Project on BNSF's San Bernardino Subdivision, US DOT# 026517B. This final written approval is given to the County of Riverside ("Agency") pursuant to Article III, Section 1 of that certain Overpass Agreement between BNSF and Agency, dated \_\_\_\_\_, 2013.

If the Plans and Specifications are revised by Agency subsequent to the date set forth above, this letter shall no longer serve as final written approval of the Plans and Specifications and Agency must resubmit said Plans and Specifications to BNSF for final written approval.

It is understood that the approvals contained in this letter do not cover, the approvals of plans and specifications for any falsework, shoring, and demolition that may be subsequently submitted to BNSF by Agency or its contractor for approval.

BNSF review was limited exclusively to potential impacts on train operations. BNSF has not reviewed the design details or calculations for structural integrity or engineering accuracy. BNSF accepts no responsibility for errors or omissions in the design of the project.

Regards,

\_\_\_\_\_  
Melvin Thomas

## **EXHIBIT F**

### **BNSF Bridge Requirements**

#### **BRIDGE DESIGN, PLANS & SPECIFICATIONS:**

Except for the design of temporary falsework and shoring, BNSF review of the Structure plans will be limited to the vertical and horizontal clearances, sight distance for existing train signals, foundation dimensions and drainage characteristics as they relate to existing and future tracks. BNSF will not review structural design calculations for the permanent Structure unless a member or members are influenced by railroad live loads.

Temporary falsework and shoring plans and calculations must be reviewed and approved by BNSF prior to beginning construction. The Agency shall perform an independent review of the design calculations for temporary falsework and shoring prior to submitting them to BNSF for approval. Temporary construction clearances must be no less than 15 feet measured horizontally from the centerline of the nearest track and 21 feet-6inches measured vertically from the top of rail of the most elevated track to the bottom of lowest temporary falsework member. State regulatory agencies may have more restrictive requirements for temporary railroad clearances.

For the permanent Structure, the Agency will submit plans showing the least horizontal distance from the centerline of existing and future tracks to the face of the nearest member of the proposed Structure. The location of the least horizontal distance must be accurately described such that BNSF can determine where it will occur in both the horizontal and vertical plane. If the permanent member is within 25 feet of the nearest track (or future track), collision walls shall be incorporated into the permanent Structure design according to American Railway Engineering and Maintenance Association Manual of Recommended Practice - Chapter 8 - Article 2.1.5.

For the permanent Structure, the Agency will submit plans showing the least vertical clearance from top of the most elevated rail of existing and future tracks to the lowest point of the proposed Structure. A profile of the existing top of rail elevation shall be plotted on the bridge plans. The profile shall extend for 500 feet in each direction of the proposed overpass and a separate profile shall be plotted for each track. If the existing top of rail profile(s) is not uniform such that a sag exists in the vicinity of the proposed Structure, the permanent Structure vertical clearance shall be increased sufficiently to accommodate a raise in the track profile to remove the sag. Prior to beginning construction of the permanent Structure, the top of rail elevations should be checked and verified that they have not changed from the assumed elevations utilized for the design of the bridge.

Prior to issuing any invitation to bid on construction of the Structure, the Agency should conduct a pre-bid meeting where prospective Providers have the opportunity to

communicate with BNSF personnel regarding site specific train speeds, train density, and general safety requirements for men and equipment working near live tracks. Any invitation to bid and specifications for the Structure must be submitted to BNSF for review and approval prior to letting of bids for the Project.

#### **BRIDGE CONSTRUCTION:**

After awarding the bid, but prior to the Provider entering BNSF's right-of-way or property, the Agency should conduct a pre-construction meeting with BNSF personnel in attendance to reiterate the safety requirements of construction activity adjacent to live tracks.

During construction, BNSF may require an independent engineering inspector to be present during certain critical activities of the Project, including but not limited to: driving foundation piles, erecting falsework, construction of shoring and retaining walls, placing concrete, placing soil backfill and compaction processes. The Agency shall reimburse BNSF for all costs of supplemental inspection services.

Within 90 days of the conclusion of the Project and final acceptance by BNSF, the Agency will provide BNSF with a complete electronic set of the bridge plans labeled "As Built". Those plans will reflect any and all deviations from the original plans that occurred during construction. The "As Built" plans will be submitted in Micro Station \*.dgn electronic format (preferred) or AutoCAD \*.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. Actual measured "as constructed" clearances shall be shown as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities.

#### **BRIDGE MAINTENANCE:**

The Agency will be responsible for maintenance and repair of the Structure including the earth retention components, embankment slopes, erosion control, surface drainage, fencing, deck drains, landscaping, paint, walkways, handrails, lighting, and other improvements associated with the Project.

Fencing and other pedestrian access controls within BNSF's right-of-way and incorporated into the Project shall be designed and maintained by the Agency. Trespasser control shall be the responsibility of the Agency. Graffiti removal will be the responsibility of the Agency.

#### **BRIDGE INSPECTION:**

The Agency will conduct annual routine structural inspections. In the event of an earthquake, fire, flood, damage from vehicular impacts or other emergent situations, the Agency will provide an immediate inspection by qualified personnel and notify BNSF of damage that may affect safe passage of trains. If necessary the Agency will embargo weights or provide lane closures or other such measures to protect the structural integrity of the Structure such that there can be continuous safe passage of trains until repairs are made.

**BRIDGE ALTERATIONS:**

Except as provided otherwise by this Agreement, there will be no alterations made to the Structure that will alter the railroad vertical or horizontal clearances provided by the original design. Pipelines will not be added or attached to the Structure without first submitting plans and calculations to BNSF for review and approval.

