

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

622



FROM: Economic Development Agency / Facilities Management and Transportation Department

SUBMITTAL DATE:

April 19, 2012

SUBJECT: Temporary Construction Easement Agreement for the Magnolia Avenue Grade Separation Project – Home Gardens

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Temporary Construction Easement Agreement for Parcel 0784-006A within a portion of Assessor's Parcel Number 135-170-029;
2. Authorize the Chairman of the Board to execute this agreement on behalf of the County;
3. Authorize the Assistant County Executive Officer/EDA, or his designee, to execute any other documents and administer all actions necessary to complete this transaction; and

(Continued)

[Signature]

Juan C. Perez, Director
Transportation Department

[Signature]

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 52,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Proposition 1B	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY: *[Signature]*
Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone and Ashley
Nays: None
Absent: Benoit
Date: May 1, 2012
xc: EDA, Transp., Auditor

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

Prev. Agn. Ref.: _____ **District:** 2/2 **Agenda Number:** 3.16

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: Samuel Wong 4/17/12
 SAMUEL WONG
 DATE: 4/19/12
 De: DATE: 4/19/12
 SYNTHIA M. GUNZEL

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

RECOMMENDED MOTION: (Continued)

4. Authorize and allocate the sum of \$35,100 to temporarily acquire a portion of Assessor's Parcel Number 135-170-029 and \$16,900 to pay all related transaction costs.

BACKGROUND:

The Riverside County Transportation Department (RCTD) proposes to replace the existing Magnolia Avenue/Burlington Northern Santa Fe (BNSF) at-grade railroad crossing in the community of Home Gardens in order to improve safety and traffic operations by eliminating the conflicts of trains passing through the flow of vehicular traffic. (Project)

The Project would construct a new four-lane overhead bridge over the existing BNSF tracks, above the entire BNSF right-of-way. The total length of the improvements would extend from approximately 500 feet west of Lincoln Street to approximately 550 feet east of Buchanan Street. The new bridge would be striped for four lanes of traffic on Magnolia Avenue. The length and clearance of the proposed bridge structure would accommodate the existing skewed railroad crossing, as well as the two existing railroad tracks and two additional future tracks (planned separately from this project), and would also provide space for frontage roads (proposed as part of this project).

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

The National Environmental Policy Act (NEPA) environmental determination (Categorical Exclusion) Section 6004: 23 CFR 771.117(d)(3) was approved on May 11, 2011 by District 8 Division of Environmental Planning for the California Department of Transportation.

The Economic Development Agency (EDA) has negotiated the temporary rights of a portion of 135-170-029 with RCR Enterprises for the price of \$35,100. There are costs of \$16,900 associated with this transaction.

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

FINANCIAL DATA:

The following summarizes the funding necessary for the temporary construction easement of a portion of Assessor's Parcel Number 135-170-029:

Temporary Construction Easement:	\$35,100
Estimated Title and Escrow Charges:	\$ 0
Preliminary Title Report:	\$ 400
County Appraisal:	\$ 4,500
EDA/FM Real Property Staff Time:	\$12,000
Total Estimated Acquisition Costs:	\$52,000

(Continued)

FINANCIAL DATA: (Continued)

EDA has already covered the costs for due diligence (appraisal and preliminary title reports) and will be or has been reimbursed by the Transportation Department. The remaining costs will be paid directly by the Transportation Department. All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 2011/12. Thus, no additional net county cost will be incurred as a result of this transaction.

Attachments:
Temporary Construction Agreement

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

3
4 RCR Enterprises, LP, a California Limited Partnership
5 ("Grantor")

6
7 PROJECT: Magnolia Avenue Grade Separation

8 PARCEL: 0784-006A

9 APN: 135-170-029 (Portion)

10
11 TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

12 This Temporary Construction Easement Agreement ("Agreement") is made by
13 and between the COUNTY OF RIVERSIDE, a political subdivision of the State of
14 California, ("County") and RCR Enterprises, LP, a California Limited Partnership
15 ("Grantor"). County and Grantor are sometimes collectively referred to as "Parties".

16 1. The right is hereby granted to County to enter upon and use the land of
17 Grantor in the County of Riverside, State of California, described as portion of
18 Assessor's Parcel Number 135-170-029, highlighted on Attachment "1", attached
19 hereto ("Property"), and made a part hereof, for all purposes necessary to facilitate and
20 accomplish the construction of Magnolia Avenue Grade Separation Project.

21 2. The temporary construction easement, used during construction of the
22 Project, referenced as Parcel No. 0784-006A consisting of approximately .336 acres or
23 14,624 square feet as designated on Attachment "2", attached hereto, and made a part
24 hereof ("TCE Area").

