

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

836 A



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

**SUBMITTAL DATE:**

September 12, 2013

**SUBJECT:** Right of Way Acquisition Agreement for the Harrison and Fillmore Streets Paving Project

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

1. Approve the attached Right of Way Acquisition Agreement for Parcel 9686-002A within a portion of Assessor's Parcel Number 755-141-002;
2. Authorize the Chairman of the Board to execute this agreement on behalf of the County;

(Continued)

**Patricia Romo**  
Assistant Director of Transportation

*Patricia Romo*

*Robert Field*

Juan C. Perez, Director  
Transportation and Land Management

Robert Field  
Assistant County Executive Officer/EDA

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 10,400	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2013/14

**COMPANION ITEM ON BOARD AGENDA:** No

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

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

FORM APPROVED COUNTY COUNSEL BY: PATRICIA MUNROE DATE: 8/26/13  
 FISCAL PROCEDURES APPROVED PAUL ANGELO, CPA, AUDITOR-CONTROLLER BY: *Patricia Romo* 9/12/13

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

Prev. Agn. Ref.: N/A | District: 4/4 | Agenda Number: 3-35

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

**RECOMMENDED MOTION: (Continued)**

3. Authorize the Assistant County Executive Officer/EDA or designee to execute any other documents and administer all actions necessary to complete this transaction; and
4. Authorize and allocate the sum of \$7,500 to acquire Parcel 9686-002A within a portion of Assessor's Parcel Number 755-141-002 and \$2,900 to pay all related transaction costs.

**BACKGROUND:**

The County of Riverside Transportation Department (RCTD) is proposing to improve the segment of Avenue 75 between Fillmore and Harrison Streets, thus improving public safety in the community of Thermal (Project).

The Economic Development Agency/Facilities Management (EDA/FM) has negotiated the dedication of a portion of Assessor's Parcel Number: 755-141-002 from NWK4, Inc., a California corporation without compensation. However, the owner will be compensated in the amount of \$7,500 for the loss of palm trees located within the proposed right-of-way. There are costs of \$2,900 associated with this transaction. NWK4, Inc. will execute an Easement Deed in favor of the County of Riverside for a portion of Assessor's Parcel Number 755-141-002 referenced as Parcel 9686-002A.

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

**FINANCIAL DATA:**

The following summarizes the costs for the acquisition of assessor's parcel number 755-141-002:

Landscaping	\$ 7,500
Preliminary Title Report	400
EDA/FM Real Property Staff Time	2,500
Total Estimated Acquisition Costs	\$10,400

All costs associated with the acquisition of this property will be fully funded by the Transportation Department's budget for FY 2013/14. No additional net county cost will be incurred as a result of this transaction.

Attachment:  
Right of Way Acquisition Agreement

1 PROJECT: HARRISON AND FILLMORE STREETS  
2 PAVEMENT PROJECT  
3 PARCEL: 9686-002A  
4 APN: 755-141-002 (PORTION)  
5

6 **RIGHT OF WAY ACQUISITION AGREEMENT**

7 This Right of Way Acquisition Agreement, ("Agreement"), is made by and  
8 between the COUNTY OF RIVERSIDE, a political subdivision of the State of California  
9 ("County"), and NWK4, INC., a California corporation ("Grantor"). County and Grantor  
10 are sometimes collectively referred to as "Parties."

11 **RECITALS**

12 WHEREAS, Grantor owns that certain real property located in the  
13 unincorporated community of Thermal, County of Riverside, State of California, as  
14 depicted on the Plat Map identified as Attachment "1," attached hereto and made a part  
15 hereof, consisting of fifty (50) acres of land improved with a palm tree grove and is also  
16 known as Assessor's Parcel Number: 755-141-002 ("Property"); and

17 WHEREAS, Grantor acquired the Property by Trustee's Deed dated April 1,  
18 2013 and recorded in the Official Records of Riverside County on April 1, 2013 as  
19 instrument number 2013-0154018.

20 WHEREAS, Grantor desires to dedicate to the County and the County desires to  
21 accept a portion of the real property being an approximate thirty (30) foot strip of land  
22 along the northern boundary of the Property as an easement interest for road  
23 purposes, as well as utilities and drainage in the Property ("ROW"), for the purpose of  
24 constructing the segment of Avenue 75, between Harrison and Fillmore Streets  
25 ("Project") as described in an Easement Deed in Attachment "2" attached hereto and  
26 made a part hereof, referenced as Parcel 9686-002A pursuant to the terms and  
27 conditions set forth herein and subject to the terms and conditions in this Agreement;  
28 and

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

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

## 6

### 7                                   **ARTICLE 1. AGREEMENT**

8           1.     Recitals. All the above recitals are true and correct and by this reference  
9 are incorporated herein.