**EXHIBIT G**

Magnolia Avenue Grade Separation Project  
Estimated Total Project Cost

**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share					BNSF Comments				Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF Sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	
A		ROADWAY ITEMS													
1	011508A	COLD PLANE ASPHALT CONCRETE PAVEMENT (17' MAX)	3,490	SY	\$7	\$24,430	No	0.0%	\$0	\$0					
2	011511A	REMOVE BUMPER POLE	5	EA	\$90	\$450	No	0.0%	\$0	\$0					
3	011511B	REMOVE BLOCK PLANTER WALL	50	LF	\$10	\$500	Yes	100.0%	\$500	\$25					
4	011511C	REMOVE PARKING BUMPER	30	EA	\$43	\$1,290	No	0.0%	\$0	\$0					
5	017302A	MINOR CONCRETE (LONGITUDINAL GUTTER)	130	LF	\$55	\$7,150	No	0.0%	\$0	\$0					
6	017304A	MINOR CONCRETE (CURB AND GUTTER) (CITY 200) (TYPE I)	1,030	LF	\$15.00	\$15,450	Yes	25.0%	\$3,863	\$193					Excluded Parking Lot improvements and area East of Buchanan, outside touch down area, and Buchanan St improvements
7	017304B	MINOR CONCRETE (CURB AND GUTTER) (DETAIL 3)	30	LF	\$15.00	\$450	Yes	100.0%	\$450	\$23					Curbs in front of MBGR (WB Magnolia)
8	017304C	MINOR CONCRETE (CURB AND GUTTER) (DETAIL 4)	63	LF	\$15.00	\$945	Yes	100.0%	\$945	\$47					Curbs in front of MBGR (WB Magnolia)
9	017305	MINOR CONCRETE (CURB AND GUTTER) (CRS201)	4,500	LF	\$15.00	\$67,500	Yes	73.0%	\$49,275	\$2,464					Excluded Frontage Rd and Buchanan St improvements
10	017309	MINOR CONCRETE (TYPE D CURB) (CRS 204)	1,530	LF	\$12.00	\$18,360	Yes	19.0%	\$3,488	\$174					Excluded Frontage Rd improvements
11	017309A	MINOR CONCRETE (CURB) (CITY 200) (TYPE II)	1,470	LF	\$20.00	\$29,400	Yes	12.0%	\$3,528	\$176					Excluded Buchanan St improvements
12	017309B	MINOR CONCRETE (RETAINING CURB)	250	CY	\$30.00	\$7,500	No	0.0%	\$0	\$0					
13	017310A	MINOR CONCRETE (DRIVEWAY APPROACH) (DETAIL 7)	2,210	SF	\$9.00	\$19,890	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
14	017310B	MINOR CONCRETE (DRIVEWAY APPROACH) (CITY 302) (TYPE CURB-II)	590	SF	\$9.00	\$5,310	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
15	017310C	MINOR CONCRETE (DRIVEWAY APPROACH) (CITY 302) (TYPE CURB-I)	340	SF	\$9.00	\$3,060	No	0.0%	\$0	\$0					At Buchanan intersection
16	017310D	MINOR CONCRETE (DRIVEWAY APPROACH) (DETAIL 9)	690	SF	\$9.00	\$5,670	Yes	100.0%	\$5,670	\$284					
17	017315	MINOR CONCRETE (CURB RAMP) (CRS 403 - CASE A)	2	EA	\$2,500.00	\$5,000	Yes	100.0%	\$5,000	\$250					
18	017316	MINOR CONCRETE (CURB RAMP) (CRS 403 - CASE B)	4	EA	\$2,500.00	\$10,000	Yes	100.0%	\$10,000	\$500					
19	017316A	MINOR CONCRETE (CURB RAMP) (CITY 304)	2	EA	\$2,500.00	\$5,000	No	0.0%	\$0	\$0					At Buchanan intersection
20	017316B	MINOR CONCRETE (CURB RAMP) (DETAIL 1)	1	EA	\$1,000.00	\$1,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
21	018001A	WROUGHT IRON FENCE	17	LF	\$80.00	\$1,360	No	0.0%	\$0	\$0					
22	070012	PROGRESS SCHEDULE (CRITICAL PATH METHOD)	1	LS	\$8,000.00	\$8,000	Yes	100.0%	\$8,000	\$400					
23	150605A	REMOVE WROUGHT IRON FENCE AND GATE	70	LF	\$10.00	\$700	No	0.0%	\$0	\$0					
24	150608	REMOVE CHAIN LINK FENCE	120	LF	\$4.50	\$540	No	0.0%	\$0	\$0					
25	150662	REMOVE METAL BEAM GUARD RAILING	640	LF	\$12.00	\$7,680	Yes	100.0%	\$7,680	\$364					
26	150771	REMOVE ASPHALT CONCRETE DIKE	660	LF	\$4.00	\$2,640	Yes	100.0%	\$2,640	\$132					
27	150805	REMOVE CULVERT	70	LF	\$30.00	\$2,100	No	0.0%	\$0	\$0					
28	150829	REMOVE RETAINING WALL	70	LF	\$40.00	\$2,800	No	0.0%	\$0	\$0					