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

1 4. It is understood that the County may enter upon the TCE Area where
2 appropriate or designated for the purpose of getting equipment to and from the TCE
3 Area. County agrees not to damage the TCE Area in the process of performing such
4 activities.

5 5. The right to enter upon and use TCE Area includes the right to remove
6 and dispose of Items 1 and 2 listed in Attachment "3". Payment to the Grantor for
7 Items 1 and 2 listed Attachment "3" are included in Paragraph 15 of this Agreement.

8 6. Grantor shall retain the contractor(s) for Items 1 and 2 of Attachment "3"
9 and directly compensate each contractor for all costs, fees, and/or expenses. The
10 County is not responsible for any payment to the selected contractor(s) and Grantor
11 shall indemnify, defend, protect, and hold County, its officers, employees, successors,
12 and assigns free and harmless from and against any and all claims, liabilities,
13 penalties, forfeitures, losses or expenses, including without limitations, attorney's fees,
14 whatsoever arising from or cause in whole or in part, directly or indirectly, by any
15 actions of the said contractors.

16 7. County agrees to replace in like kind Items 3 and 4 listed in Attachment
17 "3" at County's sole cost.

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

21 9. Grantor shall be held harmless from all claims of third persons arising
22 from the use by County of TCE Area.

23 10. Grantor hereby warrants that they are the owners of the Property
24 described above and that they have the right to grant County permission to enter upon
25 and use the Property.

26 11. This Agreement is the result of negotiations between the parties hereto.
27 This Agreement is intended by the parties as a final expression of their understanding
28 with respect to the matters herein and is a complete and exclusive statement of the

1 terms and conditions thereof. No provision contained herein shall be construed against
2 the County solely because it provided or prepared this Agreement in its executed form.

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

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

7 14. Grantor, their assigns and successors in interest, shall be bound by all
8 the terms and conditions contained in this Agreement, and all the parties thereto shall
9 be jointly and severally liable thereunder.

10 15. County shall pay to the order of Grantor the sum of Thirty Five Thousand
11 One Hundred Dollars (\$35,100) for the right to enter upon and use the TCE Area in
12 accordance with the terms hereof.

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

18 17. This Agreement may be signed in counterpart or duplicate copies, and
19 any signed counterpart or duplicate copy shall be equivalent to a signed original for all
20 purposes.

21 ///

22 ///

23 ///

24 (SIGNATURES ON NEXT PAGE)