10           2.     Consideration. As consideration for Grantor's dedication and  
11 conveyance of the ROW, the County shall: (i) construct the road within the northern  
12 thirty (30) feet of the ROW (the "Improved Road Area") (ii) within three (3) weeks of the  
13 full execution of this Agreement, pay to Grantor the amount of Seven Thousand Five  
14 Hundred Dollars (\$7,500) for the loss of five (5) Palm Trees located within the ROW;  
15 and (iii) permit Grantor's continued use of the Remaining Area as provided for in  
16 Section 3.

#### 17           3.     Grantor's Retained Rights.

18                   A. That portion of the ROW that is not part of the Improved Road Area  
19 shall be referred to as the "Remaining Area." Grantor shall have the right to use the  
20 Remaining Area for farming and agricultural and related use, included but not limited to  
21 the growing, maintenance and harvesting of crops and/or trees, without any application  
22 for use to the County, or any fees or costs payable to the County; provided however, at  
23 such time as Grantor shall desire to develop the Property and change the use of the  
24 Remaining Area, Grantor shall then make appropriate application to the County and be  
25 subject to agreed upon conditions for such development.

1           B.     Pay to undersigned Grantor(s) by tendering payment in the  
2 amount of Seven Thousand Five Hundred Dollars (\$7,500) for the loss of five (5) Palm  
3 trees located within the Right-of-Way.

4           4.     Grantor Responsibilities.

5           A.     Execute and acknowledge an Easement Deed in favor of the  
6 County of Riverside for road purposes dated \_\_\_\_\_ identified as Parcel 9686-  
7 002A and deliver deed to Lorie G. Houghlan, Real Property Agent for the County  
8 substantially in the form attached hereto as Attachment "2".

9           B.     Upon receipt of compensation, Grantor shall retain the contractor  
10 and directly compensate the contractor for all costs, fees, and expenses to remove the  
11 five (5) trees. The County is not responsible for any payment to the contractor(s)  
12 selected by Grantor and Grantor shall indemnify, defend, and hold harmless the  
13 County, its officers, employees, officials, representatives or agents free from and  
14 against any and all claims, liabilities, penalties, forfeitures, losses or expenses,  
15 including reasonable attorneys' fees, whatsoever arising from or caused by any actions  
16 or omissions of Grantor in connection with Grantor's selection and use of any of  
17 contractors.

18           C.     To the best of Grantor's actual knowledge, during Grantor's  
19 ownership of the ROW, grantor has not disposed or released any hazardous materials  
20 or substances, except any such hazardous materials or substances in connection with  
21 Grantor's normal farming or agricultural operation or use of the ROW. For the purpose  
22 of this Agreement, such materials or substances shall include without limitation  
23 hazardous substances, hazardous materials, or toxic substances as defined in the  
24 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as  
25 amended, 42 U.S.C. section 9601, et seq.; the Hazardous Materials Transportation  
26 Act, 49 U.S.C. sections 5101 to 5128; the Resource Conservation and Recovery Act,  
27 42 U.S.C. sections 6901-87 (1988); and those substances defined as hazardous  
28 wastes in section 25117 of the California Health and Safety Code or hazardous

1 substances in section 25316 of the California Health; and in the regulations adopted in  
2 publications promulgated pursuant to said laws.

3 **Article II. MISCELLANEOUS**

4 1. It is mutually understood and agreed by and between the Parties hereto  
5 that the right of possession and use of the subject property by County, including the  
6 right to remove and dispose of improvements, shall commence upon the execution of  
7 this Agreement by all parties. The consideration provided for in this Agreement  
8 includes, but is not limited to, full payment for such possession and use, subject to the  
9 terms and conditions of this Agreement.

10 2. This Agreement embodies all of the considerations agreed upon between  
11 the County and Grantor. This Agreement was obtained without coercion, promises  
12 other than those provided herein, or threats of any kind whatsoever by or to either  
13 party.

14 3. The performance of this Agreement constitutes the entire consideration  
15 for the acquisition of the Property and shall relieve the County of all further obligations  
16 or claims pertaining to the acquisition of the Property or pertaining to the location,  
17 grade or construction of the proposed public improvement.