**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments				Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)		
29	150833	REMOVE MASONRY WALL	370	LF	\$ 40.00	\$14,800	Yes	100.0%	\$14,800	\$740						
30	150846	REMOVE CONCRETE PAVEMENT	470	SY	\$ 25.00	\$11,750	No	0.0%	\$0	\$0					Part of Frontage Rd improvements	
31	150857A	REMOVE ASPHALT CONCRETE	5,050	SY	\$ 49.00	\$247,450	Yes	65.0%	\$160,843	\$8,042						
32	150857A	REMOVE ASPHALT CONCRETE WALKWAY	250	SY	\$ 54.00	\$13,500	No	0.0%	\$0	\$0						
33	152865A	RECONSTRUCT BACKFLOW PREVENTER AND COVER	9	EA	\$2,000	\$18,000	Yes	100.0%	\$18,000	\$900						
34	152370	RELOCATE MAILBOX	4	EA	\$ 250.00	\$1,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements	
35	152379A	RELOCATE WROUGHT IRON FENCE AND GATE	60	LF	\$ 35.00	\$2,100	No	0.0%	\$0	\$0					Part of Frontage Rd improvements	
36	152380A	RELOCATE CHAIN LINK FENCE & GATE	560	LF	\$ 35.00	\$19,600	No	0.0%	\$0	\$0					Part of Frontage Rd improvements	
37	152390A	RECONSTRUCT MONUMENT SIGN	2	EA	\$ 22,000.00	\$44,000	Yes	50.0%	\$22,000	\$1,100					Only one sign within BNSF limits	
38	153214	REMOVE CONCRETE CURB	3,920	LF	\$ 5.00	\$19,600	Yes	65.0%	\$12,740	\$637						
39	153215	REMOVE CONCRETE (CURB AND GUTTER)	7,990	LF	\$ 10.00	\$79,900	Yes	65.0%	\$51,935	\$2,597						
40	153140	REMOVE CONCRETE SIDEWALK	1,490	SY	\$ 36.00	\$53,640	Yes	65.0%	\$34,866	\$1,743						
41	153246A	REMOVE CONCRETE (DITCH)	1,980	LF	\$ 9.00	\$17,820	Yes	78.0%	\$13,900	\$695						
42	153246B	REMOVE CONCRETE (PAVERS)	7,060	SY	\$36	\$254,160	Yes	72.0%	\$182,995	\$9,150					Located in Existing Median	
43	153246C	REMOVE CONCRETE (ACCESS RAMP)	260	SY	\$ 36.00	\$9,360	Yes	100.0%	\$9,360	\$468						
44	153246D	REMOVE CONCRETE (DRIVEWAY & APPROACH)	420	SY	\$ 36.00	\$15,120	Yes	65.0%	\$9,828	\$491						
45	153246E	REMOVE CONCRETE (CROSS GUTTER AND SPANDRAL)	200	SY	\$ 36.00	\$7,200	Yes	100.0%	\$7,200	\$360						
46	153246F	REMOVE CONCRETE (PLASTER)	1	EA	\$ 400.00	\$400	Yes	100.0%	\$400	\$20						
47	153246G	REMOVE CONCRETE (STAMPED)	3,550	SY	\$ 36.00	\$127,800	Yes	70.0%	\$89,460	\$4,473					Located in Existing Median	
48	160101	CLEARING AND GRUBBING (SEE SPECIAL PROVISIONS FOR ADDITIONAL WORK)	1	LS	\$ 45,000.00	\$45,000	Yes	100.0%	\$45,000	\$2,250					Using the pavement total percentage area stated in the description of the writeup.	
49	160120	REMOVE TREE	190	EA	\$ 800.00	\$152,000	Yes	65.0%	\$98,800	\$4,940					Using the pavement total percentage area stated in the description of the writeup.	
50	160120A	REMOVE TREE (PALM)	32	EA	\$ 1,800.00	\$57,600	Yes	65.0%	\$37,440	\$1,872					Using the pavement total percentage area stated in the description of the writeup.	
51	190110	LEAD COMPLIANCE PLAN	1	LS	\$ 3,500.00	\$3,500	Yes	100.0%	\$3,500	\$175						
52	198010	IMPORTED BORROW	10,800	CY	\$ 20.00	\$216,000	Yes	100.0%	\$216,000	\$10,800						
53	260201	CLASS 2 AGGREGATE BASE	11,200	CY	\$ 28.00	\$313,600	Yes	72.0%	\$225,792	\$11,290					Excludes Frontage Rd improvements and Buchanan St Improvements	
54	377501	SLURRY SEAL	580	SY	\$ 5.00	\$2,900	No	0.0%	\$0	\$0						
55	380101	ASPHALT CONCRETE (OVERLAY)	31,400	SF	\$ 2.50	\$78,500	No	0.0%	\$0	\$0					Overlay is outside Touchdown Area	
56	390132	HOT MIX ASPHALT (TYPE A)	15,500	TON	\$ 85.00	\$1,317,500	Yes	75.0%	\$988,125	\$49,406					Excludes Frontage Rd improvements and Buchanan St Improvements	