25

26

27

28

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

3 Dated: 2/20/12

4 GRANTOR:

5 RCR Enterprises, LP, a California
6 Limited Partnership

7 By: [Signature]

8 Its: Managing Partner

9 By: _____

10 Its: _____

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

13 By: [Signature]

14 John F. Tavaglione, Chairman
15 Board of Supervisors

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

19 By: [Signature]
20 Deputy

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

24 By: [Signature]
25 Synthia M. Gunzel
26 Deputy County Counsel

27 CAO:\sl\021412\291TR\14.646 S:\Real Property\TYPING\Docs-14.500 to 14.999\14.646.doc
28

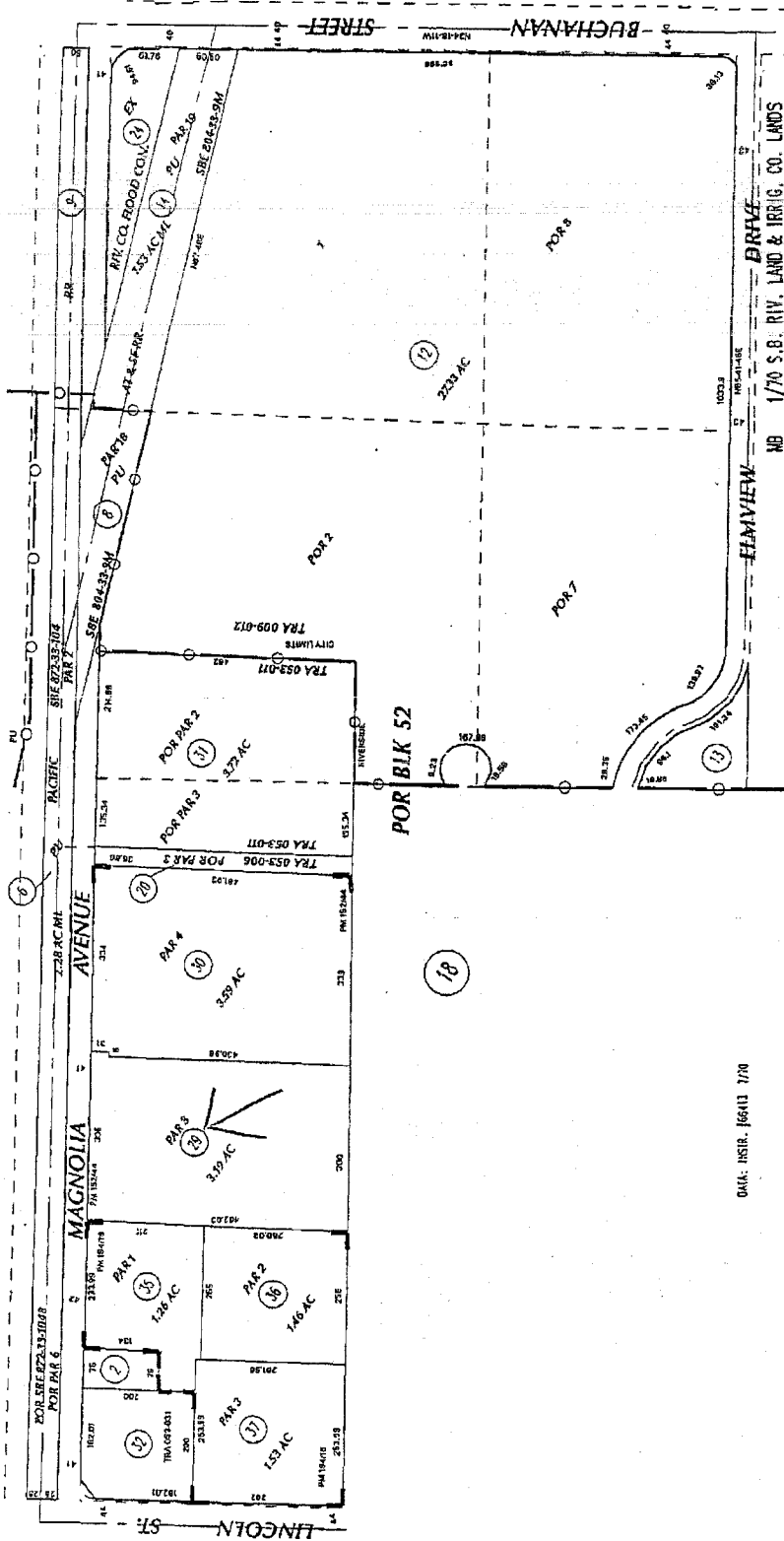
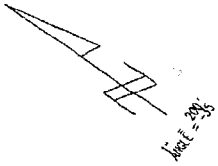
ATTACHMENT "1"

Assessor's Plat Map

T.R.A.
009-001
053-005
009-011
009-012
053-031

SEC. 22 27 T. 3S., R. 6W
CITY OF RIVERSIDE CORONA

THIS MAP WAS PREPARED FOR PURPOSES ONLY AND LIABILITY IS ASSIGNED TO THE USER. THE CITY OF RIVERSIDE MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.



Sept 1993

170 S.B. RIV. LAND & IRRIG. CO. LANDS
PM 150/44-46 PARCEL MAP NO. 28924
PM 194/16-18 PARCEL MAP NO. 28908

DATA: HRSR, J66413 7/70

ASSessor's MAP BK135 PG.17
Riverside County, Calif.

3/2/93

AUG 1 2 1999

DATE	BY	NEW VALUE
11/11/91	11	11,111
11/11/91	12	11,111
11/11/91	13	11,111
11/11/91	14	11,111
11/11/91	15	11,111
11/11/91	16	11,111
11/11/91	17	11,111
11/11/91	18	11,111
11/11/91	19	11,111
11/11/91	20	11,111
11/11/91	21	11,111
11/11/91	22	11,111
11/11/91	23	11,111
11/11/91	24	11,111
11/11/91	25	11,111
11/11/91	26	11,111
11/11/91	27	11,111
11/11/91	28	11,111
11/11/91	29	11,111
11/11/91	30	11,111

ATTACHMENT "2"