18 4. This Agreement is made solely for the benefit of the Parties to this  
19 Agreement and their respective successors and assigns, and no other person or entity  
20 may have or acquired any right by virtue of this Agreement.

21 5. This Agreement shall not be changed, modified, or amended except upon  
22 the written consent of the Parties hereto.

23 6. This Agreement is the result of negotiations between the Parties and is  
24 intended by the Parties to be a final expression of their understanding with respect to  
25 the matters herein contained. This Agreement supersedes any and all other prior  
26 agreements and understandings, oral or written, in connection therewith. No provision  
27 contained herein shall be construed against the County solely because it prepared this  
28 Agreement in its executed form.

1           7.     Any action at law or in equity brought by either of the Parties for the  
2 purpose of enforcing a right or rights provided for by this Agreement shall be tried in a  
3 court of competent jurisdiction in the County of Riverside, State of California, and the  
4 Parties hereby waive all provisions of law providing for a change of venue in such  
5 proceedings to any other county.

6           8.     Grantor and its assigns and successors in interest shall be bound by all  
7 the terms and conditions contained in this Agreement.

8  
9  
10                   (REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

1 9. This Agreement may be signed in counterpart or duplicate copies, and  
2 any signed counterpart or duplicate copy shall be equivalent to a signed original for all  
3 purposes.

4 In Witness Whereof, the Parties have executed this Agreement the day and year  
5 last below written.

6  
7 Dated: Aug 16, 2013

8  
9 COUNTY OF RIVERSIDE

GRANTOR: NWK4, INC., a California  
corporation

10 By: \_\_\_\_\_  
11 John J. Benoit, Chairman  
12 Board of Supervisors

By: Channing M. Eayrs  
Channing M. Eayrs  
Its: Vice-President

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

18 By: \_\_\_\_\_  
19 Deputy

20 APPROVED AS TO FORM:  
21 Pamela J. Walls  
22 County Counsel

23 By: [Signature]  
24 Patricia Munroe  
25 Deputy County Counsel

26 LGH:mr/060413/418TR/15.950 S:\Real Property\TYPING\Docs-15.500 to 15.999\15.950.doc  
27  
28



ATTACHMENT "1"  
Assessor's Plat Map

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PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL WITH LOCAL LOT, SPLIT OR BUILDING SITE ORDINANCES.

AUG 26 2010

SECS. 1 & 2 T8S R8E

STATE HIGHWAY 86

STATE (PIERCE STREET) HIGHWAY 195

76TH AVENUE

74TH AVENUE

BUCHANAN STREET

Legend

- L —
- P —
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DATE	DWG NO
7/20/1998	142-071
7/11/1916	142-502
2/11/1920	142-10
7/12/2010	142-2
7/12/2010	142-3
7/12/2010	142-4
7/12/2010	142-5
7/12/2010	142-6
7/12/2010	142-7
7/12/2010	142-8
7/12/2010	142-9
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7/12/2010	142-92
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7/12/2010	142-99
7/12/2010	142-100

Bk 749 Pg 25	Bk 749 Pg 27	Bk 749 Pg 29	Bk 728 Pg 15
Bk 755 Pg 09	Bk 755 Pg 10	Bk 755 Pg 11	Bk 737 Pg 02
Bk 755 Pg 12	Bk 755 Pg 16	Bk 755 Pg 18	

Date  
G.L.C. PLATS, R/W/  
V.I.R./R.V. 28-G-19-21  
R/S 9/21, 9/90, 11/93, 10/04  
60' RDS PER INST  
32882 4/59

BK755 PG.14

D. Underwood

JULY 2010

ATTACHMENT "2"

Legal and Plats

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EXHIBIT "A"  
FILLMORE STREET & HARRISON STREET  
LEGAL DESCRIPTION  
9686-002A

BEING A PORTION OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER TOGETHER WITH A PORTION OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 2, TOWNSHIP 8 SOUTH, RANGE 8 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE WEST ONE-QUARTER CORNER OF SAID SECTION 2, BEING A POINT ON THE CENTERLINE OF FILLMORE STREET (30.00 FOOT EASTERLY HALF-WIDTH) AS DESCRIBED BY A DEED RECORDED APRIL 17, 1959, IN BOOK 2454, PAGE 65, OFFICIAL RECORDS OF RIVERSIDE COUNTY CALIFORNIA;