**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments			Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	
57	401000	CONCRETE PAVEMENT	630	CY	\$ 285.00	\$166,950	No	0.0%	\$0	\$0				Part of Frontage Rd improvements	
58	513553	RETAINING WALL (MASONRY WALL)	30	LF	\$ 200.00	\$6,000	No	0.0%	\$0	\$0					
59	513570A	CONCRETE BLOCK WALL (SLOUGH)	120	LF	\$ 100.00	\$12,000	No	0.0%	\$0	\$0					
60	513570B	CONCRETE BLOCK WALL (SECURITY)	200	LF	\$ 250.00	\$50,000	Yes	100.0%	\$50,000	\$2,500					
61	513570C	CONCRETE BLOCK WALL (ENCLOSURE)	170	LF	\$ 300.00	\$51,000	Yes	100.0%	\$51,000	\$2,550					
62	598001	ANTI-GRAFFITI COATING	69,900	SF	\$ 2.00	\$139,800	Yes	100.0%	\$139,800	\$6,990				Structure Cost	
63	731519	MINOR CONCRETE (STAMPED CONCRETE)	330	SF	\$ 11.00	\$3,630	Yes	100.0%	\$3,630	\$182					
64	731521	MINOR CONCRETE (SIDEWALK)	10,170	SF	\$ 10.00	\$101,700	Yes	100.0%	\$101,700	\$5,085					
65	735000	PARKING BUMPER (PRECAST CONCRETE)	27	EA	\$ 45.00	\$1,215	No	0.0%	\$0	\$0					
66	800300A	CHAIN LINK FENCE (H = 6)	1,500	LF	\$ 35.00	\$52,500	Yes	100.0%	\$52,500	\$2,625					
67	800360	CHAIN LINK FENCE (TYPE CL-6)	210	LF	\$ 67.00	\$14,070	Yes	57.0%	\$8,020	\$401				Structure Cost	
68	801340A	26" WROUGHT IRON GATE	1	EA	\$ 1,000.00	\$1,000	No	0.0%	\$0	\$0					
69	802620	16" CHAIN LINK GATE (TYPE CL-6)	2	EA	\$ 850.00	\$1,700	Yes	100.0%	\$1,700	\$85					
70	833000A	METAL RAILING (RAMP)	330	LF	\$ 150.00	\$49,500	Yes	57.0%	\$28,215	\$1,411				Structure Cost	
71	833000B	METAL RAILING (BRIDGE)	3,000	LF	\$ 300.00	\$900,000	Yes	57.0%	\$513,000	\$25,650				Structure Cost	
72	833000C	METAL RAILING (27 INCH)	170	LF	\$ 150.00	\$25,500	Yes	57.0%	\$14,535	\$727				Structure Cost	
73	833088A	TUBULAR HANDRAILING (22-INCH)	1,500	LF	\$ 70.00	\$105,000	Yes	57.0%	\$59,850	\$2,993				Structure Cost	
74	833142	CONCRETE BARRIER (TYPE 26 MODIFIED)	140	LF	\$ 155.00	\$21,700	Yes	57.0%	\$12,369	\$618				Structure Cost	
75	833142A	CONCRETE PARAPET	1,510	LF	\$ 125.00	\$188,750	Yes	57.0%	\$107,588	\$5,379				Structure Cost	
76	839541	TRANSITION RAILING (TYPE WB)	1	EA	\$ 3,500.00	\$3,500	Yes	100.0%	\$3,500	\$175				On Magnolia at MBGR	
77	839565	ALTERNATIVE FLARED TERMINAL SYSTEM	1	EA	\$ 2,500.00	\$2,500	Yes	100.0%	\$2,500	\$125					
78	839601A	CRASH CUSHION (TYPE TRACC)	1	EA	\$ 6,000.00	\$6,000	Yes	100.0%	\$6,000	\$300				EB Magnolia	
79	839704A	CONCRETE BARRIER (TYPE 60D MODIFIED)	700	LF	\$ 66.00	\$46,200	Yes	57.0%	\$26,334	\$1,317				Structure Cost	
80	839717	CONCRETE BARRIER (TYPE 732 MODIFIED)	3,910	LF	\$ 145.00	\$566,950	Yes	57.0%	\$323,162	\$16,156				Structure Cost	
81	839717A	CONCRETE BARRIER (TYPE 732/60D MODIFIED)	330	LF	\$ 180.00	\$59,400	Yes	57.0%	\$33,858	\$1,693				Structure Cost	
82	839721	CONCRETE BARRIER (TYPE 732A)	180	LF	\$ 135.00	\$24,300	Yes	57.0%	\$13,851	\$693				Structure Cost	
83	839770A	CITRUS LABEL TILES	23	EA	\$ 5,500.00	\$126,500	Yes	57.0%	\$72,105	\$3,605				Structure Cost	
84	839770B	INTERPRETIVE PANEL TILES	10	EA	\$ 16,500.00	\$165,000	Yes	57.0%	\$94,050	\$4,703				Structure Cost	
		<b>SUBTOTAL</b>				<b>\$5,998,840</b>			<b>\$3,897,133</b>	<b>\$194,857</b>					