Parcel 0784-006A

EXHIBIT "A"
MAGNOLIA AVENUE (GRADE SEPARATION)
LEGAL DESCRIPTION
0784-006A

AN EASEMENT FOR TEMPORARY CONSTRUCTION PURPOSES, BEING A PORTION OF PARCEL 3 OF PARCEL MAP 22624, ON FILE IN BOOK 152, PAGES 44 THROUGH 46, INCLUSIVE, OF PARCEL MAPS, RECORDS OF THE RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, LYING WITHIN RANCHO EL SOBRANTE DE SAN JACINTO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF MAGNOLIA AVENUE (66.00 FOOT SOUTHEASTERLY HALF-WIDTH) AS DESCRIBED BY DEED RECORDED FEBRUARY 8, 1877, IN BOOK R, PAGES 548 AND 549, OFFICIAL RECORDS OF THE RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, AND THE CENTERLINE OF LINCOLN AVENUE (44.00 FOOT NORTHEASTERLY HALF-WIDTH) AS DESCRIBED BY DEED RECORDED OCTOBER 22, 1969 AS INSTRUMENT NUMBER 107674, OFFICIAL RECORDS OF SAID RECORDER OF RIVERSIDE COUNTY AND AS SHOWN ON SAID PARCEL MAP 22624;

THENCE N 56°22'11"E ALONG SAID CENTERLINE OF MAGNOLIA AVENUE, A DISTANCE OF 552.95 FEET;

THENCE S 33°37'49" E, A DISTANCE OF 66.00 FEET TO THE MOST-WESTERLY CORNER OF SAID PARCEL 3, BEING A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID MAGNOLIA AVENUE AND THE **TRUE POINT OF BEGINNING**;

THENCE N 56°22'11" E ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 304.99 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL 3;

THENCE S 33°36'46" E ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3, A DISTANCE OF 31.00 FEET TO AN ANGLE POINT THEREIN;

THENCE S 56°22'11" W CONTINUING ALONG SAID NORTHEASTERLY LINE, A DISTANCE OF 5.00 FEET TO AN ANGLE POINT THEREIN;

THENCE S 33°36'46" E CONTINUING ALONG SAID NORTHEASTERLY LINE, A DISTANCE OF 20.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 117.00 FEET SOUTHEASTERLY OF, AS MEASURED AT RIGHT ANGLES TO, SAID CENTERLINE OF MAGNOLIA AVENUE;

THENCE S 56°22'11" W ALONG SAID PARALLEL LINE, A DISTANCE OF 224.50 FEET;

THENCE N 33°37'49" W, A DISTANCE OF 11.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 106.00 FEET SOUTHEASTERLY OF, AS MEASURED AT RIGHT ANGLES TO, SAID CENTERLINE OF MAGNOLIA AVENUE;

THENCE S 56°22'11" W ALONG SAID PARALLEL LINE, A DISTANCE OF 75.48 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID PARCEL 3;

THENCE N 33°36'46" W ALONG SAID SOUTHWESTERLY LINE OF PARCEL 3, A DISTANCE OF 40.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING: 14,624 SQUARE FEET, OR 0.336 ACRES, MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY DISTANCES SHOWN BY 1.000027271 TO OBTAIN GROUND DISTANCE.

EXHIBIT "A"
MAGNOLIA AVENUE (GRADE SEPARATION)
LEGAL DESCRIPTION (CONTINUED)
0784-006A

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

SEE ATTACHED EXHIBIT "B"

APPROVED BY: *Timothy F. Rayburn*
DATE: 1/12/2012

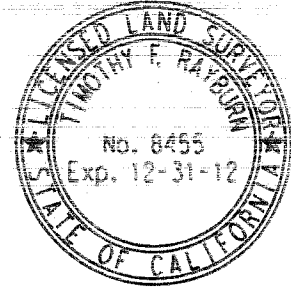


EXHIBIT "B"