THENCE N 89°56'54" E ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER OF SAID SECTION 2, A DISTANCE OF 30.00 FEET A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID FILLMORE STREET, AND **THE TRUE POINT OF BEGINNING**;

THENCE CONTINUING N 89°56'54" E ALONG SAID NORTH LINE, A DISTANCE OF 1,126.90 TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF HARRISON STREET (50.00 FOOT SOUTHWESTERLY HALF-WIDTH) AS SHOWN BY CALTRANS RIGHT-OF-WAY MAP NUMBER R-230 AND R-231, ON FILE AT THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION DISTRICT 8;

THENCE S 37°33'41" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 37.82 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 30.00 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, SAID NORTH LINE;

THENCE S 89°56'54" W ALONG SAID PARALLEL LINE, A DISTANCE OF 1,135.01 FEET;

THENCE S 45°01'53" W, A DISTANCE OF 21.24 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY LINE OF FILLMORE STREET;

THENCE N 00°06'54" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 45.00 FEET TO **THE TRUE POINT OF BEGINNING**.

CONTAINING: 34,266 SQUARE FEET, OR 0.787 ACRES, MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE GROUND DISTANCES.

SEE ATTACHED EXHIBIT "B"

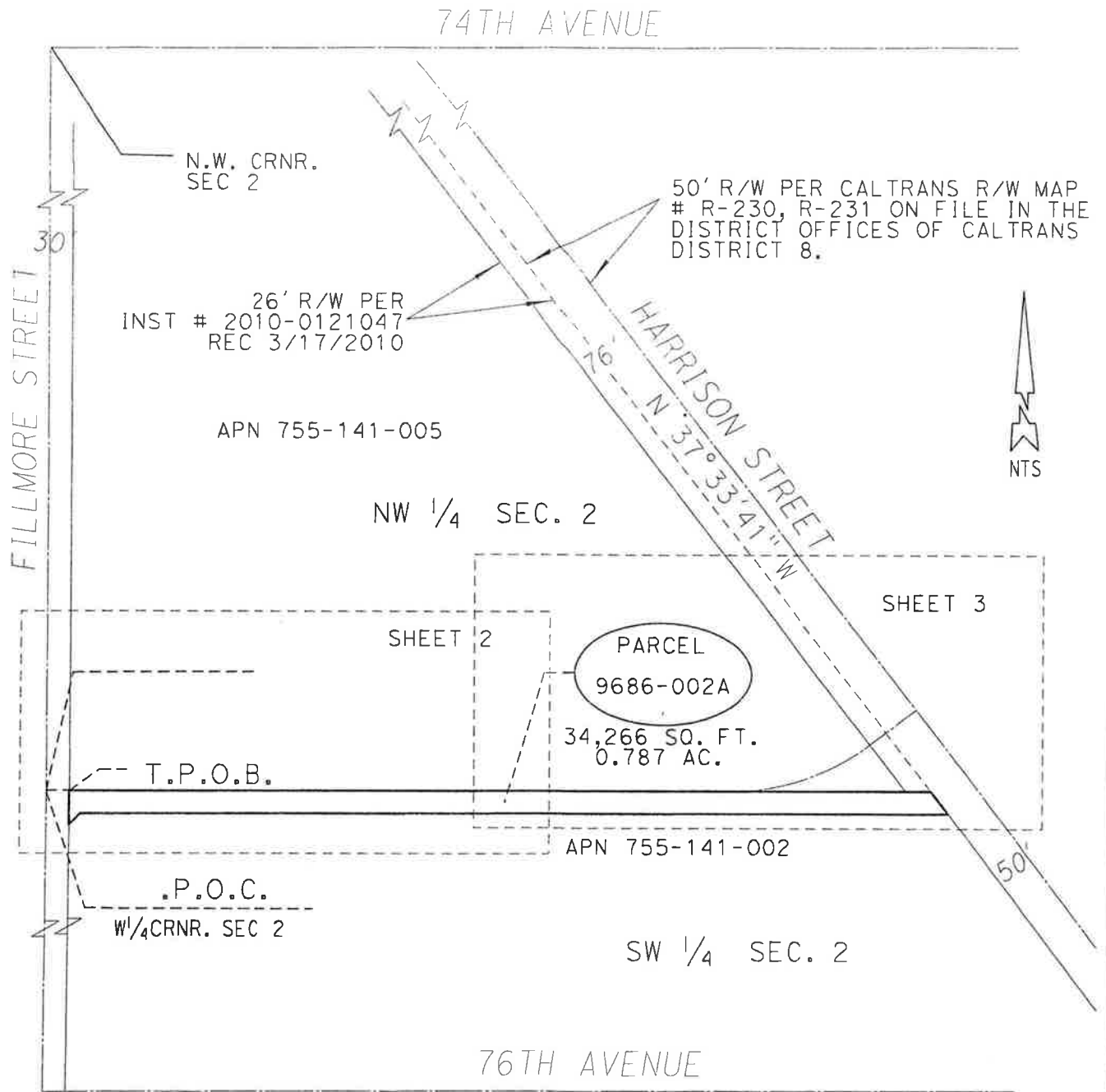
APPROVED BY: \_\_\_\_\_

DATE: \_\_\_\_\_



# EXHIBIT "B"

SEC. 2, T.8S., R8E. S.B.M.



ALL DISTANCES SHOWN ARE GROUND DISTANCES.

PCL No.: 9686-002A

WO No.: M9686

SCALE: NTS

PREPARED BY: KKC~B

DATE: MAY, 2013

SHEET 1 OF 3

COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT,  
SURVEY DIVISION

PROJECT: FILLMORE STREET & HARRISON STREET

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

APPROVED BY:

*[Signature]*

DATE:

MAY 23, 2013



EXHIBIT "B"

SEC. 2, T.8S., R8E. S.B.M.



NW 1/4 SEC. 2

30' R/W PER  
INST. BOOK 2454 PG 65  
REC 04/17/59.

APN 755-141-005

PARCEL  
9686-002A

34,266 SQ. FT.  