**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments	Remarks		
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?			% subject to BNSF sharing	Cost Subject to BNSF Sharing
B		STORM DRAIN													
85	000003	GRATING CATCH BASIN (W=6'40", SPPWC 304-3)	4	EA	\$ 4,500.00	\$18,000	Yes	100.0%	\$18,000	\$900					
86	000003	GRATING CATCH BASIN (W=2'95", SPPWC 304-3)	1	EA	\$ 3,000.00	\$3,000	Yes	100.0%	\$3,000	\$150					
87	000003	PRECAST CATCH BASIN (2' x 2')	1	EA	\$ 2,500.00	\$2,500	No	0.0%	\$0	\$0					South West corner of Magnolia and Lincoln
88	000003	MANHOLE (CITY 431)	1	EA	\$ 6,500.00	\$6,500	Yes	100.0%	\$6,500	\$325					
89	000003	TRANSITION STRUCTURE RCB-PIPE (SPPWC 342-2)	2	EA	\$ 2,500.00	\$5,000	No	0.0%	\$0	\$0					
90	000003	REINFORCED CONCRETE BOX (3' X 1.5') (CALTRANS D80)	58	LF	\$ 180.00	\$10,440	No	0.0%	\$0	\$0					
91	000003	JUNCTION STRUCTURE (CITY 422)	2	EA	\$ 2,500.00	\$5,000	No	0.0%	\$0	\$0					
92	011511D	RECONSTRUCT BOLLARD	5	EA	\$ 50.00	\$250	No	0.0%	\$0	\$0					
93	013902	ASPHALT CONCRETE OVERSIDE DRAIN (CRS 306)	2	EA	\$800	\$1,600	No	0.0%	\$0	\$0					Directs bridge flows to Water Quality Basin
94	015101	CLASS B CONCRETE (COLLAR) (RCFC&WCD M803)	6	EA	\$ 1,000.00	\$6,000	Yes	50.0%	\$3,000	\$150					3/6 are part of BNSF area
95	017003A	CATCH BASIN (CURB INLET, W=21") (CRS 300)	1	EA	\$10,000	\$10,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements - South East corner of Magnolia and Lincoln
96	017003B	CATCH BASIN (CURB INLET, W=14") (CRS 300)	1	EA	\$8,000	\$8,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
97	017003C	CATCH BASIN (CURB INLET, W=7") (CRS 300)	1	EA	\$5,000	\$5,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
98	017003D	CATCH BASIN (CURB INLET, W=4") (CRS 300)	3	EA	\$ 4,000.00	\$12,000	Yes	33.0%	\$3,960	\$198					Excluded Frontage Rd improvements
99	017003E	CATCH BASIN TYPE 1 (W=14", CITY 400)	3	EA	\$ 8,000.00	\$24,000	Yes	33.0%	\$7,920	\$396					Excluded Frontage Rd improvements
100	017003F	CATCH BASIN (W=14", CITY 407)	1	EA	\$ 8,000.00	\$8,000	No	0.0%	\$0	\$0					South West corner of Magnolia and Buchanan
101	017005A	CATCH BASIN NO.2 (COMBINATION INLET, W=2'95") (CRS 302 - NO.2)	1	EA	\$ 3,000.00	\$3,000	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
102	017005B	CATCH BASIN NO.2 (COMBINATION INLET, W=6'40") (CRS 302 - NO.2)	1	EA	\$ 4,500.00	\$4,500	No	0.0%	\$0	\$0					Part of Frontage Rd improvements
103	017101	MANHOLE (RCFC&WCDS MH251)	2	EA	\$ 4,500.00	\$9,000	Yes	50.0%	\$4,500	\$225					Excluded Frontage Rd improvements
104	017101A	MANHOLE NO.4 (RCFC&WCDS MH254)	1	EA	\$ 6,500.00	\$6,500	No	0.0%	\$0	\$0					Lincoln and Magnolia intersection
105	017104A	JUNCTION STRUCTURE (RCFC&WCDS JS 227)	6	EA	\$ 2,500.00	\$15,000	Yes	83.0%	\$12,450	\$623					5/6 are included in the BNSF area
106	017104B	JUNCTION STRUCTURE (RCFC&WCDS JS 229)	1	EA	\$ 2,000.00	\$2,000	Yes	100.0%	\$2,000	\$100					Connection for deck drains to line 4
107	150206	ABANDON CULVERT	720	LF	\$ 28.00	\$20,160	Yes	65.0%	\$13,104	\$655					
108	150807A	REMOVE STORM DRAIN (12")	21	LF	\$ 30.00	\$630	Yes	65.0%	\$410	\$20					
109	150806B	REMOVE STORM DRAIN (15")	81	LF	\$ 30.00	\$2,430	Yes	65.0%	\$1,580	\$79					
110	150806C	REMOVE STORM DRAIN (18")	590	LF	\$ 30.00	\$17,700	Yes	65.0%	\$11,505	\$575					
111	150806D	REMOVE STORM DRAIN (21")	150	LF	\$ 30.00	\$4,500	Yes	65.0%	\$2,925	\$146					
112	150806E	REMOVE STORM DRAIN (33")	38	LF	\$ 30.00	\$1,140	Yes	65.0%	\$741	\$37					
113	150807F	REMOVE STORM DRAIN (18") ASBESTOS	144	LF	\$ 100.00	\$14,400	Yes	65.0%	\$9,360	\$468					

**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments				Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)		
114	150820	REMOVE CATCH BASIN (EXISTING)	9	EA	\$ 800.00	\$7,200	Yes	100.0%	\$7,200	\$960						
115	150821	REMOVE HEADWALL (EXISTING)	4	EA	\$ 570.00	\$2,280	Yes	100.0%	\$2,280	\$114						
116	150826	REMOVE MANHOLE (EXISTING)	1	EA	\$ 1,200.00	\$1,200	Yes	100.0%	\$1,200	\$60						
117	155003	CAP INLET	2	EA	\$ 1,300.00	\$2,600	Yes	50.0%	\$1,300	\$65					Only one is within BNSF area	
118	190101A	DETENTION BASIN EXCAVATION	360	CY	\$ 40.00	\$14,400	No	0.0%	\$0	\$0					Structure Cost	
119	510535	MINOR CONCRETE (HEADWALL)	1	EA	\$ 2,500.00	\$2,500	No	0.0%	\$0	\$0						
120	620800	CONCRETE BACKFILL (PIPE TRENCH)	2	CY	\$ 250.00	\$500	No	0.0%	\$0	\$0						
121	650014	18" REINFORCED CONCRETE PIPE	560	LF	\$ 100.00	\$56,000	Yes	71.0%	\$39,760	\$1,968						
122	650018	24" REINFORCED CONCRETE PIPE	1,500	LF	\$ 150.00	\$225,000	Yes	46.0%	\$103,500	\$5,175					Excluded Frontage Rd improvements	
123	650024	33" REINFORCED CONCRETE PIPE	110	LF	\$ 200.00	\$22,000	Yes	75.0%	\$16,500	\$925					Excluded Frontage Rd improvements	
124	650026	36" REINFORCED CONCRETE PIPE	560	LF	\$ 200.00	\$112,000	Yes	63.0%	\$70,560	\$3,528						
125	665036	36" CORRUGATED STEEL PIPE (.079" THICK)	10	LF	\$ 200.00	\$2,000	No	0.0%	\$0	\$0						
126	680254A	CLEANOUT BOX (CITY 425)	1	EA	\$ 1,500.00	\$1,500	No	0.0%	\$0	\$0						
127	700617	DRAINAGE INLET MARKER	19	EA	\$ 90.00	\$1,710	Yes	63.0%	\$1,077	\$54					Part of Water Quality Basin	
128	703225	CORRUGATED STEEL PIPE RISER (.138" THICK)	1	EA	\$ 4,100.00	\$4,100	No	0.0%	\$0	\$0						
129	705514	8" WELDED STEEL PIPE (.105" THICK)	62	LF	\$ 75.00	\$4,650	Yes	100.0%	\$4,650	\$233						
130	705204	18" CONCRETE FLARED END SECTION	1	EA	\$ 1,800.00	\$1,800	No	0.0%	\$0	\$0						
131	707117A	PRECAST CONCRETE PIPE INLET (CALTRANS D75B)	1	EA	\$ 5,400.00	\$5,400	No	0.0%	\$0	\$0						
132	721011	ROCK SLOPE PROTECTION - BACKING NO.2, METHOD B	37	CY	\$ 160.00	\$5,920	No	0.0%	\$0	\$0					Part of Water Quality Basin	
133	721420	CONCRETE (DITCH LINING)	13	CY	\$ 460.00	\$5,980	No	0.0%	\$0	\$0						
134	721431	CONCRETE (CONCRETE APRON)	1	CY	\$ 580.00	\$580	No	0.0%	\$0	\$0					Part of Water Quality Basin	
135	729010	ROCK SLOPE PROTECTION FABRIC	600	SF	\$ 2.50	\$1,500	No	0.0%	\$0	\$0					Part of Water Quality Basin	
136	731502A	MINOR CONCRETE (INLET DEPRESSION) (CALTRANS D78C)	4	CY	\$ 650.00	\$2,600	Yes	100.0%	\$2,600	\$130					Part of the bridge	
137	731507A	MINOR CONCRETE (GUTTER DEPRESSION) (CRS 311)	13	CY	\$ 650.00	\$8,450	Yes	65.0%	\$5,493	\$275					Excluded Frontage Rd improvements	
138	731507B	MINOR CONCRETE (GUTTER DEPRESSION) (CRS 312)	1	CY	\$ 650.00	\$650	No	0.0%	\$0	\$0					Part of Frontage Rd improvements	
		<b>SUBTOTAL</b>				<b>\$718,770</b>			<b>\$357,074</b>	<b>\$17,654</b>						
C		<b>STORM WATER POLLUTION PREVENTION PLAN AND IMPLEMENTATION</b>														
139	074020	WATER POLLUTION CONTROL	1	LS	\$ 79,998.25	\$79,998	Yes	65.0%	\$51,998	\$2,600						
		<b>SUBTOTAL</b>				<b>\$79,998</b>			<b>\$51,999</b>	<b>\$2,600</b>						