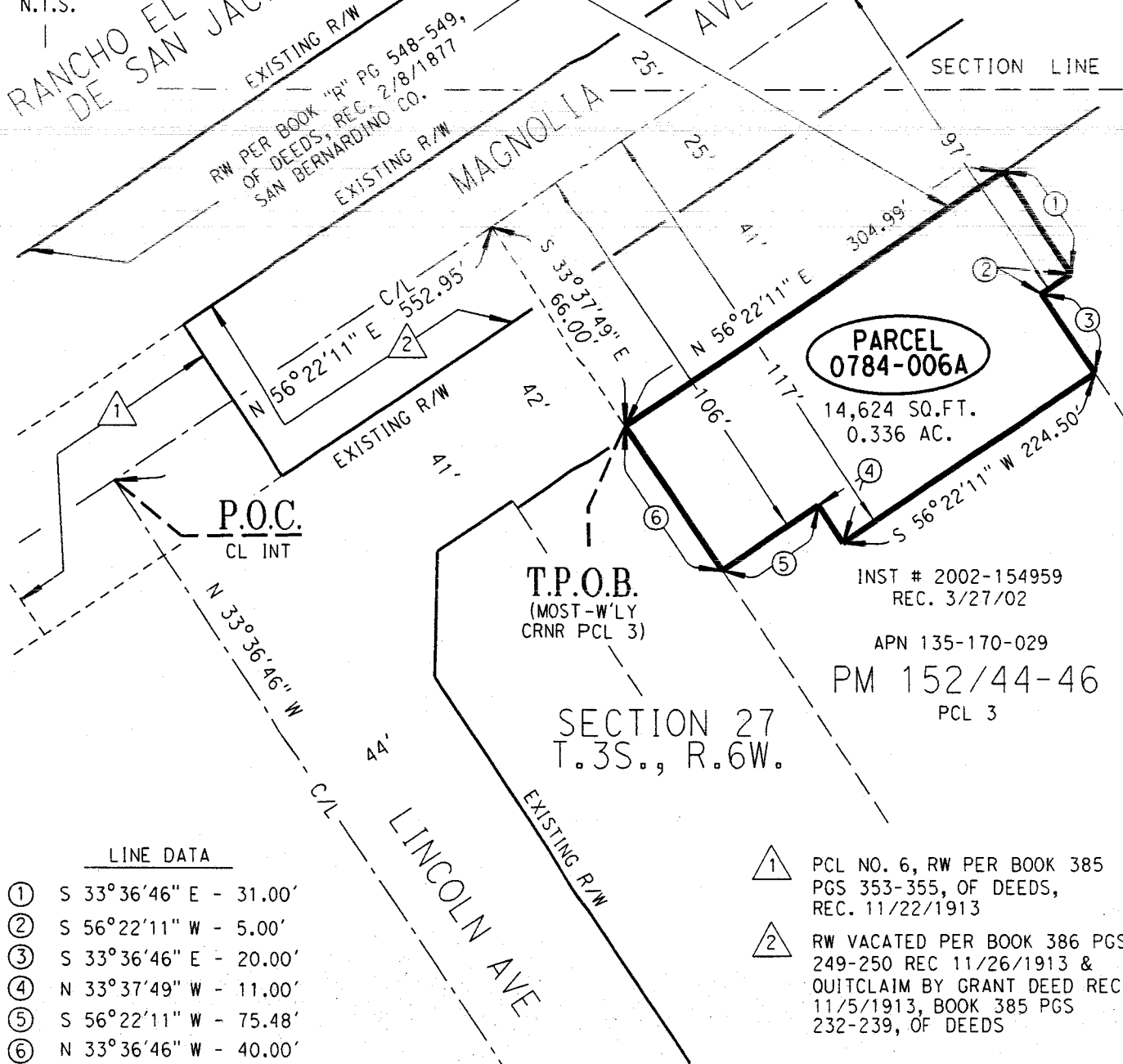
TEMPORARY CONSTRUCTION EASEMENT



RANCHO EL SOBRANTE
DE SAN JACINTO

SECTION 22

SECTION LINE



PARCEL 0784-006A

14,624 SQ.FT.
0.336 AC.

INST # 2002-154959
REC. 3/27/02

APN 135-170-029

PM 152/44-46
PCL 3

SECTION 27
T.3S., R.6W.

LINE DATA

- ① S 33°36'46" E - 31.00'
- ② S 56°22'11" W - 5.00'
- ③ S 33°36'46" E - 20.00'
- ④ N 33°37'49" W - 11.00'
- ⑤ S 56°22'11" W - 75.48'
- ⑥ N 33°36'46" W - 40.00'

- ① PCL NO. 6, RW PER BOOK 385 PGS 353-355, OF DEEDS, REC. 11/22/1913
- ② RW VACATED PER BOOK 386 PGS 249-250 REC 11/26/1913 & QUITCLAIM BY GRANT DEED REC. 11/5/1913, BOOK 385 PGS 232-239, OF DEEDS

COUNTY OF RIVERSIDE

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



COUNTY OF RIVERSIDE TRANSPORTATION DEPT., SURVEY DIV.	PAR. NO.: 0784-006A
PROJECT: MAGNOLIA AVE(GRADE SEPARATION)	PREPARED BY: DGO
THIS PLAT IS AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE PRECEDING DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DESCRIPTION.	SCALE: N.T.S.
APPROVED BY: <i>Timothy F. Rayburn</i> DATE: 1/12/2012	DATE: JANUARY, 2012
	W.O. NO.: B7-0784
	SHEET 1 OF 1 SHEET

ATTACHMENT "3"

Item	Description	Cost
1	Approx. 12 mature trees @ \$800 each	\$9,600
2	Approx. 3,150 SF lawn area @ \$2.15/ SF	\$6,773
3	255 LF concrete curbing	Contractor to replace in like kind
4	8,235 concrete paving	Contractor to replace in like kind
	Total Landscape Items	\$16,373