0.787 AC.

E-W CENTER  
SECTION LINE

N 89°56'54" E 1,126.90'

S 89°56'54" W 1,135.01'

30.00'

P.O.C.  
W/4CRNR. SEC 2

T.P.O.B.

( ) INDICATES RECORD DATA PER RS 123/92

INST #2006-0132589  
REC 2/23/2006

APN 755 141 002

SW 1/4 SEC. 2

--- LINE DATA ---		
	BEARING	DISTANCE
○	N 89°56'54" E	30.00'
	S 45°01'53" W	21.24'
	N 00°06'54" E	45.00'

--- TIE DATA ---		
	BEARING	DISTANCE
○	S 00°06'54" W	45.00'
	N 89°56'54" E	45.00'

TO SEC. CRNR N 00°07'29"  
W 1,591.93' (1,591.88)

TO SEC. CRNR.

N 00°06'54" E 2,669.13'

FILLMORE STREET

ALL DISTANCES SHOWN ARE GROUND DISTANCES.

PCL No.: 9686-002A

COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT,  
SURVEY DIVISION

WO No.: M9686

PROJECT: FILLMORE STREET & HARRISON STREET

SCALE: NTS

PREPARED BY: KKC~B

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

DATE: MAY, 2013

APPROVED BY:

DATE:

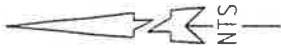
SHEET 2 OF 3

*[Signature]*

MAY 23, 2013



# EXHIBIT "B"



SEC. 2, T. 8S., R8E. S.B.M.

NW 1/4 SEC. 2

APN 755-141-005

26' R/W PER  
INST # 2010-0121047  
REC 3/17/2010

--- LINE DATA ---	
BEARING	DISTANCE
S 37° 33' 41" E	37.82'
S 37° 33' 41" E	78.19'
N 89° 56' 54" E	32.78'

TIE  
TIE

PARCEL  
9686-002A

34,266 SQ. FT.  
0.787 AC.

--- CURVE DATA ---		
DELTA ANGLE	RADIUS	TANGENT
C1 D = 37° 30' 35"	R = 300.00'	T = 101.86'
		L = 196.40'

TIE

50' R/W PER CALTRANS R/W MAP  
# R-230, R-231 ON FILE IN THE  
DISTRICT OFFICES OF CALTRANS  
DISTRICT 8.

INST # 2006-0132589  
REC 2/23/2006

SW 1/4 SEC. 2

APN 755-141-002

ALL DISTANCES SHOWN ARE GROUND DISTANCES.

PCL No.: 9686-002A

WO No.: M9686

SCALE: NTS

PREPARED BY: KKC~B

DATE: MAY, 2013

SHEET 3 OF 3

COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT,  
SURVEY DIVISION

PROJECT: FILLMORE STREET & HARRISON STREET

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

APPROVED BY:

*[Signature]*

DATE:

MAY 23, 2013