**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments				Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)		
162	153121	REMOVE CONCRETE	6	CY	\$ 300.00	\$1,800	Yes	57.0%	\$1,026	\$51				Structure Cost		
163	192003	STRUCTURE EXCAVATION (BRIDGE)	1,560	CY	\$ 65.00	\$101,400	Yes	57.0%	\$57,798	\$2,890				Structure Cost		
164	192037	STRUCTURE EXCAVATION (RETAINING WALL)	240	CY	\$ 70.00	\$16,800	Yes	57.0%	\$9,576	\$479				Structure Cost		
165	193003	STRUCTURE BACKFILL (BRIDGE)	1,230	CY	\$ 50.00	\$61,500	Yes	57.0%	\$35,055	\$1,753				Structure Cost		
166	193013	STRUCTURE BACKFILL (RETAINING WALL)	220	CY	\$ 75.00	\$16,500	Yes	57.0%	\$9,405	\$470				Structure Cost		
167	477021	MECHANICALLY STABILIZED EMBANKMENT, LOCATION A	8,700	SF	\$ 65.00	\$565,500	Yes	57.0%	\$322,335	\$16,117				Structure Cost		
168	477022	MECHANICALLY STABILIZED EMBANKMENT, LOCATION B	8,300	SF	\$ 60.00	\$498,000	Yes	57.0%	\$283,860	\$14,193				Structure Cost		
169	477023	MECHANICALLY STABILIZED EMBANKMENT, LOCATION C	1,710	SF	\$ 60.00	\$102,600	Yes	57.0%	\$58,482	\$2,924				Structure Cost		
170	479028A	MECHANICALLY STABILIZED EMBANKMENT (TEMPORARY RETAINING WALL)	4,600	SF	\$ 32.00	\$147,200	Yes	57.0%	\$83,904	\$4,195				Structure Cost		
171	48XXX3	FALSEWORK SYSTEM	1	LS	\$ 1,000,000.00	\$1,000,000	Yes	57.0%	\$570,000	\$28,500				Structure Cost		
172	490508	FURNISH STEEL PILING (HP 10 X 57)	260	LF	\$ 30.00	\$7,800	Yes	57.0%	\$4,446	\$222				Structure Cost		
173	490509	DRIVE STEEL PILE (HP 10 X 57)	10	EA	\$ 1,100.00	\$11,000	Yes	57.0%	\$6,270	\$314				Structure Cost		
174	490528	FURNISH STEEL PILING (HP 14 X 89)	4,360	LF	\$ 60.00	\$262,800	Yes	57.0%	\$149,796	\$7,490				Structure Cost		
175	490529	DRIVE STEEL PILING (HP 14 X 89)	120	EA	\$ 1,350.00	\$162,000	Yes	57.0%	\$92,340	\$4,617				Structure Cost		
176	490623	156" CAST-IN-DRILLED-HOLE CONCRETE PILING	1,520	LF	\$ 2,200.00	\$3,344,000	Yes	57.0%	\$1,906,080	\$95,304				Structure Cost		
177	499XXX	POST GROUTING CIDH PILE	7	EA	\$ 40,000.00	\$280,000	Yes	57.0%	\$159,600	\$7,980				Structure Cost		
178	500001A	PRESTRESSING CAST-IN-PLACE CONCRETE (LONGITUDINAL)	1	LS	\$ 974,000.00	\$974,000	Yes	57.0%	\$555,180	\$27,759				Structure Cost		
179	500001B	PRESTRESSING CAST-IN-PLACE CONCRETE (TRANSVERSE)	1	LS	\$ 364,000.00	\$364,000	Yes	57.0%	\$207,480	\$10,374				Structure Cost		
180	510051	STRUCTURAL CONCRETE, BRIDGE FOOTING	310	CY	\$ 350.00	\$108,500	Yes	57.0%	\$61,845	\$3,082				Structure Cost		
181	510053	STRUCTURAL CONCRETE, BRIDGE	13,400	CY	\$ 545.00	\$7,303,000	Yes	57.0%	\$4,162,710	\$208,156				Structure Cost		
182	510060	STRUCTURAL CONCRETE, RETAINING WALL	120	CY	\$ 490.00	\$58,800	Yes	57.0%	\$33,516	\$1,676				Structure Cost		
183	510072	STRUCTURAL CONCRETE (BARRIER SLAB)	520	CY	\$ 400.00	\$208,000	Yes	57.0%	\$118,560	\$5,928				Structure Cost		
184	510072A	STRUCTURAL CONCRETE (SIDEWALK SLAB)	65	CY	\$ 500.00	\$32,500	Yes	57.0%	\$18,525	\$926				Structure Cost		
185	510086	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE N)	200	CY	\$ 600.00	\$120,000	Yes	57.0%	\$68,400	\$3,420				Structure Cost		
186	510502A	MINOR CONCRETE (CONCRETE BULKHEAD)	16	EA	\$ 2,000.00	\$32,000	Yes	57.0%	\$18,240	\$912				Structure Cost		
187	511035	ARCHITECTURAL TREATMENT	3,100	SF	\$ 10.00	\$31,000	Yes	57.0%	\$17,670	\$884				Structure Cost		
188	518051A	PTFE SPHERICAL BEARING (HINGE)	7	EA	\$ 5,500.00	\$38,500	Yes	57.0%	\$21,945	\$1,097				Structure Cost		
189	518051B	PTFE SPHERICAL BEARING (ABUTMENT 1)	7	EA	\$ 6,100.00	\$42,700	Yes	57.0%	\$24,339	\$1,217				Structure Cost		
190	519095	JOINT SEAL ASSEMBLY (MR 4")	80	LF	\$ 225.00	\$18,000	Yes	57.0%	\$10,260	\$513				Structure Cost		
191	519107A	JOINT SEAL ASSEMBLY (MR 10 1/2")	77	LF	\$ 1,350.00	\$103,950	Yes	57.0%	\$59,252	\$2,963				Structure Cost		

**County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share**

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share						BNSF Comments			Remarks
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	
192	519109	JOINT SEAL-ASSEMBLY (MR 6 1/2")	80	LF	\$ 650.00	\$52,000	Yes	57.0%	\$29,640	\$1,482				Structure Cost	
193	520102	BAR REINFORCING STEEL (BRIDGE)	4,860,000	LB	\$ 0.85	\$4,131,000	Yes	57.0%	\$2,354,670	\$117,734				Structure Cost	
194	520103	BAR REINFORCING STEEL (RETAINING WALL)	6,200	LB	\$ 0.80	\$6,560	Yes	57.0%	\$3,739	\$187				Structure Cost	
195	550102	STRUCTURAL STEEL (BRIDGE)	27,100	LB	\$ 15.00	\$406,500	Yes	57.0%	\$231,705	\$11,585				Structure Cost	
196	550203	FURNISH STRUCTURAL STEEL (BRIDGE)	22,500	LB	\$ 3.00	\$67,500	Yes	57.0%	\$38,475	\$1,924				Structure Cost	
197	550204	ERECT STRUCTURAL STEEL (BRIDGE)	22,500	LB	\$ 15.00	\$337,500	Yes	57.0%	\$192,375	\$9,619				Structure Cost	
198	590115	CLEAN AND PAINT STRUCTURAL STEEL	1	LS	\$ 44,500.00	\$44,500	Yes	57.0%	\$25,365	\$1,268				Structure Cost	
199	703460A	32" WELDED STEEL PIPE CASING (BRIDGE)	84	LF	\$ 160.00	\$13,440	Yes	57.0%	\$7,661	\$383				Structure Cost	
200	750041	ISOLATION CASING	29,200	LB	\$ 2.80	\$81,760	Yes	57.0%	\$46,603	\$2,330				Structure Cost	
201	750496	MISCELLANEOUS METAL (RESTRAINER - PIPE TYPE)	15,100	LB	\$ 6.50	\$98,150	Yes	57.0%	\$55,946	\$2,797				Structure Cost	
202	750498	MISCELLANEOUS METAL (RESTRAINER - CABLE TYPE)	1,770	LB	\$ 9.00	\$15,930	Yes	57.0%	\$9,080	\$454				Structure Cost	
203	750501	MISCELLANEOUS METAL (BRIDGE)	6,610	LB	\$ 8.00	\$52,880	Yes	57.0%	\$30,142	\$1,507				Structure Cost	
204	750505	BRIDGE DECK DRAIN SYSTEM	12,000	LB	\$ 10.00	\$120,000	Yes	57.0%	\$68,400	\$3,420				Structure Cost	
205	830088A	TUBULAR HANDRAILING (22-INCH)	1,400	LF	\$ 70.00	\$98,000	Yes	57.0%	\$55,860	\$2,793				Structure Cost	
206	839721	CONCRETE BARRIER (TYPE 732A)	180	LF	\$ 100.00	\$18,000	Yes	57.0%	\$10,260	\$513				Structure Cost	
		<b>SUBTOTAL</b>				<b>\$22,002,990</b>			<b>\$12,541,704</b>	<b>\$627,085</b>					
<b>G</b>		<b>STAGE CONSTRUCTION</b>													
207	120110	FLASHING ARROW SIGN	2	EA	\$ 800.00	\$1,600	No	0.0%	\$0	\$0				Staging Cost	
208	120120	TYPE III BARRICADE	82	EA	\$ 100.00	\$8,200	No	0.0%	\$0	\$0				Staging Cost	
209	120149	TEMPORARY PAVEMENT MARKING (PAINT)	2,390	SF	\$ 3.50	\$8,365	No	0.0%	\$0	\$0				Staging Cost	
210	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	29,640	LF	\$ 0.60	\$17,784	No	0.0%	\$0	\$0				Staging Cost	
211	120165	CHANNELIZER (SURFACE MOUNTED)	800	EA	\$ 25.00	\$20,000	No	0.0%	\$0	\$0				Staging Cost	
212	120300	TEMPORARY PAVEMENT MARKERS	390	EA	\$ 5.00	\$1,950	No	0.0%	\$0	\$0				Staging Cost	
213	128650	PORTABLE CHANGEABLE MESSAGE SIGN	2	EA	\$ 3,350.00	\$6,700	No	0.0%	\$0	\$0				Staging Cost	
214	129000	TEMPORARY RAILING (TYPE K)	14,400	LF	\$ 11.00	\$158,400	No	0.0%	\$0	\$0				Structure and Staging Cost	
215	129100	TEMPORARY CRASH CUSHION MODULE	21	EA	\$ 350.00	\$7,350	No	0.0%	\$0	\$0				Staging Cost	
216	129110A	TEMPORARY CRASH CUSHION (NARROW)	5	EA	\$ 350.00	\$1,750	No	0.0%	\$0	\$0				Staging Cost	
217	141101	REMOVE YELLOW PAINTED TRAFFIC STRIPE (HAZARDOUS WASTE)	1,640	LF	\$ 2.70	\$4,428	No	0.0%	\$0	\$0				Staging Cost	
218	150711	REMOVE PAINTED TRAFFIC STRIPE	7,480	LF	\$ 0.75	\$5,610	No	0.0%	\$0	\$0				Staging Cost	

County of Riverside  
Magnolia Avenue/BNSF Grade Separation  
Engineer's Estimate - BNSF Share

No	BEES Code	Bid Item	Engineering Estimate			BNSF Share					BNSF Comments			Remarks	
			Estimated Quantity	Unit of Measure	Unit Price	Item Total	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing	BNSF Share (5%)	Item subject to BNSF Sharing?	% subject to BNSF sharing	Cost Subject to BNSF Sharing		BNSF Share (5%)
		SUBTOTAL				\$242,087					\$0	\$0			
		ADDITIONAL ROADWAY COST DUE TO BRIDGE STRUCTURE REDUCTION													
219	017305	MINOR CONCRETE (CURB AND GUTTER) (CRS201)	702	LF	\$ 15.00	\$10,530	Yes	100.0%	\$10,530	\$527					
220	198010	IMPORTED BORROW	22,519	CY	\$ 20.00	\$450,380	Yes	100.0%	\$450,380	\$22,519					
221	260201	CLASS 2 AGGREGATE BASE	888	CY	\$ 28.00	\$24,864	Yes	72.0%	\$17,902	\$895					
222	390132	HOT MIX ASPHALT (TYPE A)	50	TON	\$ 85.00	\$4,250	Yes	75.0%	\$3,188	\$159					
223	731521	MINOR CONCRETE (SIDEWALK)	2,355	SF	\$ 10.00	\$23,550	Yes	100.0%	\$23,550	\$1,178					
224	XXXXXX	MECHANICALLY STABILIZED EMBANKMENT	14,765	SF	\$ 60.00	\$885,900	Yes	100.0%	\$885,900	\$44,295					
		SUBTOTAL				\$1,399,474				\$69,572					
		OTHERS													
225	19902	COURSE OF CONSTRUCTION INSURANCE	1	LS	\$ 100,000.00	\$100,000	No	0.0%	\$0	\$0					
226	019901	DEMOBILIZATION	1	LS	\$ 1,632,200.00	\$1,632,200	Yes	65.0%	\$1,060,930	\$53,047					
227	066102	DUST ABATEMENT	1	LS	\$ 10,000.00	\$10,000	Yes	65.0%	\$6,500	\$325					
228	074016	CONSTRUCTION SITE MANAGEMENT	1	LS	\$ 316,600.00	\$316,600	Yes	65.0%	\$205,790	\$10,290					
229	130300	PREPARE STORM WATER POLLUTION PREVENTION PLAN	1	LS	\$ 9,500.00	\$9,500	Yes	65.0%	\$6,175	\$309					
230	148005	NOISE MONITORING	1	LS	\$ 15,000.00	\$15,000	Yes	65.0%	\$9,750	\$486					
231	170101	DEVELOP WATER SUPPLY	1	LS	\$ 36,000.00	\$36,000	Yes	65.0%	\$23,400	\$1,170					
232	220101	FINISHING ROADWAY	1	LS	\$ 20,000.00	\$20,000	Yes	65.0%	\$13,000	\$650					
233	999990	MOBILIZATION	1	LS	\$ 1,958,700.00	\$1,958,700	Yes	65.0%	\$1,273,155	\$63,658					
234	XXXXXX	AESTHETIC IMPROVEMENTS	1	LS	\$ 1,540,965.44	\$1,540,965	No	0.0%	\$0	\$0					
235	XXXXXX	RIGHT OF WAY COST	1	LS	\$ 3,000,000.00	\$3,000,000	Yes	65.0%	\$1,950,000	\$97,500					
236	XXXXXX	DESIGN, ENVIRONMENTAL, AND SURVEY SERVICES	1	LS	\$ 4,000,000.00	\$4,000,000	Yes	65.0%	\$2,600,000	\$130,000					
237	XXXXXX	CONSTRUCTION ENGINEERING, MANAGEMENT AND SURVEY SERVICES	1	LS	\$ 5,000,000.00	\$5,000,000	Yes	65.0%	\$3,250,000	\$162,500					
		SUBTOTAL				\$17,638,965			\$10,398,700	\$519,935					
<b>TOTAL PROJECT COST</b>												\$29,090,884	\$1,454,544		